



Haitian Construction Workers in the Dominican Republic: An Exploratory Study on Indicators of Forced Labor

Santo Domingo, Dominican Republic

September 2012

Prepared by the Observatorio Migrantes del Caribe (OBMICA) for ICF International
Report Author: Allison J. Petrozziello

Submitted to:

United States Department of Labor
Office of Child Labor, Forced Labor, and Human Trafficking
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Task Order II, Task IX

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Funding for this report was provided by the United States Department of Labor under contract number DOLJ099K29549. Points of view or opinions in this report do not necessarily reflect the views or policies of the United States Department of Labor, nor does the mention of trade names, commercial products, or organizations imply endorsement by the United States Government.

CONTENTS

Acronyms	iii
1 Executive Summary	1
2 Introduction.....	5
2.1 Aim of the Study	6
2.2 Introduction of Research Team	6
3 Literature Review on Haitian Labor in Construction in the Dominican Republic	7
3.1 Haitian Migration to the Dominican Republic	7
3.2 Haitian Migrant Workers in the Dominican Construction Industry.....	9
3.3 Existing Studies on Working Conditions of Haitian Construction Workers	12
3.4 In Legal Limbo: Migration Policy versus Labor Code	15
4 Methodology Design.....	18
4.1 Description of Research Methodology.....	18
4.2 Research Design.....	19
4.3 Key Concepts and Definitions.....	20
4.4 Research Instruments	22
4.5 Final Research Questions	22
5 Field Work.....	24
5.1 Research Limitations.....	26
6 Findings.....	28
6.1 Pathways into Construction Work	31
6.1.1 Migration Route	31
6.1.2 Finding a Job in Construction	33
6.1.3 Hiring Process	35
6.2 Nature of Work Performed and Conditions	38
6.2.1 Employer-Employee Dynamics in the Construction Sector	38
6.2.2 Payment.....	41
6.2.3 Work Schedule.....	45
6.2.4 Threats.....	46
6.2.5 Risks, Hazards and Abuse at Work.....	51
6.2.6 Freedom to Leave Worksite and Job	59

6.2.7	Migration Status and Understanding of Rights.....	61
6.3	Demographics, Living Conditions, and Debt of Workers.....	64
6.3.1	Demographic Characteristics	64
6.3.2	Living Conditions	67
6.3.3	Lending Practices and Workers' Debt	68
6.4	Changes in Haitian Migration for Construction Work after the Earthquake	70
7	Conclusion and Recommendations for Further Research	72
8	Bibliography	75

Appendices

Appendix A: Map of Research Locations

Appendix B: Formal Expert Interview Guide

Appendix C: Construction Worker Interview Guide

Appendix D: List of All Abusive and Exploitative Practices Detected against Haitian
Construction Workers in the DR

ACRONYMS

ARS	<i>Administradora de Riesgos de Salud</i> (Administrator of Health Risks, Dominican agency responsible for workplace accident insurance)
ATIHC	<i>Asociación de Trabajadores Inmigrantes Haitianos en la Construcción</i> (Haitian Construction Workers Association)
CEFASA	<i>Centro de Formación y Acción Social y Agraria</i> (Center for Training and Social and Agrarian Action)
CIES-UNIBE	<i>Centro de Investigaciones y Estudios Sociales</i> (Center for Research and Social Studies of the Universidad Iberoamericana)
CNDH	<i>Comisión Nacional de Derechos Humanos</i> (National Human Rights Commission)
CNM	<i>Consejo Nacional de Migración</i> (National Migration Council)
CNUS	<i>Confederación Nacional de Unidad Sindical</i> (National Confederation of Union Solidarity)
COIN	<i>Centro de Orientación e Investigación Integral</i> (Center for Integrated Training and Research)
DGM	<i>Dirección General de Migración</i> (Migration Directorate)
DR	Dominican Republic
ENFT	<i>Encuesta Nacional de Fuerza de Trabajo</i> (National Labor Force Survey)
FENTICOMMC	<i>Federación Nacional de Trabajadores de la Construcción, Madera y Materiales de la Construcción</i> (National Federation of Construction Workers, Carpenters and Construction Materials)
IDSS	<i>Instituto Dominicano de Seguros Sociales</i> (Dominican Institute of Social Security)
ILAB	Bureau of International Labor Affairs
ILO	International Labour Organization
IOM	International Organization for Migration
MONDA	<i>Ministerio de Orientación para Niños y Jóvenes Dominicano-Haitianos</i> (Ministry of Guidance for Dominico-Haitian Children and Youth)
MOSCTHA	<i>Movimiento Socio-Cultural para los Trabajadores Haitianos</i> (Socio-Cultural Movement for Haitian Workers)
NGO	Non-governmental organization

OBMICA	<i>Observatorio Migrantes del Caribe</i> (Observatory on Caribbean Migrants)
OCFT	Office of Child Labor, Forced Labor and Human Trafficking (at USDOL)
OMLAD	<i>Observatorio del Mercado Laboral Dominicano</i> (Dominican Labor Market Observatory), research unit of the Ministry of Labor
ONE	<i>Oficina Nacional de Estadística</i> (National Statistics Office)
SSID	<i>Servicio Social de Iglesias Dominicanas</i> (Social Service of Dominican Churches)
UNFPA	United Nations Population Fund
USDOL	United States Department of Labor

1 EXECUTIVE SUMMARY

Construction work is the second most important labor sector for Haitian migrant men in the Dominican Republic, following agriculture. Though it is relatively better paid than agricultural work, and therefore a more desirable option for many young Haitian men, construction work is also known for having dangerous and exploitative conditions, including pay far below minimum wage, longer working hours, and no days off.

Based on exploratory qualitative data on the living and working conditions of Haitian construction workers in the Dominican Republic, this study sought to determine whether indicators of forced labor are present in the sector. The information presented herein is expected to promote awareness about the issues Haitian workers face in the construction industry in the Dominican Republic and to make information available to agencies working in this area.

The project was commissioned and funded by the Office of Child Labor, Forced Labor and Human Trafficking (OCFT), part of the U.S. Department of Labor's (USDOL's) Bureau of International Labor Affairs (ILAB). As such, it aims to inform current and future technical assistance efforts of the USDOL/OCFT, while contributing to the international discourse on forced labor.

The specific research objectives of the study are to:

1. Understand the pathways into construction work, including the details of recruitment
2. Discover the nature of construction work Haitians perform with a focus on the employee-employer relationship
3. Capture information about the lives of workers outside of work, including their living conditions, demographic characteristics, and debt situations
4. Understand how the 2010 earthquake in Haiti may have affected Haitian migration for construction work in the Dominican Republic

Forced labor is defined as all work or service which is exacted from any person under the menace of any penalty for its nonperformance and for which the worker does not offer himself or herself voluntarily. This includes work provided or obtained by force, fraud, or coercion. To be considered forced labor, the situation must include elements of both (1) threat of penalty and (2) involuntariness. For this study, International Labor Organization (ILO) indicators of each element were applied across three phases or "dimensions": "unfree recruitment", "work and life under duress", and "impossibility of leaving the employer". An explanation of these forced labor dimensions and a list of the specific indicators applied appear in Section 4.3.

The report begins by providing an overview of Haitian migration and participation in the construction industry in the Dominican Republic. Existing studies on the working conditions of Haitian construction workers are reviewed, and their mostly quantitative findings are cited throughout the report as a basis for comparison for the findings in this study. The literature review concludes by taking stock of some recent changes in Dominican migration and labor policies that are likely to have repercussions on the construction sector in the near future.

Field work was conducted in April-May 2012, including 135 interviews with Haitian construction workers in the cities of Santo Domingo and Santiago de los Caballeros as well as the tourist region of Bávaro/Punta Cana. These were complemented by semi-structured interviews with 32 formal experts, conversations with 43 informal experts, and ethnographic observation of 12 construction sites.

Following a description of the three research locations, findings are presented on the pathways through which individuals come to work in construction in the DR. Most workers in the study reported migrating individually and seeking work informally through their own social networks. Only a small percentage (6%) of those interviewed used intermediaries to find employment once in country, some of whom charged a fee. There were some reports of deceptive recruitment, including making false promises of health insurance coverage and pressuring workers into signing illegal documents renouncing their right to severance pay. In addition, many Haitian migrants reported having contracted the services of a smuggler to migrate; however, data from this investigation do not indicate that any of the workers surveyed were taken to work in construction against his will or sold into the industry.

There is a clear preference among Dominican construction contractors for hiring Haitian workers, presumably because their precarious legal status makes them more flexible and willing to accept exploitative conditions and less likely to know their rights and be able to claim them. The prevalence of sub-contracting arrangements and informal hiring of Haitian day laborers may complicate the determination of obligations and upholding of rights, especially in situations where companies keep no records of the mostly informal laborers performing the work.

In contrast with employment of Haitian migrants working in the sugar cane industry, Haitian construction workers are a relatively independent and mobile population. The dynamics of the construction industry require workers to be quick on their feet, ready to rotate to another job site or occupation as work becomes available. However, their relative mobility does not preclude the possible existence of forced labor and may, in fact, create the conditions in which employers attempt to retain workers against their will, especially when pressed to finish a job within a certain time period.

The methodology of data analysis allowed for detailed exploration of individual indicators of forced labor, which are discussed at length throughout the report. The individual indicators detected include the following:

“Unfree recruitment” dimension:

- Deceptive recruitment (making false promises of health insurance coverage and pressuring workers into signing illegal documents falsely renouncing their right to severance pay)

“Work and life under duress” dimension:

- Forced overtime (beyond legal limits)
- Induced or inflated indebtedness

- Denunciation to authorities
- Locked in workplace (temporary confinement as means of dismissal/discouraging other workers from claiming rights)
- Physical violence
- Withholding of wages
- Dismissal
- Exclusion from future employment

“Impossibility of leaving employer” dimension:

- Forced to stay longer than agreed while waiting for wages due
- Denunciation to authorities
- Physical violence
- Withholding of wages
- No freedom to resign in accordance with legal requirements

In addition, coercion is being used to pressure Haitian laborers to work in substandard conditions and to carry out hazardous tasks without protection, which occasionally results in the loss of life. A key component of such situations is employers’ deliberate abuse of migrant workers’ vulnerability, due to their mostly irregular migration status, in order to impose more extreme working conditions than would otherwise be possible (as in their designating Haitians for the most dangerous tasks, and assigning an individual the work of several people). Finally, the Haitian workers interviewed are routinely subjected to threats, ranging from threat of dismissal to death threats to threats of deportation.

It is important to note that the methodology employed did not allow for an analysis of combinations of indicators, which could be used to determine on a case-by-case basis whether and how many individual workers were in a situation of forced labor. Nonetheless, the report includes information on situations in which more than one forced labor indicator was present. Further investigation is warranted to determine the full nature and extent of these practices.

The clearest and most egregious indicators of forced labor appear to be present in the Bávaro/Punta Cana region, where labor unions say there is a “different work culture” and few government or non-governmental agencies are willing to take on powerful investors and businessmen. To date, this study is the first to examine the working conditions of Haitian construction workers in the Bávaro/Punta Cana area. There are reports of other practices that warrant follow-up and intervention, such as workers being shot at when attempting to collect pay and employers “disappearing” the bodies of workers who have died on the job from electrocution or a fall from scaffolding. Further investigation is necessary in order to corroborate the data collected and begin to ameliorate the culture of impunity present in this area of high foreign investment and little State presence.

Finally, the study detected several practices that may or may not constitute forced labor indicators, but are certainly exploitative. These include employers' withholding for health and accident insurance but providing no coverage, and employers' "calling Migration" or organizing false migration raids to avoid paying workers, as well as police abuse and complicity between employers and authorities in covering up accidents and abuse of workers. Dangerous working conditions leading to serious injury and death were observed. Threats to and physical abuse of workers at the hands of their employers appear to be quite common. Many of the situations described in this report fall along a continuum between decent work on one end and forced labor on the other, making it challenging to distinguish between workers' suffering from sub-standard conditions or having their labor rights violated (labor exploitation) and experiencing situations of forced labor. Therefore, a list of all exploitative practices detected is provided in Appendix D, as a resource for agencies wishing to intervene. These situations require close monitoring in order to uphold the labor rights of all workers, regardless of nationality, as consecrated in the Dominican Labor Code and to promote a culture of decent work in the industry.

Image 1: Haitian block layers working on a residential project in Santo Domingo.



2 INTRODUCTION

Construction work is the second most important labor sector for Haitian migrant men in the Dominican Republic (DR), following agriculture.¹ Though it is relatively better paid than agricultural work, and therefore a more desirable option for many young Haitian men,² construction work is also known for having dangerous and exploitative conditions, including pay far below minimum wage, longer working hours, and no days off.³ Recent investigations sponsored by non-governmental organizations (NGOs) have uncovered practices such as delayed or non-payment of wages; obligatory overtime; little to no protective gear to prevent workplace accidents; threats to migrant workers of being deported or fired; and beating workers who try to claim their rights.⁴

This study sought to gather exploratory data on the living and working conditions of Haitian construction workers in the Dominican Republic, and to determine whether indicators of forced labor are present. Of the different typologies of forced labor, this study is most concerned with that imposed by private agents for economic exploitation, in which employers may abuse the power they enjoy for cultural or economic reasons in order to exact forced labor from their employees.

Prior research on Haitian construction workers in the Dominican Republic provides rich demographic data about Haitian construction workers and information about the legal and social challenges of living in the Dominican Republic. Only recently have studies begun to look at the recruitment and working conditions of Haitian immigrants, mostly focusing on the Dominican capital city of Santo Domingo. Additionally, the use of close-ended questions for much of the previous research limits the discussion of the more subtle aspects of forced and exploitative labor.

This study aims to address these deficits by collecting qualitative data on Haitian workers' pathways into construction, the nature of labor in construction, characteristics of the lives of construction workers outside of work, and perceptions of the effect of the January 2010 earthquake in Haiti. Additionally, the focus on the range of forced labor indicators aims to provide a clearer picture of the means through which forced labor may be occurring in the sector.

This research was commissioned and funded by the Office of Child Labor, Forced Labor and Human Trafficking (OCFT), part of the U.S. Department of Labor (USDOL's) Bureau of International Labor Affairs (ILAB). OCFT plays an active role in research and policy initiatives relating to international child labor, forced labor and human trafficking.

¹ Based on 2011 OMLAD statistics compiled in Riveros, Natalia. 2012. Informe sobre la Cuestión de la Migración Internacional en la República Dominicana para el año 2011. Observatorio Migrantes del Caribe. Santo Domingo, DR: Editora Búho.

² See Lunde, Henriette. 2010. Young Haitian Labour Migrants: Risks and opportunities in Haiti and the Dominican Republic. FAO. Norway.

³ Washington Office on Latin America (WOLA). 2009. DR-CAFTA and Workers' Rights: Moving from Paper to Practice. pp. 15-16

⁴ See, for example, Servicio Jesuita a Refugiados y Migrantes. 2008. Entre lo real, lo establecido y lo deseable. Estudio de las condiciones laborales de los inmigrantes haitianos en el sector de la construcción en el Distrito Nacional de la República Dominicana. Santo Domingo, RD: SJRM.

2.1 Aim of the Study

The information presented herein is expected to promote awareness about the issues Haitian workers face in the construction industry in the Dominican Republic and to make information available to agencies working in this area. This study aims to inform current and future technical assistance efforts of the USDOL/OCFT, while also contributing to the international discourse on forced labor.

The specific research objectives of the study are to:

1. Understand the pathways into construction work, including the details of recruitment
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3. Capture information about the lives of workers outside of work, including their living conditions, demographic characteristics, and debt situations
4. Understand how the earthquake may have affected Haitian migration for construction work in the Dominican Republic

2.2 Introduction of Research Team

The team for this study consisted of ICF International staff based in Calverton, Maryland, and the field team composed of researchers from the *Observatorio Migrantes del Caribe* (Observatory Migrants of the Caribbean, or OBMICA) based in Santo Domingo. The ICF team was comprised of research director Suteera Nagavajara and research specialist Holly Howell, who traveled to Santo Domingo to conduct preliminary research with local contact Julia Hasbún, identify the local contractor, and accompany the research team during the initial phase of the field work.

The local contractor, OBMICA, is a think tank located in Santo Domingo and affiliated with the Center for Research and Social Studies of the Universidad Iberoamericana (CIES-UNIBE). In collaboration with researchers, civil society organizations, and policymakers from the global South and North, the Observatory strives to develop a holistic and long-term perspective on migration dynamics in the Caribbean. The lead researcher for this study was social researcher and migration specialist Allison Petrozziello. This study also benefited from the guidance of OBMICA director and seasoned migration expert Bridget Wooding.

In addition to Ms. Petrozziello and Ms. Wooding, the OBMICA team was comprised of research assistant Ivance Martine and five interviewers: Ylemis Jean, Rosa Iris Diendomi Álvarez, Renaldo Jean, Santiago Jolicover and Rosa Boye Rosa, all of whom are Haitian migrants themselves or second-generation Dominicans of Haitian descent with prior experience working on studies and surveys among diverse segments of the Haitian population in the DR. Haitian Creole to Spanish translation and transcription services were provided by Pierre Michel Gaspard and Gahston Saint-Fleur, as well as Ms. Martine and Ms. Jean. Finally, data processing and analysis was possible thanks to the collaboration of two sociology students from Smith College in Northampton, Massachusetts, Dylan Farrell and Laura Duran.

3 LITERATURE REVIEW ON HAITIAN LABOR IN CONSTRUCTION IN THE DOMINICAN REPUBLIC

3.1 Haitian Migration to the Dominican Republic

Haitians have been migrating to work in the Dominican Republic, on the eastern half of the island of Hispaniola, for at least a century. For most of the 20th century, Haitians were brought—sometimes voluntarily, sometimes by force—to work in the sugar cane fields of the DR through a State-sponsored temporary migration or *bracero* program (Wooding and Moseley-Williams 2004:14). This seasonal labor migration was based on the collective hiring of contingents of workers arranged by dictatorial governments from both countries (Silié *et al* 2002). Sugar cane cultivation and more recently other crops, such as coffee and rice, are examples of dual or segmented labor markets in which Dominican workers have been “structurally and historically excluded...in order to utilize in their place a worker with less negotiating power over the sale of his labor and who [could] be subject to intense exploitation” (Báez Evertsz 1986: 121-122, our translation), not dissimilar to what is happening in the construction industry today. In this way, the capitalist development of the Dominican economy has come to depend on the availability of cheap, flexible migrant labor (Báez Evertsz and Lozano 2008).

The late 1980s saw the decline of the sugar cane industry and the end of the regulated, State-sponsored recruitment of Haitian workers, ushering in the era of what several Dominican sociologists have termed the “new Haitian immigration” (Silié *et al* 2002). As of the 1990s, Haitian migrants are no longer confined to living on *bateys* (labor settlements primarily located in sugar cane fields), and have spread out looking for work in larger cities and towns throughout the Dominican Republic. The new Haitian migrants are younger, oftentimes from urban areas in Haiti (not just the countryside), have slightly higher educational attainment, and are, in growing numbers, female. No longer subject to the strict controls over their movements as many were on the *bateys*, Haitian laborers are now more independent and mobile, circulating to work in other sectors such as construction, informal trade, tourism, and domestic work.

Today, Haitian migrants make up the majority of foreigners residing in the DR. However, there are still no definitive figures as to the size of the population in question. According to the National Labor Force Survey (ENFT, in Spanish) carried out by the Dominican Labor Market Observatory (OMLAD) in the Ministry of Labor, in 2011 the Haitian population numbered 247,468 (cited in Riveros 2012). This is likely a major underestimate, since many undocumented workers are likely to evade participation in such surveys. This number contrasts with a 2010 report of the UNDP Office of Human Development (PNUD 2010), which estimates the Haitian immigrant population to total somewhere between 255,000 and 510,000.

In addition to the challenge of counting mobile and undocumented migrants, a second problem is conceptual in nature. Oftentimes, estimates of Haitians in the DR do not distinguish between Haitian immigrants and their descendants who were born in the country (Báez Evertsz y Lozano 2008:192). Estimates based on the 2002 *Facultad Latinoamericana de Ciencias Sociales* and the International Organization for Migration (FLACSO-IOM) Survey of Haitian Immigrants in the

DR situate the population of Haitian immigrants (those born in Haiti) at 315,000, and their descendants (those born in the DR) at 195,000.

Still others estimate the current Haitian immigrant population to be much higher. According to the U.S. Department of State 2011 Human Rights Report for the DR (2012:18):

In 2009 the government informed the UN Human Rights Council that an estimated 900,000 to 1.2 million undocumented immigrants, mostly of Haitian descent, were in the country, although some officials asserted that the actual number may be closer to 2 million. The International Organization for Migration estimated that following the January 2010 earthquake in Haiti, there was an influx of approximately 130,000 additional undocumented migrants, and the Migration Directorate estimated that the number was closer to 200,000.

At the time of writing, the First National Survey of Immigrants was underway, being carried out by the National Statistics Office (ONE, in Spanish), with financing from the European Union and technical support from the United Nations Population Fund (UNFPA).⁵ These institutions have reached out to civil society organizations that do community-level work with immigrant populations, in efforts to gain the trust of undocumented immigrants who have never been counted. It is hoped that this survey will produce reliable statistics around which future public policies and programs can be designed.

It should be noted that following the 2010 earthquake, many Haitians came to the DR initially as displaced persons seeking medical treatment and temporary shelter. Many have since returned to Haiti, occasionally through from the International Organization for Migration's (IOM) Assisted Voluntary Return program,⁶ while others have been deported. Following a temporary relaxation of border controls, based on humanitarian grounds after the 2010 earthquake, Dominican authorities ramped up repatriations in 2011 to a rate almost five times higher than in 2009, deporting 40,071 Haitians from the DR (Migration Directorate Dept. of Statistics, cited in Riveros 31).

Though a growing number of middle-class Haitians have been migrating to the DR through legal channels for university education and professional opportunities, most Haitians moving to the DR *anba fil*⁷ come from the poorer strata of society. In the DR, most continue to live in precarious conditions of extreme poverty. According to the UNDP, "The majority are undocumented, and encounters a generally hostile political and social attitude toward them, with little possibility for obtaining legal assistance and limited access to healthcare and education, including for the children of Haitians born in country" (2005:5, our translation).

⁵ For more information, see the bulletin *ONE Informativa* of the Ministerio de Economía, Planificación y Desarrollo, Oficina Nacional de Estadística, Año 1, no. 1 Revista trimestral Año 2012, <http://www.one.gob.do/revista/RevistaONE.pdf>

⁶ So far, about 2,000 people have been returned to Haiti through this program. See Velton, Ross. "Their Dominican dreams dashed, Haiti quake survivors return home," CNN. February 27, 2012. Available at: http://articles.cnn.com/2012-02-28/americas/world_americas_dominican-republic-haitians_1_dominican-border-town-dominican-republic-earthquake?_s=PM:AMERICAS.

⁷ *Anba fil*, which literally means "under the wire," is a term we employ because of the difficulty of distinguishing clearly between irregular migration, forced migration, and smuggling or trafficking situations.

Finally, a major characteristic of contemporary Haitian migration is that previous patterns of circular migration have persisted, alongside patterns of definitive settlement in the DR. That is, many workers go back and forth, working for a time in the DR, returning to spend time with their families and live in their home country, and migrating again. Báez Evertsz and Lozano (2008: 190) insist that not only do circular migration patterns persist despite the break-down of the seasonal *bracero* program but they also may actually be on the rise in contemporary labor migration. They attribute this phenomenon to three factors: (1) being a small island, “the ‘porosity’ of the Dominican-Haitian border leaves the border virtually open to labor migration flows”; (2) the “exclusionary Dominican policies discourage definitive settlement”; and (3) the greater influence of social networks and families on “circulation strategies or settlement of migrants.”

3.2 Haitian Migrant Workers in the Dominican Construction Industry

Haitian migrants have not only worked in the sugar cane fields. They also have a long history of working in construction in the Dominican Republic, dating back to major public works in the 1920s and continuing on throughout diverse historical periods since then (Báez Evertsz and Lozano 2008: 198).

