

# Labor Rights in Haiti



April 1989

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# **LABOR RIGHTS IN HAITI**

Lance Compa

**INTERNATIONAL LABOR RIGHTS  
EDUCATION AND RESEARCH FUND**

May 1989

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## Preface

This study of labor rights in Haiti was conducted on behalf of the International Labor Rights Education and Research Fund by Lance Compa, Washington Representative of the United Electrical, Radio and Machine Workers of America (UE), who is the principal author of this report. It includes findings from a field investigation in Haiti in July 1988, and from interviews and further information supplied by Haitian trade unionists throughout 1988 and early 1989.

This report also draws on information developed by a delegation of U.S. unionists and labor educators who visited Haiti July 24-31, 1988, under the sponsorship of the Washington Office on Haiti. The delegation included Mary Joyce Carlson, Director of Labor Relations of the District of Columbia Nurses Association; Matt Witt and Earl Dotter of the American Labor Education Center; Sister Patricia Marshall of the Sisters of the Blessed Sacrament; and attorney Allan Ebert, who is co-chair of the International Labor Rights Working Group.

The discussion, findings and conclusions of this report are the responsibility of the author.



# I. Introduction

## *The International Labor Rights Education and Research Fund*

The International Labor Rights Education and Research Fund was established in 1986 by leaders of the human rights, religious, labor, business, government, agricultural and academic communities to promote worker rights in connection with U.S. trade, investment and aid policies. What are called “free trade policies,” with no rules for corporate or governmental treatment of workers, create a vicious cycle of undercutting wages and working conditions in the international economy, driving them down toward the lowest common denominator.

On the other hand, policies that are patently “protectionist” tend to treat foreign workers as a competitive enemy. Unabashed protectionist policies can close U.S. markets to developing countries that must sell their goods here to develop their own economies, as well as to be able to purchase goods and services from the United States and other developed countries. Carried too far, such policies can lead to a general slowdown in world economic activity and further disregard for fundamental labor rights, decent working conditions and living standards in developing and developed countries alike.

Associates of the International Labor Rights Education and Research Fund and other defenders of international labor rights support

an open trading system in which workers in both the United States and other developed countries, and workers in developing countries, have a stake equal to that of corporate managers and consumers. United by a common commitment to promote international respect for labor rights, working people and their allies—and employers who understand the long-range importance of labor rights to economic development—can press their governments for policies that will allow workers to freely organize and bargain to more fully share in the fruits of their labor and to promote broadbased economic growth.

To promote trade, investment and aid policies that enhance international respect for worker rights, the International Labor Rights Education and Research Fund is supporting field investigations and basic research on the status and practical exercise of basic labor rights in various countries around the world. Fund associates have investigated and reported on labor rights violations in Korea, Taiwan, Chile, the Philippines, Paraguay, Guatemala, El Salvador and many other countries. The Fund publishes a newsletter with information on labor rights developments and is undertaking a broad range of educational projects to bring labor rights concerns to the attention of policymakers and the general public.

***Labor Rights Conditionality in U.S.  
Trade and Investment Laws***

Four legislative initiatives linking respect for internationally recognized worker rights to public policy have become law in the 1980s. Taken together, they constitute a solid base for the promotion of labor rights in the dynamics of international trade and finance. These and other national measures like them should hasten negotiations on multilateral agreements to protect basic labor rights.

● The 1983 Caribbean Basin Initiative (CBI) permits countries from that region to export products to the United States without paying the usual tariffs and duties. CBI proponents hoped that such preferential access to U.S. markets would increase investment and create jobs in Caribbean countries. CBI contains a modest labor rights provision directing the President to “take into account the degree to which workers in such countries are afforded reasonable workplace conditions and enjoy the right to organize and bargain collectively.”

● In 1984, new provisions were added to the Trade and Tariff Act of 1984. They prohibit the extension of U.S. trade preferences to foreign countries that systematically deny internationally recognized worker rights. First enacted in 1974, the Generalized System of Preferences (GSP) program authorizes more than 3,000 products from 140 developing countries to enter the U.S. market duty free. The 1984 amendments explicitly prohibit the President from designating any foreign country as eligible for GSP benefits which is not “taking steps to afford internationally recognized worker rights to its workers (including those in export processing zones).”

Internationally recognized worker rights are statutorily defined to include: freedom of association; the right to organize and bargain collectively; a prohibition of any form of forced or compulsory labor; the establishment of a minimum age for the employment of children; and acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health. In addition, the U.S. government is required to file a yearly report on the status of these rights in each of the countries eligible for GSP benefits.

● In 1985, provisions were added to the Overseas Private Investment Corporation (OPIC) Amendments that prohibit OPIC from providing political risk insurance for projects in any foreign country

that is not “taking steps to adopt and enforce laws extending internationally recognized worker rights to its workers (including those in export processing zones).”

● Congress approved three worker rights provisions in the Omnibus Trade Act of 1988. One provision makes a multilateral agreement to link worker rights and trade a principal U.S. negotiating objective in the current round of GATT multilateral trade negotiations. A second provision authorizes the President to treat as an unfair trade practice the competitive advantage that any foreign country derives from the systematic denial of internationally recognized worker rights. Finally, a third provision requires that respect for worker rights be considered in the operations of the Multilateral Investment Guarantee Agency (MIGA) as a precondition for U.S. participation in MIGA.

The 1984, 1985 and 1988 worker rights provisions in U.S. trade and investment laws all explicitly provide for administrative review processes in which concerned Americans can formally petition and present documentation of systematic worker rights violations in foreign countries. Petitioners can request formal U.S. government action against violators, ranging from higher tariffs on a single product all the way up to revocation of most-favored-nation trading status for the offending country.

In conclusion, it should be noted that advocates of the labor rights amendments in U.S. trade laws are not primarily interested in keeping foreign-made products out of the United States—a charge made by opponents of labor rights provisions, who accuse advocates of “back door protectionism.” On the contrary, the goal is to improve the status of worker rights throughout the world so that no country or company can gain an advantage in international trade or finance because it

systematically jails or kills workers who try to form unions, or outlaw collective bargaining, or permits the use of child labor or forced labor, or compels workers to toil in below-subsistence or life-threatening conditions.



## II. Background on Haiti

With a distinct language, history and political tradition little known to the English- and Spanish-speaking majority of North and South America, Haiti has not gotten the attention it deserves as a major Caribbean country of six million citizens. Home of the only successful revolution by African slaves, Haiti became the first independent black republic in 1804. In the decades following independence a new division between the black, mostly rural population and a mulatto urban elite gave rise to a persistent conflict in Haiti's national life. Over time, the French-speaking, Catholic, lighter-skinned upper class gained hegemony over the impoverished, Creole-speaking and African religionist majority. Continuing class conflict made political turmoil and government instability a permanent feature of Haitian affairs.

The United States occupied Haiti and controlled its government and economy between 1915 and 1934. The U.S. allied itself with the mulatto ruling sectors, thereby suppressing peasant movements opposed to the occupation and continued domination by the wealthy elite. Resentments engendered in those years built a black nationalist sentiment later exploited by François Duvalier, who rose to power in the mid-1950s. Instead of reform sought by the Haitian majority, "Papa Doc" Duvalier erected a system of personal power maintained by unchecked repression. He formed a private presidential militia

known as the *Tonton Macoutes* that terrorized the population into submission with kidnappings and murders. The *Macoutes* sustained their operations through a system of patronage, corruption and extortion, penetrating every element of Haitian society.

