

PANEL REMARKS

Sugar Cane Slavery: Bateyes in the Dominican Republic

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I. INTRODUCTION

The next time you add sugar to your coffee, think of Marie Clare, a Haitian woman who met a man who promised her a good job nearby in the Dominican Republic. As has happened to other women in Asia, this classic line resulted in her sale to Dominican soldiers for \$8. Marie Clare and other Haitians are seduced by false promises of employment and wind up working for low or no wages for the sugar cane harvest from December to June. There is always a shortage of workers during the harvest season and the State Sugar Council known as the CEA uses a system of employment that violates every applicable international law regarding the use of forced labor.¹ During the Haitian coup in 1991, more than thirty thousand Haitians fled to the Dominican Republic. Some sources indicate that upwards of one million

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¹ Dominican Republic at www.hrw.org/reports/1989/WR89A/Dominica.htm. See generally Dominican Republic, *Illegal People: Haitians and Dominico-Haitians in the Dominican Republic*, Vol. No. 1(B) April 2002. See *infra* Part III. See also http://www.hrw.org/reports/2002/domrep/0402-02.htm#P167_23417.

Haitians are living in Santo Domingo. Half that number live on bateyes.²

Although this flight provided additional workers for the sugar cane plantations, *any* Haitian could be picked up and sent to the plantations to harvest. The Haitians call this “se eopk chas la” which means “open season” on any Haitian in the Dominican Republic. The people are gathered and kept in barracks until a large number are shipped to the bateyes. Their belongings are confiscated and they work in the bateyes from sun up to sun down under the watchful eyes of armed military soldiers. Most of the four hundred bateyes have no running water, no electricity, no cooking facilities, no bathrooms and no school facilities for the children. The people sleep four to six in a small room on bare floors. Although they are paid for their work, one would agree that two dollars for every ton of sugar cane is an impossible wage for anyone to maintain a subsistence level of living. The worker is paid in coupons³ rather than currency which is discounted at the state store by some twenty percent. So, if a worker could have earned possibly sixty to seventy dollars a month after the various adjustments and discounts, he is barely left with fifteen dollars at the end of a month. Adding insult to injury was the Duvalier regime formalization of this activity through a contract with the Haitian and Dominican governments. Although President Aristide attempted to put a stop to this government contract and did shed light on this practice, very little has occurred to cease this slavery. How fascinating that in this hemisphere where slavery was a way of life for so long and eventually condemned by the

² U.S. DEP'T OF STATE, DOMINICAN REPUBLIC COUNTRY REPORT ON HUMAN RIGHTS PRACTICES FOR 2000, at 15. *See also* Michaux & Adré, *The Other Side of the Border*, COURIER-EU, at <http://www.hrw.org/americas/domrep/p.essay.html>.

³ The coupons are known as “vales” and have no value outside the bateye. This “currency” of the bateye is yet another repressive control used to insure that the workers will not leave. Without money, they cannot function beyond the bateye.

international community, it could be renewed and continue to flourish with little, if any, public outcry.

II. SUGAR CANE SLAVERY - THE PROCESS

My interest in bateyes developed over a number of years but extensive research yielded very little information. Coincidentally, I was asked to present a paper in the Dominican Republic and, of course, I jumped at the opportunity not only to present a paper, but to go there to continue my research in person. I looked through tour books and called several human rights organizations only to find out that bateyes were dangerous places controlled by the government; a government that would certainly frown on outsiders. One person told me that it was better not to go during the high season and in fact, it was better if one went with an official delegation. I thanked him for the advice but I was determined to find a way to get into a bateye.

I went to the Dominican Republic hoping to find a way to get to a bateye near the capital city. I was fortunate to find three colleagues who were also interested in pursuing this little adventure with me. We spoke to several people at the hotel in hopes of finding a guide since the bateye is not a tourist attraction in the guidebooks. Someone identified a young man who frequented the hotel and who could probably get us to a bateye, for a fee. We made contact with him and he informed us that he would take us by bus into the countryside. There, we would have to make a connection to go by car, and then to yet another car to get us to the bateye. Since this was the off-season, I thought that this was the most opportune time to make this journey. The prospect of danger entered my mind, but I dared not utter my concern and I think my colleagues dared not to speak of fear. After all, as academics on a "field trip" we continued to be upbeat about our adventure.

Our guide met us at eight o'clock in the morning and we were off on what would be characterized as a commuter bus that took us to the outskirts of the city. We met a car at the bus stop that took us farther into the countryside. When we got out of his car, another man was waiting with a broken down jeep. After what seemed like eternity, we arrived at the outskirts of a small town. We could see a large manufacturing plant looming behind a small hill. Our guide proudly informed us that this was the largest sugar cane processing plant on the island. I asked him if he thought it would be all right for us to speak to the people working there. He said we could speak to Vincent,⁴ the plant caretaker and he cautioned us to be careful if we saw soldiers. If the soldiers asked us anything, we were to plead ignorance and simply tell them we were lost. The soldiers left the countryside this time of year but sometimes one would return to make the rounds to intimidate the Haitians and to make sure that they understood that the government was keeping a watchful eye on the bateye. We took his advice and walked into the plant. The old man named Vincent came over and welcomed us to this place; he seemed to be very proud. He told us in broken Kreyol that his parents had come to the Dominican Republic years ago to find work and that he had been born here.⁵ He finally made it to the

⁴ The names of the Haitian immigrants and the specific bateye we visited are changed to protect the people. We gave them our word that we would not divulge their identities because of their fear of reprisals. Although two of us spoke Kreyol the people were very cautious about speaking to us. They had seen relief and missionary workers come and go without any change. I am very grateful that they were kind enough to trust us to speak their minds.