This incorporation of Haitian workers in construction accelerated in the 1990s due to a series of factors. The shift in migration patterns from State-regulated rural labor migration to unregulated “new Haitian immigration” of young labor migrants to urban areas coincided with a rapid process of socioeconomic restructuring over the last two decades in the DR. During this time, the Dominican economy has transitioned from an agro-export and industrial model of import substitution toward a model centered on services, tourism, export processing zones, and remittances (UNDP 2005). The 1990s also marked the beginning of a construction boom in urban areas and tourist regions, consisting of apartment buildings and residential complexes, tourist installations, and massive public works such as the construction of a metro system in Santo Domingo, starting in 2007.

The construction boom in the DR was strongest in the 1990s. It has weakened slightly in the 2000s but still remains an important part of the economy. The construction sector contracted further during the global economic crisis of 2008-9, when 30,442 jobs were lost in the sector (Ministerio de Trabajo, OMLAD 2011). The metropolitan areas of Santo Domingo and Santiago are where most construction takes place, with 57.3% and 17.3% of square meters built between 2004-2008, and 65.4% and 12.4% of private sector investment in the same period, respectively (ibid). Outside the two major cities, there is certain dynamism in tourist regions such as the provinces of La Altagracia (where Bávaro is located), Puerto Plata, and La Romana.

It is not a coincidence, then, that construction has become the most dynamic sector in terms of absorption of male migrant labor in recent years⁸ (Báez Evertsz and Lozano 2008: 205). Fully 18% of the economically active Haitian population works in construction, making it the second most important labor sector for Haitian migrants following agriculture (47%) (Riveros 2012, based on 2011 OMLAD statistics). It appears that recent arrivals to the DR are now more likely to seek work in construction (Báez Evertsz and Lozano 2008:199), with 42.6% of Haitian men working in construction according to 2002 FLACSO/IOM survey, most of whom fall into categories of first migration, circular, or recent (vs. intermediate or older migrations).

The construction industry has come to depend on the availability of Haitian workers. The recent OMLAD study on *Haitian Immigrants and the Labor Market* (2011) estimates that fully 53% of the labor force working in the construction industry is Haitian. This indicates a steady and rapid increase from figures cited in previous studies: 23% at the beginning of the 1980s (Duarte Tavarez and Hasbún 2009), 27% in a 2000 survey of construction workers (Secretaría de Trabajo study cited in Báez Evertsz and Lozano 2008), and 40% in the 2002 FLACSO/IOM Haitian immigrant survey.

Some authors attribute employers' apparent preference for hiring Haitians to reasons such as "the bosses want to obtain greater profit" (Montero *et al* 2009); Haitians are more flexible and willing to accept exploitative conditions (Duarte and Hasbún 2009), undoubtedly due to their precarious legal status in country; and beliefs such as Haitians being more apt for "work requiring a lot of brute strength" (Montero *et al* 2009). The National Confederation of Union Solidarity (CNUS, in Spanish) argues that "Haitian labor is required by Dominican employers because it is a temporary and non-unionized source of labor whose labor rights are not recognized" (Solidarity Center *et al* 2008: 7, our translation). They go on to explain, "Employers perceive [Haitian workers] as more 'flexible' and 'cooperative' with regard to working longer days" (Ibid, pg. 11). Wooding and Moseley-Williams emphasize that "there is a common belief among Dominicans that Haitians work harder and in a more entrepreneurial manner than do Dominicans in equivalent jobs" (2004: 57).

Whatever the reasoning may be for hiring Haitian workers in construction, it is clear that their labor is crucial not only to their employers, but to the Dominican economy as a whole. In 2005, it was estimated that the contribution of Haitian construction workers to GDP was 6.8%.⁹

Migrant workers are concentrated in mostly unskilled or semi-skilled occupations, where they are tasked with the heavy duties of hauling cement, clearing debris, lifting materials using a manual pulley, building cinder block walls, etc. (Servicio Jesuita a Refugiados/as y Migrantes 2008; Duarte and Hasbún 2011). "In construction, Haitian workers make up a vast, flexible labor force available for the heavy, low-skilled occupations" (Báez Evertsz and Lozano 2008: 207),

⁸ There is a marked division of labor by sex in job opportunities available to immigrant men and women in the DR (and many destination countries, for that matter). In the context at hand, Haitian men tend to be channeled toward work in agriculture and construction, whereas Haitian women find work as domestic workers in private homes, as market sellers and in informal trade, and as sex workers (Wooding and Sangro Blasco 2011). In this study, 100% of construction workers are male. However, there may exist a small percentage of women employed primarily in lighter tasks in construction, such as sweeping the site or providing services for construction workers, such as selling food to them.

⁹ AFL-CIO Solidarity Center *et al* 2008, citing Banco Central de la República Dominicana. Tabla "Población Ocupada Perceptora de Ingresos e Ingresos por Horas Trabajadas por Quintiles de Ingresos Según Ramas de Actividad Económica Total País", 2005. [Presentation at the Centro Cultural Dominico-Haitiano, "Aportes del Inmigrante Haitiano of a la Economía Dominicana"].

primarily in the initial phases of the construction project when preparing the grounds and raising the physical structure. A succinct description of workplace organization can be found in Wooding and Moseley-Williams' 2004 book *Needed but Unwanted: Haitian immigrants and their descendants in the Dominican Republic* (58):

On a typical construction site the manual work of digging, mixing cement, and carrying is done by Haitians. The skilled and semi-skilled workers, the block layers, plasterers, electricians, carpenters, plumbers, and tile layers, are Dominican, as is the maestro (master builder or foreman) in charge of the work and the ingeniero (construction engineer) to whom he responds. The ingeniero is the budget holder and contracts the maestro on the basis of a fixed sum for the work to be done. The maestro finds the workers he needs. Very often he will have his 'own' skilled workers, people he has worked with before. The labourers will be found by spreading the word around among the informal networks of Haitian workers although on the larger sites, which require labourers in greater numbers, there is some new evidence of degrees of organisation of labour supply, where Haitian or Dominican intermediaries have Haitian labourers 'on their books' and negotiate with the maestros.

Despite their concentration on the lower rungs of the occupational ladder, Haitian workers have begun to climb the rungs in recent years. Their participation in skilled occupations continues to rise as they gain more experience and become more qualified, as noted by two construction company owners interviewed for this study. This is confirmed by OMLAD statistics, which show that Haitians now make up 37.8% of specialized, technical occupations such as finishing, carpentry, rebar installation, woodwork, and technical foremen (Ministerio de Trabajo, OMLAD 2011: 81).

The demographic profile of Haitian construction workers clearly illustrates the trends outlined as part of the "new Haitian immigration" insofar as migrants are younger, migrate to and from urban areas, and have higher educational levels than their compatriots working in agriculture (Duarte Tavarez and Hasbún 2009). Some are even university students who could no longer pay their tuition, and ended up seeking work in the most readily available and relatively better paid work for Haitian migrant men: construction.¹⁰

Finally, Haitian construction workers are a highly mobile population, rotating between workplaces and tasks (Duarte Tavarez and Hasbún 2009) and also between their home and host countries. The 2011 OMLAD study of Haitian construction workers found that 58% of them had completed at least two migration cycles between Haiti and the DR.

Before presenting the findings of the study at hand, it is useful to review previous studies on the working conditions of Haitian nationals in the sector.

¹⁰ Lunde takes note of this trend in the 2010 report *Young Haitian Labour Migrants: Risks and opportunities in Haiti and the Dominican Republic*: "In Dominican towns and cities they may be doing unskilled, manual labour as construction work side by side with rural Haitian youth, but...rather than seeing the construction work as a goal in itself, they describe it as 'a step on the ladder'" (40). This sub-set of workers aspires to work in order to save money and start a small business or complete their university education.

3.3 Existing Studies on Working Conditions of Haitian Construction Workers

It is well-known that migrant workers in the DR and around the world tend to find work most readily in sectors characterized by the “three D’s”—that is, work that is dirty, dangerous, and demanding (UNDP 2005: 139). Construction work in the Dominican Republic, especially the lower-level occupations in which Haitian migrant workers are concentrated, is no exception.

To date, most studies on Haitian labor migration to the DR have focused on the extreme working conditions in the sugar cane industry and precarious living conditions in batey communities. Only in recent years have researchers begun to study migrants’ working conditions in the construction sector. Since 2008, five studies have been published on the topic, which are briefly reviewed here for their contributions to knowledge on the subject at hand. Specific findings from these studies regarding contracting, pay, working hours, and exploitative practices are cited elsewhere in this report to provide a basis for comparison for the findings presented in Section 6.

The most recent study was a major quantitative survey commissioned by the Ministry of Labor’s Observatory on the Dominican Labor Market (OMLAD 2011) titled (translated from Spanish) *Haitian Immigrants and the Labor Market: Study on Construction Workers and Banana Production in the Dominican Republic*. The report provides an important overview of working conditions in the sector as a whole. Its research methods involved the application of a survey instrument to construction site supervisors (all Dominican) and to both Dominican and Haitian construction workers in the two main cities of Santo Domingo and Santiago. In addition to providing information on migration patterns and the demographic profile of Haitian construction workers, much of which is cited in previous sections of this report, the study also provides comparative data on contracting practices, work schedules, payment, illnesses and accidents, overtime, social security, and labor union participation. The report mentions certain types of discrimination and exploitative practices but falls short of exploring indicators of forced labor. It concludes by examining contradictions and loopholes between migration and labor policies in the DR.

In the 2011 article “The Haitian Labor Force in Construction: Characteristics, Assessments and Practices,” Isis Duarte and Julia Hasbún employ a mixed methods approach to characterize the use of immigrant labor in this sector. The study involved secondary analysis of survey data from the 2002 FLACSO/IOM Haitian immigrants survey, which they complemented with qualitative methods including focus groups, structured interviews with government representatives, in-depth interviews, and case studies. Only ten interviews were conducted with construction workers, six with Haitians and four with Dominicans. Duarte and Hasbún make an important contribution to understanding the phenomenon by analyzing workers’ experiences of repressive practices and discriminatory treatment. The authors point out that working conditions are much more precarious in construction than in the industrial or informal sectors, which affects both Dominican and Haitian workers who perform the same tasks. They go on to argue that the gradual displacement of native workers by immigrant workers, especially in unskilled positions, has been part of employers’ strategy to recruit a flexible labor force that will be more willing to accept the prevailing characteristics of the sector (e.g., low pay, occasional work, no benefits, little regulation). They conclude that this substitution of local labor with mostly undocumented

immigrant labor, with little means to negotiate their working conditions, has been facilitated by the lack of State intervention in regulating this type of hiring practice.

A small study by Montero, Santos and Cuello (2009) uses a quantitative approach to calculate the “Costs and Benefits of Haitian Labor in the Construction Sector.” Like the other studies, it focuses mostly on Santo Domingo and employs a survey instrument, with only six in-depth interviews with people from different levels of the hierarchy of personnel in four construction projects. Drawing on economic indicators, the authors produce a cost-benefit analysis in order to argue that Haitian workers are not displacing Dominican workers but rather employers are hiring Haitians as a deliberate cost-saving measure for work that Dominicans are not willing to perform (heavy work for little pay).¹¹ They show how the benefits obtained through exploitative practices, such as paying far below minimum wage and withholding for health and workplace accident insurance while not registering undocumented workers in the system, far outweigh the costs to the State of hosting Haitian workers.

The most in-depth, qualitative investigation of the five is the 2008 study coordinated by Sonia Adames from the Jesuit Refugee & Migrant Service called (translated from Spanish): “Between the real, the established, and the desirable: Study on labor conditions of Haitian immigrants in the construction sector in the *Distrito Nacional* [capital region] of the Dominican Republic.” This was one of the first studies to look at the working conditions of Haitian migrant construction workers in the country. It used a structured survey instrument with 100 construction workers (Haitian and Dominican) on 10 construction sites in the capital as well as a section of the metro system that was being built at the time. Findings cover a range of topics of interest to the present study, including documentation, deportations, salary, negotiations, overtime, delayed and non-payment, work schedule, employer-employee relationships, contracts, workers’ knowledge of rights, dangers and risks, social security, threats, and access to justice. Among other findings, Adames reports problems with access to potable drinking water and bathroom facilities on the work site. Adames also pays attention to workers’ strategies to defend their rights. Given the low levels of formal organization among workers, these often involve passive-aggression (e.g., working more slowly), resignation, or sharing stories/complaining to friends.

Another one of the first studies on Haitian construction workers is the 2008 participatory study sponsored by the AFL-CIO Solidarity Center and two national labor union federations, the National Confederation of Union Solidarity (in Spanish, CNUS) and the National Federation of Construction Workers, Carpenters and Construction Materials (in Spanish, FENTICOMMC), titled (translated from Spanish) “In search of decent work: Working experiences of immigrant workers in the construction sector in the Dominican Republic.” Recognizing the growing presence of Haitian workers in construction—but little representation in labor unions—the sponsoring organizations decided to investigate the working conditions of immigrant workers with an ultimate goal of “develop[ing] policies to protect the rights of all workers and establish an action plan to organize them” (Solidarity Center *et al* 2008: 3).¹² The Solidarity Center report

¹¹ Interestingly, Montero *et al* point out that Dominicans who have migrated abroad to Spain to work in construction are concentrated in unskilled tasks in that segmented labor market (2009: 49).

¹² This undertaking reflects a larger trend also happening in the U.S., wherein labor unions comprised of primarily native-born workers are reaching out to foreign-born workers to understand their specific situation and incorporate them within their ranks. Instead of viewing their immigrant co-workers as a threat to their jobs, native-born union organizers have come to recognize that

identifies important types of exploitation such as salary discrimination and obligatory overtime, as well as potential indicators of forced labor such as employees being forced to take high-interest loans from the employer himself or herself when not paid on time. In contrast with the other studies, this study focuses on the eastern region, where 498 construction workers building tourist facilities were interviewed in Boca Chica, Juan Dolio, San Pedro and La Romana. It also employs a participatory methodology in which a group of workers and labor union activists (both Dominican and Haitian) was trained to develop research questions, formulate the survey and carry out interviews at their workplaces or close by.

One of the most striking findings, mentioned in the executive summary of the Solidarity Center report, is that 21% of Haitian construction workers had been victims of trafficking. However, later in the report, the authors clarify that “although *they had not experienced trafficking in the construction sector*, they had experienced it in their work life at some time during their migration experience” (2008: 13-14, emphasis added). Even with this clarification, the percentage seems high. This suggests that there may be some definitional confusion between smuggling and trafficking when asking respondents to self-identify and/or when analyzing results. It is also worth examining the validity of results in light of the methodology employed. While there are certainly innovative elements to using participatory research methods among peers, such as raising awareness and creating a sense of ownership of the research results among Dominican co-workers, the validity of such a figure is questionable. The report indicates that some interviewers were illiterate, and none had previous experience working on this type of study. The authors acknowledge that this affected their research instrument, as they had to simplify questions, limiting the ability to capture reliable and detailed information on a phenomenon as complex as human trafficking. This critique is not intended to argue that trafficking of Haitian migrants is not occurring, but rather that it is a complex phenomenon that requires more research in order to verify with confidence the extent and nature of the problem.

Taken together, these five studies employ mostly quantitative survey methods and close-ended lines of questioning, which are useful to provide an overview of working conditions. However, none of the studies explores the possible existence of forced labor in the construction sector. Two focus exclusively on the capital city, one on the capital and Santiago, one on national survey data, and the last on towns in the East.

This investigation differs from previous studies insofar as it employs open-ended questions in an attempt to capture rich, qualitative data on workers’ lived experiences, including how they consider their relationship with their employer, and any risks, threats, or other forms of abuse that could potentially constitute forced labor. It also includes the tourist region of Bávaro/Punta Cana, where foreign investment has driven a construction boom throughout the 2000s. This research found that Haitian migrants flock to the region for the job opportunities available in this sector and encounter some of the most severe exploitation in the industry.

employers’ exploitation of migrant workers undermines their ability to improve working conditions for all. Despite these initial efforts, Haitian workers’ participation in Dominican labor unions remains very low, due to a variety of reasons discussed later in this report.

3.4 In Legal Limbo: Migration Policy versus Labor Code

The question of Haitian migrants' rights is quite controversial in the Dominican Republic, and as such, it begs to be situated within the current policy environment. Though this report is not intended to be a policy paper, here it is worth mentioning in broad brushstrokes some recent changes in Dominican migration and labor policies that surely will have repercussions on the construction sector in the near future.

In October, 2011, seven years after Migration Law 285-04 was signed, the Dominican Republic defined the *Reglamento* 631-11, or Rules of Procedure, for its implementation. Among other clauses, these rules outline the process for obtaining a temporary worker visa for migrant workers to legally enter the country to work in certain sectors where demand for labor outstrips supply of Dominican workers, such as agriculture. Through June 2012, the Migration Directorate (DGM, in Spanish) offered an initial window of opportunity for employers to regularize the migration status of their workers, before beginning to apply the Rules of Procedure as written, which in effect make the employer responsible for guaranteeing that its workers do not violate the terms of their temporary worker visa. The DGM has begun working with agro-fishery businesses to regularize the migration status of their workers, and has publicized its efforts to issue temporary worker visas to hundreds of workers, mostly contingents contracted collectively through hiring mechanisms which have become largely obsolete (or were never used to begin with) in other sectors of the Dominican economy, such as construction.

The new regulations have been criticized as impracticable by various analysts due to the high number of requirements, high costs,¹³ and relative difficulty of bringing workers into compliance (Riveros 2012: 38). The Ministry of Labor/OMLAD report offers the following analysis: "The law is quite ambiguous in many aspects, but above all it appears to be designed essentially to order and regulate a type of labor relationship that is no longer the main trend in immigration: the contingent, or *braceros* hired collectively generally by sugar cane companies or large agricultural plantations" (2011: 172, our translation).

The construction sector, which relies mostly on informal contracting of individual migrants on an *ad-hoc* basis, has vocalized its resistance to these new regulations, since they task employers with regularizing workers' migration status, assuming costs of the temporary worker visa and ensuring repatriation of workers at the end of their contract.¹⁴ In OBMICA's annual migration review, author Riveros notes that delegating such regulatory functions to employers may have unexpected consequences in terms of control over migrant workers' freedom of movement:

¹³ According to the Director of Immigration Matters at the Migration Directorate, the procedures at the DGM alone will cost 14,500 Dominican pesos per worker (US\$ 372), plus administrative costs in the Ministry of Foreign Relations and other institutions, plus a deposit that the employer must pay as a sort of insurance policy.

¹⁴ Articles 76 and 77 of the Reglamento. See Mejía, Mariela. "Ven paso avance Reglamento Ley Migración." *Diario Libre*, 21 October 2011, available at: http://www.diariolibre.com/noticias/2011/10/21/i309952_ven-paso-avance-reglamento-ley-migracion.html; Nivar, Amílcar. "Constructores ven positivo el reglamento de Migración: ACOPROVI, CADOCOM y CODIA consideran hay puntos por discutir", *Listin Diario*, 21 October 2011, available at <http://listindiario.com.do/economia-and-negocios/2011/10/20/208008/Constructores-ven-positivo-el-reglamento-de-Migracion>

It is worrisome that employers are made responsible for the transport of temporary workers from control points (entry into the country) and back again (exit) for their repatriation, and that employers can be sanctioned should the worker not leave the country within the authorized time period. This could lead employers to exercise permanent control over the mobility of their workers, which they do not consider feasible (2012:36, our translation).

In other words, employers are reluctant to take responsibility for the movement of their workers within country and for their eventual return to Haiti, as stipulated in the regulations. They do not consider it feasible due to the costs involved and informal working relationship that is common in the sector. Should the employers be pressured to comply with this requirement, they may be forced to exercise more control over migrant workers. This could be a point of concern, as it may inadvertently create the conditions for forced labor to take place. In order to avoid such pitfalls, the DGM and other members of the National Migration Council (CNM, in Spanish) face the challenge of finding creative solutions to regulate labor migration flows which are more diversified, mobile, and independent than in eras past.

The CNM does appear to be hard at work on the draft of a National Regularization Plan, which was stipulated in Migration Law 285-04, but not included in the Reglamento. In late 2011 civil society organizations were invited to submit input for the plan; however, no formal dialogue or consultation has taken place during the compilation of the draft, nor has a draft been shared with civil society for comment. In June 2012, the Minister of Interior and Police (in his capacity as chair of the CNM) and the head of the Migration Directorate presented a draft plan to outgoing president Leonel Fernández.¹⁵ In theory, regularization should provide an opportunity for many immigrants with irregular migration status—the great majority of them Haitian—to obtain papers in order to live and work legally within the country. However, the specifics as to who would be eligible for regularization under such a plan have yet to be made public.

For the time being, this leaves most Haitian construction workers in precarious legal limbo with no clear path to regularizing their migration status. On one hand, they are not contracted collectively but on an individual basis, and their employers are reluctant to assume responsibility for obtaining temporary worker visas for them under the new Rules of Procedure. On the other hand, most do not have written contracts and circulate informally between countries and construction projects, making it difficult to legally prove their de facto residence in the DR and therefore potential eligibility for regularization if and when the new plan is approved.

Though their legal status to live and work in the DR may remain in limbo for some time, Haitian construction workers do have their labor rights guaranteed under Dominican labor law, regardless of their migration status. The Código de Trabajo 16-92 or Dominican Labor Code upholds the principle of territoriality; that is, all who perform paid work within the boundaries of national territory are protected and bound by the rights and obligations therein, regardless of their nationality. A representative of the Ministry of Labor interviewed for this study affirms that the institution respects and upholds this principle: “The fact that the worker does not have documents does not mean that he does not have rights. Any foreigner can go to court or visit any

¹⁵ Gil, Fior. 2012. “Entregan al Presidente Fernández borrador del Plan sobre Regularización de extranjeros,” Hoy, 13 June 2012. Available at: <http://hoy.com.do/el-pais/2012/6/13/432352/Entregan-al-Presidente-Fernandez-borrador-del-PlansobreRegularizacion-de>

State institution to place a complaint and we will give them the same treatment as any citizen, because that is what is stipulated in the law.”¹⁶

In addition to this insistence on non-discrimination against migrant workers, the Ministry of Labor recently created a Labor Migration Unit. Among other matters, Resolution 14/2012, through which the Unit was created, considers it necessary to improve controls upon labor migration in order to guarantee decent work in Dominican Republic. Toward this end, its functions include guaranteeing legal assistance to migrant workers through consultations and judicial assistance, guaranteeing respect for the labor rights of migrant workers through worksite inspections, and coordinating with other State institutions in order to improve labor migration policies. Since the Unit only came into existence in March of this year—an election year—it remains to be seen whether it will become fully integrated into the organizational structure of the Ministry, in order to fulfill its promise as a potential stronghold for the defense of migrant workers’ labor rights.

¹⁶ Interview at Ministry of Labor, Santo Domingo, 22 May 2012.

4 METHODOLOGY DESIGN

4.1 Description of Research Methodology

This study is a rapid assessment exploratory research project employing qualitative research methods. Since most of the previous studies reviewed above emphasized the collection of quantitative data—which provide a useful overview of the sector but do not necessarily capture nuanced and sensitive information regarding experiences of forced labor—in this study mostly qualitative methods were used to collect primary data on the lived experiences of Haitian construction workers that may constitute forced labor.

Research methods included a literature review, semi-structured interviews with formal experts, conversations with informal experts, semi-structured interviews with construction workers, and ethnographic observation of construction sites.

The information provided by formal experts versus informal experts was complementary. The purpose of the formal expert interviews was to gain an overview of the nature of construction work in the Dominican Republic, Haitian immigration issues, and Haitian labor specifically in the construction sector, including indicators of forced labor faced by workers. Experts were asked to provide their perspective on the pathways individuals take into construction work, as well as the characteristics of their working and living conditions. The formal experts, who tend to be qualified people with a professional interest in the field, are in a position to offer informed views on the phenomenon based on their involvement and experience. In this study, formal experts included representatives from governmental institutions, international and local organizations, NGOs, religious organizations providing services to Haitians, labor unions, immigrant and labor rights organizations, and construction company owners. Their views and opinions are particularly useful in helping us understand policy and other macro-level issues.

However, formal experts do not always have direct experience with migrant construction workers as they go about their work. This is where the informal experts' views were useful, since they are largely in direct contact with migrant construction workers (e.g., cooks on the construction site, foremen, neighbors), and can offer a level of insight that their professional counterparts cannot. Since the essence of qualitative research is to gain the widest possible range of insights and understanding, by using both categories of experts to gather information we are able to maximize the breadth and depth of the data obtained.