Upon the death of François Duvalier in 1971, his 19-year-old son Jean-Claude assumed the presidency. “Baby Doc” preserved the basic Duvalierist system, relying on the *Tonton Macoutes* to suppress any opposition. However, Jean-Claude Duvalier made occasional gestures in the late 1970s to create an impression of a modernizing Haiti for the sake of international opinion and increased U.S. financing. The human rights policies of the Carter Administration, for example, induced modest moves to ease repression.

In late 1980, Duvalier reverted to almost total suppression of dissent and opposition organizing, sending thousands of activists into exile. At the same time the incessant pillaging of the nation’s economy and the diverting of international aid into private coffers by the ruling elite worsened an already grave economic crisis, forcing hundreds of thousands of Haitians out of the country in an effort to survive. But the Haitian people’s spirit of resistance was not crushed. Clandestine organizing continued inside the country. Outside, Haitian exile leaders in the United States and their American supporters pressured the Reagan Administration to move away from a position of unstinting support for the Duvalier government. Progressive forces within the Catholic Church gave voice to the peasantry’s desire for change. In late 1985 and early 1986, massive demonstrations rocked the regime. On February 7, 1986, Jean-Claude Duvalier fled into European exile on a plane supplied by the American embassy. Duvalier was gone, but what would become of the Duvalierist system?

Duvalier was replaced by what purported to be an interim military regime called the National Council of Government, known as the

CNG. The CNG was headed by Lieutenant General Henri Namphy, a career military officer who had loyally served both Duvaliers. Namphy's CNG and its ministers were almost all products of Duvalierist rule, but the CNG promised a swift transition to civilian rule under democratic institutions. Many Haitians returned from exile and hundreds of new, grassroots organizations took shape in the months following Jean-Claude Duvalier's flight. Haitians embraced a new, liberal Constitution in a nationwide referendum in March 1987. The new charter called for presidential elections in November and the investiture of an elected government in February 1988, the second anniversary of Duvalier's fall.

Despite their organizing gains and the success of the constitutional referendum, Haitian reformers viewed the rule of the CNG as "Duvalierism without Duvalier." The military government took no steps to rein in the avarice of dominant landowners and industrialists or to ease the economic suffering of the Haitian masses. On the contrary, the military allied itself with established ruling groups. Human rights violations mounted throughout 1986 and 1987, with hundreds of cases of kidnappings, disappearances, killings, illegal arrests, beatings, death threats and other tactics associated with the worst excesses of the *Tonton Macoutes*. Although they had been officially dissolved, the *Macoutes* were never disarmed. Most Haitian activists and political organizers thought the *Macoutes* were just biding their time for a new bid to power.

In many cases elements of the military itself were seen as the perpetrators of human rights abuses. In April 1987, for example, presidential candidate Yves Volel, a prominent human rights attorney, was murdered in front of police headquarters in Port-au-Prince as he protested the treatment of prisoners there. In July, hundreds of peasants were massacred by *Tonton Macoutes* in the Jean Rabel region when they demonstrated in support of land reform efforts. In

June 1987, the CNG had sought to supplant the provisional electoral council charged under the new Constitution with conducting presidential elections in November. The CNG said that the military government would run the election. An international outcry forced the CNG to relent, however, and the election began as scheduled under the electoral council's auspices on November 29, 1987.

The events of that day in Haiti were widely reported and need no elaboration here. Army troops and *Tonton Macoutes* gangs roamed the streets, shooting and killing voters as they waited in line at polling stations. Citing these killings and the chaos of its own making, the CNG dissolved the electoral council and cancelled the election on the spot, remaining in control of the central government. The international community reacted with revulsion to the November 1987 events in Haiti. The United States and other major sources of foreign aid in North and South America and in Europe cut off financial assistance to the CNG, permitting only humanitarian assistance funneled through non-governmental bodies. The United States cancelled \$89 million of government-to-government aid, maintaining \$37 million in indirect food and development assistance to private organizations.

The CNG held a fraudulent election in January 1988 to create a facade of civilian rule and entice renewed foreign aid. For a short time there were expressions of sympathy for the figurehead president, Leslie Manigat, who had extensive contacts in the United States. But the charade lasted just five months. On June 20, 1988, General Namphy and his CNG partners ousted Manigat and proclaimed an open military dictatorship. Namphy named himself president, dissolved the parliament, appointed a cabinet of military officers, suspended the Constitution, and ruled out elections indefinitely. Namphy's new rule in Haiti was short-lived. Labor organizers continued to agitate for worker rights. Grassroots political organiza-

tions organized new protests. Church activists who had been told by superiors to withdraw from political action in 1987 renewed organizing among peasants and in the poorest sections of Port-au-Prince. In early September *Tonton Macoutes* forces struck at Father Jean-Bertrand Aristide, a Catholic priest who is a leader of the grassroots Church movement, massacring worshipers and burning his church. In response, army non-commissioned officers and enlisted men organized an overthrow of the Namphy regime, installing Lieutenant General Prosper Avril as president.

Avril is yet another product of the Duvalier era to assume control in Haiti and declare a turn toward democracy and respect for human rights. In moves reminiscent of the weeks following the fall of Jean-Claude Duvalier, he received leaders of peasant, labor and opposition political groupings who speak with guarded favor of his stated intentions. Avril has promised to organize new elections to bring civilian rule to Haiti. He apparently forced into retirement Colonel Jean-Claude Paul, who was under indictment in Miami, Florida, for drug trafficking. Skeptics, however, fear that apparent changes are really motivated by a desire for restored economic aid from the U.S. government rather than by a genuine commitment to democracy.

The situation in Haiti is still marked by instability and violence. The notorious Colonel Paul died under mysterious circumstances in early November 1988; poisoning is suspected in his demise. The brother-in-law of President Avril was murdered in mid-November. Earlier, Avril jailed a number of lower-ranking army personnel who were involved in the September coup that put him in power. The *Tonton Macoutes* are still armed, and bodies of their victims—including several uniformed soldiers—are found nearly every morning in the capital area. As of early 1989, the future of Haiti's government and Haiti's people is still uncertain.



### III. Background on the Haitian Labor Movement

As an underdeveloped, predominantly agricultural country, Haiti seems infertile ground for trade union organization. Nonetheless, Haiti has a rich tradition of union and cooperative organizing that has revived itself, under conditions of difficulty and sacrifice, since the end of the Duvalier dynasty. As did workers in many countries at the time, Haitians built an active labor movement in the years following World War II. It was a time of relative reform in Haiti's political life. Government workers, teachers, workers in public utilities and in a tiny manufacturing sector created unions and associations that bargained with employers and participated in politics and social action. Likewise, peasant organizations openly contested issues of landholding and agricultural policy.

These unions and cooperatives were crushed by François Duvalier after he took power in the mid-1950s: either put out of existence altogether or taken over by *Tonton Macoutes* who turned them into repressive arms of management. For nearly a quarter of a century, workers and peasants were practically defenseless against employer and landowner abuse. Many union organizers were jailed or sent into exile. The older generation of activists died without ever seeing their country again. Lured by low wages and the absence of unions, many

U.S. corporations set up assembly operations in special factory zones near Port-au-Prince in the 1970s. Garment manufacturing was the largest undertaking in the assembly shops, followed by electronics and sporting goods. (Ironically, while baseball is the national pastime of the United States and a national passion in the Dominican Republic, which shares the island of Hispaniola with Haiti, every baseball in use in both countries is made in Haiti, where baseball is not played at all.)