⁵ The seasonal migration of low-wage Haitian cane cutters which began in the early 1900s gradually left a large permanent population of Haitians and Dominicans of Haitian origin in Dominican agricultural zones and cities. The population has grown to an estimated 500,000 residents today. The Dominican Republic is estimated to have 7.2 million residents. Thus Haitians and Dominican-Haitians comprise at least 7% of the population.

sugar refinery plant and secured a better job. His family never returned to Haiti and his parents' generation had since died. He said that he never felt like a Dominican even though he was born here because his countrymen always regarded him as an outsider. He always felt like a Dominican with Haitian roots, but in the Dominican Republic. Dominicans of Haitian ancestry were held in low esteem.⁶

We talked with Vincent about the working conditions in the plant versus the bateye. He told us that he had worked for many years in various bateyes and had been lucky to have landed the job at the plant. He said that the political problems facing Haitians in the bateyes had gotten progressively worse over the years. I asked him if it was safe to go to the bateye and he said we would be alright, but to be careful. He became very uncomfortable when another worker continued to walk past us as we spoke. Vincent became so uncomfortable that he told us he had to take care of something and quickly bade us goodbye and disappeared.

The Jeep driver introduced us to a young man who spoke no English but he had an old Chevy with no back seat, so the four of us sat on the floor as the car bounced up and down on the poorly paved road. At this point it was beginning to get a little scary because we had no idea where we were, much less where we were going. The only thing we did know was the name of the bateye and that the driver had rated it as one of "the country's best." It was one of the few bateyes with

⁶ There is a 1990 decree which required the issuance of individual contracts to and the normalization of the immigration status of every cane cutter; however, these provisions have rarely been enforced. Temporary work visas and labor contracts in the cane industry still remain the exception and the terms and conditions of the contracts are rarely honored when available. Few long time residents of the bateyes, the shanty town camps where the cane cutters live, have residency permits or have received labor contracts and, without Haitian or Dominican papers, have no way to apply for permanent residency status. NATIONAL COALITION FOR HAITIAN REFUGEES, *BEYOND THE BATEYES 2* (1996) [hereinafter NATIONAL COALITION FOR HAITIAN REFUGEES].

running water and electricity. The car eventually came to a stop on a rather dusty road and the driver motioned that we were here, on the grounds of the bateye. The neon sign never greeted us. I had a feeling this was going to be worse than I had envisioned. We got out near a small cottage and could barely see what appeared to be some buildings clustered together further down the unpaved road. Our driver promised that he would return in two hours. The promise raised my level of concern. We decided to pay him only a portion of the fare and promised him the remainder when he returned. Even though we had no other means to return to the town, I was more confident that our driver would return because it was probably the most money he had earned all month.

We then walked over to a small house where an elderly woman came out and greeted us. We spoke to her in Kreyol and found out her name was Martine. I asked her about the small building at the entry of the bateye. She told us that it was the government's milk dispensing center for the children of the bateye. When asked how often the government passed out the milk, she answered sadly that during the cane cutting season they would give milk to the children maybe once a month. However, since most of the time the milk was spoiled, the women did not rely on it much. She recounted that back in Haiti she had heard that there was work here so she followed countless others who had taken the same advice, with the same hope of work in perhaps a better place. When she arrived in the Dominican Republic the authorities took her papers and threatened her when she talked about leaving. In fact she had been beaten for this several times and finally had given up. She told us that she was the oldest woman in the bateye and that most of the residents of the bateye regarded her as the matriarch. "After all, I am too old. The people here treat me well. They will bury me when I die." She told us that she had spoken too much and that we really needed to talk to the others here. We should speak to the "mayor" of the bateye. He would tell us what we wanted

to know. Without more she ambled down the road. “Go to the store!” she called out as she looked back and saw the four of us just standing in the middle of the road. “I’m going to find the ‘mayor,’ go ahead. You’ll be alright.”

We walked to a small concrete building that housed the government grocery/liquor store. This was the “company store” where the workers use bateye currency (vales) which are discounted from face value for their purchases. The assortment of liquor bottles was overwhelming compared to the food products that were available. To say that there was a bare minimum would be kind. There were very few supplies for the children such as baby food or milk. Martine had told us that the woman who tended the store also reported any activity to the government so we were to be very careful in our discussions with her. The woman, who appeared to be in her mid-forties, spoke Kreyol but was quick to tell us that she was Dominican and had to know Kreyol for the job. She asked rather direct questions and as the situation was beginning to get tense, Martine returned with the “mayor.”

The “mayor” was a tall Haitian named Joseph Charles who told us that he had been a tailor in Haiti and had come to the Dominican Republic to purchase fabric when he was pulled off the street and herded into a holding pen somewhere outside the capital. The authorities had taken his papers so it was impossible for him to prove anything and he had hoped that they would merely send him back home. However, because it was harvest season they sent him to the plantation to work. He had lived in the bateye for over four years and was hoping that there would be a mass deportation so he could go home. However, he owed the Dominican government for the small hut he had lived in, coupled with the provisions he had purchased in the store and various other sundry things. He would have to work on the plantation for the next year just to pay off his debt from the year before. He made clothing for the people of the bateye. Somehow he

managed to purchase a small sewing machine and he would bribe the soldiers to get fabric and thread. Sometimes the priests or other church people would come and they would bring him supplies. This business provided little in the way of extra money because the workers who came to him could only afford a few vales for clothing. Besides, the church groups were pretty good at bringing clothes and food to the bateyes.

Joseph Charles had become the unofficial spokesman for the plantation workers because he spoke Spanish and was the most educated. He was a sort of "mayor" who spoke to the authorities when the Haitians got into trouble. He thought that if he could maintain a good relationship with the authorities he would eventually gain his freedom. So far it had not proved beneficial but he was still hoping. The mayor explained to me that the store was the only place where they could purchase provisions on credit and after the cane cutting season, many of them had no where to go. There had been times when the Dominicans would round them up and deport them back to Haiti, but that had not happened in a while. The store owners (essentially the government) permitted the workers to run a tab for the items they needed during the off season. At the beginning of the cane-cutting season, the worker was told how much he owed to the store, along with the rent he had to pay for the months he occupied the shack. So the worker at the commencement of the cane-cutting season was already in arrears, in terms of the credit that had been extended to him by the government during the off season. This vicious cycle continued so that the worker was always on the proverbial treadmill to keep working to pay the back debt for food and shelter. In essence, it was slavery.