The target population of this project is comprised of Haitian construction workers in the Dominican Republic. A semi-structured interview guide was used to ask interviewees how they came to the Dominican Republic, how they got their job, what type of work they do and the risks involved, and about their lives generally (see construction worker interview guide in Appendix C).

Construction site observations focused on the type of work taking place, risks encountered by workers, working conditions, and whether and where workers take breaks and eat. These notes provide background information for the report, as well as contextual information for the interviews.

The qualitative data analysis software *Atlas.ti* was used to code all of the worker interview data according to the categories of interest in this study, ranging from pay to abuse and threats to employer-employee relationships, etc. This exercise enabled qualitative data to be categorized in order to analyze patterns and ranges of behavior and to quantify numbers of instances in many cases. This facilitated a more systematic and rigorous analysis of the qualitative information available, therefore producing more reliable results than is customary in many qualitative studies.

Lastly, the nature of the study was an exploratory exercise and the results were not intended to be statistically representative of the sector as a whole. As a qualitative study using a non-representative sample, the results are not generalizable to the wider population of Haitian construction workers in the DR. The results must therefore be considered in this context and understood to present a holistic picture of Haitian construction workers without seeking to quantify the phenomenon or establish frequencies of various behaviors or situations.

4.2 Research Design

The design of the study was informed by an initial exploratory visit by ICF to Santo Domingo in February 2012 and subsequent correspondence with migration experts at the OBMICA think tank.

In preparation for the field work, an initial list of key informants was fleshed out to include civil society organizations and experts with which OBMICA maintains regular contact, as well as other referrals gathered through a snowball technique. “Panels” of individuals were assembled through a purposeful selection of “people who are uniquely able to be informative because they are expert in an area or were privileged witnesses to an event.”¹⁷

A literature review of mostly Spanish-language sources on new Haitian immigration and Haitian construction workers in the DR was conducted in order to contextualize the current project.

Three research locations were chosen as places known for the volume of construction underway and for the mass employment of Haitian migrant workers therein. These include the capital city Santo Domingo and second largest city Santiago de los Caballeros, where together 80% of all building permits were solicited in the period 2004-2008,¹⁸ as well as the booming tourist area of Bávaro/Punta Cana in the East (see map of research locations in Appendix A).

In order to locate and gain access to Haitian construction workers for interview, OBMICA researchers developed rather innovative strategies. Namely, an informal expert was identified in each research location, who was someone familiar with Haitian construction workers and who could identify candidates for interview and help researchers gain access to their worksites and communities. These “gatekeepers” included a Dominican health outreach worker who regularly visits construction sites in Santiago to work on HIV prevention, a Dominico-Haitian construction foreman with many years of experience in Santo Domingo, and a Haitian ex-construction worker

¹⁷ Weiss, R.S. 1994. *Learning from strangers: The art and method of qualitative interviewing*. New York: Free Press. p. 17

¹⁸ Ministerio de Trabajo, Observatorio del Mercado Laboral Dominicano (OMLAD). 2011. *Inmigrantes haitianos y mercado laboral. Estudio sobre los trabajadores de la construcción y la producción de guineo en la República Dominicana*. Report authors: Báez Evertsz, F., W. Lozano, J. Díaz and R. Durán. Santo Domingo, RD. Available at: <http://www.omlad.gob.do/ArchivosDescargables.aspx>

who now drives a motorbike taxi and knows all the Haitian security guards at the construction sites in Bávaro/Punta Cana.

Given the relative difficulty of access to workers with mostly irregular migration status (of whom no list is readily available), probability sampling methods were not feasible. Instead, the research team opted for criterion-based selection¹⁹ using criteria developed through initial exploratory interviews and the literature review. Thus, gatekeepers and researchers were instructed to identify candidates for interview following these sampling criteria:

1. Construction sites must be:
 - located within Greater Santo Domingo, Santiago, or Bávaro/Punta Cana
 - known for having a large concentration of Haitian workers and particularly exploitative conditions
 - both publicly and privately owned
 - distributed among the following categories:
 - small residential buildings
 - large apartment buildings
 - tourist accommodations
 - commercial establishments
 - public projects such as hospitals, roads or schools
2. Construction workers must be:
 - 18 years or older
 - currently working in construction (or have worked in the sector within the last year)
 - both new arrivals and more experienced migrant workers

Where possible, more than one—but no more than four—interviews were conducted at each construction site in order to cross-check the information provided and ensure that reports of abuse were not isolated incidents.

4.3 Key Concepts and Definitions

The study is concerned with activities covered by the following definitions:

- **Forced labor:** all work or service which is exacted from any person under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily, and includes indentured labor. “Forced labor” includes work provided or obtained by force, fraud, or coercion, including:
 - a) by threats of serious harm to, or physical restraint against any person;

¹⁹ LeCompte, M.D. & J. Preissle. 1993. *Ethnography and qualitative design in educational research* (2nd ed.) San Diego: Academic Press. p. 69.

b) by means of any scheme, plan, or pattern intended to cause the person to believe that, if the person did not perform such labor or services, that person or another person would suffer serious harm or physical restraint; or

c) by means of the abuse or threatened abuse of law or the legal process.

Table 1: Indicators of Forced Labor²⁰

<i>Involuntary nature of work: lack of consent to (involuntary nature of) work (the route into forced labor) includes:</i>	<i>The threat or menace of a penalty (which represents the means for keeping someone in forced labor) includes the actual presence or credible threat of:</i>
<ul style="list-style-type: none"> • Birth/descent into “slave” or bonded status • Coercive recruitment • Physical abduction or kidnapping • Sale of the worker into the ownership of another • Recruitment linked to debt (advance or loan) • Deception about the nature of the work • Forced overtime (beyond legal limits) • Forced to work on call (day and night) • Limited freedom of movement and communication • Degrading living conditions • Reduced freedom to terminate labor contract after training or other benefit paid by employer • No freedom to resign in accordance with legal requirements • Forced to stay longer than agreed while waiting for wages due • Forced to work for indeterminate period in order to repay outstanding debt or wage advance • Deceptive recruitment (regarding working conditions, content or legality of employment contract, housing and living conditions, legal documentation or acquisition of legal migrant status, job location or employer, wages/earnings) • Deceptive recruitment through promise of marriage • Forced engagement in illicit activities • Forced to work for employer’s private home or family • Induced addiction to illegal substances • Induced or inflated indebtedness (by falsification of accounts, inflated prices, reduced value of goods or services produced, excessive interest charges, etc.) • Multiple dependency on employer (jobs for relatives, housing, etc.) • Being under the influence of employer or people related to employer for non-work life 	<ul style="list-style-type: none"> • Denunciation to authorities (police, immigration officers, etc.) and deportation • Confiscation of identity papers or travel documents • Sexual violence • Physical violence • Other forms of punishment (deprivation of food, water, sleep, etc.) • Removal of rights or privileges • Religious retribution • Withholding of assets (cash or other) • Threats against family members (violence or loss of land or jobs) • Confiscation of mobile phones • Further deterioration in working conditions • Isolation • Locked in workplace or living quarters • Violence against worker in front of other workers • Constant surveillance • Withholding of wages • Exclusion from future employment • Exclusion from community and social life • Financial penalties • Informing family, community, or public about worker’s current situation (blackmail) • Dismissal from current employment • Extra work for breaching labor discipline

²⁰ The following indicators have been drawn from the 2011 ILO document *Hard to See, Harder to Count: Survey guidelines to estimate forced labour of adults and children*, which were created based on the lessons learned from ten national case studies and in consensus with key actors from these countries.

- **Dimensions of forced labor:** Combinations of the abovementioned indicators can be used to determine the presence of three different dimensions of forced labor: **(1) unfree recruitment, (2) work and life under duress, and (3) impossibility of leaving the employer.** In all of these cases, **coercion** may be applied by employers to workers to force them to take the job, to live and work under conditions with which they do not agree, and/or to prevent them from quitting.
- **Labor exploitation:** There is no accepted international definition of labor exploitation. According to the ILO document *Hard to see, harder to count: Survey guidelines to estimate forced labour of adults and children*, “Thresholds may be determined at national level in order to classify respondents who do not fall in the ‘forced labour’ category as being subject or not to sub-standard or ‘exploitative’ working conditions. This is, however, likely to be a very sensitive topic on which it may be difficult to establish a consensus among stakeholders at national level” (2011: 103-4). Given these difficulties and lack of consensus, this document uses the term “labor exploitation” to refer to conditions which are in violation of national labor laws but do not necessarily constitute forced labor.

4.4 Research Instruments

In order to explore the existence of the abovementioned indicators of forced labor, ICF International’s research team developed English-language drafts of two different instruments: 1) a formal expert interview guide and 2) a construction worker interview guide. OBMICA then translated the instruments into Spanish and Haitian Creole and made minor modifications following pilot testing. Full versions can be found in Appendices B and C.

4.5 Final Research Questions

This research has sought to gather exploratory data on forced labor of Haitian construction workers by investigating the following questions:

1. How do individuals come to work in construction in the Dominican Republic?
 - a) Through what means do workers arrive in the Dominican Republic? What role do recruiters play?
 - b) How do workers find their jobs? What role do recruiters play?
 - c) Is deception involved in the recruitment or hiring of workers? How are the hiring terms negotiated and recorded?
2. What is the nature of Haitians’ work in construction?
 - a) What are the employer-employee dynamics in the sector?
 - b) How much are workers paid? In what form and how often do they receive payment?
 - c) Are workers threatened in any way?
 - d) What risks and hazards do Haitians encounter in their work, including abuse by employers?

- e) Are workers free to leave their worksites and jobs? What consequences would they face?
 - f) How does having irregular status affect working conditions and how do workers interpret their status? What understanding do workers have of their rights?
3. What are the characteristics of Haitian construction workers' lives outside of work?
- a) What are the demographic characteristics of Haitian construction workers?
 - b) What are the living conditions of the workers, including whether they live and eat on site?
 - c) How much debt do workers typically have? To whom and under what terms? How does debt influence decisions about work?
4. How did the earthquake affect Haitian construction labor in the Dominican Republic?

5 FIELD WORK

Field work was carried out in April and May of 2012. The OBMICA team began by employing its civil society connections with Haitian migrant organizations, other researchers, and NGOs in order to identify interviewer candidates who were bilingual in Spanish and Creole, familiar with the Haitian community in one of the research locations, comfortable entering construction sites and Haitian neighborhoods, available to work evenings and Sundays (when construction workers were available), and experienced in working on surveys or qualitative studies. Thirteen candidates (six women and seven men) participated in an initial two-day workshop, during which they were trained on concepts of forced labor and labor rights in the DR, as well as interview and observation techniques and research ethics. Candidates were tasked with carrying out a pilot interview, which was used both to evaluate their skill level and to fine tune the interview guide so that it was culturally and linguistically appropriate.

At the end of the workshop, six candidates (four women and two men) were hired as researchers and two (both men) as transcribers. Interviewers were divided into teams of two (male-female where possible); given voice recorders, phone cards, and printed materials; and dispatched to the three research locations to begin working with the abovementioned gatekeepers to identify interview candidates and worksites.

Over the next three weeks, the teams carried out a total of 135 semi-structured interviews with Haitian construction workers, in a roughly equal distribution among the three research locations (47 in Santo Domingo and 44 in both Santiago and Bávaro). Laborers were interviewed away from their worksites where feasible in order to gain the most accurate and reliable information. Interviews were conducted in the language in which the respondent felt most comfortable, mostly in Haitian Creole (116) with some (17) in Spanish and a few mixed Spanish-Creole (2). All interviews were recorded using MP3 digital voice recorders, and were translated and summarized/transcribed in Spanish.

Simultaneously, semi-structured interviews were carried out with 32 formal and 43 informal experts. Formal expert interviews included government officials and staff from the Ministry of Labor and the Migration Directorate, police and a public clinic. International organizations included the International Labor Organization (ILO), United Nations Population Fund (UNFPA), and the International Organization for Migration (IOM). Several independent migration and labor experts were interviewed, as well as religious organizations providing services to Haitians such as the Center for Training and Social and Agrarian Action (CEFASA, in Spanish) and Ministry of Guidance for Dominico-Haitian Children and Youth (MONDA, in Spanish) in Santiago, the Jesuit Refugee & Migrant Service / *Centro Bonó* and Social Service of Dominican Churches (SSID, in Spanish) in Santo Domingo, and the *Centro de Atención Jesús Peregrino* in San Pedro de Macorís. Two labor union federations provided input to this study, including the National Confederation of Union Solidarity (CNUS, in Spanish), and the National Federation of Construction Workers, Carpenters and Construction Materials (FENTICOMMC, in Spanish). Interviews were carried out with the following NGOs working on immigrant and/or labor rights: the AFL-CIO Solidarity Center, the Center for Integrated Training and Research (COIN, in Spanish), *Alas de Igualdad* Foundation, the Jacques Viau Dominican-Haitian Network, the National Migration Roundtable, the Haitian Construction Workers Association (ATIHC, in

Spanish), the Socio-Cultural Movement for Haitian Workers (MOSCTHA, in Spanish), and the National Human Rights Commission (CNDH, in Spanish). Finally, two construction company owners agreed to be interviewed, on the condition of anonymity.

Informal expert conversations took place with construction foremen and master builders (both Haitian and Dominican), construction material distributors, ex-construction workers, a retired military sergeant, community organizers, construction site food vendors, a corner store owner, religious leaders and a landlord in the Haitian community, construction site guards, and various tradesmen (bricklayers, plumbers, metal workers, equipment operators, painters).

Observations were recorded for twelve different construction sites, including both public and private projects.

The following table shows the number of interviews conducted by population group and location.

Table 2: Number of Interviews by Population Group and Location

Population Group	Santo Domingo	Santiago	Bávaro/Punta Cana	Other	Actual Total # of Interviews	Target # of Interviews
Formal experts	20	7	2	3	32	30
Informal experts	14	15	14	0	43	45
Haitian construction workers	47	44	44	0	135	125
Total # of interviews	81	66	60	3	210	200

In terms of data processing, the transcribers began their task as soon as the researchers started to turn in their interview recordings and paperwork. Working simultaneously on transcription was useful both in order to save time and also to provide feedback to the researchers on technique and to guide the sampling selection as they went along. In addition, having transcripts available early on in the process enabled the team to implement a system of cross-verification of data, in which research assistants checked transcripts against the recorded interview to ensure the validity of the information provided in the translated transcript.

At the end of the field work, researchers requested another gathering in order to “decompress” by sharing their experiences with the teams from other research locations. The lead researcher planned a one-day workshop in which the morning discussion focused on personal reflection about successes and difficulties, strategies for handling emotionally-challenging information while maintaining professionalism, lessons learned, and ideas for improvement in the future. In the afternoon, researchers worked in their location teams to present a synthesis of their findings, which gave the lead researcher a useful overview of key issues while also facilitating comparative analysis between the three locations.

Finally, the OBMICA research team used the qualitative data analysis software *Atlas.ti* to code all of the worker interviews according to 50 separate categories of interest in this study, ranging from pay to abuse and threats to employer-employee relationship, etc. The codes were analyzed quantitatively and qualitatively. That is, responses were categorized, tabulated, and entered into Excel sheets, enabling the production of tables and charts. At the same time, the software

preserves the original text and location, allowing the report author to provide exact quotes as examples of the categories described.

The following table summarizes the research process, during which the carrying out of activities often overlapped in time.

Table 3: Research Process

Pre-Phase: Development of the Scope of Work		
Phase I Refining the research work plan and preparation for field work	Phase II Field work	Phase III Data processing and analysis
Activity 1: Collection of relevant literature on Haitian migration and participation in construction work	Activity 1: Collaboration with “gatekeepers” to identify Haitian construction workers for interview	Activity I: Translation and transcription of worker and expert interviews; cross-checking for data validity
Activity 2: Research instrument development	Activity 2: Interviews with formal and informal experts	Activity 2: Training of research assistants in use of qualitative data coding software
Activity 3: Identification of organizations that work with Haitian construction workers or are knowledgeable on the topic	Activity 3: Semi-structured interviews with Haitian construction workers	Activity 3: Post-fieldwork “decompression” and comparative analysis workshop with research team
Activity 4: Identification of research locations and definition of access strategies	Activity 4: Worksite observations	Activity 4: Data analysis, including coding and tabulation of results
Activity 5: Training, hiring and organization of the research team		Activity 5: Preparation of draft report
Final Report Writing		

5.1 Research Limitations

While the research team is pleased with the information it has been able to gather, it must acknowledge several issues which have limited the study in one way or another.

- **Time constraints.** The local contractor was tasked with carrying out a minimum of 200 interviews within a short time period. Had the team had more time, it would have been able to do more pilot testing, make a more careful selection of interviewees, build in more cross-checks and feedback mechanisms between data processors and interviewers, etc.
- **Elections.** The field work was carried out in the month leading up to the presidential elections in the DR, a period of frantic campaigning, political caravans and protests, in which many government representatives and formal experts involved in politics were simply not available for interview.
- **Access to Haitian construction workers.** It was not always easy for interviewers to gain access to potential interviewees, due to the long hours they work and restrictions on physical access to worksites. On more than one occasion, researchers were barred access by the employer, as rumors circulated that they were labor lawyers or human rights

observers. When access was granted to homes or worksites, workers themselves were often fearful, suspicious, or confused as to the purpose of the study, despite the explanation from the consent form. Some workers grew nervous midway through the interview, and even accused the researchers of being undercover migration agents.

- **Sensitivity of issue of Haitian immigrants' rights.** The DR has been under political pressure in the inter-American human rights system and by other international actors for its treatment of Haitian immigrants and their descendants living in Dominican territory. For this reason, public officials were often reluctant to openly discuss labor rights of Haitian migrants.
- **Consent forms.** Obligating formal experts to sign a consent form often produces mistrust and reluctance to participate, even if it is meant to guarantee their privacy. It would be preferable for the interviewer to request verbal consent and sign it herself, similar to the construction worker consent form. Should this option not be feasible, it would be preferable to include the sponsoring organizations' names and contact information on the sheet, as well as an organizational signature guaranteeing the interviewee's privacy as indicated on the form. One interviewee verbally agreed to be interviewed, but refused to sign the form on the grounds that without this identifying information, the form offered him no such guarantee.
- **Open-ended questions.** While the open-ended questions on the interview guide were mostly well-formulated for qualitative purposes and followed a logical sequence, it would have been useful to close a few of the questions to produce more uniform sampling results. For example, the question on type of project was answered in a variety of ways, making it difficult to quantify how many interviews were conducted in each type of project.

6 FINDINGS

This study examines the experiences of Haitian construction workers in three diverse locations: Santo Domingo, Santiago de los Caballeros, and Bávaro (see map in Appendix A).

The capital city of Santo Domingo is growing vertically, as one can see from a quick glance across the horizon. Apartment buildings and towers are replacing horizontal colonial and ranch-style homes in middle-class and wealthier neighborhoods; overpasses are rising up over congested thoroughfares. The city is also going underground, with the construction of a second line of the metro train system, nearing completion in 2012. Other projects include public works, such as new buildings at the public university, parks, schools and sidewalks, and commercial establishments, such as supermarkets and malls. Most of the new construction is being done by private companies, which are both foreign and Dominican. More construction is happening in Santo Domingo than anywhere else in the country, creating plenty of work opportunities for Haitian migrants throughout the city.

Image 2: Haitian and Dominican construction workers with the government contractor Acero Estrella are busy working on the renovation of the cathedral in Santiago de los Caballeros.



Santiago de los Caballeros is the second largest city, with the second highest concentration of construction in the country, though it trails the capital by far (see Section 3.2 for specific figures). There appears to be far less State investment in public works; in the formal expert interviews, several people complained that the government only invests in building up Santo Domingo. Thus, the majority of construction projects where interviewees are working in Santiago, with the exception of the renovation of the cathedral, a hospital, and a school, are being financed through the private sector. Private projects where Haitian migrants are working include mostly residential apartment buildings and homes, with some commercial establishments, such as banks, supermarkets, shopping plazas, and one hotel.

The Bávaro/Punta Cana area on the eastern tip of the island is one of the fastest growing tourist regions, known primarily for its all-inclusive resorts and high-end offerings for U.S. and European visitors. Investment in Bávaro is mostly private and foreign. Current construction projects employing Haitian workers include hotels, a residential complex adjacent to a golf club, renovations of existing resorts, villas and condominiums, and apartment buildings. Bávaro has been hit hard by the global economic crisis in recent years, and since 2010 some companies and workers have begun to leave for the capital. Some projects have been stalled; others have been completed, but the investors have not been able to sell. “With so much supply and so little demand, construction comes to a halt,” explained a construction company owner in Bávaro interviewed for this study.²¹ Though the boom of the early 2000s in this region has slowed, construction continues to grind on, in an area mostly devoid of State presence and with no civil society organizations on the ground to accompany workers in claiming their rights.

Within this panorama, the distribution of construction worker interviews among different types of projects was 80% in private versus 20% publicly-owned and funded projects. All of the different types of construction projects defined in the sampling frame were represented, with the greatest concentration in residential projects (46%), reflecting the national trend, followed by public works (19%), tourist installations and towers (both at 13%), and commercial establishments (9%).

Chart 1: Type of Construction Project: Public or Private

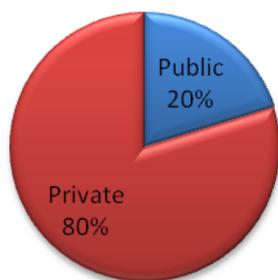
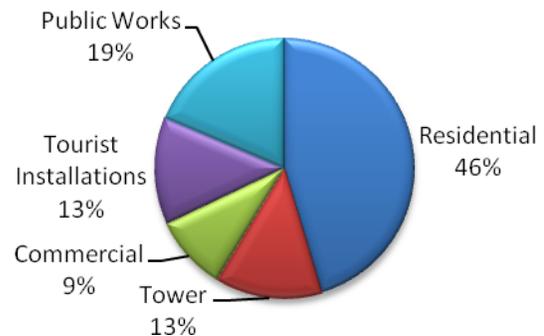


Chart 2: Type of Construction Project: Building Type



²¹ Interview with construction company owner, Bávaro, 23 April 2012.

Regarding the proportion of Haitian workers in the construction industry, it is clear that they now comprise the majority of the work force. Whereas the recent Ministry of Labor/OMLAD survey places the figure at 53% (2011: 40), it is likely much higher, given the informal hiring practices prevalent within the sector and construction companies' reluctance to record undocumented workers on the employee rosters that they are required to submit to the Ministry of Labor. According to the same study, only 60% of construction supervisors interviewed keep such a roster and most of these hardly or never send them to the Ministry of Labor. This is likely due to the fact that companies throughout the industry are in constant violation of article 135 of the Labor Code, which stipulates that 80% of workers in any company must be nationals.²²

An official of the Ministry of Labor in Santiago insists that there are no more than 20% of foreign workers in the construction sector: "The engineers in charge would not allow it, as this would be a violation of article 135 of the Labor Code and they could face fines."²³ However, the reality pointed out by outreach workers and lawyers at CEFASA, ATIHC and the Centro Bonó, and confirmed through simple observation, is that the workforce in construction is most likely vice versa: 20% national and 80% Haitian.²⁴ Still others estimate the figure of Haitian labor to be closer to 70%, 85%, or up to 95%, especially in the beginning phases of the project when more workers are needed to clear the grounds, put down the foundation, and lay cinder block.

While article 135 of the Labor Code is intended to promote the nationalization of the workforce, it may have the unintended consequence, as Duarte and Hasbún (2009: 91) argue, of increasing the employment of undocumented workers and preventing companies from hiring them formally or registering them in efforts to avoid "officially" violating the 80/20 rule.²⁵

There apparently is not a significant difference between publicly- and privately-funded projects, in terms of the proportion of Haitian workers. However, the State does not directly carry out the construction on the projects it funds; rather, it hires contractors who, in turn, subcontract foremen and technicians who are responsible for recruiting their own work teams to complete the job.²⁶ According to a researcher who has investigated the topic extensively in the DR, this form of contracting is also a means for the State to exonerate itself from responsibility of violating its own laws:

*In public works, you know they give it to a contractor and the contractor does whatever it wants. Evidently, you cannot say anything to the State because the guilty one is the contractor they hired, not the State. It is a means of keeping their hands clean. Any complaint, any scandal—it was the contractor.*²⁷

²² Código de Trabajo de la República Dominicana. Available at: http://www.suprema.gov.do/PDF_2/codigos/Codigo_Trabajo.pdf

²³ Interview with Local Representative of the Ministry of Labor, Santiago, 1 May 2012.