When Carter administration human rights policies pressured Jean-Claude Duvalier to ease repressive measures in the late 1970s, Haitian workers began re-organizing unions separate from the Duvalier structure. After the crackdown of 1980, most of these unions went underground. Many of their leaders, like others before them, were forced into exile. Clandestine organizing continued, however, and many of the still-independent union formations contributed to the anti-Duvalier uprising of late 1985 and early 1986.

In the burst of grassroots organizing that followed the departure of Jean-Claude Duvalier in February 1986, three trade union federations emerged as the principal labor groupings. The Autonomous Central of Haitian Workers (CATH) was actually formed in early 1980, a period of modest reforms prodded by President Carter's human rights campaign. CATH leaders went underground or into exile when the late-1980 crackdown came, but maintained an organizational structure and a communication system. CATH declarations against the Duvalier government throughout the early 1980s gave it a moral force in the movement that ousted "Baby Doc."

CATH declares itself independent of any international union affiliation, not wanting to get caught up in the often complicated political rivalries of the International Confederation of Free Trade Unions (ICFTU), the World Federation of Trade Unions (WFTU), the World Confederation of Labor (WCL) or parallel disputes among those organizations' regional groupings and smaller cross-border

federations. At the same time, CATH holds fraternal ties with many of the social democratic unions of Western Europe and Canada, and maintains contact with all the international federations. CATH places heavy emphasis on political action and political organizing, arguing that the central issue for Haitian workers today is the establishment of democratic government so that trade union action can be carried on in a freer environment. CATH was outspoken in its criticism of the interim CNG rule, the short-lived Manigat government and the Namphy regime, and has been guarded in its assessment of the new government of Prosper Avril. Because of its political stance, CATH is sharply attacked by employer associations as "too radical" and unwilling to cooperate with management.

Former CATH officials, unable to gain control of the original CATH after Duvalier's flight, formed a breakaway federation in 1986. The new group is called the Autonomous Central of Haitian Workers-Confederation of Latin American Workers (CATH-CLAT) because of its association with CLAT, the regional federation of Christian Democratic unions centered in Venezuela. With the Christian Democratic coloration to its work, CATH-CLAT has been able to develop ties with Church officials that give it an organizing appeal among workers and peasants in the countryside. CATH-CLAT was also closely associated with supporters of Leslie Manigat, who also counted on Christian Democratic aid. Thus, CATH-CLAT enjoyed some degree of favor in the few months Manigat held office.

A third central body called the Federation of Unionized Workers (FOS) was created in 1984 with assistance from the American Institute for Free Labor Development, which is associated with the AFL-CIO in the United States. International labor analysts saw the allowance of FOS as a response by the Duvalier government to the Caribbean Basin Initiative. That new U.S. law tied CBI benefits, especially duty-free entry into the United States of products from the

Haitian assembly factories, to the rights of workers to organize and bargain. FOS espouses a moderate approach to trade union action, criticizes political demands and calls instead for an emphasis on collective bargaining and cooperative relationships with employers.

In addition to these three major federations, another grouping called the Independent General Organization of Haitian Workers was taking shape in mid-1988. It was formed by FOS leaders who broke with the federation charging undemocratic rule by top FOS leaders. At the time of this study it was too early to determine the reach and significance of this new federation. There are also several important unions and associations of professionals in Haiti, especially the National Association of Haitian Educators (ANEH), which joins teachers from the preschool and primary levels to the university ranks in a single countrywide organization. ANEH organizers played a key role in the anti-Duvalier movement of 1985-1986 and in the months of democratic organizing that followed. Likewise, groupings of doctors, nurses, social workers and other sectors of Haiti's professional and technical sector maintain strong organizations to defend their interests while supporting the wider movement for democracy.

The actual membership figures of unions and federations are not disclosed, and publicly-stated membership numbers appear to be exaggerated. However, it should be kept in mind that there may be substantial union support in workplaces where employers refuse to deal with a union. Moreover even where unions are in place, a reliable system of dues collection is difficult to maintain. Each of the major federations depends on outside assistance for survival—CATH on Canadian and European unions, CATH-CLAT on its Christian Democratic connections in Latin America and Europe, and FOS on the AFL-CIO and regional bodies of the International Confederation of Free Trade Unions.

Eighty percent of the Haitian workforce is engaged in agricultural

labor. Landholding patterns reflect the power of oligarchical owners, who hire rural peasants to work the best land for production of coffee, sugar, cocoa and other products aimed at the export market, and leave them the poorest plots for subsistence farming. Malnutrition, disease, massive infant mortality, illiteracy and relentless backbreaking labor is the lot of most Haitian peasants. For decades agricultural workers have tried to organize cooperatives and associations, succeeding in some cases but more often crushed for their efforts. Landlords employ gangs of *Macoutes* to terrorize peasants into submission. Many rural areas of Haiti are governed by army section chiefs who collaborate with local landowners without regard to national laws or the central government. As noted earlier, hundreds of farmworkers in the Jean Rabel region were massacred in July 1987 when they formed an association called *Tet Ansamn* ("Heads Together") and demanded land reforms.

Each of the principal union federations has sought to bring peasant groups into their organizations. Despite the brief periods of hopefulness in recent years—after the departure of Duvalier or after the approval of the Constitution, for example, unions reported sizeable gains in farmworkers organizing. Problems of travel, communication and central direction make it difficult to sustain the building of such affiliates, however. Most rural organizing efforts revert to struggles involving local peasant leaders aided by Church activists or other non-trade union allies.

Labor activities in Haiti cannot be separated from the harsh economic setting, which gives employers an almost insurmountable advantage in labor disputes. Haiti is among the poorest of the poor nations of the world, and in recent years its crushing poverty has worsened. The minimum wage in factory employment is \$3.00 per day. Per capita annual income, estimated at \$450-\$500 a few years ago, is now considered to have dropped closer to \$300 a year. The

level of unemployment is beyond calculation. International economic analysts estimate that half the adult population has no income whatsoever from work. The infant mortality rate is the highest in the Western hemisphere. Children who survive are badly nourished; many have tell-tale blond hair and eyebrows that go with lack of protein. Eight-five percent of the population are unable to read and write, and only four percent have had a secondary school education.

In contrast, members of Haiti's small economic elite maintain huge mansions on the hills surrounding Port-au-Prince. They rake dollars from international aid and from drug transactions to send to bank accounts in Miami and Europe. They keep army officers and *Tonton Macoute* thugs on the payroll, ready to suppress any popular movement to effect basic change in the country. When a democratic movement makes advances, as when Jean-Claude Duvalier was forced to flee, or when the new Constitution was approved, or now when yet another new government promises a move to democracy, Haiti's ruling circles lie low and talk glibly of the need to reform their country. Meanwhile, they wait for a new opportunity to strike back and return to the *status quo ante*, as when the CNG government became "Duvalierism without Duvalier" in 1986, or when a genuine presidential election was subverted in 1987, or when General Namphy seized power in June 1988, or when *Macoute* killings multiplied after the "sergeants' coup" that installed General Prosper Avril as president in September.

The same cycle of optimism and disappointment marks labor developments in Haiti. As noted earlier, pressure by the Carter administration's human rights campaign brought announcements of a new respect for labor rights from the Jean-Claude Duvalier government in 1979. But when Haitian workers sought to exercise such rights to organize and seek bargaining with employers, the government countered with arrests and expulsions into exile of union leaders.