Behind the store were makeshift shacks with unpaved roads and many children running around. The people came out to see who the visitors were. When the group discovered that two of us spoke Kreyol they became very friendly and invited us to come into one of their homes. The one room

shack reminded me of the housing I had seen at the Wounded Knee reservation back home.⁷ We were offered warm Cokes and sugar cane from people who had so little. We offered to pay for them but they would not hear of it. We asked them about the conditions on the bateye. They told us that it would be better if we saw the conditions rather than have them talk. They took us around to the “bathroom” which consisted of a rubber tire that had been cut in half and a water pump. We visited the graveyard where the mayor told us that the government had enacted a new property use tax when the dead are buried on bateye ground. This further dissipated financial resources because the tax was borne by the entire bateye. This was yet another ploy to minimize the slave wages they were paid. Although they had little, they would all chip in to provide a dignified funeral. This bateye did have running water (albeit a crude version) and there was electricity and an old black and white television in one of the houses we visited. After all, this was one of the country’s best.

The children who were born in the bateyes were often offspring of Dominican soldiers and other officials of the bateye who would rape the women once the men left for the cane fields. The mayor also spoke of the growing aged population of the bateye who could never return to Haiti and

⁷ I had the opportunity to visit Wounded Knee on the Pine Ridge Reservation in South Dakota in 1981. It was my first experience on an American Indian reservation. I was astonished by the deplorable living conditions of indigenous people in this country. The conditions on the reservation and the bateye are frightfully very similar. *See generally* STANLEY DAVID LYMAN, *WOUNDED KNEE 1973: A PERSONAL ACCOUNT* (Floyd A. O’Neill, et. al., eds. 1993); JOHN VANCE LAUDERDALE & JERRY GREEN, *AFTER WOUNDED KNEE* (1996); <http://www.lexisnexis.com/academic/2upa/ANA6/FBIAmericanIndianMovement.htm> (discussing the FBI’s involvement in the American Indian Movement); <http://www.aimovement.org> (relating to the American Indian Movement); <http://pbsvideodb.pbs.org> (highlighting the historical evolution of the American Indian Movement in America).

would die in the Dominican Republic. The old woman said she saw a growing population of Haitians and now children of Haitian workers who had no legal citizenship status. So they would end up staying in the bateye for their lifetimes. Haitians were unable to secure documentation because of the Dominican government's failure to normalize their immigration status.⁸ The mayor said they were fortunate to have a water pump and electricity. This was clearly one of the better bateyes in the country. He continued on to say that the people felt trapped and although there had been various international rights groups coming to the bateyes, very little had been done to change anything.⁹

Like Martine, many of the women talked about how they had been lured into coming to this country by the promise of work. When they arrived, they were forced into working on the bateye sorting out the crop for processing. The women were not paid for the work they did in the field. A woman would cut cane and have to have a man incorporate her share into his in order to get paid. Sometimes the men would not pay the woman. But even when they were paid, the man had to first tip the person running the scales in the field so that his cane could be weighed first and not lose some of the weight as the sun dried out the cut cane. Furthermore, the reason why so many of the women decided to work in the

⁸ The labor problems of the Haitian cane cutters are not limited to this industry. The same problem exists in the tourism, coffee, rice, tobacco and construction industries. The issue is not the industry, it is the legal subordination of the Haitian immigrant worker by the Dominican government.

⁹ The International Labor Organization (ILO) was moved to send a fact finding mission to the Dominican Republic in the book *Sucre Amer: Esclaves aujourd'hui dans les Caribes* (Bitter Sugar: Modern Slavery in the Caribbean) by Maurice Lemoine (1981). *See also, ILO Official Bulletin*, Vol. LXVI (Report of Commission of Inquiry) (1983); AMERICAS WATCH, NATIONAL COALITION FOR HAITIAN REFUGEES AND CARIBBEAN WATCH, HAITIAN SUGAR CANE CUTTERS IN THE DOMINICAN REPUBLIC (Nov. 1989).

field was because the incidents of rape by the Dominicans, while the Haitian men were in the field, were quite commonplace. Children who were born from these rapes were considered *persona non grata* because Dominican law made it very difficult for children of Haitian mothers and Dominican fathers to be considered Dominican citizens.¹⁰ In fact, these children were denied the ability to attend school or receive any governmental services because of their parentage.¹¹ The people talked about the difficulty in trying

¹⁰ The Constitution of the Dominican Republic grants citizenship to “all persons born in the territory of the Dominican Republic, except for the legitimate children of foreigners resident in the country as diplomats or those in transit.” DOM. REP. CONST. art. 11. *See also* CODE CIVIL art. 9, ¶ 1 (Dom. Rep.); MIGRATION LAW art. 7 (Dom. Rep.); U.S. DEP’T. OF STATE, DOMINICAN REPUBLIC REPORT OF HUMAN RIGHTS PRACTICES FOR 1998 11 (BUREAU OF DEMOCRACY, HUMAN RIGHTS AND LABOR) (1999). Credible sources charge that the Government at times, in violation of the Constitution, refuses to recognize and document as Dominican citizens individuals of Haitian ancestry born in the country. Children born to Haitian parents are caught in a bureaucratic dilemma: since many Haitian parents have never processed documentation for their own birth, they are unable to demonstrate their own citizenship. As a result they cannot declare their children’s births at the civil registry and thereby establish Dominican citizenship for their offspring. Some civil registry offices do not accept late declaration of birth for children of Haitian immigrants, although they routinely accept late declarations for children of Dominican parents. Lack of documentation often hinders the ability of children of Haitian descent to attend school where there is one available. Some parents fail to seek documentation for fear of being deported. Haitian parents encounter difficulties registering their children for school. It falls to the discretion of public school principals whether children may attend, since immigrant parents usually have no identity cards or birth certificates to register children formally. Even when permitted to attend primary school, it is rare that the offspring of Haitian parents progress beyond sixth grade. *See* CODE CIVIL art. 9, ¶ 1 (Dom. Rep.); MIGRATION LAW art. 7 (Dom. Rep.).