²⁴ Formal expert interviews with community outreach workers and representatives from CEFASA, 20 April 2012 and 1 May 2012; the Haitian Construction Workers' Association (ATIHC) interviewed on 14 May 2012; and confirmed through the Servicio Jesuita a Refugiados/as y Migrantes 2008 study.

²⁵ In the 2008 investigation, the Servicio Jesuita a Refugiados/as y Migrantes found in their interviews with engineers and construction foremen that they were quick to offer exact data on size of the project and the company, but hesitant to say what percentage of workers was Haitian vs. Dominican, most likely because of the 80/20 provision, and sometimes outright lied saying it was 50/50, which is still not in compliance with the Labor Code.

²⁶ Interview with representative from the *Mesa Nacional de Migraciones* (National Migration Roundtable) in Santo Domingo, 3 May 2012.

²⁷ Interview with researcher experienced in topic of Haitian migration and construction, Santo Domingo, 17 May 2012.

6.1 Pathways into Construction Work

The pathways through which individuals come to work in construction in the DR can be divided into two parts: the migration route to the point of destination and the job search.

6.1.1 Migration Route

Following the end of regulated, inter-governmental migration, labor migrants have been left to smuggle themselves across the border. There has been an increase in migration of individuals rather than contingents and an overall increase in undocumented migration (Báez Evertsz y Lozano 2008: 184). Findings from this investigation suggest that construction workers are migrating mostly individually, relying upon social networks and/or smuggling services to make it across the border and onward to their point of destination. Their journeys, as recounted in worker interviews, usually involve a variety of means of transport—by walking or taking motorbikes, private vehicles, or public buses—and often entail paying bribes to military and police officials at various checkpoints in order to make it through.²⁸

A 42-year-old construction worker who arrived to the DR for the first time two months prior to being interviewed, recounted his journey to Santiago as follows: “I arrived here the illegal way, following a great struggle, walking non-stop, sweating...Thank God I made it. I came because there wasn’t any work [in Haiti]. I wanted to come in search of a better life.”

When migrants make the journey for the first time, they often hire the services of a *buscón* to help them make some of the trip or all of it. Buscones are informal scouts, usually Haitian, who act as smugglers, putting together groups and guiding them. They work together with others, Haitian and Dominican, to deliver their groups at different locations. There are also many Haitian migrants who find their own way across the border, individually or in small groups, often in the company of a more experienced migrant who knows the route and knows how and what to pay the different authorities encountered.

A construction worker in Bávaro who has been a circular migrant for the last 15 years shared the following: “The first time I came in a *vía* [organized trip], but later on I would just pay 800 pesos [approximately US\$21²⁹] to the customs [agent] at the border.”

A 27-year-old construction worker in Santiago reported having been cheated by a “friend” who helped him make the trip. He and others in a group had paid some money, but then realized that the friend received a percentage for recruiting him for the trip. The *buscón* took almost all his money, purportedly for the taxi, leaving him in an unknown location with 250 pesos (US\$6) in his pocket.

The cost of the trip for the construction workers interviewed ranges from 250 Dominican pesos (DOP; US\$6) to 31,200 (US\$801), with most paying 3,000-4,000 pesos (US\$77-103). This includes the cost of transport, bribes for authorities, and a kickback for the *buscón* and any other intermediaries.

²⁸ For a more detailed description of the migration / smuggling route for migrants in Santiago, see CEFASA. 2012. *Investigación sobre Tráfico de Personas desde Haití hacia Santiago, RD*. Santiago de los Caballeros, RD.

²⁹ The exchange rate at the time of writing was 1 USD = 38.95 DOP. Dollar amounts presented in text are approximate.

None of the workers interviewed for this study was hired through the collective contracting of immigrant workers in their country of origin. It appears that this modality is used almost exclusively in the agricultural sector, including sugar cane, but not in urban industries such as construction. However, some formal experts commented that there are employers who engage in informal recruitment by sending a Haitian intermediary to recruit a contingent of workers in Haiti just prior to breaking ground on the project.³⁰ A representative of the Socio-Cultural Movement for Haitian Workers (MOSCTHA, in Spanish) explained that these intermediaries do not complete a formal recruitment process but rather take the risk of smuggling the workers across the border using the services of buscones:

Sometimes the construction company itself makes arrangements so they can get their people through. The engineer has his network, including contacts on the border, which helps him to make arrangements. They agree to meet at a place and the engineer will go and pick them up in the company vehicle. They bypass the border checkpoints. This network is different from how it was in sugar cane [recruitment], but it does involve a person who has contacts on the border, contacts in the military, is from the border region, and knows where to take each worker.

However, the most common pathway is for Haitian laborers to migrate of their own accord through social networks. They have cousins, friends, uncles, or other contacts who help them arrange the trip and to find work upon arrival. This coincides with the OMLAD study finding indicating that the great majority of Haitian construction workers migrating already have family in the DR (64% in that study) (Ministerio de Trabajo, OMLAD 2011).

An OBMICA migration expert interviewed for this study clarified that the main means of recruitment is no longer through bringing workers from Haiti, but rather, spreading the word through Haitian workers and acquaintances: “The demand for workers is made known through friend networks who facilitate their incorporation into the construction labor market...We are talking about young people who are already here and find work because of the high demand that exists, or new people who show up to work. But they are not being brought here.”³¹

The president of the Haitian Construction Workers Association, a Haitian construction worker himself, confirmed this statement:

*In the past, construction workers did not leave Haiti to come directly into construction. But now in recent years, you are seeing construction workers leaving Haiti with this express purpose. The majority comes to the country and works at whatever they find. But since most migrants are now concentrated in construction, that is where they find work. They learn as fast as they can in order to work their way up and become a technician.*³²

Finally, while most migrant workers are coming directly from Haiti to work in construction in the DR, there is evidence of some mobility between sectors of the immigrant labor market,

³⁰ Our findings appear to fall in line with Duarte and Hasbún's finding (2009) that only 8% of Haitian construction workers in the 2002 FLACSO/IOM survey had migrated through direct hiring or labor recruitment processes, while the rest migrated independently or with family members/friends.

³¹ Interview with OBMICA researcher, Santo Domingo, 27 April 2012.

³² Interview with Haitian Construction Workers' Association, Santo Domingo, 14 May 2012.

especially between sugar cane cutting/other agricultural production and construction. A 21-year-old in Bávaro arrived in the DR two years ago to work in sugar cane but wound up hearing about job opportunities in Bávaro. Similarly, a 32-year-old construction worker in Santo Domingo recounted having worked all over the DR before deciding to leave sugar cane work due to the deplorable conditions:

At first I was cutting cane in San Pedro de Macorís. Then I went to a town in Baní to work for a company that was paying 37 pesos [US\$0.95] a day, which at the time was very little. After that a friend brought me to the capital and I have been here ever since. I left sugar cane because I saw it as slave-like work, and they did not even let you leave some of those bateys. You could only do that work and when the harvest was over, you were still there until the next harvest, and you stayed there like a slave going hungry and having a hard time. So, seeing all of that, I decided to leave.

These findings reflect those of the Duarte and Hasbún (2009) and OMLAD (2011) studies, which indicate that while the majority of construction workers had come directly from Haiti to work in the sector, a substantial minority (20% and 30%, respectively) had worked in other sectors (primarily agriculture) before finding work in construction.

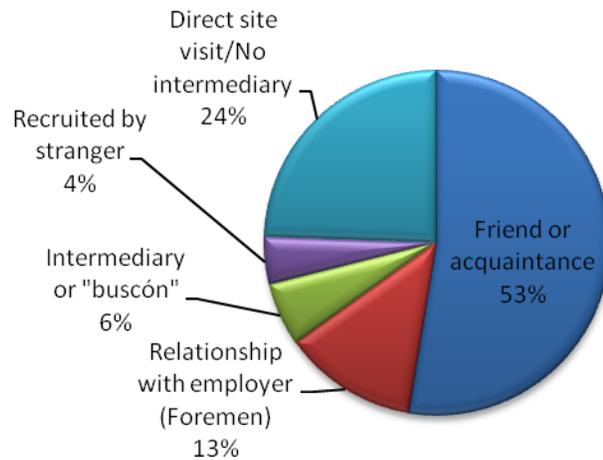
6.1.2 Finding a Job in Construction

The construction worker interview data show that fully 53% found their job in construction through a friend or acquaintance, whereas 24% found work simply by showing up at the worksite and asking for the foreman. Still others (13%) found their current job through a foreman with whom they had worked previously. Only 6% of interviewees used an intermediary or buscón to find their job, and 6 of the 135 interviewees (4%) were recruited by a stranger. A distinction is made between the buscón and stranger, since in this study the buscón is a seasoned recruiter, whereas the stranger is a private citizen looking for some help on a project. The breakdown can be found in Chart 3, with further examples below.

These findings are similar to those presented in the recent OMLAD survey of Haitian construction workers, with the difference that a much higher percentage in that study relied on intermediaries, both Haitian (19.3%) and Dominican (18.7%) (Ministerio de Trabajo, OMLAD 2011:73). The authors group the pathways into construction into three types of social networks:

1. Networks of friends and acquaintances (usually other construction workers)
2. Networks of relationships between employers (site foremen) and workers
3. Social networks between workers and intermediaries that can lead to recruitment and subcontracting of Haitian workers, wherein intermediaries are both Haitian and Dominican

Chart 3: Workers' Pathway into Construction



An example of a typical family or friend connection is the experience of a 32-year-old Haitian man who describes how he found work in road construction in Santiago: “Through my brother who was working with this engineer, who was looking for someone to do a job...My brother thought I could do it, so he called me and introduced me to the engineer. I talked to him and he told me how much he would pay me and gave me the job.” Other examples include a friend who was a night watchman at a construction site, a Haitian acquaintance living in the same house, and a female niece and sister-in-law who had a relationship with the boss. Usually, these contacts expect no payment, only reciprocity and friendship.

Having a prior relationship with the employer is more common among construction workers with more time in country and who have worked previously with that architect, engineer, or foreman. These types of relationships are built up over time and usually characterized by a certain degree of trust, as indicated by a construction company owner in Bávaro: “Some foremen have their *gente de confianza* [people they trust] that they bring along to work with them from project to project.”³³

On the opposite extreme is the use of an intermediary, usually for pay, which in this study occurs most often in the very competitive construction job market in Bávaro. A first-time migrant who has been in the country for four years explains, “There are people who tell me they can find me a job, but I have to give them a little money.” Another Bávaro construction worker explains that sometimes job seekers are made to pay this finder’s fee before starting work, and then the intermediary disappears with the money without ever connecting them with the potential employer. In order to find out about work opportunities, another explains, you have to have someone on the inside, and for that connection some people charge money.

Finally, a small percentage of workers were recruited by a stranger on the street, who assumed that because they were Haitian, they would be willing and available to work in construction. A 27-year-old in Santiago explained: “I was just walking and I heard a car horn. He stopped to talk

³³ Interview with construction company owner, Bávaro, 23 April 2012.

with me and asked me if I was working. I said no. I went to work for the first day with him and then he said I could return to keep working.”

The data from this investigation indicate that no one was taken to work in construction against his will. Key informants from along the political spectrum were unanimous in their responses that no one was being sold into the industry, ostensibly because there were more than enough migrant workers available for hire. However, there were reports of less-than-transparent hiring practices in which migrants were not informed properly about what they were signing up for. The following section examines these practices with respect to the forced labor indicator “deceptive recruitment.”

6.1.3 Hiring Process

The hiring process for construction workers, especially Haitians, is largely informal. As one construction company owner explained, “Workers show up at the job site and the foreman hires the people he needs to get the job done.”³⁴ This often takes place through the social networks mentioned above, in which a friend, family member, acquaintance, or intermediary accompanies the job seeker to the construction site and introduces him to the foreman or engineer, who asks him what he knows how to do and decides whether to put him to work or not.

Based on interviewees’ responses, this “negotiation” of hiring terms can be categorized into three types: None, Some, or Full Disclosure.

Table 4: Haitian Construction Workers’ Negotiation of Terms of Employment

Type of Negotiation	Number	Percentage
None	57	43%
Some	58	42%
Full disclosure	9	7%
No response	11	8%
Total	135	100%

In this study, it is most common for there to be no negotiation at all, with 43% of workers interviewed falling into this category. In this scenario, as a 26-year-old working in Miraflores, Santo Domingo explains it, “One goes to the place and asks for work. If there is work to be done, they tell you to enter and work on this or that.”³⁵

Many do not know when or how much they will be paid when they begin working, leaving them in a situation of uncertainty with little room for negotiation with the employer, having no choice but to accept what they are given.³⁶ In such cases, deceptive recruitment regarding working conditions—an indicator of the involuntary nature of recruitment—is not taking place because no

³⁴ Interview with construction company owner, Bávaro, 23 April 2012.

³⁵ Interview with construction worker, Miraflores, Santo Domingo, 21 April 2012.

³⁶ In the 2008 Servicio Jesuita a Refugiados/as y Migrantes study, 66% of Haitian construction workers (vs. only 27% of Dominicans) had begun working without knowing how much they would be paid.

promises are made to the worker at all. A block layer in Santiago says, “My friend just introduced me to the boss, saying, ‘Here is the block layer I have brought for you,’ and the boss said, ‘Here, we don’t pay a lot.’”³⁷ Representatives from the Haitian Construction Workers Association ATIHC explain that some job seekers are cautioned against inquiring as to pay if they want to be hired: “When they are looking for work and ask how much they pay, many times the employer will answer them, ‘Are you here to work or are you here to ask how much we pay?’ After two weeks they will know how much they will be paid per day, but the employer makes no promises.”³⁸ This was the case for a worker who has been building tourist installations in Bávaro for the last seven years: “When I started working for the first time, I couldn’t ask how much they were going to pay me. If you do, they can take you off the job because they will say that you are too intelligent.”³⁹ In cases where workers cannot negotiate directly with the employer, they often resort to asking the security guard or compatriots performing the same work as to the terms of employment with that company.

Other workers (42% in this study) are offered some information about the terms of employment, usually the pay amount, frequency of payment, and tasks to perform. In Bávaro, it is common for employers to put the job seeker to work for a few days, keeping him under close observation. If the employer sees that he can manage the tools and is a hard worker, then they will come to an agreement on pay and he will be hired to help complete the job.⁴⁰

Very few promises were made to migrant workers of anything beyond work and salary. There were no accounts of their receiving an advance prior to starting work, indicating that there was no recruitment linked to debt among the population under study. However, some were promised health insurance, severance pay, and a Christmas bonus, but many complained that these promises were not upheld (see following section for more details). Such promises may constitute the indicator of deceptive recruitment.

A small percentage (7%) engaged in what can tentatively be called “Full Disclosure” insofar as they were given information regarding how much they would be paid, when they would be paid, where they would be working, what they would be expected to do, the work schedule, and the worksite rules. This disclosure did not necessarily include a written contract, however.

Among those who responded to the question, 85% had not received a written contract⁴¹ and 9% had received one. According to Dominican labor law, a verbal contract is just as valid as a written contract. However, according to several labor lawyers interviewed in this study,⁴² in practice it is much harder for workers without written proof of their labor relationship to claim their rights. It is possible to file legal proceedings with only a verbal contract; however, the process is much slower and more difficult, which oftentimes leads the worker to abandon the process due to the time and expenses involved. During proceedings, two witnesses may be

³⁷ Interview with construction worker, Gurabo, Santiago, 21 April 2012.

³⁸ Interview with Haitian Construction Workers’ Association, Santo Domingo, 14 May 2012.

³⁹ Interview with construction worker, Cristinita, Bávaro, 23 April 2012.

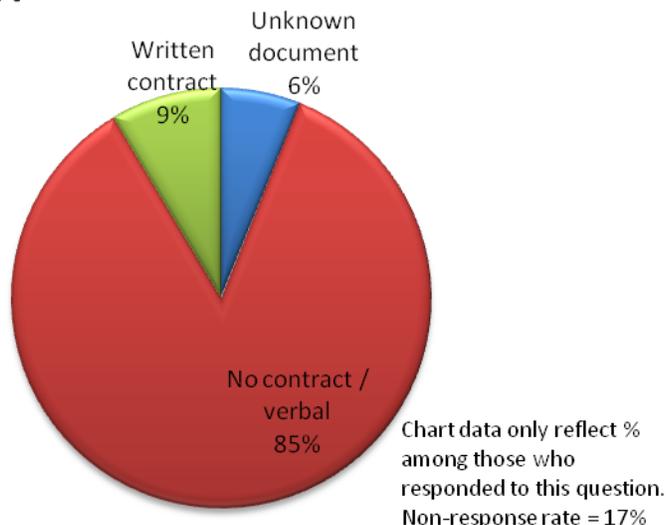
⁴⁰ Interviews with construction workers in Hoyo de Friusa and Cristinita, Bávaro, 22 and 23 April 2012.

⁴¹ This percentage is quite similar to other studies on Haitian construction workers reviewed in Section 3.3: the Servicio Jesuita a Refugiados/as y Migrantes (2008) study found that 81% of Haitian construction workers had no formal contract; the OMLAD study placed this higher at 90.4% of Haitian workers; and the AFL-CIO Solidarity Center / CNUS / FENTICOMMC study found 100% to have no written agreement.

⁴² Interviews at Centro Bonó (3 May 2012), MOSCTHA (23 May 2012) and Centro de Atención Jesus Peregrino (25 April 2012).

required to testify that the claimant was indeed working for that company. Even this may be difficult, as other workers, especially if Haitian, may be reluctant to participate, for fear of exposing themselves to authorities (and possible deportation) or losing their own job at that company.

Chart 4: Type of Contract



Six percent of Haitian workers in this study were pressured into signing a document, the contents of which were unknown to the workers. Upon further investigation, the “unknown documents” appeared to be declarations signing away workers’ rights to claim severance pay, which, according to the Dominican Labor Code, employers are obligated to pay workers who are let go after working more than three full months on the job. A laborer working on the publicly-funded renovation of the Santiago cathedral shared that he and other workers for the government contractor Acero Estrella were forced to sign such a document: “He [the boss] is hard with us because if you do not sign a paper they give you to sign, he gets angry. They know that that paper they make you sign is a violation. Another worker read it to me and it says that I renounce my right to *prestaciones* [severance pay]. But they don’t accept you not signing it.”⁴³

This practice was also detected in the capital, where a Haitian construction worker who has been in the country for four years explained his experience upon arrival:

*We were congós [newcomers] to the Spanish language. In my case, they called me to the office and gave me four documents, two white and two others with very small writing. We didn’t know anything. Sometime later on, some Dominicans called us to tell us that those documents that we signed had to do with our severance pay, that we no longer had a right to it even if we go to the Ministry [of Labor]. They made all of us Haitians sign it.*⁴⁴

When asked what the consequences would be if they did not sign the document, workers reported that they simply would not get the job or that their employer grew angry.

⁴³ Interview with construction worker outside cathedral in center of Santiago, 6 May 2012.

⁴⁴ Interview with construction worker in Don Bosco, Santo Domingo, 4 May 2012.

This type of renunciation of rights is not valid and would not be upheld in a court of law. However, it does serve the purpose of convincing workers that they have no such right, making them less likely to claim severance pay. As such, it can be considered a deceptive hiring practice, which is an indicator of involuntariness under the forced labor dimension of unfree recruitment.

Finally, a few workers mentioned having an agreement with a third party who had brought them to work on the site. For example, the same worker in Santo Domingo who had been forced to sign a renunciation of his right to severance pay was also obligated to pay a cut of his salary to the foreman who had recruited him: “The foreman set a condition that in order to give us work, we had to pay him one day’s pay for each pay period (per month), 300 pesos [US\$8] each.”⁴⁵

6.2 Nature of Work Performed and Conditions

6.2.1 Employer-Employee Dynamics in the Construction Sector

Forced labor is most often studied in the framework of the employer-employee relationship. However, in this case study, workers are often “self-employed” as day laborers, which may obscure the underlying employment relationship and the corresponding obligations and rights associated with it. In order to understand employer-employee dynamics in the sector, first it is necessary to examine the system of workplace organization, including who workers consider their employer and who hires whom.

In terms of the first question, almost all workers consider the foreman or the engineer their employer, since this is the person who hired them, the person with whom they work on a regular basis, and who pays them. Only 15 interviewees consider the company owner their employer, which suggests that their contact with those ultimately responsible for the project tends to be quite limited. One or two mentioned they had worked with an architect. Three mentioned a *capataz*, which is an intermediary, usually Haitian, who recruits other Haitians to work with him, but he is not necessarily working in the capacity as the foreman. This person sometimes charges their recruits for having found them the job (see account in previous section).

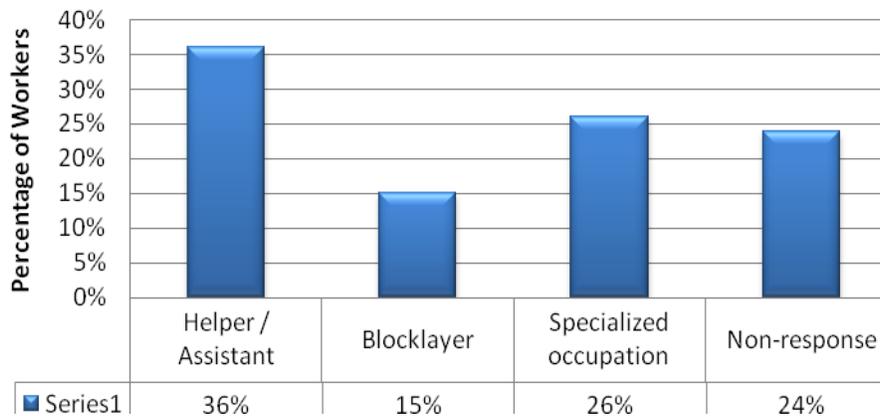
There are two types of contracting: “by the house” and through subcontracting. Hiring “by the house” means that workers are hired directly by the company for general tasks such as keeping the worksite in order, while workers hired through subcontracting answer to the foreman who was hired to complete a certain part of the construction project.⁴⁶ Only a small number of Haitian construction workers are hired directly by the company; the majority work as day laborers, sometimes for years at a time, for the various subcontractors. While the *maestros* (foremen) or *ajusteros* (subcontractors) are often paid by product or job, their laborers are usually paid a daily rate. Thus, the company hires the foremen, who are usually Dominicans or Haitians with their documents in order, and they, in turn, hire their own laborers, who are usually Haitian, depending on the nature of the task at hand.

⁴⁵ Interview with construction worker in Don Bosco, Santo Domingo, 4 May 2012.

⁴⁶ For a more complete description of hiring practices of Haitian migrants within the construction sector in the DR, see Dotel, Olaya. 2002. “Métodos de contratación de mano de obra haitiana”, *Estudios Sociales* 35(129) Julio-Septiembre 2002, pp. 73-84.

There continues to be a marked division of labor by nationality, with greater presence of Dominican workers in the more skilled occupations and a higher concentration of Haitian workers in unskilled tasks. In this study, 36% of Haitian workers are called helpers, which is a euphemism for those who perform the most dangerous and demanding tasks, such as digging trenches with a pick axe, operating a manual pulley to hoist up wheelbarrows full of materials, or carrying sacks of cement up six flights of stairs.⁴⁷ Fifteen percent are *albañiles*, or block layers, in charge of building the walls. A significant percentage (24%) did not specify their occupation, which could be because many of the workers are “jacks of all trades” in the sense that they will do whatever is asked of them, requiring varying levels of skill.

Chart 5: Occupation of Construction Workers Interviewed



Rather than being “locked into manual labour from which it is difficult to escape” (Wooding and Moseley-Williams 2004: 59), Haitian construction workers appear to be becoming progressively more skilled. In the present investigation, 26% work in the more specialized occupations of finishing, carpentry, rebar installation, ceramics, and plastering.⁴⁸

⁴⁷ This description draws upon the research team’s ethnographic observations at several construction sites in Santiago, Bávaro, and Santo Domingo.

⁴⁸ When comparing these data to findings from previous studies, the trend of increasing qualification among Haitian construction workers is evident. In the 2000 Labor Secretariat survey of construction workers (cited in Báez Evertsz and Lozano 2008), Haitians were concentrated almost exclusively in unskilled occupations (49% “peon”, 47% helper), whereas the 2002 FLACSO/IOM Haitian immigrant survey found that 78% were unskilled and 22% skilled. The 2008 AFL-CIO Solidarity Center *et al* study found that 38.5% of the Haitian workers interviewed were helpers. Most recently, the 2011 OMLAD survey found that 28% of Haitians are unskilled laborers/helpers, 23.8% block layers, and 15.4% work in specialized occupations including finishing, carpentry, rebar installation, woodwork, and as foremen.