When the Caribbean Basin Initiative became law in 1984, the Duvalier regime resumed a public posture of tolerance for labor activities. To become eligible for preferential access to U.S. markets—a benefit eagerly sought by companies operating in Haiti—the Haitian government issued a “designation letter” (to become designated as a CBI beneficiary) to U.S. officials promising reforms in the Labor Code, an end to strike bans, and permission for Haitian unions to affiliate with international labor bodies. Haitian officials also promised a weekly radio show to explain the provisions of the Labor Code and protection for workers who report Code violations from retaliatory firings by employers.

The only concrete result of Haiti’s CBI compliance action was allowance of the FOS union grouping’s organizing activities and its affiliation with the International Confederation of Free Trade Unions. Other union formations continued to be suppressed. Labor Code reforms never got past the talking stage. The radio show sputtered out after a few airings. Firings of workers considered “troublemakers” for protesting labor conditions continued unabated. Soon forgetting its promises, the Duvalier government became preoccupied with the opposition movement and mass protests that led to its downfall.

The sudden flight of “Baby Doc” Duvalier in February 1986 gave rise to renewed hopes for genuine labor organizing among Haitian workers. CATH and CATH-CLAT emerged as major union voices, bringing an upsurge in union organizing and bargaining demands. The interim CNG government issued statements affirming the right to organize, bargain and strike, welcoming union activity as necessary to the development of democracy in Haiti. Despite its verbal assurances, however, the CNG did nothing to defend labor rights. By the end of 1986 thousands of workers had been fired for seeking to organize. Employers generally refused to recognize and bargain with unions, or set up their own, company controlled “unions.” Where

workers resisted and pressed their organizing efforts and bargaining demands, employers called on the military to intervene at the work site, forcing employees to bow to management dictates.

The Haitian people overwhelmingly approved a new Constitution in March 1987 with broad labor rights guarantees. Unionists hoped that now, finally, they could organize and bargain without fear. But when CATH labor leaders complained in June 1987 that holdover Duvalierists in the CNG and the military were violating labor rights and blocking democratic reforms, the government ordered the dissolution of CATH. Subsequent strikes and protests were met with brutal repression by the military and by still-armed *Tonton Macoutes* in the pay of large landowners. The protests and an international outcry forced the government to restore CATH to legal status, but not before a wave of killings wracked the country—a portent of things to come. The shocking events that ruined the November 1987 presidential election have already been cited. Upon the election of Leslie Manigat in early 1988, new promises of labor law reforms and respect for labor rights emerged from the presidential palace. Again, however, nothing concrete was done to improve labor rights in Haiti. When Lieutenant General Henri Namphy kicked out Manigat in June 1988, labor repression became even more acute.

The repeating pattern of governmental change, promise of reform and bitter disappointment sets the stage for this study of labor rights in Haiti. An analysis of the Haitian Labor Code follows, then an account of special cases of labor rights violations. A summation of the labor rights crisis in Haiti based on these findings and recommendations for reform conclude the study.

## IV. The Labor Code

A number of provisions in the Haitian Labor Code have the effect of restricting or interfering with the exercise of labor rights. Perhaps foremost, there is no reinstatement remedy for workers discharged because of union activity. A lump sum damage payment is the only remedy available, the amount of which is limited to 12 months' pay. Since monthly pay is only \$80-\$100, even a maximum damage payment is a relatively small price for an employer to pay to get rid of union activists. In practice, according to trade union attorneys who represent fired workers, the full 12 months' pay is rarely awarded, even when a worker prevails (which itself is a rare occurrence).

The Haitian Labor Code requires government approval to form any association of more than twenty persons, a clear violation of international labor standards calling for workers to be able to organize their unions without prior authorization by the government. The Code also gives the government broad powers to interfere in internal administrative and financial affairs of unions. There are severe restrictions on the right to strike, including a 24-hour limit on work stoppages. Public employees have no right to organize or bargain. The Labor Code permits employers to ignore the first three summons from the directorate to an investigative hearing, creating an enormous burden for workers, unions and attorneys who must be present to preserve their rights. After an investigation is underway, the Labor

Code does not provide direct access to the Labor Court for workers or unions. Only the Directorate of Labor may initiate proceedings in the Labor Court. Unionists and union attorneys report that the Directorate of Labor “sits” on cases to force workers to settle for less than their due, or to simply give up the effort to obtain redress.

Even when the Directorate moves a case to the Labor Court, the tribunal is ill-equipped to handle it. Union attorneys report that each labor judge has 10-12 cases scheduled per day. Company attorneys routinely employ dilatory tactics (for example, moving to dismiss the claim of a worker whose name on a payroll list is spelled differently from the name in the court papers—a common occurrence in a country of 85 percent illiteracy). As a result, only two or three cases can be processed in a day, creating a backlog that increases exponentially. After one or two episodes of losing a day’s pay (if they are fortunate enough to be working), paying for transportation to court, and waiting for their hearing to take place only to find it postponed until a later date, many workers simply abandon the effort and let their cases drop.

Defective provisions in the Labor Code and lack of code enforcement create a pattern of labor rights violations in Haiti. Underlying them, however, is a serious question as to the status of the Labor Code or any Haitian laws. The Code was last revised in 1984 under the regime of Jean-Claude Duvalier. At that time it was liberalized in some respects in an attempt to address labor rights provisions in the Caribbean Basin Initiative after discussions with officials from the U.S. Departments of State and Labor.

The new Constitution approved in March 1987 guaranteed broad labor freedoms, although one troubling clause requires unions to be “apolitical.” Depending on how it is interpreted, such a provision could be applied to severely restrict legitimate union activity. In fact, CNG regime cited that clause in June 1987 when it abolished the CATH union federation after the union mounted protests against the

CNG's move to sack the Provisional Electoral Council that was supposed to manage the November presidential election. The CNG restored both the CATH and the council after an international outcry. But the episode reflected the military government's attitude toward constitutional rule and trade union freedoms. At any rate, the 1987 Constitution was seen as the foundation of trade union activity, superseding the Labor Code where charter provisions were more generous. For example, the Labor Code places a 24-hour limit on strikes of slowdowns. The Constitution, however, provides a broad right to strike which was cited by unionists in conducting strikes beyond one day. The significance of all this is that the Labor Code has never rested on a firm Constitutional base. "It's the only code we've got" seems to be the attitude of unions, employers and the ministry, which continues to administer the code on a *de facto* basis even after the military government renounced the Constitution.

During the five months of the Manigat government, talks took place among representatives of the union federations, management associations and the Ministry aimed at revising the Labor Code. Just three weeks after the June 20 coup, and after it renounced the Constitution, the new military government asked the unions and employers to resume these talks. The employers were willing, but the request put the unions in a bind. By joining the talks they would lend legitimacy to the military government and Namphy's rejection of the Constitution; by refusing they would foresake any progress toward a much-desired revision of a deeply flawed Labor Code. The sergeants' coup of September 1988 and declarations by new president Prosper Avril have led to another round of talks on a new Labor Code, but concrete results have yet to emerge. Unions and employers still have fundamentally contrasting views of what labor law reform should accomplish. The unions believe that it should genuinely protect worker rights to organize without fear of being fired and to bargain

without having military force used against them. Employers argue that the new code should channel labor organizing and action toward moderate demands, cooperation with management and elimination of strikes.