¹¹ *See* U.S. DEP’T. OF STATE, DOMINICAN REPUBLIC REPORT OF HUMAN RIGHTS PRACTICES FOR 1998 12 (BUREAU OF DEMOCRACY, HUMAN RIGHTS AND LABOR) (1999). The report continues by stating that Haitian parents make other arrangements in hope of securing a better life

to leave this place although there have been times when they were herded up and deported when the Dominicans had either political or economic reasons to do so. The older woman we had seen when we first came into the bateye said that things had gotten worse since she had come almost twenty years ago. I asked her if most people had come to the bateye with the expectation of staying in the Dominican Republic. She told me that they all got there the same way. They had been told that there was work in the Dominican Republic. When one is desperate to eat, one goes wherever there is a possibility to work. So what many Haitians had done was to go to the Dominican Republic with the hope of seeking work, never with the hope of staying in the Dominican Republic permanently.

The car horn reminded us that the time had come for us to leave. We bade our hosts farewell and got into the car. As we drove off, the small group stood in the middle of the road waving to us. I wondered what they thought of yet another group of people coming to ask the same questions over and over again and receiving very little in terms of improvements. I wondered about the legal status of the children, the emotional health of the women who could not work for wages and would be raped by the soldiers who patrolled the bateyes. The group slowly disappeared from sight. I wondered if any of those people would ever leave the bateye. Would children be doomed to repeat the lives of their Haitian mothers? I remembered the old man Vincent at the processing plant and wondered where the concept of

for their children. Sometimes Haitian parents make arrangements to have their children "adopted" which means "work" for Dominican families. The advantage of this is that the Dominican family can register any child of any age as their own. The Haitian parents are given food or money in exchange for their child. Although it is the hope of the Haitian parents that this arrangement will ensure a better life, however, many adopted children are not sent to school and are rather employed as household help. There are reports that Haitian girls between the ages of ten and fourteen are actively sought after, especially in border towns.

compassion comes from in a government that sells its people and another who takes those people in only to abuse their labor and their spirits. We rode off and I knew that the sadness I felt from this experience would leave an indelible mark on my soul. I had read about the cane trade but I would have never understood the full import until I actually visited a bateye. I was told this was one of the best bateyes because they had running water and electricity.

III. HISTORICAL PERSPECTIVES¹²

There is a worldwide evil in the slavery of human beings. The fact that this event is occurring so close to us geographically should sensitize us even more. Although we would like to think that slavery, as it has been historically characterized, has ended, but in reality it has not. These people are rounded up, have their belongings confiscated, and they are handed machetes to go into the field to work. If they try to escape they are beaten and sometimes killed.¹³ This is not a new brand of slavery; it is the slavery that most people in North America believe to be part of the past rather than the present.

In order to understand the present events between the Dominican Republic and Haiti, it is important to view past history. The relationship between Haitians and Dominicans

¹² *See generally* ELIZABETH ABBOTT, *THE FIRST INSIDE ACCOUNT* (1988); ALEX DUPUY, *HAITI IN THE NEW WORLD ORDER: THE LIMITS OF THE DEMOCRATIC REVOLUTION* (1997); PAUL FARMER, *THE USES OF HAITI* (1994); AMY WILENTZ, *THE RAINY SEASON – HAITI SINCE DUVALIER* (1989).

¹³ The Haitians' workday begins at 5:00 a.m. when the guards come for them. The men are taken into the fields to harvest cane for twelve or fourteen hours. Back in the bateyes four to six people share a small dark room. I have seen large dormitory type buildings where men are shackled at night to prevent them from escaping. The people who are veterans and remain after the harvest live in a different part of the bateye.

has always been difficult at best. The conflict between the two countries reaches back to the colonial period. Haiti, formerly called San Domingue, shares the western third of the island of Hispaniola with the Spanish speaking Dominican Republic. Christopher Columbus discovered it in 1492 when he wrecked his flagship Santa Maria near the island and claimed it as Spain's first settlement. Though there was gold on the island, the Spanish settlers were far more interested in the richer colonies of Mexico and Peru. The French took advantage of this distraction and fought for and gained possession in 1697. By the end of the century, when France defeated Spain in Europe, the Treaty of Ryswick acknowledged its claim to the part of the island known as San Domingue. This colony became the richest of France's holdings. It had fertile land that produced thousands of sugar, coffee, cotton and indigo plantations. In fact, it furnished two-thirds of France's overseas trade, employed fifteen thousand French soldiers and over a thousand ships to carry the island's bounty back and forth to Europe.

French rule and their economic prosperity came to an end starting in 1791 when Haitian armies revolted and defeated the French. The first independent Latin American state was established in 1804 and was known as the Republic of Haiti. Toussaint L'Overture briefly united the island under Haitian rule in 1801. Although the French drove them out, the Spanish recaptured San Domingue in 1805. The Spaniards held the country until 1822 when the Haitian army under Jean-Pierre Boyer invaded and took the island that was again reunited as Haiti.¹⁴ This rule came to an end twenty-two

¹⁴ ELIZABETH ABBOTT, HAITI-THE FIRST INSIDE ACCOUNT 10 (1998). *See also generally* ROBERT DEBS HEINL JR. & NANCY GORDON HEINL, WRITTEN IN BLOOD: THE STORY OF THE HAITIAN PEOPLE 1842-1971 (1978); C.L.R. JAMES, THE BLACK JACOBINS: TOUSSAINT L'OVERTURE AND THE SANTO DOMINGO REVOLUTION (2d ed. 1963); PATRICK BELLEGARDE-SMITH, HAITI: THE BEACHED CITADEL (1988); BRIAN WEINSTEIN & AARON SEGAL, HAITI: THE FAILURE OF POLITICS (1992).

years later when the Dominicans finally established a separate republic in 1844. The Spanish were invited to return to the Dominican Republic and did so for about four years, but their repression of the people proved too much. With the help of the Haitians they unseated the Spanish for the last time in 1865.¹⁵ Although the Haitians were instrumental in helping the Dominican Republic to rid itself of the Spanish, they still had to establish themselves free of Haitian domination.¹⁶ The antagonisms of the various occupations faded as the perceived threat of military action on the part of Haiti diminished.