Image 3: As Haitian construction workers become more qualified, they are present in greater numbers in the technical phase of the construction project, as seen here in the installation of wiring in a hotel in Punta Cana.



This division of labor on the worksite means that Haitian laborers are present in greater numbers during the initial phases of the construction project; in diminished numbers during the middle, technical phase; and in growing numbers during the final finishing phase. According to the estimates of the construction company owner in Bávaro,⁴⁹ approximately 90% of the workforce is Haitian during the raising of the structure, which can take 15 days or 1-2 months or longer, depending on the project; 50-60% of the workforce is Haitian during the technical phase (installation of wiring, plumbing, kitchens and closets, air conditioning, windows and doors), in which the foremen are usually Dominican with 1-2 helpers; and 80% is Haitian during the finishing (floors and ceilings), which is lighter work requiring a more delicate touch.

The dynamics of the industry require workers to be quick on their feet, ready to rotate to another job site or occupation as work becomes available. The majority of workers interviewed in this study (72%) have two years or less at their current job, and 38% have less than 3 months. The MOSCTHA representative explains this dynamic as follows:

⁴⁹ Interview with construction company owner, Bávaro, 23 April 2012.

Construction work requires constant mobility. If he is on one site and he doesn't like it and another opportunity comes up, he will leave. The formal security on job sites is at the door and in the supply storage area where the construction materials are kept, but not on the whole site. Keeping him there is not easy. He will go from one project to another, from one community to another looking for where he can find work.⁵⁰

This apparent mobility does not preclude the possible existence of forced labor and may, in fact, create the conditions in which employers attempt to retain workers against their will, especially when pressed to finish a job within a certain time period. Such practices are discussed in subsequent sections regarding payment, work schedule, and loan practices.

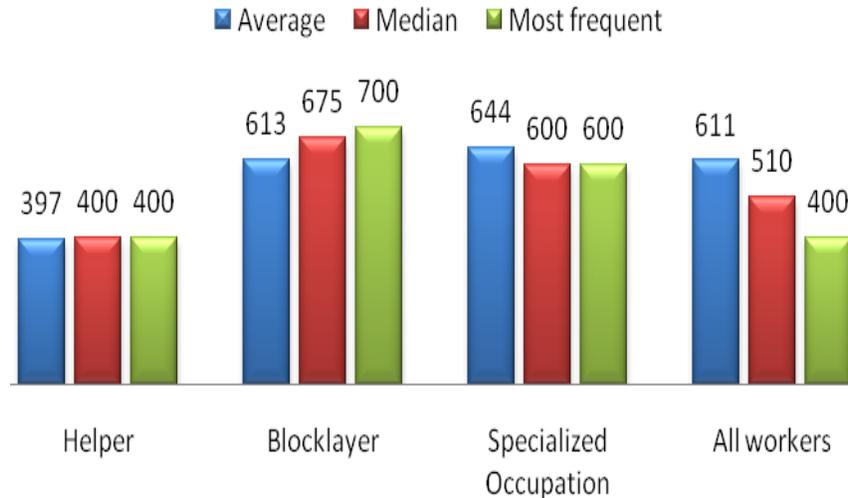
6.2.2 Payment

Workers' pay, broken down by the occupational categories laid out above, averages 397 DOP per day for helpers, or approximately US\$10.95 for a full day of work. This is up from the average of 200 pesos (US\$5) per day in the 2008 Servicio Jesuita a Refugiados/as y Migrantes study, and 31 pesos higher than the OMLAD finding from last year (376 pesos; US\$10). However, it is still below minimum wage of 476 DOP (US\$12) per day for helpers, as established in Resolution 2/2009 of the National Salary Committee (Dominican Ministry of Labor). The amounts reported here are daily rates and do not reflect any monies withheld for health insurance or debt repayment (for more information on withholdings, see the end of this section). In cases where money is withheld, net pay will be lower than that reported here.

The Haitian block layers interviewed in this study earn 613 pesos (US\$16) per day on average, with the most frequent response being 700 pesos (US\$18). This is also below minimum wage, corresponding to "Operator, 2nd tier" which is established at 705 pesos per day. Those working in specialized occupations make 644 pesos (US\$17) on average, with the most frequent response being 600 pesos (US\$15).

⁵⁰ Interview with Legal Department representative of MOSCTHA, Santo Domingo, 23 May 2012.

Chart 6: Pay Amount by Occupation Category



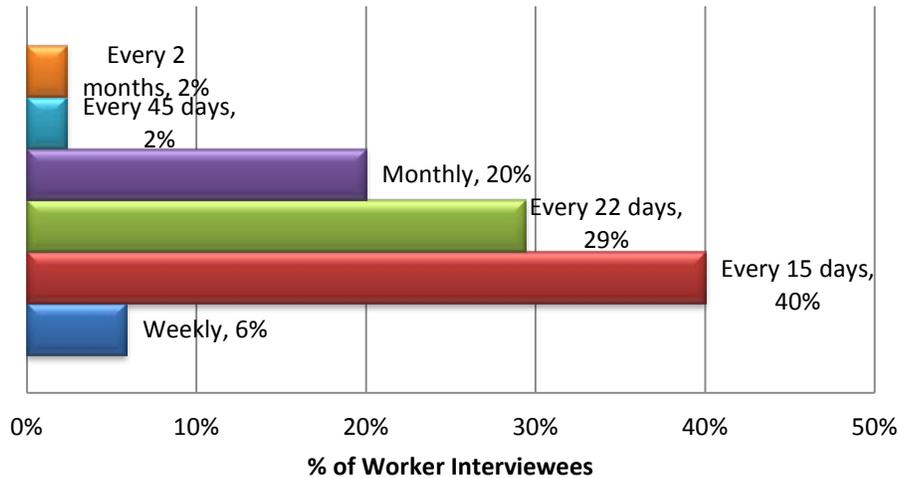
Dominican labor law stipulates that workers who have been with the company for more than three months must receive severance pay when laid off.⁵¹ However, only a few of the Haitian construction workers reported having received this compensation when laid off, in accordance with the law. It appears that it is not customary for employers to comply with this requirement; in fact, this is one of the most common causes for Haitian construction workers who bring complaints to labor lawyers.⁵²

The most common form of payment is for the foreman to pay his workers (57% of interviewees) every two weeks (40%) in cash (90%), usually on a Saturday at 4 or 5pm. Even day laborers who have put in 1 or 2 days must wait until pay day to receive their compensation. It is most common for the foreman or if not, the engineer (31%), company owner (9%) or architect (3%), to hand over cash or an envelope with cash inside. On occasion, pay day involves a more formal process in which workers line up at the office to receive their pay and sign a receipt. On the opposite extreme, some workers report that their boss throws the money at them out on the worksite.

⁵¹ See Article 80 of the Código de Trabajo, or Dominican Labor Code.

⁵² SJRM 2008; Interviews with labor lawyers from CEFASA in Santiago, 1 May 2012, and Centro de Atención Jesús Peregrino in Consuelo, San Pedro de Macorís, 25 April 2012.

Chart 7: Frequency of Payment



The most frequent complaint among Haitian construction workers interviewed was of exploitative practices related to payment, including delayed payment, retention of partial pay, and/or non-payment. Such withholding of wages may be an indicator of a menace of penalty for leaving the job.

Of the 135 workers interviewed, 46 or 34% complained of not being paid on time, with delays of up to several months. In other cases, the *maestro*, who has almost exclusive discretion over payment of his workers, decides to keep a part of it for himself (32% of workers experienced this) or to run off with the money (33% of workers), especially when nearing the end of the project when he no longer depends on his workers to complete the job. Several workers (19%) experienced more than one of these practices, while 8% of workers interviewed had experienced all three (see Table 5).

Non-payment appears to be an issue in Bávaro especially. One formal expert in the construction industry in the region said that there used to be a custom in which engineers and foremen would disappear with workers' pay, but then went on to say that when the construction craze started to stabilize in the region and only the "serious" companies remained, the practice of non-payment ceased to exist. This contrasts with workers' accounts, which indicate that *maestros* continue to run off with their money.

Table 5: Workers who have Experienced Delayed, Partial, or Non-payment

	# of workers	% of workers
Delayed payment	46	34%
Partial payment	43	32%
Non-payment	45	33%
Two of three forms	26	19%
All three	11	8%

Of the three practices, perhaps the trickiest one to identify as a potential forced labor practice is the retention of partial pay. In addition to being a form of wage withholding, this may be considered an indicator of involuntariness—being forced to stay longer than agreed while waiting for wages due. A CEFASA representative explained this practice as follows: “They send them to work and tell them they will pay them such-and-such, but when pay day comes that is a problem. At the end of the two weeks, the *maestro* will only pay them for five or seven days of work. There are always problems with payment.”⁵³ According to a union leader of FENTICOMMC,⁵⁴ the national federation of construction worker unions, this kind of retention of pay, along with the prolongation of pay periods, can sometimes be used to retain workers on the job. While technically, the workers are free to leave, most decide to “stick it out” in the hope that they will be paid in full for current and back pay on the next pay day. Many are afraid that if they leave, they will not be paid at all for the days they have worked, much less the severance pay to which they are entitled after working three full months with the company. To make matters worse, unless they have another job lined up, most are not in an economic position to be able to leave.

Non-payment or delayed payment creates many problems for workers. In this study, workers mentioned sometimes losing their housing, being unable to remit to Haiti or support their family, and being unable to pay creditors. Several also mentioned the risk of verbal and physical violence on the part of their landlords and other creditors when they were unable to pay. In this situation, many have no other choice but to take out high-interest loans, sometimes from their employer himself, who charges usurious interest rates. This may be an intentional strategy of employers both to make money off of Haitian workers and to keep them needy, dependent, and therefore more exploitable (for more on lending practices, see Section 6.3.3). One young worker in Santiago explained, “They don’t pay on the 15th so they can lend money to the Haitians. They say Haitians don’t need to be paid.”⁵⁵

Not all employers engage in these practices, however. Several have acknowledged the pay-related abuses committed primarily by *maestros* and engineers and have taken preventative measures. Good practices include:

- The owner of a small construction company in Santiago makes sure to be present on payday in order to ensure that the *maestros* do not cheat his workers. He has the subcontractor distribute workers’ pay in front of him.

⁵³ Interview with CEFASA, Santiago, 20 April 2012.

⁵⁴ Interview with FENTICOMMC leader, Santo Domingo, 23 May 2012.

⁵⁵ Interview with construction worker, center of Santiago, 4 May 2012.

- A construction company in Santo Domingo has designated administrative personnel in charge of distributing payment (not the *maestros*). The payers go to the worksite with a security guard and distribute workers' pay in cash and give them receipts. They withhold a portion for social security (health insurance), and workers know in advance how much they will be paid. There is a supervisor over the pay distributors who has a list of all the personnel working under each *maestro* and who counts the envelopes to make sure they correspond with the lists.
- The owner of a construction company in Bávaro has a vetting process of his *maestros* to make sure they are known for being honest. He says that any abuse on the part of the *maestros* reflects poorly on him and his company. He does not tolerate any cheating or dishonest behavior and sees it as his duty to protect the workers so that they will want to continue working with him in the future and his reputation will remain clean.

Finally, 27 interviewees explicitly mentioned that their employer withholds or “discounts” certain portions of their pay, the majority of which are for health insurance and/or workplace accident insurance. However, most have not received any insurance card or proof of insurance coverage (see later discussion on Social Security) and complain that they do not in fact receive any health benefits when they become ill or suffer an accident (see section on Risks and Hazards). This finding is consistent with that of other studies (WOLA 2009; Servicio Jesuita a Refugiados/as y Migrantes 2008; Solidarity Center 2008), which indicate that employers are duly subtracting social security from workers' pay in order to comply with national requirements but not paying into the system or providing coverage for Haitian workers. While there are certain difficulties surrounding access to social security for workers without Dominican identity documents, which will be discussed later in this report, this withholding implies the possibility of fraud or, at the very least, a deceitful practice against workers who are usually not even making minimum wage.

Other withholdings mentioned were to pay back their bosses who had loaned them money and then “discounted” it with interest from their pay. One worker in Bávaro had been led to believe that they were withholding a certain amount for the Haitian state, but he says, “I don't know if that is true or false, but I can't do anything about it.”⁵⁶

6.2.3 Work Schedule

The majority of Haitian construction workers interviewed in this study work six days per week, and 37 (27%) indicated that they work seven days a week, anywhere from 8 to 24 hours (in the case of a security guard who lives on site and is permanently on duty) per day. The most frequent responses were 9 or 10 hours per day, though the average of all workers who responded to this question (excluding the security guard, who has a particular case) was 10.2 hours per day. While the 6- and 7-day workweek coincides with other studies (Ministerio de Trabajo, OMLAD 2011; Servicio Jesuita a Refugiados/as y Migrantes 2008), the hours worked are significantly higher than the OMLAD (2011) study finding, which indicates that 74% of workers were working only 8 hours per day, and 22% more than 8. It is also higher than the AFL-CIO Solidarity Center *et al* (2008) finding of 8.8 hours per day and the Duarte and Hasbún (2009) finding of 9 hours per day on average.

⁵⁶ Interview with construction worker, Cristinita, Bávaro, 23 April 2012.

These averages suggest that most Haitian workers are putting in significant overtime hours on the job, with an average that is in excess of the ten-hour maximum stipulated in the Labor Code. Of the interviewees who mentioned working overtime, 73% (84 respondents) said that they were not being paid for overtime work. A quarter of workers (31 respondents, or 27%) said that they were paid for overtime and that the overtime pay ranged from 25-150 pesos (US\$0.64 - 3.85) per hour. Given that most workers are not compensated, or are poorly compensated for overtime work, the study inquired as to whether or not working late was obligatory or optional. Of the 103 who responded, a large majority (79 respondents, or 76%) said that overtime work was obligatory, most often with the consequence of being fired. One worker mentioned that he was given a 22-day suspension as punishment for refusing to work overtime.

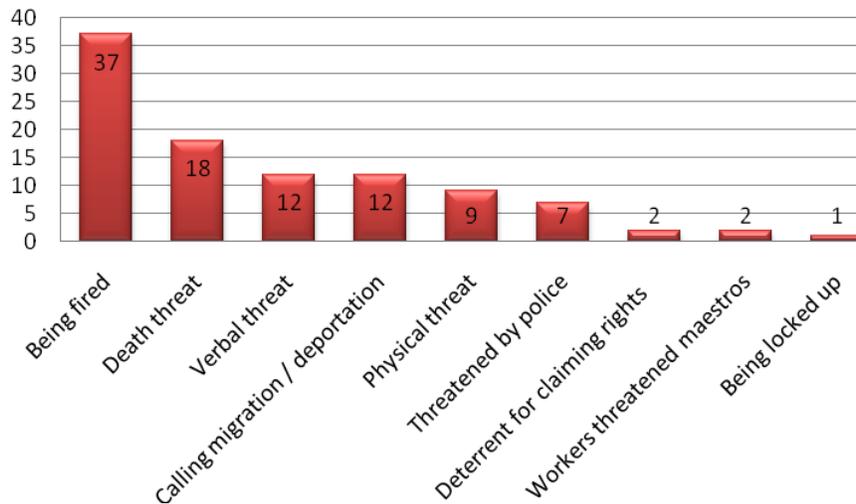
These findings confirm the 2011 U.S. State Department Human Rights Report, which notes that although the law prohibits excessive or compulsory overtime, this continues to be a common practice which is sometimes enforced through loss of pay or employment for those who refuse. According to the ILO definitions adopted for the purpose of this analysis, forced overtime falls under the forced labor dimension “work and life under duress.”

6.2.4 Threats

Threats by the employer against the worker may constitute a means of coercion or penalty. In this study, almost half of the Haitian construction workers interviewed for this study had been threatened while on the job in one form or another. Specifically, 86 mentioned the reality of employers threatening laborers on the job site; of those, 24 claimed they personally had not experienced any threats, but engaged in third party reporting about threats they had seen or heard of against coworkers.

The most common threat was of being fired, followed by death threats which were usually accompanied by the brandishing of a gun. Other threats experienced by the workers in this study, in order of frequency, included: verbal threats, threats of calling Migration or arranging for their deportation, physical threats, being threatened by the police, threats as a means of preventing them from claiming their rights, and the threat of being locked up. Two respondents mentioned cases in which workers retaliated by threatening the *maestro*. The frequency with which Haitian construction workers in this study experienced these types of threats is illustrated in Chart 8 below.

Chart 8: Type of Threats Experienced by Haitian Construction Workers



A 40-year-old worker in Bávaro who has been circulating between Haiti and the DR for the last 11 years has seen his share of threats in the workplace. He explains:

We can't claim our rights when they are yelling at us. They threaten us with beating and words to make you fearful. When we don't have documents, they threaten that they will call the police and Migration so they can keep the money that we have earned. They say they will put us in jail if we are asking the maestros to pay us. And then they ask us to work extra hours without pay. We can't say no because they will fire us.⁵⁷

When attempting to claim their pay, some workers in Bávaro and Santiago reported being threatened or shot at with a gun, or threatened with physical violence. A worker on a public project in Santiago said, “They will shoot you as a Haitian if you go to claim your pay because you have to pay your rent, you have to eat, and the *maestro* or engineer will take out his gun, because they are people with a strong temper, and the Haitian also has his temper. Sometimes he will be paid, and other times he won't.”⁵⁸

A 25-year-old worker in Santiago explained his experience as follows: “This is something I have lived through. There was a Haitian who they owed money, and the maestro didn't want to pay him his complete pay. The maestro took out his gun to hit him or fire at him. We were all there and we said that if the maestro hits or fires at him, he will have to kill all of us.”⁵⁹

Others have experienced threats of physical violence when attempting to claim their pay. A 20-year-old working in Bávaro said, “When you go for your pay, they will grab a piece of wood

⁵⁷ Interview with Haitian construction worker in Cristinita, Bávaro, 27 April 2012.

⁵⁸ Interview with Haitian construction worker, Gurabo, Santiago, 4 May 2012.

⁵⁹ Interview with Haitian construction worker, Licey, Santiago, 29 April 2012.

as if they are going to hit you. Imagine that—you as a *congó* [recently arrived Haitian immigrant] are afraid.”⁶⁰

Some workers have also faced death threats when banding together to refuse to work obligatory, unpaid overtime. A 22-year-old worker in Bávaro shared the following account:

*In this company they threaten us a lot. I remember one day when the engineer wanted us to keep working until 11 at night. The Haitian workers decided not to stay and began to get on the bus to leave. The engineer tried to get them off the bus. He grew angry and took out his gun to shoot at them, but then another engineer came and told him not to do it to avoid problems and further incidents.*⁶¹

This example clearly constitutes a situation of forced labor, in which physical violence and death threats were used to force laborers to work overtime beyond legally established limits.

Haitian construction workers also face death threats when they file complaints of abuse. According to a CEFASA labor lawyer from Santiago: “They threaten them with death: that if they see them, they will grab them and hang them, or that if they go around there, they will shoot them. They threaten them with everything and the workers arrive here very nervous. This is what happens when they try to claim [their rights].”⁶²

Verbal threats are often made in front of other workers, as a means of inspiring fear and keeping them under control. The workers tend to lower their heads in resignation, understanding that any attempt to defend themselves would lead to their dismissal. A 30-year-old in Santiago who has been working in construction for a year shared the following:

They threaten me verbally, letting me know that if I answer the maestro when he is yelling at me, he can fire me on the spot. Sometimes they threaten us saying that if we don't have any documents they will fire us from the job. I keep working for that company only because I cannot find another job. If I could find one, I would leave that job immediately.

Another kind of threat—locking workers up in the workplace—was reported as a practice used in Bávaro to deter workers from claiming their rights. In Bávaro, several Haitian construction workers recounted experiences of being barred from the work site for having claimed their rights, through a “security system” in which the company Civil-Mek creates a mug shot of the worker for having violated company rules. This mug shot or *ficha* is posted on the entrance of the site, impeding them from entering or ever being employed there again. In order to produce the *ficha* or simply to punish workers for arguing or claiming their rights, the company has developed a disciplinary system, which sometimes involves temporarily locking up the worker in a container on site. A 24-year-old worker in the Punta Cana area shared the following experience at Civil-Mek:

⁶⁰ Interview with Haitian construction worker, Barrio Kosovo, Bávaro, 1 May 2012.

⁶¹ Interview with Haitian construction worker, Los Guandules, Bávaro, 29 April 2012.

⁶² Interview with labor lawyer at CEFASA, Santiago, 1 May 2012.

*In this company one cannot claim his rights. They threaten us that if we go to complain, they will pull out the ficha to fire us and prevent us from working for the company. The company has its own security to lock us up in a container for punishment when we have an argument or if we claim our rights.*⁶³

Temporary confinement in this scenario is not necessarily being used to retain workers on the job, but as a punishment and a means of dismissal. However, such a practice is a serious violation of Haitian construction workers' rights and may be a warning sign for forced labor, given that it involves dismissal and exclusion from future employment (both indicators of menace of penalty) along with restriction on physical mobility (indicator of involuntariness). In addition, these practices may serve as a threat to other workers of the penalties for noncompliance and contribute to "work and life under duress."

Another threatening practice, of which there is only minimal evidence, is the retention or destruction of documents. Only five interviewees mentioned such cases, with two being instances of destruction of documents and three instances of retention. A labor lawyer from a migrants' rights NGO explained that some employers retain documents including passports and residency permits, telling workers, "That isn't worth anything because you are still an immigrant. You are still a Haitian.' Even so, if a problem comes up and they present their documents, they may retain them."⁶⁴ A 28-year-old worker in Don Bosco, Santo Domingo witnessed the engineer taking the passports of some workers and threatening to take them to the Ministry of Labor: "He tricked them by taking their passport and never giving it back."⁶⁵ The confiscation of identity papers or travel documents is an indicator of menace of penalty.

Finally, it appears that some employers use the threat of calling Migration to retain control over their workers, keeping them submissive and forcing them to accept miserable conditions. The threat generally follows this pattern: "If you don't want to work, I will just call the migration truck to take you away...You can't go because I will call Migration." A representative of the National Human Rights Commission says that Haitian construction workers live with the constant threat of Migration arriving to "throw them on the truck."⁶⁶ The threat of denunciation to authorities is an indicator of menace of penalty. While the threat of calling Migration to arrange for the deportation of migrant workers was mentioned time and again by workers and formal and informal experts alike, it is difficult to determine the frequency with which employers actually do so.⁶⁷

On one hand, several stakeholders insisted that this practice is a relic of the past. The national federation of construction unions, FENTICOMMC, says that the Migration Directorate is no longer allowed to conduct raids on construction work sites.⁶⁸ When interviewed, representatives of the Migration Directorate confirmed that they stopped organizing on-site raids more than three

⁶³ Interview with Haitian construction worker, Domingo Maíz, Bávaro (Verón), 29 April 2012.

⁶⁴ Interview with migrant rights organization in Consuelo, San Pedro de Macoris, 25 April 2012.

⁶⁵ Interview with 28-year-old Haitian construction worker in Don Bosco, Santo Domingo, 4 May 2012.

⁶⁶ Interview with the *Comisión Nacional de Derechos Humanos* (CNDH), Santo Domingo, 23 May 2012.

⁶⁷ This difficulty was also noted in the *Servicio Jesuita a Refugiado/as y Migrantes* study (2008), in which all interviewees reported cases in which workers had been caught up in repatriation round-ups while working at construction sites (2008: 31), but they were unable to verify the frequency with which employers call Migration in order to avoid paying their workers (2008: 50).

⁶⁸ Interview with FENTICOMMC leader, Santo Domingo, 23 May 2012.

years ago.⁶⁹ This was corroborated by representatives of the Haitian construction workers association ATIHC, as well.⁷⁰ A representative of the Ministry of Labor said that Migration conducted a raid on a construction work site many years ago, and at the time the first thing the Ministry did was call the employers to make sure they had paid the workers. The interviewee believes that this practice is no longer done.⁷¹

However, a relatively high number of workers reported having heard of or seen raids. There were 58 interviews in which workers talked about migration round-ups. Of these cases, 18 interviewees discussed migration round-ups through third party reporting; that is, many said they had heard of this practice, but had not seen it happen themselves. Of the total cases, 18 mentioned deportation as a direct consequence of migration round-ups, while 34 explicitly mentioned migration round-ups as a way to avoid paying workers. Still others recognized round-ups as a way to intimidate workers and deny them their rights.