## V. Case Studies of Labor Rights Violations in 1988

Serious violations of internationally recognized labor rights continued in Haiti under the CNG regime, during the five months of the Manigat government, and under renewed military rule after the June 20 and September 17 coups. Here is a highlighted summary of cases studied on-site in Haiti in mid-1988, and the source of information received:

- In February, management at the **Elmaco** electronics assembly plant in the industrial park near the Port-au-Prince airport fired hundreds of workers for claimed economic reasons. Believing the terminations motivated by union organizing efforts in the plant, employees struck in protest. Alleging violence on the part of strikers, the company called in army troops to break the strike and force workers back to the job. The firings stayed in effect. (*Interviews with CATH leaders, press accounts*)

- In March and early April, managers at the **Rawlings** baseball manufacturing plant, a division of the U.S.-based **Figgie International Corporation**, fired 36 leaders and members of the CATH-CLAT union affiliate there after they demanded improved wages and working conditions. Many of the fired workers had from ten to fifteen

years of seniority with the company. Management called in army troops to patrol the facility in the wake of the firings, and gun-bearing soldiers were still present in the plant in late July. The effect has been to frighten workers into abandoning union activity. (*Interviews with CATH-CLAT union leaders and interviews with fifteen fired Rawlings workers*)

● In early April, army troops entered the **Ciment d'Haiti** cement company plant in response to a workers' strike. The company threatened to fire all the workers. That threat, coupled with military intervention, frightened employees into returning to work without a settlement of their grievances. (*Reports by FOS union leaders, press accounts*)

● In mid-April, a worker at the **Ohmicron** factory suffered a broken arm when soldiers from the notorious Dessalines barracks attacked and beat workers protesting a pay cut. (*Interviews with CATH union leaders, press reports*)

● On May 3, armed forces entered the plant of **Chancerelles Manufacture**, an underwear producer located near the Port-au-Prince airport. They beat up workers who were demanding that the company pay the \$3.00 per day minimum wage. One employee with five years' service, Marie Yolande Jean-Pierre, who was five months pregnant, suffered a miscarriage two days later as a result of the beating. (*Interviews with CATH union leaders, affidavit to a Justice of the Peace, press accounts*)

● On May 19, management of the **Zwicker International Company**, a glove maker based in Appleton, Wisconsin, introduced a group of armed men in civilian clothing into its plant to seize and evict 12 union leaders after workers protested conditions that include no

breaks, no cafeteria, no toilet, no toilet paper in the outhouse supposed to serve 327 workers, and no sanitary drinking water. When workers persisted in choosing a second union committee, 27 more workers were fired including 13 committee members. On July 22 five more union activists were fired, allegedly on grounds that there was no work for them. One worker, however, recounts that when she reported to work on July 25, having been absent the 22nd and not receiving the notice of termination, a supervisor assigned her a job. She was then sent away after witnessing a manager berating the supervisor, saying "I told you not to give her any work." (*Interviews with CATH-CLAT union leaders; interviews with 23 fired workers*)

● On June 1, a worker at the **Inter-Corp** facility was attacked and beaten unconscious in front of other workers by a manager who had fired the employee a day earlier. According to testimony of co-workers, the victim was peacefully entering the plant to ask for his job back and the attack was unprovoked. (*Interviews with CATH union officials; signed affidavit before a Justice of the Peace*)

● In the days following the June 20 military takeover, workers at the **Minoterie d'Haiti**, the country's principal grain processing plant, went on strike to protest the army's reappointment of a detested former plant manager who reportedly paid off various military commanders. Armed troops entered the work site to force a return, and 49 workers considered strike leaders were fired. Apparently, further discussions led to their re-engagement a few weeks later. (*Interviews with FOS union leaders, press reports*)

● In mid-July, the **Caribbean Contractors** company refused to recognize a newly-organized union and discharged its general secretary when he presented demands for improvements in wages and working conditions. When workers struck in protest, management

fired the entire labor force. (*Interviews with CATH-CLAT union leaders; interviews with fired workers*)

**The Haiti Fashions Case.** One recent case studied on-site is perhaps the most dramatic reflection of labor rights situation in Haiti. Workers at **Haiti Fashions**, a contractor for the Dallas, Texas-based **Haggar** pants manufacturing company in the Port-au-Prince airport industrial park, believed they were being improperly paid under the company's piecework system. As a result, some workers made less than the \$3.00-a-day minimum wage. Leaders of their local union, which had been formed in early 1986, went to the Directorate of Labor on July 15, 1988, along with CATH federation officials to ask the agency to investigate the problem. A labor inspector agreed to look into the situation and called back the morning of July 19 saying he had spoken with management and that the union committee should contact management for a further discussion. When four committee members went to the management offices a top company official told them:

We have a military government now so I don't have to put up with you any more. Namphy has torn up the Constitution so there's no more labor law here. I can do what I want. I don't have to pay attention to the Directorate of Labor. The only law I have to pay attention to is American law. Haggar doesn't want a union here, especially this CATH union. They're a bunch of Communists. Haggar will pull out if the union isn't gotten rid of.

You are all fired as of right now. Get your things and get out of the plant. Don't try anything because I've got a gun and some guys to back me up.

When they left the office, the union leaders were marched out by four weapons-carrying men in civilian clothing whom they had not seen

before. Plant employees reported that the men remained in the plant permanently to make sure no protest developed.

On the afternoon of July 19, CATH union leaders and the fired committee members went back to the Directorate of Labor to seek redress. The directorate contacted the company and arranged a meeting for Thursday, July 21, at 10:30 a.m. at the plant site. The meeting would include the labor inspector, company officials, CATH leaders and the fired unionists. The union grouping arrived promptly at 10:30 a.m. at the plant gate on the main road through the industrial park. They waited half an hour for the labor inspector, who did not appear. Having no access to a telephone, they asked a plant security guard to request management to call the directorate to locate the inspector. Nothing happened. At 12:00 the unionists drove to the Directorate of Labor branch office near the airport industrial park, where they found the labor inspector. He said he was tied up with other cases but, upon the insistence of CATH leaders, he went to the Haiti Fashions site. This time plant management claimed to be too busy to meet, refusing entrance to the facility to both the union representatives and the inspector. Instead, another meeting was set for 11:30 a.m. on July 25. That July 25 meeting was also cancelled by management, claiming that it needed to consult with company lawyers who had to go to Miami. Months later, the fired union leaders were still out of work, their case languishing in the Ministry of Social Affairs and the Labor Courts. (*Interviews with CATH union officials, fired local union leaders and other Haiti Fashions workers; visits to plant site and Directorate of Labor*)

Recent cases reported by Haitian union officials communicating with U.S. counterparts indicate that, if anything, the situation of labor rights is worsening. An automobile recently donated to the CATH federation was hijacked on October 31, 1988, by *Tonton Macoutes*

who beat the driver employed by the union and demanded to know the home addresses of top CATH leaders. They then smashed and burned the car. For weeks afterwards union officials moved anonymously from one safe house to another for overnight stays.

An early November 1988 protest against speeded-up tactics by management at the *Acierie d'Haiti*, the country's major steel-processing facility, led to the firings of more than forty union leaders and supporters who organized the protest. Similiar dismissals took place at Haiti's central cigarette manufacturing enterprise.

After a nationwide strike called by CATH on November 21, union leaders and activists were fired from their jobs in factories throughout the Port-au-Prince assembly zones. CATH countered with another strike call for January 17, 1989, demanding respect for the 1987 Constitution, disarming of the *Tonton Macoutes*, an immediate move toward genuine elections, improved social services and an increase in the minimum wage. In February, CATH leaders reported a new crackdown on their activities. Union representatives visiting trade unionists abroad were barred from re-entry. Leaders still in Haiti went into hiding, fearing assassination in the spiraling cycle of violence that plagues the country.