The long standing antagonism between the two countries had waned by the turn of the century. It was soon replaced by an anti-Haitian sentiment fabricated for political purposes by General Rafael Trujillo, the Dominican dictator who assumed power in 1930 and ruled the Dominican Republic with an iron hand until his assassination in 1961.¹⁷ Trujillo used the large Haitian population who had been brought to the Dominican Republic, to work on the sugar plantations during the American occupation of Haiti (1914 to 1934) and the Dominican Republic (1915 to 1925). These Haitians were both the instruments and victims of Trujillo's politics.¹⁸

¹⁵ See ABBOTT, *supra* note 14, at 10.

¹⁶ *See id.*

¹⁷ *See id.* at 7.

¹⁸ Despite, or perhaps because of, his black Haitian grandmother, Trujillo hated the “despised Negro aliens whose voodoo, cattle rustling, and presence on Dominican soil was the ruin of a good life for Dominicans” and “caused a weakening of the national blood.” Trujillo’s antidote was to begin bloodletting, and the rivers of blood that flowed were Haitian. In a massacre unparalleled in the Caribbean or North America, the Dominican National Police and Army rounded up Haitian men, women and children and systematically slaughtered them. The Dominican Vespers began on October 2 and lasted three days. Few bullets were used. Instead, 20,000 to 30,000 Haitians were bludgeoned and bayoneted, then herded in moaning, wailing droves into the sea, where sharks finished what Trujillo had begun. ELIZABETH ABBOTT, *HAITI: THE DUVALIERS AND THEIR LEGACY* 49 (1988).

Sugar cane became an important agricultural commodity in the Dominican Republic in the 1870's when refugees fleeing the Ten-Year War in Cuba arrived and established sugar mills. The First World War destroyed the beet-sugar industry in Europe, thus causing sugar prices to double. Investors searched for new sources. The United States initiated a dramatic expansion into the sugar cane business between 1914 and 1925 (which incidentally coincided with the American occupation in Haiti). The United States met the higher demand for cheap labor by importing Haitians rather than the English speaking migrant workers from the Virgin Islands and Jamaica. The Haitian workers were easier to get to since they were close at hand and already under United States control.¹⁹ On the other hand, Trujillo wanted to remove the Haitians living within the Dominican Republic's recently demarcated borders and to "Dominicanize" the sugar cane industry. This strategy was virtually impossible because the United States – in Haiti until 1935 – would oppose the loss of cheap labor for the American sugar plantations.²⁰ Trujillo maintained cordial relations with Haiti during the seven years of his dictatorship in an effort to get Haitian authorities to deny asylum to Trujillo's opponents.²¹ He finally carried out his policy of expulsion after the Americans left by ordering the massacre of all Haitians found outside the plantations.²² This action was opposed by the Haitian government which angered him and caused a vicious racist propaganda campaign against the Haitian people and their leaders in an effort to justify his brutal actions. Trujillo would go on to use anti-Haitian rhetoric

¹⁹ NATIONAL COALITION FOR HAITIAN REFUGEES, *supra* note 6, at 7.

²⁰ BERNARDO VEGA, *Variaciones en el Uso del Antihaitianismo durante la Era de Trujillo*, LISTIN DIARIO, Oct. 24, 1995 at 6, *cited in* NATIONAL COALITION FOR HAITIAN REFUGEES, *supra* note 6, at 8.

²¹ *See* NATIONAL COALITION FOR HAITIAN REFUGEES, *supra* note 6, at 7.

²² *See id.*

whenever it was convenient. Depending on the personal relations between Trujillo and the current president of the time, the anti-Haitian propaganda would shift accordingly. The arrival of the military government in Haiti in 1946 solidified Trujillo's stand regarding tolerance towards the then Haitian regime.²³ By the 1950's, Trujillo was on a mission to take over the sugar industry and took the opportunity to exploit the then peaceful relationship he enjoyed with the Haitian government. In 1952 he succeeded in signing the first bilateral agreement with the Haitian government and, as a result, 16,500 Haitian workers were brought to the Dominican Republic. The agreement was renewed by President Francois Duvalier in 1959.²⁴ There is clearly evidence to support that Duvalier was profiting tremendously from the exportation of the workers.²⁵ Trujillo was assassinated in 1961 but his successors continued to have cordial relations with the Haitian government. This cordial environment continued the sugar cane employment of thousands of Haitians.

The 1990s brought a different kind of Haitian leader with the democratic election of President Jean-Bertrand Aristide who immediately criticized the Dominican Republic for its treatment of Haitian workers. This strained the long-standing

²³ *See id.* at 8.

²⁴ *See id.* *See also* ROGER PLANT, SUGAR AND MODERN SLAVERY: A TALE OF TWO (1987); JAMES FERGUSON, DOMINICAN REPUBLIC: BEYOND THE LIGHTHOUSE 82 (1992) *cited in* NATIONAL COALITION FOR HAITIAN REFUGEES, *supra* note 6, at 8.

²⁵ NATIONAL COALITION FOR HAITIAN REFUGEES, *supra* note 6, at 10, *citing* JAMES FERGUSON, DOMINICAN REPUBLIC: BEYOND THE LIGHTHOUSE 83 (1992). "That iniquitous exploitation to which Haitian *barceros* (cane cutters) are subjected today, victims of illicit commerce in which the governments of both parts of the island participate with an equal degree of corruption should be substituted, within a regime of national and international collaboration . . . by another more humane one, lien to this form of denigrating slavery which is practiced at the present time in the Dominican sugar *ingenious* (mills)." *Id.*

relationship between the Haitians and the Dominicans.²⁶ The anti-Haitian stance of the Dominican government has been most visible in its reaction to international criticism of the treatment of the Haitian cane cutters. The International Labor Organization was so moved by accounts in Maurice Lemoine's book *Sucre Amer: Esclaves aujourd'hui dans les Caraïbes* (Bitter Sugar: Modern Slavery in the Caribbean), that it dispatched a fact finding mission to the Dominican Republic. It produced a report condemning the 'near slavery' working practices it found on the plantations.²⁷ The Dominican Republic has been for decades, and continues to be a major force in Haitian political and economic life.

Today, international pressure from groups such as National coalition for Haitians Rights (NCHR), Americas Watch and Caribbean Watch have raised controversy within the country to the point where former President Balaguer ordered the issuance of labor contracts.²⁸ The situation

²⁶ President Balaguer's government never denounced the 1991 military coup against Aristide and routinely violated the economic embargo imposed by the United Nations. In fact violations were so common that the Dominican government was forced to accept international observers on the border to assure Dominican compliance.