One explanation as to the discrepancy between stakeholders' and workers' accounts could be that the Migration Directorate is not responsible for conducting such raids on work sites. Rather, round-ups could be a set-up wherein corrupt and complicit soldiers or policemen organize false migration raids on or just outside the worksite, usually on pay day, to round up the workers just before payment so the maestro or engineer does not have to pay them. A former military sergeant interviewed in Santiago explained this practice as follows: "Toward the end of the project, the engineer prefers to pay [a bribe of] 50,000 pesos [US\$1,284] to Migration or the police chief and keep 150,000 [US\$3,851], so he calls Migration so he doesn't have to pay 200,000 [to the workers]."⁷² Those responsible either imprison the workers temporarily or drive them to an unknown location in the DR, extort them, and let them go. A 20-year-old worker in Bávaro has learned to distinguish between Migration and the "false raids" organized by corrupt policemen and other authorities:

If Migration catches you, they will repatriate you. But if the false 'migra' gets you, they will only beat you, rob whatever you have, and then policemen will lock you up and even make you sleep in the bathroom. Sometimes they will put drugs in your pocket or blackmail you for a sum you cannot pay. If not, they will lock you up in [the public prison] El Seibo.

Policemen's abuse of power was also mentioned explicitly by at least 15 Haitian construction workers in this study, mirroring the finding from the AFL-CIO Solidarity Center report that corrupt Dominican policemen take advantage of Haitian (and Dominican) construction workers. In addition to employers calling the police to avoid paying workers, workers report that the police also stalk them on pay day to arrest and extort them.

The Migration Directorate had no comment on whether the police are engaged in such practices. A police official in the East, who had been on the job there for only two weeks at the time of interview, not only denies police involvement in the repression of Haitian construction workers,

⁶⁹ Interview with the DGM or Migration Directorate, Santo Domingo, 30 May 2012.

⁷⁰ Interview with the Asociación de Trabajadores Inmigrantes Haitianos en la Construcción (ATIHC), Santo Domingo, 14 May 2012.

⁷¹ Interview at Ministry of Labor, Santo Domingo, 22 May 2012.

⁷² Interview with ex-sergeant of the National Army, Santiago, 20 April 2012.

but insists that “Haitians are not abused in this country...and if they complain of abuse, they are ungrateful.”⁷³

However, deficiencies and corruption in the behavior of the National Police have been well documented, and extend beyond indifferent or aggressive treatment toward Haitian nationals. Amnesty International has documented how individuals are often detained and subjected to torture and other ill-treatment in police custody, frequently without being formally charged or convicted of any crime.⁷⁴ The U.S. State Department’s 2011 Human Rights Report for the DR notes that there continues to be arbitrary arrest and detention, as well as widespread impunity afforded to senior police officers and other government officials. The DR ranked in last place out of 142 countries in terms of credibility of its police force in the World Economic Forum’s 2011-12 Global Competitiveness Report.⁷⁵

6.2.5 Risks, Hazards and Abuse at Work

Construction is, by all accounts, a dangerous job, for which workers (Haitian and Dominican) are given little safety training and almost no protective gear. This is a key demand of the Haitian construction workers’ association ATIHC, which has been lobbying for employers to provide full protective gear, including a vest, helmet, safety belt, ear plugs, gloves, and boots. According to ATIHC, employers are reluctant to provide steel-tip boots since these cost more than 3,000 DOP (US\$77) per pair and would involve an investment in their (mostly casual) workers that they are not willing to make. If employers are found to be in non-compliance, they may face a fine up to 150,000 DOP (US\$3,851); however, in practice, many of their workers have no gear, or only a helmet and flip-flops or rubber galoshes.⁷⁶

This lack of training and protection, combined with Haitian workers being given the most dangerous jobs, places them at high risk for workplace accidents. Out of all of the workers interviewed, 40 expressed having suffered an accident/sickness on site or shared a story of an accident happening to a colleague at work. The accidents include falls, bone fractures, cuts and wounds, injuries from being run over or crushed by heavy machinery, electrocution and death. Causes of injuries range from unsafe working conditions to self-endangerment (jumping from a high floor/story to avoid being caught in a migration raid or other threats).⁷⁷

⁷³ Interview with Major Colonel at Verón-Punta Cana police station, 23 April 2012.

⁷⁴ Amnesty International. 2011. ‘Shut up if you don’t want to be killed!’ Human Rights Violations by Police in the Dominican Republic. London, UK. Available at: <http://www.amnesty.org/en/library/asset/AMR27/002/2011/en/6ead3e9d-0684-40ae-aa71-73c3dc5382dc/amr270022011en.pdf>

⁷⁵ World Economic Forum. 2011. Global Competitiveness Report 2011-2012. Available for download at: <http://www.weforum.org/reports/global-competitiveness-report-2011-2012>

⁷⁶ It should be noted that there is an apparent difference in levels of organization and worker protection on some of the larger construction projects, such as the malls in Santo Domingo or the cathedral in Santiago, which are being built by large contractors that have taken pains to secure both the site and their workers. However, this is not the case for the majority of construction projects visited and observed for this study.

⁷⁷ Since this study cannot generalize its findings to indicate prevalence of workplace accidents, it may be useful to refer to the findings of the 2011 Ministry of Labor/OMLAD study for reference. These indicate that Haitian workers, who are concentrated in unskilled, heavy work are exposed to greater risks than Dominican workers. More than one in ten (12.1%) suffered work-related illnesses and 5.5% had accidents while Dominicans experienced 5.1% and 2.5%, respectively.

Falls appear to be one of the most common injuries: 23 workers reported falling from scaffolding themselves or seeing a colleague fall from 2-4 stories up or higher. Others have jumped to avoid something crashing down on them or have fallen while climbing partially-completed stairs. Adding insult to injury, some workers reported that their bosses laughed at them and/or refused to take them to the doctor. A 24-year-old in Santiago, for example, shared the following experience: “One time I went to work with an engineer in La Vega and I fell down off a column because the paneling came undone. The engineer applauded and said, “‘Ah! Haitians are tough to kill.’ He didn’t take me to the doctor.”⁷⁸

There were several reports of the employer leaving the fallen worker on the ground for over an hour before sending for a taxi (instead of using their own vehicle) or simply dropping the worker off at the hospital but not assuming any costs or following up as to his well-being. Another 24-year-old in Santiago attempted to help his cousin to no avail: “I have a cousin who fell from the second floor of a house. The owner brought him to the doctor but didn’t pay for anything and didn’t follow up with him. Later, we went together to his house, and he said, ‘Get away from my house,’ and told us that if we stayed he would shoot us with his gun.” Workers who fall from higher floors are not so lucky and often die or suffer permanent injury.

Fourteen workers reported experiencing other injuries, including hands crushed by cinder blocks or rocks, eyes damaged by debris, and limbs fractured. Seven discussed having stepped on nails or cut their fingers while handling tools.

Several mentioned electrocution as a specific risk they were not willing to face. A 29-year-old worker in Bávaro, aware of the fate of other workers, explained that workers must watch out for their own safety, even if it means being fired⁷⁹ for refusal to complete dangerous tasks:

You have to take care of yourself because you are the one who is working. Even though they are paying you, there are things that they ask you to do and you decide not to do it even if they suspend you. If they say, ‘Get in there,’ you tell them you cannot do it. You know what I mean? For example, if they say, ‘Get that water out of there,’ and you do not have any boots or gloves to go in there – if they tell me to, I will not get in there. I have seen other Haitians who climb in and some are electrocuted and die. Others manage to pull it through if they go fast, but I have seen the [electric] current kill them...⁸⁰

A representative of MOSCTHA was also aware of a case in which a Haitian man who had been electrocuted at work lost both arms and a leg, but he was not covered by the State-run Labor Risk insurance because he was undocumented. The case has been going through the courts for the last five years, but the victim has not received any compensation because he cannot prove his identity.⁸¹

⁷⁸ Interview with Haitian construction worker, Villa María, Santiago, 5 May 2012.

⁷⁹ This experience confirms the finding of the 2011 Human Rights Report for the Dominican Republic (U.S. Dept. of State 2012: 36), which states: “While the law requires that employers provide a safe working environment, in practice workers could not remove themselves from hazardous working situations without losing their jobs, and employers may terminate an employment contract at will.”

⁸⁰ Interview with 29-year-old Haitian construction worker, Barrio Nuevo, Verón (Bávaro), 22 April 2012.

⁸¹ Interview with representative of the Movimiento Socio-Cultural para los Trabajadores Haitianos (MOSCTHA), Santo Domingo, 23 May 2012.

Given these examples, it appears that workers perceive an implicit threat of dismissal for refusal to carry out hazardous tasks without protection.. Clearly, such cases point to a major violation of Haitian workers' rights mentioned by formal experts and workers alike: lack of access to social security and workplace accident coverage. According to Article 60 of the new Dominican Constitution of 2010, "Every person has the right to social security. The State will stimulate the progressive development of social security to ensure universal access to adequate protection in the case of illness, disability, unemployment, and old age." Article 728 of the Dominican Labor Code also upholds this right. However, the Social Security Law 87-01 of 2001 enters into legal contradiction with this framework, which should supersede subsequent laws, by limiting foreign workers' access to the system to only those with legal residence. In effect, this means that migrant workers without a Dominican identity card or *cédula* have been effectively excluded from the system, preventing them from having access to public health services and workman's compensation. This not only violates the Constitution of the Republic, but also ILO Conventions 97 and 143 on social security for immigrant workers.

In addition, all construction companies are obligated to pay into the Dominican Institute of Social Security (IDSS, in Spanish) for workplace accident insurance, according to Law 18-96. However, many companies only offer this coverage to full-time employees whereas temporary or fixed price workers are not included. In order to fill this gap in coverage for "mobile" or occasional workers, the National Council on Social Security adopted a temporary measure (resolution 165-03) in 2003 that authorizes the IDSS to continue extending health coverage to temporary workers not covered by other schemes of the Administrator of Health Risks (ARS, in Spanish).⁸² A social researcher who has interviewed IDSS employees indicated that, of all workers, construction workers (regardless of nationality) have benefited most from this exception.⁸³

While Haitian construction workers do have the right to health and accident coverage, regardless of their documentation status or type of contract, in practice very few enjoy such protection. In this study, most Haitian construction workers had no insurance coverage whatsoever, neither for health nor for workplace accidents. No interviewee said he had received a health insurance card. Thirteen specified that there were no withholdings from their pay in this regard. However, 37 reported having money withheld from their pay, ostensibly for health insurance, but of those, 33 said that they were provided no coverage.⁸⁴ A 31-year-old who works as a helper in a private project in Santiago, for example, shared the following: "They make me pay for the insurance, but when I am sick they do not help me or take me to the doctor. If they abuse me in this way, I have to claim my rights. Every 15 days, they charge me 150 or 200 pesos [US\$4-5]. I don't know why they are charging me for insurance if I have no card."⁸⁵

⁸² Alcántara, Yvonne. "Trabajadores "móviles" tendrán acceso a los servicios de salud", *Diario Libre*, 20 September 2007. Available at: http://www.diariolibre.com/noticias/2007/09/20/i150795_trabajadores-moviles-tendran-acceso-los-servicios-salud.html

⁸³ Interview with Independent Researcher & Consultant, Santo Domingo, 27 April 2012.

⁸⁴ The Ministry of Labor/OMLAD study (2011) found that only 15.8% of Haitian workers have Social Security, 3.7% have a pension plan, 6.3% life insurance, and 20.7% work accident insurance. These figures are much higher than the findings of this study, but still low in general. The authors attribute the lack of coverage of Haitian construction workers to the mobility of workers between projects and the temporary hiring and subcontracting of workers, but also acknowledge problems related to the lack of documentation/irregular migration status and discrimination against migrants.

⁸⁵ Interview with 31-year-old Haitian construction worker, Villa Verde, Santiago, 22 April 2012.

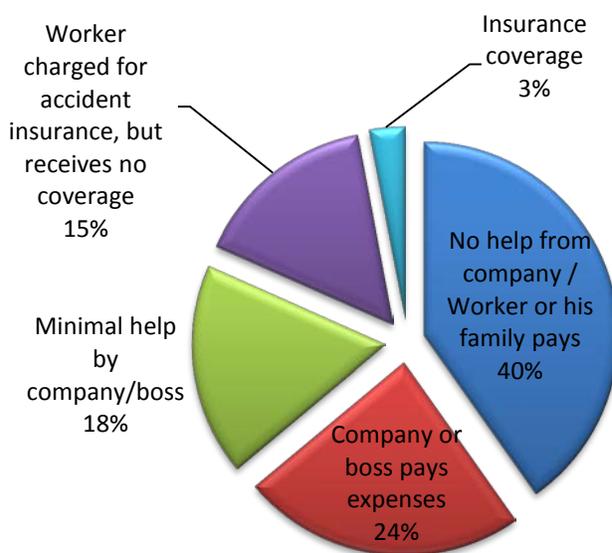
The practice of employers withholding pay but not registering workers in the system or providing benefits appears to be quite common and has been acknowledged in other studies, such as the 2011 Ministry of Labor/OMLAD study, the 2008 Servicio Jesuita a Refugiados/as y Migrantes study, as well as the 2008 Solidarity Center *et al* study. When employers withhold the money, but cannot register their workers in the system – and do not provide the alternative of private insurance coverage – it would appear that they are keeping workers’ contributions for themselves. This suggests the possibility of fraud. Not only would this be a deceitful practice but also it leaves workers with less money in pocket and at the mercy of their employers when hurt or ill. In other words, whether workers receive assistance depends largely on the goodwill of the employer, who may or may not provide first aid or take the injured worker to the hospital or clinic.

Out of the 135 Haitian construction workers interviewed, 109 of them commented on who pays or who is responsible for covering workplace accident and illness expenses. From their comments, it is clear that a majority (40%) do not receive any assistance from their employer and responsibility for payment falls on the worker himself or his family. For 24% of respondents, the company does pay expenses.⁸⁶ A construction company owner in Bávaro, for example, says that they take hurt workers to the hospital and cover their expenses, as in a recent case when a Haitian worker was hit in the foot with a pick axe and needed stitches.⁸⁷ The ways in which the company pays can range from full coverage (payment of medical expenses, giving time off that is sometimes paid) to very minimal help such as giving the worker a ride to the hospital or offering him a few pesos for medicine. Only 3% of respondents had full accident insurance coverage. See breakdown of responses in Chart 9.

⁸⁶ These findings contrast with that of the Servicio Jesuita a Refugiados/as y Migrantes (2008) study, which found that most construction workers (82%) in Santo Domingo said in case of accident their employer takes them to the hospital and pays for the expenses.

⁸⁷ Interview with construction company owner, Bávaro, 23 April 2012.

Chart 9: Responses in Case of Workplace Accidents



Workers do understand that according to the law, the company should be responsible for providing accident coverage. Many expressed frustration and indignation at their employers' shirking of responsibility. A 26-year-old earthquake survivor who is now working in construction in Miraflores, Santo Domingo, said: "The owner of the project should take responsibility, but he looks the other way. You know, when they reach certain levels [of power or prestige], they do not worry about the poor workers."⁸⁸ Others recounted being given a ride to the hospital, a few pesos to buy menthol or aspirin for a crushed hand, or of the employer paying only half of an expensive medical bill. Still others attributed the lack of help to racism/anti-Haitian attitudes. A Haitian migrant with 16 years of experience in construction in Santiago shared the following:

There are good engineers who take you to the hospital, but there are others who, if you have an accident at work, will say, 'Why should I care, maldito haitiano? If you were worth anything, you wouldn't come here [to the DR] in the first place.' There are engineers who treat you like a dog, as if you have no family. If you get a cut, you have to spend your own money to get to the hospital.

In Bávaro, there was evidence of certain complicity between authorities. Informal experts reported that employers sought the help of the local police and even doctors in covering up negligence and abuse of workers. For example, it was alleged that when a worker who has been hurt on the job and laid off shows up at the courthouse to register a complaint and they send him for a medical exam, the doctor writes "light injuries" so that the worker has no grounds to pursue his complaint.

⁸⁸ Interview with 26-year-old Haitian construction worker, Miraflores, Santo Domingo, 21 April 2012.

Nor is it common for the employer to provide compensation for workers who remain permanently disabled. According to interviewees from MONDA in Santiago, the worker is given first aid on site, and sometimes his co-workers or family members take him to the hospital; later, he will be out of work without pay until such time as he is able to return. Many workers say they feel “obligated” to keep working when injured or sick, not because their employer makes them do so, but because they are the primary earners in their family and cannot afford to convalesce without pay.

One of the most shocking findings of this study is a practice reported by several different workers in Bávaro, and independently verified through multiple expert interviews, of the employer simply “disappearing” the body when a worker dies from his injuries and there is no loved one present to claim him.⁸⁹ A 54-year-old worker interviewed in Cristinita, Bávaro reported that those who have accidents on the job are supposedly taken to the hospital, but if they die, none of their co-workers learns anything more as to their whereabouts: “Some are electrocuted in workplace accidents and if no one knows them their bodies may be thrown in the trash. Later you only hear rumors about someone who has been missing from work for a while...”⁹⁰ A 25-year-old worker interviewed in Los Guandules, Bávaro corroborated this practice, saying that if there is no family member or compatriot who takes responsibility for the deceased, they will simply rid themselves of the cadaver in an unknown location.⁹¹ Another worker, a 28-year-old interviewed in Los Guandules, also confirmed this practice: “Here a lot of Haitians die from electrocution. In the best cases, the companies will pay 60,000 pesos [US\$1,540] to the family and send the body to Haiti. But often the company will bury him themselves and the worker is considered disappeared.”⁹²

Aside from the illegality and immorality of such a practice, “disappearing” the dead so that compatriots cannot see their deceased co-worker is a practice that instills a sense of fear and listlessness in other workers. Many workers, especially in Bávaro, mentioned that they would like to act in solidarity with their co-workers, to visit them, to make sure they are ok, but at the same time, they are in such desperate need of a job that they are not willing to risk angering their employer. Thus, they keep their heads down and continue working, fearful that next time it may happen to them.

Workplace accidents are not the only risk that Haitian construction workers face on the job; it appears that abuse at the hands of construction workers’ employers, and occasionally of other co-workers, is prevalent.⁹³ In this study, 111 out of 135 workers (82%) reported having experienced at least one form of abuse. In their recounting of experiences, workers tend to group together as forms of abuse non-payment, unauthorized withholding for health insurance, employers’ refusal to help them when they are hurt on the job, miserable wages, calling Migration, and being forced

⁸⁹ This practice was also uncovered by the Servicio Jesuita a Refugiados/as y Migrantes study (2008: 67).

⁹⁰ Interview with Haitian construction worker, Cristinita, Bávaro, 23 April 2012.

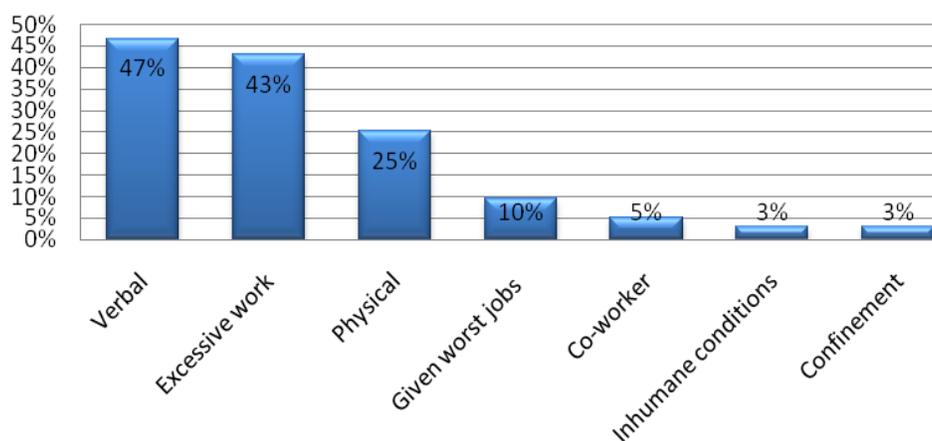
⁹¹ Interview with Haitian construction worker, Los Guandules, Bávaro, 29 April 2012.

⁹² Interview with Haitian construction worker, Los Guandules, Bávaro, 29 April 2012.

⁹³ Both the Duarte and Hasbún (2009) study and the Servicio Jesuita a Refugiados/as y Migrantes study (2008) explicitly mention discrimination and abuse of Haitian migrant construction workers. The SJRM study noted the following: “with regard to the Haitian worker, we found a series of daily interactions which are demeaning and provoke deep hurt” (2008: 79). The relationship was marked by lack of respect, and involved insults such as “animal” and “Haitian of the devil” as well as some physical abuse.

to work overtime. However, all of these practices, which are certainly abusive in their own right, are discussed elsewhere in the report. For purposes of this analysis, we have categorized and tabulated the following types of abuse reported by Haitian construction workers, listed here in order of frequency: verbal (47%), excessive work (43%), physical (25%), being given worst jobs (10%), co-worker abuse (5%), inhumane conditions (3%), and physical confinement (3%). See Chart 10 for a visual representation of this breakdown.

Chart 10: Types of Abuse Experienced by Haitian Construction Workers on the Job



The most common form, verbal abuse, consists of yelling, disrespectful treatment, blaming workers for anything from accidents to accusations of robbery, and shouting of racist epithets, such as “*maldito haitiano del diablo*” or likening Haitian workers to animals, donkeys, or dogs. A 28-year-old worker in a private project near Villa Olga in Santiago says, “Abusing Haitians is like a game for the bosses.”⁹⁴ Certainly, during worksite visits in Santiago, the research team was able to observe Dominican engineers and *maestros* screaming at their workers to go faster and scolding them harshly for any number of faults.

While many workers do not have extensive knowledge of their rights as workers, they do have a sense of personal dignity, which is offended time and again. A migrant who works for the construction company Herrera Checo in Santiago shared the following complaint:

For them, we have no value as people. When someone steals something, they say it was the Haitians. Everything that goes wrong is blamed on us. Sometimes they fire us without giving us severance pay, and if we go to court, the authorities don’t listen to us, but if it is a Dominican they will take care of the problem right away.

Here it is worth pointing out that the labor courts are notoriously slow for both Haitians and Dominicans. However, there are notable differences in treatment between workers of the two nationalities that came up throughout the study. First, many workers (10%) complained that the

⁹⁴ Interview with 28-year-old Haitian construction worker, Santiago, 2 May 2012.

worst jobs—again, the most dirty, dangerous, and demanding—are reserved for Haitians. An 18-year-old working in Los Cacicazgos, Santo Domingo noted this right away during his three months in country: “If there is a hard job to do, they don’t send the Dominicans to do it. They call a Haitian to do it and you have no choice but to do it. And we are earning about the same.”⁹⁵

Second, the verbal abuse suffered by both Dominican and Haitian workers takes on a different tone, aggravated by rampant xenophobia and racism, when committed against darker-skinned Haitian workers.

Third, there appears to be explicit physical mistreatment and abuse of Haitian construction workers, which may be more prevalent in the case of those lacking a positive migration status, who feel that they have no other recourse than to put up with it. A 34-year-old worker in Santiago shared the following experience regarding workers’ attempts to claim severance pay when being laid off: “Those without documents are treated like dogs. Sometimes that person can pull out a gun, hit you with a plank, or break your leg.”⁹⁶ A 30-year-old worker, also in Santiago, has experienced being shot at in an attempt to claim his pay: “They are very abusive to Haitians in construction because sometimes when you go to claim your pay, they will take out guns and even shoot at your feet. That happened last year before my eyes.”⁹⁷ Such discriminatory treatment comes from a widespread—albeit not universal—prejudice in Dominican society.⁹⁸

Fourth, some workers complained of pay discrimination between Haitians and Dominicans carrying out the same work. While the findings were not explicit in this study, as there is no data on Dominican workers to allow for comparative analysis, this practice is likely to persist, as noted in the recent Ministry of Labor/OMLAD study (2011). The OMLAD study found a major salary difference between Haitian and Dominican workers (average of 674 DOP vs. 410 DOP per day; US\$17 vs. \$11), which the authors attribute in part to the fact that Haitians are working in less skilled occupations, but also due to discrimination and employers’ taking advantage of workers’ irregular migration status.