## **VI. Overview of Labor Rights Violations**

The foregoing cases reflect the depth of labor rights repression in Haiti. Here are the principal features of the widespread, systematic denial of fundamental labor rights:

### **● Discharges for Union Activity**

The Haiti Fashions manager quoted earlier may have gone to extremes of candor, but his statement fairly captures the attitude of most of Haiti's management community toward union organization in their facilities. "I'm for labor rights as long as it's in some other manager's place," said one employer interviewed during this study. Moreover, Haitian management views reflect the influence of some U.S. corporate attitudes toward unions. As the director of a garment factory that supplies several large U.S. retailers through a U.S. contractor explained, "For ten years I had another factory with more than a thousand workers. But then two years ago the workers formed a union, and I closed that factory down and opened up over here. We depend on customers from the United States, and they don't want us to have unions. We had one guy, he said, 'I'll give you my business, but I don't want any unions.'"

Firing workers for union activities and sympathies is a massive,

ongoing abuse of basic labor rights in Haiti. Unionists report that companies often camouflage anti-union dismissals by claiming “lack of raw materials” or loss of a subcontract as an economic justification for layoffs in which key union activists are conveniently caught up, choking off organizing attempts. Those workers must enter “the maze from which there is no escape,” as one unionist put it: the ineffective, delay-ridden procedures of the Ministry of Social Affairs and the labor courts. If their case ever reaches a hearing stage, they have the difficult task of proving that the real motivation for their firing was union activity.

### ● **Blacklisting of Union Activists**

Federation officials, labor lawyers, local union leaders and rank and file workers are unanimous in confirming the widespread use of a blacklist against labor activists. Discrimination in hiring takes both active and passive forms. First, any Haitian worker who is terminated from employment must secure a work certificate stating the name of the employer, the dates of employment and the position held. The certificate must be presented upon application for any new employment. Employers track labor organizing attempts and disputes throughout their industry, so the mere fact that a worker’s certificate shows that he or she was employed at a work site at a time of labor activity will cause a prospective employer to turn down the applicant.

More pointedly, unionists say that employers also track the movements of union activists who have led organizing attempts or strikes. “I’m going to put you on the list” is a common threat against local leaders. Indeed, the existence of the “list” or its equivalent was confirmed by an employer who stated in an interview that “We [industry managers] all know each other and talk to each other all the time. We make sure that the thieves and troublemakers don’t get another job in the industry.”

### ● **Armed Intervention in the Workplace**

Unionists also report that it is standard operating procedure for employers to call in armed forces, either uniformed troops or groups of thugs, to frighten workers who have begun an organizing effort, to intimidate workers who have made bargaining demands, and to terrorize and force workers who have gone on strike to return to work. Haitian union leaders insist that such calls for military intervention come directly from employers offices to army barracks, bypassing any intermediate governmental authority. A spokesman of a management association acknowledged that employers commonly have recourse to military intervention, arguing that managers feel threatened by militant labor activity.

On this point, a U.S. Embassy official made the surprising statement, "You have to understand, the army here is like the police at home. It's not that big a deal. It's not like calling out the National Guard." On the contrary, say Haitian union activists, there is nothing more intimidating than the arrival at a workplace of a squad of Uzi-bearing, combat-booted soldiers from the notorious Dessalines barracks or Leopard commando units, who have been implicated in the shootings of hundreds of Haitians in recent years, to interfere with the legitimate organizing rights of Haitian workers.

### ● **Threats and Violence Against Union Activists**

A number of union activists have been killed participating in public protests against the Duvalier dictatorship and successive military regimes in the 1980s. As noted earlier, General Namphy ordered the dissolution of the CATH union federation in June 1987. Soldiers attacked the union's headquarters, beat union officials and employees and arrested several of them. On November 28, the eve of the aborted 1987 presidential election, the headquarters of the FOS union federation was firebombed and machine-gunned. Two rural CATH offices

were attacked in late July 1988 in the Artibonite Valley. The *Gros Morne* office was shot up with automatic weapons, and the *Saint Michel de l'Attalaye* headquarters was burned and its files stolen.

Telephoned threats are common now, unionists report. Such threats carry an ominous note of credibility in the wake of the publication of May 25, 1988, of a "Death List" with over 150 names of democratic opposition leaders, including the names of 20 national union leaders and labor lawyers. The list, entitled "Operation Snuff Out Communism," took on more impact with the shocking assassination on July 11 of Lafontant Joseph, a prominent human rights activist and labor lawyer. At the time of his killing Joseph was involved in several important labor proceedings in the labor and civil courts on behalf of union clients. Yves Volel, another human rights spokesman who was publicly assassinated on October 13, 1987, in front of police headquarters in Port-au-Prince, was also a well-known labor lawyer who represented workers and unions. The recent attack on the CATH federation's chauffeur by *Tonton Macoutes* demanding the home addresses of union leaders confirms that real and threatened violence is a constant presence in the life of Haitian trade unionists.

### ● Minimum Wage Violations

Unionists report that employers routinely violate the \$3.00 per-day statutory minimum wage. There are different methods of accomplishing this. For one, the law permits a sub-minimum wage during the first three months of probationary employment. After three months a worker is to attain permanent status with the minimum wage, advance notice of layoff, severance pay rights and other considerations. What many employers do, say unionists and workers interviewed during this investigation, is fire people just before completing three months' service and hire new employees to replace them to continue paying the subminimum wage. Another method of avoiding the minimum wage

is to make it conditional on perfect attendance. A week's pay, therefore, will equal \$3.00 a day only if the worker has worked the full 5 1/2 day scheduled work week—for example, paying \$2.50 a day with an attendance bonus to bring a week's pay up to the equivalent of \$3.00 a day, or boosting Saturday pay to make up the difference. Thus a worker who misses a day of work because of a personal illness or an illness in the family will fall below the minimum wage.

A further method of pushing pay below the minimum standard is by making piecework rates—the most common pay system in Haitian assembly factories—so “tight” that workers can only reach the minimum by superhuman effort. Labor inspectors routinely accept employer contentions, based on company-controlled time study methods, that a piecework rate can be met to yield the \$3.00 minimum wage, even though workers protest that they cannot make the rate at a normal productive pace.

It is impossible to determine with certainty how many workers are affected by minimum wage violations. The Ministry of Social Affairs is hard-pressed to enforce the most basic labor laws, including the minimum wage requirement, and is unable to gather information or statistics on this point. The issue is raised repeatedly in discussions with union representatives and rank and file workers. Management representatives concede that abuses occur, but argue that they are exceptional, not widespread. Of course, the \$3.00 per day wage applies only to workers in regular, wage-paying employment, which is less than 20 percent of the Haitian workforce. In the countryside peasant laborers subsist on feudal “pay” systems involving a combination of cash, food, land use and barter outside the minimum wage law.

## ● **Forced Labor, Child Labor and Occupational Safety and Health**

Labor rights provisions in U.S. trade law include requirements for internationally recognized labor standards against forced labor, child labor and unsafe or unhealthy working conditions. The forced labor issue is acute in Haiti in the case of agricultural laborers sent to harvest sugar in the neighboring Dominican Republic. In past years, Haitian government officials have received payment from Dominican sugar industrialists to provide masses of laborers at harvest time. In many cases the workers themselves were not paid wages due them under these agreements.