²⁷ *Report of Commission of Inquiry, in 66 ILO OFFICIAL BULLETIN* (1983).

²⁸ Additional promises were made by President Balaguer including: the "regularization" of the immigration status of all Haitians living in the Dominican Republic, the improvement of living conditions in the bateyes, and the establishment of Department of Labor delegations in the sugar refineries to "monitor the respect for human rights of said workers and insure that the most strict compliance of the contract terms is carried out with each worker." Decree No. 417-90 art. 1 (1990). A follow up report that was issued in 1991 clearly indicated that the Dominican government had failed to implement the proposed policies regarding Haitian cane workers. HUMAN RIGHTS WATCH, NATIONAL COALITION FOR HAITIAN REFUGEES AND CARIBBEAN RIGHTS, HALF MEASURES: REFORM, FORCED LABOR AND THE DOMINICAN SUGAR INDUSTRY 1 (1991). *See also* LAWYERS COMMITTEE FOR HUMAN RIGHTS, A CHILDHOOD ABDUCTED: CHILDREN CUTTING SUGAR CANE IN THE DOMINICAN REPUBLIC 65 (1991).

worsened when the United States decided to extend trade benefits to the Dominicans. President Balaguer felt comfortable enough after the American show of support that he deported all cane workers under sixteen and over sixty. Not only were cane workers forced out of the country, but there are estimates that as many as 50,000 Haitians were also deported. Many of these people had no connections to the cane industry. After the Aristide coup in September 1991, Lieutenant-General Cedras came to power and some 30,000 Haitians fled to the Dominican Republic only to find anti-Haitian sentiment at an all time high. The Dominican government made every effort to stop the flow of refugees and granted political asylum only to an infinitesimal few.²⁹ NCHR published another report in 1992 that denounced the political motives behind the deportations and the abusive manner of the Dominican military against the Haitians.³⁰

²⁹ The Dominican Republic is a signatory to the major international refugee and human rights treaties. *See infra* Part IV. It has made every effort to keep Haitian refugees fleeing military opposition from entering the country and made no efforts to aid those who did not succeed in escaping to Haiti. In early 1992, the Dominican military surrounded and effectively imprisoned twenty-one refugees inside of an Episcopal church. The refugees remained in the church for almost two months until the standoff was resolved by the intervention of the recently established Dominican Republic office of the United Nations High Commissioner for Refugees (UNHCR). U.S. COMMITTEE FOR REFUGEES, 1995 WORLD REFUGEE SURVEY 177 (1995).

³⁰ The report indicated that coercive labor practices continued unabated in the sugar industry and the promises made in President Balaguer's Decree were not enforced. Even though labor unions were now legal in the cane fields, the government had failed to bargain in good faith. Though sugar cane workers' wages had been raised, they were still insufficient wages to care for a worker and his family. Children continued to be rounded up by the government to work in the cane fields. The situation for women had not improved either. They still were not "officially" permitted to work in the fields, and if they did so they had to bundle their work with the men and hope that they would be paid. They still feared rape by the Dominican soldiers and overseers who maintained the government's bateyes. *See* AMERICAS WATCH AND NATIONAL

V. THE LEGAL STATUS OF HAITIANS IN THE DOMINICAN REPUBLIC

The legal status of Haitians living in the Dominican Republic can be classified into four distinct groups, each with differing immigration status under Dominican and international law: seasonal agricultural workers; undocumented “permanent resident;” children of Haitians born in the Dominican Republic; and political refugees.

A. Temporary Workers

There are unconfirmed estimates by the Dominican government that there are approximately 15,000 to 20,000 seasonal sugar cane workers who come and go at each harvesting season. This number does not include other migrant workers who work on other harvests such as tobacco, rice and coffee. Haitian sugar cane workers were brought into the country without any kind of immigration documentation. Without immigration documentation they are not allowed to travel outside of the plantation. They cannot demonstrate a legal right to be present in the country. It was only after international pressure was brought to bear that the Dominican government responded by decree that the Department of Migration would normalize the “presence of all Haitian nationals in the territory, of determining their status as temporary resident immigrants or fixed term day laborers.”³¹

COALITION FOR HAITIAN REFUGEES, *A TROUBLED YEAR: HAITIANS IN THE DOMINICAN REPUBLIC* (1992).

³¹ See NATIONAL COALITION FOR HAITIAN REFUGEES, *supra* note 6, at 15, *citing* Decree No. 417-90 art. 1 (1990). (“As was noted in a later report Decree 417/90 never specified the meaning of ‘normalization’ and the Director General of Migration never specified the immigration status that registration would confer or the kind of visa or other document that would be issued to prove immigration status.”). *See*

*B. Undocumented “Permanent Residents”*³²

There is a group of workers that grew out of the cane-cutters and became a more permanent component and remain on the bateyes all year. Along with this group are additional workers who came to work in the tobacco, rice and coffee fields as well as the construction and tourism business. These people have established themselves permanently in the Dominican Republic and are considered permanent residents. Although the 1990 decree addresses the migrant worker situation, it does nothing to confer legal status upon these people. Most have no identity documents and were not born in the Dominican Republic. Some have been in the Dominican Republic for more than thirty years with hardly, if any family connections in Haiti. In the event of deportation these people will be stateless.³³ The Director General of Migration stated that if initial entry into the country was illegal then the immigrant’s status remains the same no matter how long they were in the country.³⁴ The actual numbers are in dispute ranging from 400,000 to 500,000.³⁵

Under Dominican law, children born in that country are entitled to Dominican nationality. Article 11 of the Dominican Constitution grants citizenship to “. . . all persons

AMERICAS WATCH AND NATIONAL COALITION FOR HAITIAN REFUGEES, A TROUBLED YEAR 8-10 (1992).

³² See NATIONAL COALITION FOR HAITIAN REFUGEES, *supra* note 6, at 16.

³³ *Id.* at 16, 17. Interview with Vitelio Mejia Ortiz, Director General of Migration (Oct. 19, 1995), *cited in* NATIONAL COALITION FOR HAITIAN REFUGEES, *supra* note 6, at 15.