Fifth, Dominican workers often enjoy better working conditions than Haitians, including shorter work days, free food, and less cumbersome access to acquired labor rights, such as severance pay, double salary at Christmastime, etc.⁹⁹

Finally, Haitian workers are pressured into completing excessive work, which includes working harder and faster in order to do the work normally expected of several people. Many workers (43%) complained of the following excessive practices: being forced to work continuously without breaks or time to eat, doing dangerous work with no physical protections, having to complete the work of several people, experiencing pressure to work hard and fast, to the point of exhaustion or until having an accident. One such example of excessive work was offered by a

⁹⁵ Interview with 18-year-old Haitian construction worker, Los Cacicazgos, Santo Domingo, 30 April 2012.

⁹⁶ Interview with 34-year-old Haitian construction worker, Gurabo, Santiago, 22 April 2012.

⁹⁷ Interview with 30-year-old Haitian construction worker, Gurabo, Santiago, 4 May 2012.

⁹⁸ Such prejudiced views were acknowledged in the U.S. State Department 2011 Human Rights Report for the DR as follows: “There were also strong prejudices against Haitians, which disadvantaged many Haitians and Dominicans of Haitian ancestry, as well as other foreigners of dark complexion. Few government officials acknowledged the existence of this discrimination; others regularly and publicly denied that it existed.”

⁹⁹ Interview with the National Human Rights Commission (Comisión Nacional de Derechos Humanos or CNDH), Santo Domingo, 23 May 2012.

27-year-old worker in Santiago: “Sometimes if there is a job that hasn’t been finished, the work day will come to an end and they will demand that we stay until we finish. They make us carry sacks of cement from the first floor to the last, without rest, and they talk bad to us. They treat us as if we were animals.”¹⁰⁰ Such an excessive volume of work, if determined to be beyond what can reasonably be expected within the framework of the Labor Code, and exacted involuntarily and under menace of penalty, may constitute an indicator of “work under duress.”

Two abusive practices reported by workers in which it is not clear if nationality comes into play or not are inhumane conditions and temporary confinement. With regard to the first, some workers mentioned having no access to potable water to drink,¹⁰¹ not being allowed a bathroom break, and being forced to work in the rain. The second, temporary confinement, was mentioned independently by four separate workers, all of them in Bávaro, and is described above in Section 6.2.4 Threats.

Most workers who had suffered abuse indicated that their attacker was their immediate boss (engineer or maestro). In some cases, workers indicated that they have found Haitian maestros to be just as exploitative, or worse, than Dominican maestros. Still others (5%) complained of suffering verbal or physical abuse at the hands of Dominican co-workers.

To be fair, many workers made clear that not all the engineers or maestros they have encountered are abusive: “You know how it is with the Dominicans...sometimes we work with one who treats us fine, but the next time you might find one who treats you bad.”¹⁰² Many Haitian workers have no relationship at all with their employer, due to linguistic differences or because they never see them. On the opposite extreme, there are Dominican employers who recognize the widespread abuse of Haitian immigrants in the construction industry and make it their personal mission to treat migrant workers decently. For example, the construction company owner in Bávaro who agreed to be interviewed sees himself as their protector: “They need someone to protect them, someone to be their friend. Haitians are not bad. As long as you keep your word, they will behave fine.”¹⁰³ A representative of the Ministry of Labor went so far as to insist that such paternalistic relations were the norm between employer and employee: “Oftentimes, the treatment of employer toward worker comes to involve links of friendship and affection such that one no longer knows who is the worker and who is the employer, including between Dominicans and Haitians. In general, relations are very good.”¹⁰⁴

6.2.6 Freedom to Leave Worksite and Job

With the exception of the practice of temporary confinement mentioned above, all Haitian construction workers who were interviewed are free to leave their worksites as needed. There are rules to be followed, however. Most workers cannot come and go as they please during the workday since they are required to be working on site, but they are free to leave the site during the time allotted for lunch or after the conclusion of the workday. In Bávaro, many construction

¹⁰⁰ Interview with 27-year-old Haitian construction worker, Gurabo, Santiago, 4 May 2012.

¹⁰¹ The Servicio Jesuita a Refugiados/as y Migrantes (2008) study found that only 35% of Haitian construction workers in the capital city had access to potable water.

¹⁰² Interview with 26-year-old Haitian construction worker, Miraflores, Sango Domingo, 21 April 2012.

¹⁰³ Interview with construction company owner, Bávaro, 23 April 2012.

¹⁰⁴ Interview at Ministry of Labor, Santo Domingo, 22 May 2012.

sites require workers to pay 1,000 DOP (US\$26) to obtain a pass. This is an employee ID issued to workers following a criminal background check that is used to control access to the construction site. If a worker forgets his pass or leaves it inside, he is not able to re-enter the site. Alternatively, if a worker is unable to pay the 1,000 pesos to obtain the pass, he often seeks work informally “through the back door” and may face the consequence of temporary confinement described in Section 6.2.5 Risks, Hazards and Abuse at Work. Only one worker mentioned not being able to leave the site, and in his case he was working as a laborer during the day and a security guard by night. Both of his jobs required that he remain on site.

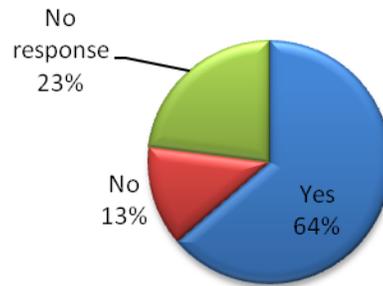
Some Haitian construction workers, like the security guard, live on the construction site as a means of saving money on transportation and rent. Given the social and economic pressures to send remittances to family members in Haiti, many workers are willing to make significant sacrifices in order to cut down on costs. Workers who live on site are free to circulate outside the worksite when they are not working. However, many choose to remain hidden, both because technically no one is allowed to live there and because they wish to avoid making themselves visible to authorities in case of an eventual migration raid.

Responses were mixed on the question of whether Haitian construction workers felt free to quit their job. Eighty-six workers (64%) said that they felt free to quit and nothing was stopping them, whereas 18 (13%) said they did not feel free to quit. The question had a rather high non-response rate (23%). Upon further probing, workers shared their reasons for feeling obligated to stay, none of which involved their employer directly prohibiting their departure. Twenty-three said that they were impeded from quitting by a lack of other options and/or would need to find a better opportunity first, and twelve said that they need their job and cannot quit because they would not have enough money to eat or pay rent. Seven said that they were owed back pay and/or did not wish to risk foregoing the severance pay owed to them by departing voluntarily—this is potentially an indirect means of retaining workers on the job, as discussed in Section 6.2.2 Payment. Many of the interviewees who said they did not feel free to quit discussed the “obligation” of having to stay at their job primarily in terms of their precarious economic situation. Still others needed to keep earning money in order to remit to Haiti, where they were paying for school fees or the upkeep of parents and siblings.¹⁰⁵

Finally, four workers mentioned indebtedness as a factor preventing them from quitting their job. Lending practices—including usurious lending by the employer himself—will be discussed in Section 6.3.3.

¹⁰⁵ The obligation to remit is no small factor in workers’ decisions to remain in abusive or exploitative labor situations. Recent data from the Ministry of Labor/OMLAD study indicate that 87.3% of their Haitian construction worker interviewees send remittances to Haiti vs. 70% in the 2002 IOM/FLACSO study and 44% of Haitian immigrants working in other sectors.

Chart 11: Haitian Workers' Perception of their Freedom to Quit Job



The consequences workers may face when voluntarily leaving their job include foregoing back pay and severance pay, having to find another dwelling if they live on the job site, and not being able to find work again with that company. With regard to this last consequence, a labor lawyer from CEFASA pointed out, “Yes [they are free to quit], but you cannot go back to work there...although there have been cases in which the bosses return to look for him to give him work in the same construction project as if nothing had happened.”¹⁰⁶ If workers are unwilling to forego pay owed to them, they may face violence and death threats, as mentioned in previous sections in cases where they attempt to collect their pay. Only one worker mentioned the risk of being verbally and physically abused when attempting to leave his job.¹⁰⁷ Such a case warrants further investigation, as it may constitute the impossibility of leaving the employer (no freedom to resign) upon threat of physical violence, which is a form of forced labor.

6.2.7 Migration Status and Understanding of Rights

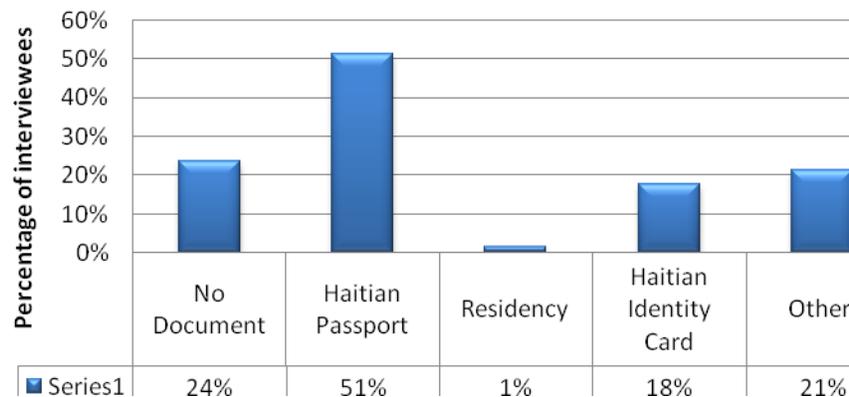
Most of the Haitian construction workers interviewed do not have legal permission to live or work in the Dominican Republic. However, it is not entirely accurate to refer to them as “undocumented,” since more than half of interviewees have a Haitian passport and 18% has a Haitian identity card. A small percentage (1%) has their Dominican residency, while 21% hold some other form of identification, including Haitian voter cards, birth certificates, college transcript, student ID card, driver license, or tax registration. Indeed, the authors of the recent Ministry of Labor/OMLAD study expressed surprise at the relatively high levels of documentation among Haitian construction workers.¹⁰⁸ The fact that most migrant construction workers do have some form of identification is significant because it could prove useful when applying for residency following the upcoming National Regularization Plan and/or to obtain a temporary worker visa, should their employer assume responsibility for facilitating the regularization of their legal status.

¹⁰⁶ Interview with labor lawyer at CEFASA in Santiago, 1 May 2012.

¹⁰⁷ Interview with 29-year-old Haitian construction worker in Barrio Nuevo, Verón (Bávaro region), 22 April 2012.

¹⁰⁸ The authors of the report write: “The situation of undocumented is not as chronic or generalized as we thought, at least regarding Haitian immigrants in the construction sector” (2011: 55). In that study, they found 75% had a birth certificate, 58% had an identity card, 47% a baptism certificate, and 56% a passport.

Chart 12: Type of Identity Document Held by Haitian Construction Workers



In the meantime, having an irregular migration status leaves Haitian construction workers in a more vulnerable position than those with a work permit. According to the workers who commented on the effects of having an irregular migration status, when it comes time to claim rights if something happens at work, those who are undocumented suffer. They said employers take advantage of their not having documents by abusing them and threatening them, unlike the workers with documentation. A 30-year-old worker in Santiago explained this trend as follows:

Those who have papers are treated fine because they can file a complaint, but, for example in my case, I don't have papers and they treat me like a dog or a thing. You are walking on the street and you are no one. The engineers don't want to help you get your papers because if you don't have them, then they can take greater advantage of you. If they do give you papers, they fabricate false ones.¹⁰⁹

This quote illustrates the ways in which workers correlate their migration status with their ability to claim rights (to be discussed below). However, the Dominican Labor Code upholds all workers' rights, regardless of their nationality or status.

In contrast with the above scenario, many workers claimed that there is no difference in treatment of documented and undocumented Haitian construction workers; they say that they are all treated the same and suffer the same abuses and that the primary difference in treatment is between the Haitian workers (regardless of migration status) and the Dominican workers (see Section 6.2.5 for a discussion of discrimination based on nationality). A 24-year-old worker in Santo Domingo explained that there is no difference between documented and undocumented workers, because "if Migration comes and finds a worker with a passport in his pocket, they will take it and break it because they say that you cannot work in construction with a passport. That is for tourists to come to the country, not to work."¹¹⁰

Having an irregular migration status can help as well as hurt Haitian workers' access to jobs. In some cases, employers will deliberately hire undocumented workers because they are easier to

¹⁰⁹ Interview with 30-year-old Haitian construction worker in Gurabo, Santiago, 4 May 2012.

¹¹⁰ Interview with 24-year-old Haitian construction worker in Bienvenido, Manoguayabo (greater Santo Domingo), 2 May 2012.

control and more willing to accept miserable working conditions; in other cases, those lacking a work permit have a hard time finding work at all, or must accept informal working conditions. Whether or not workers have documents matters according to the needs of the employer at the time, and tends to be a subject of certain flexibility and manipulation. As a 32-year-old worker in Bella Vista, Santiago explained: “When the Dominicans need Haitians to work, they will accept them without asking for documents, but when a problem comes up, that is the first thing they ask for. They say, ‘These Haitians without documents want to give us problems.’”¹¹¹

Some workers lacking a Dominican identity card face logistical problems in being able to cash their paycheck (however, this is not a major problem since most are paid in cash). A 24-year-old in Santiago explained: “The company requires documents for us to receive our checks and that is a problem for the undocumented. For those who do have documents, they treat us differently...when they are paying, those with documents get paid first.”¹¹² Another worker who received a check did not have the documents required to cash it and waited five months before going to the bank, only to find that there were insufficient funds.¹¹³

Migrant workers lacking a positive migration status also experience feeling unsafe in the workplace because of fear of Migration showing up and deporting them. A 32-year-old worker interviewed in Piantini, Santo Domingo¹¹⁴ mentioned the case of a Haitian worker in Luperón last year who was so panicked when Migration arrived that he jumped from the third story and died.

There is a clear correlation between workers’ immigration status and their understanding of their rights. Those workers with an irregular status, in addition to having little knowledge of their labor rights in general, tend to feel that their bosses are doing them a favor by giving them work. Taken together, these three factors—migration status, not knowing rights, and paternalistic labor relationship—prevent many workers from considering themselves rights holders in the Dominican Republic.

This situation leads many Haitian construction workers to not even attempt claiming their rights. As one formal expert who has been defending migrants’ rights for more than 20 years explained: “If you don’t have documents, you are no one. It is very difficult to claim your rights. But Haitians are people, and as such they have human rights that should be protected.”¹¹⁵ The coordinator of the Jacques Viau Dominico-Haitian Network affirms this statement: “Of course they have rights, but some people correlate the right to have rights with a person’s legal status. They don’t see rights as something inherent within the human being.”¹¹⁶

Here, it is important to recognize that some progress has been made in recent years to improve Haitian migrant construction workers’ understanding of their rights. Through USDOL funding, organizations such as the Jesuit Refugee & Migrant Service, Catholic Relief Services, CEFASA

¹¹¹ Interview with 32-year-old Haitian construction worker in Bella Vista, Santiago, 6 May 2012.

¹¹² Interview with 24-year-old Haitian construction worker in Gurabo, Santiago, 29 April 2012.

¹¹³ Interview with the Ministerio de Orientación para Niños y Jóvenes Dominicano-Haitianos (MONDA), Santiago, 1 May 2012.

¹¹⁴ Interview with 32-year-old Haitian construction worker in Piantini, Santo Domingo, 18 May 2012.

¹¹⁵ Interview with the *Centro de Atención Jesus Peregrino* in Consuelo, San Pedro de Macorís, 25 April 2012.

¹¹⁶ Interview with the general coordinator of the Red de Encuentro Dominico-Haitiano Jacques Viau, Santo Domingo, 14 May 2012.

and the *Centro de Atención Jesús Peregrino* have been able to extend labor rights education outreach to Haitian construction workers and to open Labor Rights Centers in Santiago, Santo Domingo and the East. As a result, more and more Haitian workers who have suffered exploitation are seeking legal assistance, showing incipient levels of empowerment in terms of access to information and knowledge of rights. Indeed, a number of interviewees indicated that they were involved in ongoing labor disputes in the courts, primarily in attempts to claim severance pay owed to them. A total of 22 workers said that if they were to suffer abuse, they would report it to an authority (a human rights organization, a lawyer, the Ministry of Labor, the Haitian embassy, the police, or their boss).

There are other promising developments in terms of workers getting organized. While Haitians' participation in formal labor unions continues to be low—among other reasons due to the requirement of having a Dominican identity card in order to become a member—the unions have made efforts to include Haitians within their leadership and also to create a Haitian commission within their ranks.¹¹⁷ In addition, at least two associations of Haitian construction workers exist. Ten workers reported relying on friends and other workers to help them resolve issues of mistreatment and abuse. In some more extreme cases, workers have banded together to demand that a hurt worker be taken to the hospital or to hold a strike to protest the retention of their pay.

Still, a majority of workers respond with resignation when asked about what they would do if abused or how they would go about claiming their rights. They claim that nothing can be done and their best bet is to remain silent to avoid further problems or to deposit their faith in God. A common Haitian Creole phrase employed by migrants in this position is “*piti pa konn gen rezon devan gwo*,”¹¹⁸ the Dominican equivalent being “the cockroach will never be right in the eyes of the hen.”¹¹⁹

6.3 Demographics, Living Conditions, and Debt of Workers

6.3.1 Demographic Characteristics

Demographic information collected on the Haitian construction workers in this study includes age, time in country, and migration pattern (whether circular or first-time migrants). Information was not collected as to workers' education level; however, it is worth noting that many speak conversational Spanish and some have up to university level studies.

In terms of the age distribution of interviewees, over half (51%) are in their 20s, followed by 37% in their 30s.¹²⁰ The percentage of workers in their 40s and 50s diminishes sharply. This is likely due to the physically demanding nature of the work, which requires workers to be young and able-bodied. Only 1.5% of interviewees were 18-20 years old. Although no underage worker was interviewed for this project as per the scope of work, researchers were instructed to take note of anyone apparently underage on the worksite. They reported that several 17-year-olds were

¹¹⁷ Interview with leader of the national federation of construction worker unions FENTICOMMC, Santo Domingo, 23 May 2012.

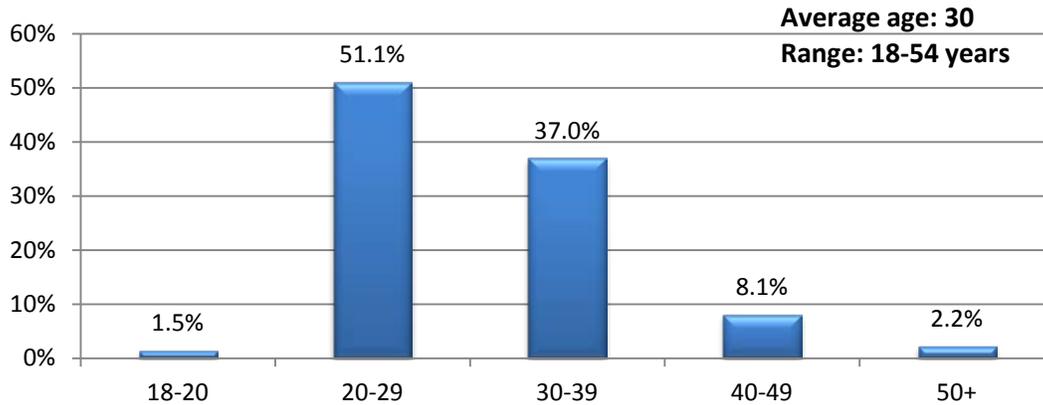
¹¹⁸ The literal English translation is “The small one is never right in the face of the big one.”

¹¹⁹ Interview with 36-year-old Haitian construction worker in Villa Verde, Santiago, 22 April 2012.

¹²⁰ The age curve in this study mirrors the findings from the 2011 Ministerio de Trabajo, OMLAD report, which found 4.3% to be under 20, 56.3% from 20-29, 29.6% from 30-39, 6.6% from 40-49 and 3.2% 50 or above.

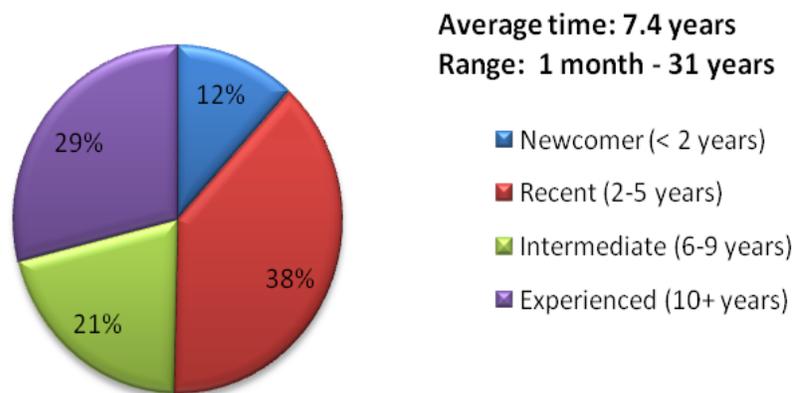
working, but no one younger than that. It would appear that child labor is not a major occurrence in the sector, again due to the physical strength required.

Chart 13: Age Distribution of Haitian Construction Workers Interviewed



A category of interest for the sample distribution was migrants' time in country, which has been categorized into newcomer (<2 years),¹²¹ recent (2-5 years), intermediate (6-9 years), and experienced (10 years or more). The largest grouping fell into the *recent* category (39%), followed by *experienced* (28%). On average, workers had been in country for 7.4 years, though their actual time ranged from 1 month to 31 years. The time in country breakdown can be seen in Chart 14.

Chart 14: Haitian Migrant Workers' Time in Country



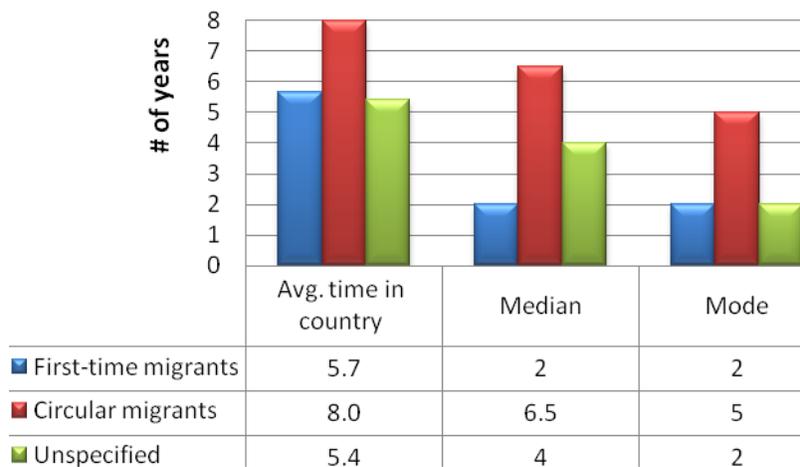
¹²¹ Initially, the category Newcomer was only to include those with 1 year or less. However, when analyzing workers' experiences, a more natural break seemed to be two years, given the historic event of the 2010 earthquake which was an important push factor for Haitians' migration to the DR.

Discussion of time in country must be qualified by the fact that labor migration flows on the island of Hispaniola are often circular, involving stays of varying lengths of time in the home country and in the host country. This can complicate the precise determination of time in country, since a migrant may respond that he has been in the country for the last month (referring to time since his last migration), when in fact he has been circulating between the two countries for the last 15 years. In order to account for this dynamic, the interview guide was adjusted to include questions as to the number of times the migrant had come to the DR and how long he remains during each stay. Thus, the “time in country” refers to total time and not only time since last migration. This data was used to classify the Haitian construction workers as either first-time migrants (those who have come to the DR and have not returned to their home country) or circular migrants (those who have completed two or more migration cycles).

When the time-in-country variable is crossed with the type of migrant, the results reflect that circular migrants indeed have a longer average time in country (8 years vs. first-time migrants’ 5.7), with the greatest number of first-time migrants having 2 years in country vs. circular migrants’ 5 years in country.