A 1983 report by an International Labor Office Commission of Inquiry noted that "the need for the Dominican sugar industry to recruit large numbers of Haitian workers, notwithstanding high unemployment among the country's own rural population, is due in large measure to the low remuneration and poor conditions of work and life on many of the plantations concerned." The commission goes on to note violations of ILO conventions against forced labor "both to retain workers on the plantations for the duration of the harvest and, at times of labour shortage, to take workers there against their will."

Successive Haitian governments since the departure of Jean-Claude Duvalier have promised to end the scandalous treatment of Haitian workers in the Dominican Republic and to ensure that Haitian workers who undertake to labor on Dominican plantations do so voluntarily and receive full payment for their work. However, there is no evidence that conditions have improved or that payoffs to highly-placed Haitian officials in place of wages paid to Haitian workers have ended. The government of Haiti has still not indicated compliance with the ILO's recommendations from its 1983 report designed to end abusive treatment of sugar workers in the Dominican Republic.

Concrete evidence of child labor abuse is difficult to obtain in a country of massive illiteracy and minimal record-keeping. Trade union officials and rank and file workers report that child labor is widely employed, but seemed resigned to it in view of the fact that birth certificates are rare and other records, such as baptismal documents, are easily forged. In the countryside children work alongside their parents in the daily struggle for survival.

There is no evidence of occupational safety and health standards enforcement in Haiti. The position of employers, according to unionists, is that as long as a worker is not killed on the spot by unsafe or unhealthy working conditions and can keep producing, no standards are needed. Workers report that conditions in many factories are unsafe and unsanitary. Machines are often unguarded, toilets and drinking fountains are in many cases nonexistent, and toxic fumes are commonplace, with no steps taken by management to correct such problems. The government's inability to enforce even the most minimal wage requirements or protections against unjust dismissal has already been noted. The same difficulties prevail in the case of industrial safety and health.



## VII. Conclusion

Despite the shape, posture or public declarations of Haiti's various governments of this decade, one reality has held firm for Haitian workers: their freedom of association, the right to organize trade unions and the right to bargain with employers have been consistently violated. The Haitian Labor Code is in many respects an impediment of the exercise of labor rights. Its flaws are made worse by the abysmal enforcement of the law by responsible government agencies.

Firing workers who try to form unions is a routine management response that has affected thousands of workers. Blacklisting union leaders and activists neutralizes those workers willing to defend themselves and other workers. The Haitian military is used as an arm of management to intimidate workers and break strikes. Union leaders and activists are threatened, their offices and records are violated, and union lawyers are assassinated. Minimum wage laws are routinely evaded. Child labor is commonplace. Forced labor abuses against Haitian contract laborers in the Dominican Republic have still not been resolved. Minimum safety and health standards are nonexistent.

All these abuses run afoul of internationally recognized labor standards of the International Labor Organization. They also violate provisions of U.S. trade law demanding respect for labor rights as a condition of beneficial entry to the U.S. marketplace in both the

Caribbean Basin Initiative and the Generalized System of Preferences, and as a requirement for coverage by the Overseas Private Investment Corporation. In 1987, corporations operating in Haiti exported some \$50 million worth of goods to the United States under duty-free provisions of the CBI and the GSP. Eleven million dollars worth of U.S. corporate investments in Haiti are currently covered by OPIC insurance.

The fact that yet another general has taken power in Haiti and promised a new turn toward democracy should not deter U.S. trade administrators from applying the labor rights provisions of CBI, GSP and OPIC. Holding meetings and issuing declarations of good intentions are not sufficient to comply with internationally recognized labor rights as called for in the statutes governing those programs. Only concrete changes in the Labor Code, in government enforcement of labor laws and in employer treatment of workers in Haitian workplaces—many of them owned or effectively controlled by U.S.-based companies—should provide a basis for continuing benefits.

If such reforms are forthcoming before a final decision on labor rights petitions involving Haiti, benefits can be maintained. In the absence of decisive action by the government of Haiti to protect basic labor rights, the sanctions should be applied for products exported to the United States from Haiti. Benefits can be restored when such changes occur. Actions that could bring Haiti into compliance with labor rights requirements for exports to the United States and for OPIC insurance for U.S. corporate investment in Haiti include the following:

- The Labor Code of Haiti must be reformed to correct specific deficiencies such as the lack of a reinstatement remedy, restrictions on the right to strike, government intrusion into internal union affairs, the absence of public employee organizing and bargaining rights, and the

need for government approval to form an association. Equal opportunity for shaping the revised statute must be afforded to trade union representatives and their advisors.

● The government must stop mass firings of workers who seek to unionize and selective firings of organizing leaders who emerge from the ranks, and the use of blacklists against union activists. Employers who persist in such abuses must be brought to justice with appropriate penalties, and workers who suffer abuse must find swift redress for their grievances in a labor ministry and a labor court system that enforce worker rights.

● The Haitian military must stop intervening in the workplace when union activity is underway. The Haitian government must discipline military officials who engage in such actions and take action against employers who solicit or incite armed intervention in the workplace.

● The government of Haiti must investigate and act against threats, violence, killings and other physical abuses against trade unionists and union properties. The government must thoroughly disarm and disband the *Tonton Macoutes* or other miscreants who terrorize citizens involved in lawful activity.

● The government must enforce the minimum wage law with regular inspections of wage payment practices in the workplace, and with swift procedures in the labor ministry or labor courts for underpaid workers to obtain back wages. A minimum wage for agricultural employment must be established and enforced with equal vigor.

● Likewise, the government must establish and enforce minimum

safety and health standards with regular inspections and penalties for noncompliance.

● The government of Haiti must adopt and comply with recommendations of the International Labor Office to provide fair treatment to its citizens who perform contract labor in the Dominican Republic's sugar industry.

U.S. Embassy officials, members of Congress and their staffs, Executive Branch officials responsible for human rights, trade and development aid policies, as well as U.S. trade unionists, should maintain close consultation with all the *bona fide* trade union organizations of Haiti and their leaders to verify whether such changes have been or are being made. Upon evidence that labor rights are being offered to Haitian workers and that new laws are protecting those rights, the benefits of the CBI, GSP, OPIC and other U.S. trade programs can be maintained or restored.

## *AFTERWORD*

On April 2, 1989, elements of the Haitian military revolted against General Prosper Avril. After a week of sporadic fighting, Avril's presidential guard forces overpowered rebellious troops and consolidated his hold on power—for the time being.

On April 13, 1989, the United States Trade Representative announced that the review of labor rights in Haiti under the worker rights provisions of the Generalized System of Preferences would be extended for one year. The Overseas Private Investment Corporation likewise extended its consideration of labor rights in Haiti for one year.

The Subcommittee on the Generalized System of Preferences of the Trade Policy Staff Committee conducted an interagency review of the petitions filed by the AFL-CIO and the United Electrical, Radio and Machine Workers of America challenging the continuing preference-eligibility of Haiti based on allegations of worker rights violations.

The Subcommittee found the actions of the Haitian government “not to be sufficient to warrant a determination that Haiti was or is taking steps to afford internationally recognized worker rights to workers in Haiti.” However, the Subcommittee determined that such a decision at this time would be premature.

The Subcommittee therefore determined that the case alleging worker rights violations in Haiti be pended, depending upon further examination and developments in Haiti.

The full opinion of the Subcommittee is appended.