³⁴ Michaux & Adré, *supra* note 2, at 2.

³⁵ Sociologists Isis Duarte and Andre Corten estimate the number closer to the 500,000 mark based on an analysis of Haitian population increases between 1970 and 1991. See Andre Corten and Isis Duarte, *Five Hundred Thousand Haitians in the Dominican Republic*, 22 LATIN AMERICAN PERSPECTIVES 94, 96-98 (Summer 1995).

born in the territory of the Dominican Republic, except the legitimate children of foreigners resident in the country as diplomats or those in transit.”³⁶ The conflicts further compound the child’s legal status. The child may not be able to gain Haitian nationality either. The current Haitian constitution grants citizenship to the children of Haitian parents regardless of place of birth, but prohibits dual nationality. This clearly presents a conflict with children born in the Dominican Republic and trying to assert Haitian nationality. There is evidence to prove that even when the child’s birth is verified by the overseers in the bateye, there is a reluctance on the part of the government to grant the official birth certificate.³⁷ The Dominican-Haitian Women’s

³⁶ CODE CIVIL art. 9, ¶ 1 (Dom. Rep.); MIGRATION LAW art. 7 (Dom. Rep.). *See also* Michaux & Adré, *supra* note 2, at 2. The Haitian parents of these children have a difficult time establishing that the child was born in the Dominican Republic. For instance, official birth certificates are only issued by hospitals and clinics but most of the children born to the sugar cane or other agricultural workers are born at home. Therefore there is no official birth record available. It is a double-edged sword because the undocumented parents are afraid to approach a government office to register the newborn. Furthermore, the parents usually do not have the documentation often asked for by the Dominicans such as passports and the like in order to register the child. A representative of the employer is supposed to accompany the worker to the registry to make sure that the birth is recorded. In practice this is a rare occurrence.

³⁷ The Institute of Legal Investigation and Action (INVIAJ), a non-governmental legal defense organization in the Dominican Republic represented six Haitian individuals who had attempted to obtain birth certificates for children recently born in the Dominican Republic. All of the children were born at home and no hospital or clinic certificates had been issued. The normal procedure under Dominican law in these cases is to file a late declaration of birth with the judge. In the case of Haitian workers the appropriate evidence is a CEA employment card signed by the administrator of the CEA mill employing the worker and a letter from the mayor of the town covering the worker’s bateye attesting to the fact that the birth had occurred within the jurisdiction. The declarations were properly filed. However, when the INVIAJ lawyer returned to pick up the birth certificates, she was told that the documentation filed for official

Movement (MUDHA) conducted a poll of 50 families living in bateyes in August 1994. Their findings are as follows:

Of the 315 family members included in the study, 228 (160 of whom were over 18 years of age) were born in the Dominican Republic. The poll revealed that 28% had no identification at all and the remaining 72% who claimed to have documents, 26% had only a card identifying them as employees of the CEA (leaving a total of 46% with no identification or only a CEA card).³⁸

A child without a valid birth certificate suffers many consequences including the inability to attend state run school as well as to obtain a Dominican passport or legal documentation held by all permanent legal residents.³⁹ This lack of certification has had its impact on elections where these Haitians are not allowed to vote. If all Dominicans of Haitian descent were granted the same political and civil rights as Dominicans, they could enjoy marked electoral advantages.⁴⁰ In 1994, there was widespread concern over Dominicans of Haitian descent participating in the electoral process. There were reports of inflated Haitian participation

registration had not been received from the Office of the Civil Registry. Upon returning to the office the lawyer was told that declarations made by Haitian nationals constitute a 'delicate matter' which should be taken up with the regional office of the Central Election Board, the national entity responsible for the civil registries. The INVIAJ was advised to petition the Central Election Board requesting the authorization of late birth declarations. This story is replicated throughout the country whenever there is an attempt to register a child of Haitian nationals. Interview with Doris Eusebio Gautreau, Santo Domingo (Oct. 26, 1995). *See also* Petition filed by INVIAJ with the Central Electoral Council Concerning Certain Late Declarations of Birth (Oct. 12, 1995) *cited in* NATIONAL COALITION FOR HAITIAN REFUGEES, *supra* note 6, at 28.

³⁸ MUDHA Survey (Aug. 1994) *cited in* NATIONAL COALITION FOR HAITIAN REFUGEES, *supra* note 6, at 18 [hereinafter MUDHA Survey].

³⁹ *See id.* at 19.

⁴⁰ *See id.*

in the 1994 elections and the government launched a review of the voting rolls with the intention of removing ineligible Haitians.⁴¹ The government agency gave no indication of the criteria to be used for excluding these Haitians except to strike the Haitian French sounding family names from the rolls.⁴² This is still an area of great controversy that the government has yet to resolve.

D. Political Refugees

After the 1991 Haitian coup, the Dominican government attempted to seal the borders, but an estimated 25,000 to 30,000 Haitians managed to enter the Dominican Republic under “circumstances that would appear to be refugee like motivation.”⁴³ No efforts were made to identify people living in the bateyes as possible political refugees.⁴⁴ The Dominican Republic is a signatory to the major international human rights and refugee treaties;⁴⁵ however, it made every effort to keep Haitians who were fleeing persecution out of the country. In some instances, Dominican police rounded up Haitians and handed them back to the Haitian authorities. Of

⁴¹ *See id.*

⁴² *See id.*

⁴³ U.S. Committee for Refugees, *1995 World Refugee Survey* 177 *cited in* NATIONAL COALITION FOR HAITIAN REFUGEES, *supra* note 6, at 20 [hereinafter 1995 World Refugee Survey].