## HAITI

The Subcommittee on the Generalized System of Preferences (GSP) of the Trade Policy Staff Committee, conducted an interagency review of the petitions filed by the AFL-CIO and the United Electrical, Radio and Machine Workers of America challenging the continuing preference-eligibility of Haiti. The challenge was based on allegations brought forward by the petitioners regarding Haiti's failure to satisfy the GSP's mandatory eligibility criterion section 502(b)(7) of the Trade Act of 1974, as amended,

"...the President shall not designate any country a beneficiary developing country under this section--if such country has not taken or is not taking steps to afford internationally recognized worker rights to workers in the country...."

For the purposes of the review the term internationally recognized worker rights was defined as detailed in section 502(a)(4) of the Trade Act of 1974, as amended.

The review was conducted under the terms of Part 2007 of the Regulations of the United States' Trade Representative Pertaining to the Eligibility of Articles and Countries for the Generalized System of Preferences Program (GSP[15 CFR Part 2007]).

The Subcommittee conducted its investigation into the allegations keeping in mind the fact that Haiti is designated as a least-developed beneficiary country pursuant to Section 504(c)(6) of the Trade Act of 1974, as amended, and the language of the House Ways and Means Committee Report of September 27, 1984 on the Generalized System of Preferences Renewal Act of 1984 --

"it is not the expectation of the Committee that developing countries come up to the prevailing labor standards of the United States and other highly-industrialized developed countries. It is recognized that acceptable minimum standards may vary from country to country."

as well as the language of the Conference Report of October 4, 1984 on the Trade and Tariff Act of 1984 --

"It is the intention of the Conferees that this definition of internationally recognized worker rights be interpreted to be commensurate with the development

level of the particular country...."

The Subcommittee's examination of the petitions and its investigation of the allegations contained in the petitions and information provided the Subcommittee by both petitioners was complicated by the September 17, 1988 coup lead by noncommissioned officers and soldiers of the Presidential Guard against President Namphy. The coup was successful and Lt. General Prosper Avril replaced the Namphy-led National Council of Government.

The allegations of both petitioners were supported by the enumeration of specific incidents as examples of worker rights abuses. While prepared to accept in principle the allegations of worker rights abuses in the pre-Avril time frame, the Subcommittee took note of the fact that all the allegations pre-dated the installation of the Avril Government. In this regard, the Subcommittee took note of the following statement contained in a submission of the AFL-CIO, "While most of the incidents of workers' rights violations may be at the instigation of private businesses, it is the Government's responsibility to protect workers against infringement of their rights." The question laid clearly before the Subcommittee was how to hold the Avril Government responsible for actions, or lack thereof, of its predecessors.

While seeking a methodology to use to deal with the incident-based allegations, the Subcommittee took note of the more general allegation that the previous governments of Haiti had consistently failed to act upon requests from the International Labor Organization (ILO) to report on numerous complaints lodged with the ILO. The Subcommittee noted that the 1988 U.S. Department of State annual Country Reports on Human Rights Practices states, "Manigat (the immediate predecessor of Avril) reopened the dialog with the ILO after he became President." The AFL-CIO noted in a submission that an ILO delegation visited Haiti from October 17-19, 1988. The Subcommittee had no information regarding the views of the ILO as to the purpose behind or usefulness of this visit.

The Subcommittee noted that U.S. Embassy Port-au-Prince reported that in February, experts from the ILO, at the behest, of the Haitian Ministry of Labor, were in Haiti and conducted a series of seminars and conferences on worker and employer

rights and responsibilities under ILO conventions. The impact of these seminars has yet to be seen.

Another general criticism of the situation, not related to a specific incident or specific Haitian Government, was that the 1981 Duvalier labor code remains in effect. It was held by both petitioners that this body of law provided any government with wide powers with which to intervene in trade union matters.

The Subcommittee noted that a revision in the labor code took place in 1984, and that an informal worker-owner group, organized by the Haitian Ministry of Social Affairs, had been working on further revisions in the code. The AFL-CIO also took note of the latter meetings, but stated it "was even more impressed by the fact that they have resulted in no progress." U.S. Embassy Port-au-Prince reported, however, that provisional draft revisions of 16 sections are ready for public discussion. The Subcommittee was, however, not provided with information/details on the proposed revisions or the amendments made to the code in 1984.

The Subcommittee noted that the U.S. Embassy further reported that on January 16 the Government of Haiti created a Tripartite Commission for Consultation and Arbitration to promote cooperation among management, labor and government. The aim of the Commission is the settlement of labor disputes. The Subcommittee noted that the Commission grew out of the informal worker-owner meetings held to revise the labor code noted above.

An additional general allegation made by the petitioners was that the existing labor code made resort, on the part of the employers, to the Labor Court an extremely attractive option, attractive because a backlog of cases in the Court made resolution of cases, in a timely manner, highly unlikely. Resort to the Court for dispute settlement is therefore seen as serving the employers interests.

The Subcommittee noted that on January 25, 1988, the Government of Haiti by Decree increased the number of judges on the Court from four to six and increased the number of special prosecutors serving the Court by one. The Subcommittee was not able to judge what effect these actions will have on the operations of the Court.

Finally, the Subcommittee sought to examine the allegations made by the petitioners regarding minimum wages and the question of occupational health and safety provisions. Both were examined most carefully in light of the economic conditions found in Haiti. As the 1988 Country Reports on Human Rights Practices notes, "The Government has not systematically enforced labor laws regarding wages and minimum safety regulations." But this failure was juxtaposed with the following language from the same Report, "Haiti is the poorest country in the Western Hemisphere and the most densely populated. Its faltering economy continues to burden all aspects of life. There is a great disparity between the income levels of the upper and lower classes, and urban slums in Haiti are widely viewed to be among the worst in the world." All this was placed within the context of the statement in one submission from the United Electrical, Radio and Machine Workers of America that 80% of Haiti's population is engaged in agriculture.

The Ministry of Social Affairs of the Government of Haiti in a submission to the Subcommittee stated

"The Government agrees that in the past, laws and rules regarding the rights of workers have not always been enforced. Such failure had generated unfair practices detrimental to the interest of the workers. The Government acknowledges the slowness of the judicial and administrative procedures concerning labor disputes, thereby creating a large backlog of unsettled cases to the prejudice of the workers."

"The Government is conscious that there is much more to be done."

The Subcommittee welcomed this admission by the Government of Haiti. It welcomed as well the actions, however, tentative and limited, noted above. But these actions were found not to be sufficient to warrant a determination that Haiti was or is taking steps to afford internationally recognized worker rights to workers in Haiti. The Subcommittee determined that such a decision at this time would be premature.

The Subcommittee therefore determined that the case alleging worker rights violations in Haiti be pended, dependent upon further examination and developments in Haiti.

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## Labor Rights in Haiti

As the Haitian people struggle to free themselves from the legacy of the thirty-year Duvalier dictatorship and the series of military governments that have succeeded it, the role of workers and their unions becomes paramount. Can Haiti—or any poor country seeking a way out of poverty—move toward a more democratic, just social order while multinational corporations and the local ruling elite are permitted to ruthlessly exploit the majority of citizens?

This report examines labor rights and labor conditions in Haiti, and the extent to which employers, many of them U.S.-based corporations, violate internationally-recognized labor standards and labor rights requirements in U.S. trade law.

This report details major areas of labor rights violations: mass firings of workers who try to form unions or bargain collectively, blacklisting of union activists, armed intervention in the workplace, threats and violence against workers, and minimum wage violations. The report calls for revamped U.S. policies toward Haiti that will promote labor rights and enhance prospects for a turn to democracy in that troubled land.

This is one of a series of reports on labor conditions and labor rights in various countries issued by the International Labor Rights Education and Research Fund.

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