⁴⁴ *See id.*

⁴⁵ A sampling of International Human Rights treaties of which the Dominican Republic is party to include: Geneva Conventions, UNITED STATES DEPARTMENT OF STATE, TREATIES IN FORCE: A LIST OF TREATIES AND OTHER INTERNATIONAL AGREEMENTS OF THE UNITED STATES IN FORCE ON JANUARY 1, 2001 457 (2001); Convention on the Elimination of Discrimination Against Women, UNITED NATIONS, MULTILATERAL TREATIES DEPOSITED WITH THE SECRETARY-GENERAL: STATUS AS AT DECEMBER 2001 240 (2002) [hereinafter MULTILATERAL TREATIES]; International Covenant on Civil and Political Rights, MULTILATERAL TREATISES, at 181; International Covenant on Economic, Social and Cultural Rights, MULTILATERAL TREATIES, at 167.

the 25,000 to 30,000 people who fled after the 1991 coup, 2,762 Haitians sought political asylum through UNHCR.⁴⁶ As of May 1994, 1,346 Haitians were recognized under UNHCR's mandate; however, the Dominican government agency responsible for refugees had only granted refugee status to only thirty-five of these individuals and had not met to consider any Haitian claims since September 1993.⁴⁷

E. Women Workers

In addition to the problems faced by children born in the Dominican Republic, women face many other hardships as well. Legally, women are not allowed to cut cane and they must depend on the men to process the cut cane for payment. They are permitted to live in CEA housing so long as they are living with or married to a cane worker. If the women separate and have no male children of cane-cutting age, they can be ejected from CEA housing.

Aside from cutting cane there is very little to do on the bateye to earn money other than selling candies and perhaps doing laundry. When the men abandon the women, they often resort to prostitution in order to support themselves and their children. They are often subject to violence from the government police and the other male Haitian workers with virtually no recourse. They are often the ones who attempt to register their children with dismal results.⁴⁸

VI. INTERNATIONAL LEGAL ISSUES

⁴⁶ See 1995 World Refugee Survey, *supra* note 7, at 20.

⁴⁷ See *id.* at 22.

⁴⁸ Interview with Sonia Pierre, MUDHA, Santo Domingo (Oct. 28, 1997).

The Dominican Republic is party to the International Covenant on Civil and Political Rights, the Convention on Discrimination Against Women, the International Covenant on Economic, Social and Cultural Rights, the American Convention on Human Rights and numerous ILO conventions.⁴⁹ The specific articles pertaining to the plight of Haitians in the Dominican Republic are:

- The International Covenant on Civil and Political Rights: Article 12(4) requires that “an alien lawfully in the territory of a State Party to the present Covenant may be expelled there from only in pursuance of a decision reached in accordance with law and shall . . . be allowed to submit the reasons against his expulsion and to have his case reviewed by, and be represented for the purpose, before the competent authority or a person or persons especially designated by the competent authority.” Therefore, forced repatriation without due process is prohibited.⁵⁰

- The Convention on Discrimination Against Women: Article 11,1(d) “requires that a woman shall have the right to equal remuneration, including benefits and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of the work.” The work of a woman in the bateye should be judged in the same fashion as a man. She should not be dependent upon the kindness of a man in order to receive payment for the work completed.⁵¹

- The American Convention on Human Rights:

⁴⁹ *See id.* at 41.

⁵⁰ *See id.*

⁵¹ *See id.*

Article 22(5) states that “no one can be expelled from the territory of a state of which he is a national or be deprived of the right to enter it.” Thus, children who are born in the country have the right to be recognized as Dominican nationals with all the rights pertaining to citizenship.⁵² Article 22(9) states that “the collective expulsion of aliens is prohibited.” Furthermore, Article 13(3) of the Dominican Nationality Law recognizes the right of aliens to a hearing before deportation.⁵³ These provisions specifically address the rights of those Haitians who are herded up and taken to bateyes to work or are expelled from the country without a hearing.

The legal protections for the displaced and often forgotten Haitians in the Dominican Republic are in place. It is clear and unambiguous and yet it remains under-utilized. Without the sting of real economic hardship, the government of the Dominican Republic will continue to ignore its obligation as a signatory and continue to benefit from the abuse of these laws. It has proved itself to be a government devoid of compassion and commitment. Therefore, the obligation falls upon those who benefit from the bateye production of sugar - the United States. Even though the big-stick of trade sanctions for human rights enforcement has been made a mockery by the Chinese government, China maintains a most favored nation trade status,⁵⁴ while the government of the Dominican Republic, which is not similarly situated, could not ignore any threat to easy export to the United States.

⁵² *See id.*

⁵³ *See id.*

⁵⁴ *See* <http://fpc.state.gov/documents/organization/9026.pdf> (stating that on January 1, 2002, China received permanent normal trade relations from the United States upon its accession to the World Trade Organization); <http://usembassy.state.gov/tokyo/wwwhec0367.html> (White House press release declaring permanent normal trade relations status to China as of January 1, 2002).

Although political ties have been strengthening between Santo Domingo and Haiti since the return of President Aristide as Haiti's leader, Haitian expulsions in Santo Domingo continue at the rate of 500 to 600 per day. The industrialists of Santo Domingo are concerned with the potential of a lack of workers for the next harvest.

September 11th has presented a new dialogue regarding the plight of the third world's downtrodden versus the wealth of the first world. When people have no hope they will subscribe to desperate measures to make their points. The multinational corporations can no longer rape the labor of the third world in silence. We can no longer continue to use the poor to enhance the coffers of the rich, we cannot look away as slavery continues to flourish in third world countries. More specifically, slavery and statelessness are not acceptable economic practices on an island within a stone's throw from America's shore.

VII. CONCLUSION

In order for the Haitian situation in the Dominican Republic to be resolved, several steps must be taken within the country of Haiti to provide more employment for greater numbers of people. Thus, the underlying reason for migration to the Dominican Republic can be eased and eventually the need for intervention from the international community lessened. The Dominican Republic must address the treatment of women and children who live and work in the bateyes; international independent monitoring will be necessary to enforce the minimal standards necessary to delineate labor policy and the practice of slavery.

The legal status of permanent Haitian immigrants with virtually no ties to Haiti must also be addressed. Children who are born of Haitian parents in the Dominican Republic must be given legal citizenship as provided by the

Constitution of the Dominican Republic and international treaties to which it is a signatory.

The continued enslavement of men, women and children who work and live in the bateye must be eliminated if both the Dominican Republic and Haiti are to move into this century with autonomy and dignity. Until all of these critical elements are met, there will be little hope for man to understand that the enslavement of another person is in essence the enslavement of himself.