Of those who indicated that they circulate between Haiti and the DR, the number of stays in Haiti since they began migrating to the DR ranged from 1 to 8, with 65% making 1-3 trips home, and 35% making 4 or more trips. The circular migrants indicated that the frequency with which they travel back to Haiti ranges from every 2-3 months to every 3-4 years, with most circular migrants returning at least once a year, usually around Christmastime. This was confirmed by one informal expert, who is an engineer in charge of guaranteeing personnel for construction projects under his supervision; he explained that so many workers return to Haiti around the holidays that they must plan for a labor shortage around that time. The duration of their stays in Haiti also runs the gamut from two days to two years, with many staying less than a month, while others remain for several months before undertaking the next migration cycle.

Chart 15: Years in Country by Type of Migrant



6.3.2 Living Conditions

Most Haitian construction workers interviewed for this study live off-site (104 or 77%), in rooms or small houses that they share or rent. Sixteen (12%) indicated that they live or stay occasionally on the worksite. Motivations for staying on site mentioned by workers include:

1. Work being far from home: “If you have money for bus fare to go home, you do; in my case, I live in La Romana so that’s why I stay here in the construction site”¹²²
2. Non-payment of wages has caused them to lose their housing
3. Not having anywhere else to go, especially for recent arrivals (though the high number of those without permanent housing is indicative of the mobility of this population)
4. Saving money on rent and transportation
5. Working as a night watchman

Living on-site, explained one researcher familiar with Haitian construction workers, “is not as frequent as you would think...Perhaps two or three stay there as guards. Then, they may allow some compatriots who do not have anywhere to go to stay with them temporarily. The construction company turns a blind eye.”¹²³

Conditions on the worksite tend to be minimal, with workers drinking contaminated tap water, going to the bathroom where they may, and improvising bedding with sheets of cardboard. Conditions do improve as the project progresses, but very few workers are allowed to stay on site at later stages.

Image 4: Improvised kitchen and worker housing on a private construction site in Santiago de los Caballeros.



¹²² Interview with 26-year-old Haitian construction worker in Miraflores, Santo Domingo, 21 April 2012.

¹²³ Interview with Independent Researcher & Consultant, Santo Domingo, 17 May 2012.

While workers' living on-site is "voluntary" insofar as it is forced upon them by poverty and not their bosses, several interviewees did note that those workers living on site are expected to be available as needed to work extended hours or to fix whatever might break in the night. This expectation confirms the observation of Silié *et al*: "While this allows them to save the money they would have spent on housing, they are obligated to serve their contractor during a longer workday than those who live outside" (2002: 95, our translation).

Living on-site appears to be most common in Santo Domingo, with only a few cases in Santiago and none in Bávaro. There, workers tend to live in tiny rented rooms that are partitioned off with a curtain or piece of plywood, in crowded slum conditions or barracks similar to slave quarters.¹²⁴

Regardless of where they live, Haitian construction workers are expected to buy their own food and clothing; the employer provides little beyond the promise of pay and the occasional extension of credit (see next section for more information). Most workers (51%) buy their food on-site, usually from a Haitian lady who cooks for the workers on credit and charges workers when they are paid. Fifteen (11%) indicated that they bought their own food from corner stores or supermarkets, while 12 (9%) said that they brought their own food from home.

In contrast with the findings from the Solidarity Center *et al* (2008) study, there was no evidence of workers being paid with vouchers. However, several workers reported that the *maestro* discounted food money from their pay, possibly at a higher price than he was paying the cook. Only one worker reported being obligated to buy food on credit from a cook who was "in" with the engineer or foremen at the site. The vendor kept track of the meals taken on a cardboard card or notebook, and the worker would either have to come pay her on pay day or have the money discounted from his pay and then the foreman would pay her directly. According to the Ministry of Labor, the employer cannot withhold food money from workers' pay nor can he obligate the worker to buy products that he sells.¹²⁵

6.3.3 Lending Practices and Workers' Debt

Indebtedness, especially when induced or inflated by falsification of accounts, inflated prices for goods/services purchased, or excessive interest rates, may be an indicator of involuntariness when indebted workers cannot leave their jobs. Thus, workers were asked about lending and credit practices, and any loans or outstanding monies owed. Out of the 135 workers interviewed, 67 or 50% receive loans or have access to loans at their workplace. Of those with loans or debt, workers reported that loans were being offered to them directly by the *maestro* (28%), engineer (10%), or simply, "the company" (13%). Workers also reported receiving loans from third parties, including the family members of the boss (3 people), and the company lawyer (1 person).

The terms of the loans offered through these informal lenders tend to be quite unfavorable for the borrower, with interest rates ranging from 10% to 15% bi-weekly. Overwhelmingly, respondents reported that loans were given at a 20% interest rate (45% of respondents with debt). See Table 6 for a more specific breakdown.

¹²⁴ Observations made during site visit to Bávaro, 22-23 April 2012.

¹²⁵ Interview with at Ministry of Labor, Santo Domingo, 22 May 2012.

Table 6: Interest Rates on Informal Loans to Haitian Construction Workers

Interest rate	# of responses	Percentage
10%	5	8%
15%	3	5%
20%	27	45%
25%	7	12%
30%	6	10%
50%	3	5%
With interest (unspecified)	4	7%
No interest	5	8%
Total	60	100%

It was difficult to determine total quantities of debt, given that most workers have rolling credits that they pay back either directly on pay day or through their bosses withholding from their pay. However, several formal experts affirmed that employers (or other lenders) do not lend workers more money than they have earned through days worked. According to the FENTICOMMC representative, “No maestro will lend his cash to someone who hasn’t earned it and he always lends less than what has been worked so the worker takes home at least some pay.”¹²⁶

There is evidence of two particularly predatory lending practices that may be indicators of forced labor. The first is a usurious system in which Dominicans with capital, usually acquaintances of the higher-ups on the job site, lend money to the newcomers, sometimes using more experienced Haitian migrants as intermediaries (or *riferos*). The intermediaries serve as a lever, a means of social pressure upon the borrower to pay back his debt at high rates of interest (20% and above), with undisclosed late fee charges.¹²⁷

The second practice involves maestros’ and engineers’ non-payment of wages, such that the worker is obliged to borrow money to take care of his basic needs. The lender is usually the maestro or engineer himself or an acquaintance acting as informal lender, who then lends at a 20% rate per 15-day pay cycle and discounts the principal and interest from workers’ next pay. A researcher and representative of the Jesuit Refugee & Migrant Services’ Centro Bonó explained this practice as follows:

*There is a spiral of indebtedness from which it is hard for workers to escape. If there is a change or delay in payment, they [workers] borrow money and are charged up to 40 percent. When they go to pay you, you barely have enough to pay back the loan, so the debt keeps strangling you and the possibility for paying it back is more and more remote.*¹²⁸

The Ministry of Labor affirms the illegality of such practices: “The [Labor] law does not allow for lending. It only allows the employer to give an advance, but not to lend money or charge

¹²⁶ Interview with leader of the national federation of construction worker unions FENTICOMMC, Santo Domingo, 23 May 2012.

¹²⁷ Interview with representative of the International Labor Organization, Santo Domingo, 22 May 2012.

¹²⁸ Interview at the Jesuit Refugee & Migrant Service’s Centro Bonó, Santo Domingo, 3 May 2012.

interest. Then it becomes usury. In fact, when workers bring this complaint to the Ministry, we act right away.”¹²⁹

While the apparent motive behind such lending practices is to reap profit off of workers who have few other sources of credit, this kind of lending may also be used as a tactic to retain workers on the job. Four interviewees mentioned their loan debts as a factor preventing them from being able to leave their job. A 34-year-old worker in Santiago finds himself in such a situation:

*If I owe money to the owner of the job, I have the obligation to stay at the job until I can pay it back. I used to borrow money from the engineer through the security guard who worked at the company. You have to work. If you don't work, they won't lend you money, but when you are paid, you have to pay every peso of it back.*¹³⁰

6.4 Changes in Haitian Migration for Construction Work after the Earthquake

While there are no figures that illustrate the real impact of the 2010 Haiti earthquake on migration flows to the DR, the perception of authorities and organizations that accompany the migrant population is that there has been an increase in irregular Haitian migration flows to the country, in greater measure than levels prior to the earthquake (Riveros 2012: 28). Some estimates indicate that there was an influx of 130,000 undocumented migrants (IOM), or closer to 200,000 (Migration Directorate).¹³¹

Undoubtedly, many of those arriving have sought work in the construction industry and/or have taken up residence with family members who work in construction.¹³² In this study, 8 out of 135 (6%) of Haitian construction workers lost families or homes in the quake and migrated as a direct result of their loss. A 20-year-old in Santiago recounted his migration story as follows:

*After the earthquake, it wasn't possible for me to continue my studies. So my father gave me the idea of coming here. For me it was a good idea. I thought that I could find something better. On the contrary, over the long run I realized that I was just working for the Dominicans and since I was working I couldn't get anything else done.*¹³³

Many more respondents (62, or 46% of the sample) reported having lost property and/or being strongly emotionally affected by the earthquake. A 54-year-old worker in Bávaro shared: “On my part, I was not hurt directly, nor was anyone close to my family, but as a Haitian that is my country and it hurt me deeply.”¹³⁴

¹²⁹ Interview at Ministry of Labor, Santo Domingo, 22 May 2012.

¹³⁰ Interview with 34-year-old Haitian construction worker, Gurabo, Santiago, 22 April 2012.

¹³¹ U.S. Department of State. 2011 Dominican Republic Human Rights Report. p. 18.

¹³² The Ministry of Labor/OMLAD study (2011) found that more than a fifth (21.4%) of Haitian construction workers reported that family members had come to live in the DR after the earthquake.

¹³³ Interview with 20-year-old Haitian construction worker, Villa Maria, Santiago, 30 April 2012.

¹³⁴ Interview with Haitian construction worker, Cristinita, Bávaro, 23 April 2012.

Others said they had directly lost family members and friends (34 respondents, or 25%). Four claimed that the earthquake changed them religiously, that it was a test of their faith, or that they converted to Evangelical Christianity after the earthquake.

A more recent after-effect of the 2010 earthquake may be the opportunity for Haitian construction workers to “migrate home” in order to work with Dominican construction companies with building contracts in Haiti. A 29-year-old worker on the renovation of the cathedral in Santiago shared that his cousin has gone back to Haiti with the same company that he works for and that other companies are also bringing their workers back to Haiti.¹³⁵ The International Organization for Migration in Santo Domingo confirmed this trend, adding that some employers have sought technical assistance in order to regularize their workers’ migration status to avoid problems re-entering the DR at the conclusion of the project.¹³⁶

¹³⁵ Interview with 29-year-old Haitian construction worker, Santiago, 6 May 2012.

¹³⁶ Interview with the International Organization for Migration (IOM), Santo Domingo, 3 May 2012.

7 CONCLUSION AND RECOMMENDATIONS FOR FURTHER RESEARCH

This research set out to explore various indicators of forced labor among Haitian construction workers in the Dominican Republic, while centering its analysis on four areas: (1) pathways into construction work/recruitment processes; (2) nature of construction work and employer-employee relationship; (3) workers' lives outside of work; and (4) effects of the Haiti earthquake on construction workers in the DR.

In terms of migrant workers' pathways into construction, the data indicate that there are social networks that operate to connect migrants with employment in construction, which sometimes involve buscones or informal intermediaries. However, further investigation is needed to know what, if anything, intermediaries expect or charge for their services, or if these are simply support networks or what some academics have called "thick social capital."¹³⁷

Certainly, the chain of intermediaries and informality of hiring arrangements may create the conditions for corruption to take place. One case of a worker's exploitation by was an intermediary consisted of charging an ongoing finder's fee for having secured employment for a worker. However, in this study there was no evidence of Haitian workers being sold into the construction industry by a third party.

There is a clear preference among construction contractors for hiring Haitian workers, presumably because their precarious legal status makes them more flexible and willing to accept exploitative conditions, and less likely to know their rights and be able to claim them. Employer-employee relationships range from workers' not knowing their boss at all to familiarity verging on paternalism. Sub-contracting arrangements may complicate the determination of obligations and upholding of rights, especially in situations where companies keep no records of the mostly informal laborers performing the work.

The recruitment process is often informal and less than transparent. It can be characterized as deceptive in cases where misleading information is offered or false promises are made to the worker. For 42% of workers in this study, some negotiation took place, which is sometimes deceptive. Deceptive practices reported by workers include: promising health insurance and withholding from pay for this purpose but not providing coverage, and being pressured into signing away their right to severance pay. These practices may constitute an indicator of unfree recruitment, which is a dimension of forced labor.

Regarding the nature of construction work, retention of pay and excessive working hours occur, and threats and physical abuse of workers at the hands of their employers appear to be quite common, which can be indicators of forced labor. Further, this study has detected a number of practices including no health insurance or accident coverage, and dangerous conditions leading to serious injury and death, which are not included as forced labor indicators, but are extremely exploitive and in some cases may constitute degrading living conditions. Many of the situations

¹³⁷ See, for example, Torche and Valenzuela. 2011. "Trust and Reciprocity: A Theoretical Distinction of the Sources of Social Capital," *European Journal of Social Theory*, vol. 14 no. 2 181-198. Sage Journals.

described in this report fall along a continuum between decent work on one end and forced labor on the other, making it challenging to distinguish between workers’ suffering from sub-standard conditions or having their labor rights violated (labor exploitation) and experiencing situations of forced labor. In light of these difficulties, a list of all abusive and exploitative practices against Haitian construction workers detected in this study has been compiled and included as Appendix D in this report, as a reference for agencies working to improve working conditions in this area.

As an exploratory study, the methodology of data analysis was designed to explore individual indicators of forced labor that workers reported having experienced, which are discussed at length throughout the report. It did not allow for analysis of combinations of indicators, which could be used to determine on a case-by-case basis whether and how many individual workers are in a situation of forced labor. A summary of the forced labor indicators found in the study can be found in Table 7.

Table 7: Indicators of Forced Labor Detected among Haitian Construction Workers in the DR

Involuntary nature of work	Threat or menace of a penalty
Dimension of Forced Labor: Unfree recruitment	
Deceptive recruitment practices (false promise of health insurance and pressuring workers into signing illegal document renouncing right to severance pay) Confiscation of identity papers	
Dimension of Forced Labor: Work and Life Under Duress	
Forced overtime (beyond legal limits) Induced/inflated indebtedness (by excessive interest charges) Limited freedom of movement (temporarily locking workers in container on worksite)	Threat of physical violence Denunciation to authorities (police, immigration officers, etc.) Withholding of wages Threat of dismissal from current employment Exclusion from future employment (Threat of) imprisonment or other physical confinement (being locked in work quarters)
Dimension of Forced Labor: Impossibility of Leaving Employer	
Forced to stay longer than agreed while waiting for wages due No freedom to resign in accordance with legal requirements (one case)	Withholding of wages Denunciation to authorities (police, immigration officers, etc.) Physical violence

The clearest and most egregious indicators of forced labor appear to be present in the Bávaro/Punta Cana region, where there is a “different work culture”¹³⁸ and few government or non-governmental agencies are willing to take on powerful investors and businessmen.¹³⁹ To date, this study is the first to examine the working conditions of Haitian construction workers in the Bávaro/Punta Cana area. There are reports of several other practices in that region which may not constitute forced labor by definition but do warrant follow-up and intervention, such as workers being shot at when attempting to collect pay and employers disappearing the bodies of

¹³⁸ Interview with FENTICOMMC leader, Santo Domingo, 23 May 2012.

¹³⁹ Interview with National Confederation of Union Solidarity leader, Santo Domingo, 2 May 2012.

workers who have died on the job. Further investigation is necessary in order to corroborate the data collected and begin to ameliorate the culture of impunity present in this area of high foreign investment and little State presence.

In terms of workers' living conditions, the study found most migrants to live in rented housing off-site, with a small percentage living on the construction site in order to save money. They are allowed to circulate freely outside of working hours. There do appear to be some abusive practices related to food, wherein maestros obligate workers to buy from the cook and may then charge a higher cost to the worker when discounting the food cost from his pay. For the most part, however, it appears that workers' living conditions are not being used as a means of coercion for forced labor.

Finally, the 2010 Haiti earthquake affected workers as both a motivating factor behind migration and as a potential pull factor for return migration to work in the reconstruction of their home country with Dominican contractors.

In sum, it would appear that the "new Haitian immigrants'" relative mobility does not preclude the possible existence of forced labor among Haitian workers in the construction industry. Although the labor force is characterized by high levels of rotation between workplaces and tasks and workers are not being sold into the industry, several practices are being used to retain workers against their will, ranging from non-payment of wages and usurious lending to the exacting of forced overtime by threat of dismissal. These situations require close monitoring in order to uphold the labor rights of all workers as consecrated in the Dominican Labor Code and to promote a culture of decent work in the industry.

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Appendices

APPENDIX A: MAP OF RESEARCH LOCATIONS

The following map indicates the location of the three cities where interviews were conducted with Haitian construction workers: the capital city of Santo Domingo, the second largest city; Santiago de los Caballeros, in the central Cibao region; and the tourist town of Bávaro (near Punta Cana), in the East.



APPENDIX B: FORMAL EXPERT INTERVIEW GUIDE

Interviewer:	Date (dd/mm/yy) _ _ / _ _ / _ _
Location of interview:	
Name:	Sex: Male/Female
Profession:	
Position:	
Employer/Affiliated Institution/Organization:	
Contact information:	
Time interview started:	
Time interview ended:	

Introduction

Read the following statement to the respondent and give them the informed consent statement to read. Answer any questions the individual may have. Do not begin the interview until all questions have been addressed and the individual has agreed to participate in the study.

My name is _____. I am interviewing people about Haitian construction workers in the Dominican Republic. We would like your permission to interview you about this topic. Please read this form. Do you have any questions? If you are interested in participating, please sign at the bottom of the form.



Informed Consent Form

- Our project aims to collect information on how individuals find jobs, worker relationships with their employers, and the conditions under which they work and live. To get a comprehensive picture, we would like to speak with knowledgeable informants like you.
- The findings from this research are intended to contribute to promoting awareness of the issues and to make information available to agencies working in this area. They will be used in a report on Haitian construction workers in the Dominican Republic.
- Your participation in this study is **voluntary**. If you choose to talk with me, you can choose to not answer some questions or to end the interview at any time.
- Your answers to the questions will be kept private and no one will know what you said. Your name will not be used in any reports.
- The interview will take about 30-45 minutes.

I will answer any questions that you have about the study before we begin.

Interviewer Certification of Consent:

My signature affirms that I have read the informed consent statement and I agree to be interviewed.

Print Name _____

Signature _____ Date _____



1. Could you please tell me your position and what you do at work?
2. Does your organization's work directly involve Haitian construction workers? If so, what kind of activities in this area does your organization undertake? If not, how are you familiar with issues regarding Haitian construction workers?
3. We'd like to learn more about the construction sector. Can you tell me anything about the proportion of private versus public ownership in this sector? What about the proportion of Haitian workers versus Haitian-Dominicans versus Dominican workers?
4. Could you tell me about how individual Haitians get into construction work? (Probe: Are the jobs arranged before leaving Haiti? Is a recruiter involved? If so, request details. If through friends/family, is anything expected in exchange?) Have you heard of people being sold or taken by force to work in construction?
5. Can you describe their terms of employment? What kinds of promises are typically made to workers regarding working and living conditions and benefits? Are these promises fulfilled? Do workers ever receive loans or advances when they're hired? Could you estimate what proportion of workers receive written contracts?
6. What can you tell me about the payment of worker? How much are workers typically paid? Who actually makes the payment and in what form? Are workers generally paid on time? Is payment ever withheld or deducted? Why?
7. How many hours per day do they typically work? Days per week? Are they required to work overtime? Are they paid for this work? What would happen if they refused?
8. How common is it for Haitian workers to live at the worksite? For those that live on site, can they freely come and go outside of working hours? How often do they rely on their employers for food and clothing? Where do they buy food and clothing? Do they ever buy these items with credit? Under what terms?
9. Are many Haitian construction workers in debt? To whom and under what terms? How does their debt influence their decisions about work?
10. How are Haitian construction workers treated by their employers? Is the relationship different for Dominican workers?
11. Have you heard of workers being or feeling threatened at work? Please explain.
12. Have you heard of workers being mistreated in any way? Please explain.

13. Can workers leave their jobs if they choose? If not, why? Do workers who leave their jobs face any consequences? Please explain.
14. What proportion of Haitian workers in construction are undocumented? Does having undocumented status make workers vulnerable? How so? Are workers ever threatened with deportation? For those who have documents, are these ever held by employers?
15. What rights do undocumented Haitian construction workers have under Dominican law? (Probe: legal protections, state services, health care and treatment for work-related injury)
16. What understanding do workers have of their rights?
17. After the earthquake of 2010, did you notice any changes in the situation of Haitian construction workers in the Dominican Republic? (Probe: Has there been an increase or decrease in workers coming from Haiti? Did the characteristics of the incoming workers change? Since the earthquake, has the situation of these workers improved, deteriorated, or stayed the same?)
18. Could you suggest any organizations or individuals that are well informed about the construction industry or the rights of Haitian workers that we could interview?
19. Is there anything else you would like to add?

Thank you very much for your time and your valuable contribution.

APPENDIX C: CONSTRUCTION WORKER INTERVIEW GUIDE

Interviewer:	Date (dd/mm/yy) __ _ / __ _ / __ _	
City:	Sector:	
Location of interview:		
Name:	Age: __ _	Sex: Male/Female
Time in country:		
<input type="radio"/> Recent arrival (less than 1 year cumulative) <input type="radio"/> Experienced (more than 1 year cumulative)		
Time interview started: __ _ : __ _ (Use 24 hr. clock)		
Time interview ended: __ _ : __ _ (Use 24 hr. clock)		

Introduction Including Informed Consent Statement

Read the following statements to the respondent and answer any questions the individual may have. Do not begin the interview until all questions have been addressed and the individual has agreed to participate in the study.

- My name is _____. We are interviewing Haitian construction workers in the Dominican Republic. This research is intended to promote awareness of the issues workers face and to make information available to agencies working in this area. This information will be used in a report on Haitian construction workers in the Dominican Republic.
- We would like to talk with you about how you found your job, your relationship with your employers, and your living conditions.
- Your participation in this study is **voluntary**. If you choose to talk with me, you can choose to not answer some questions or to end the interview at any time.
- Your answers to the questions will be kept private and no one will know what you said. Your name will not be used in any reports.
- The interview will take about 30-45 minutes.
- I will answer any questions that you have about the study before we begin. Do you have any questions about the study?
- May we start the interview? Do I have your permission to record our conversation?

Interviewer Certification of Consent:

My signature affirms that I have read the verbal informed consent statement to the respondent. I have answered any questions asked about the study, and the respondent has agreed to be interviewed.

Print Interviewer's Name _____

Interviewer's Signature _____ Date _____



	English	Spanish	Haitian Creole
1	MIGRATION EXPERIENCE		
	<p>How long have you been in the Dominican Republic?</p> <p>How many times have you come?</p> <p>For how long have you stayed each time?</p> <p>Can you tell me about how you came to the Dominican Republic this time?</p> <p>Why did you come?</p>	<p>¿Cuánto tiempo tiene en la República Dominicana?</p> <p>¿Cuántas veces ha venido a territorio dominicano?</p> <p>¿Por cuánto tiempo ha permanecido en cada estadía?</p> <p>¿Me puede contar cómo vino al país esta vez?</p> <p>¿Por qué decidió venir al país?</p>	<p>Konbyen tan ou genyen nan Repiblik Dominikèn?</p> <p>Konbyen fwa ou vini nan peyi ya?</p> <p>Konbyen tan ou rete chak lé ou vini?</p> <p>Èske ou ka di m 'ki jan ou te fé vini nan peyi a dénye fwa?</p> <p>Poukisa ou te vini nan peyi a?</p>
2	TYPE OF PROJECT AND LOCATION		
	<p>What kind of project do you work on?</p> <p>Do you know if it is private or government funded?</p> <p>Where is it located?</p> <p>How long have you worked there?</p>	<p>¿En qué tipo de proyecto de construcción trabaja Ud.?</p> <p>¿Sabe si es de un proyecto privado o si es un proyecto del gobierno?</p> <p>¿Dónde está ubicado?</p> <p>¿Cuánto tiempo tiene laborando ahí?</p>	<p>Nan ki kalite pwojè konstriksyon w ap travay?</p> <p>Èske travay la se yon travay prive, oswa se yon travay piblik?</p> <p>Ki kote pwojé a ye ?</p> <p>Konbyen tan ou gen ap travay la ?</p>

3	JOB CHARACTERISTICS		
	Can you tell me about your job? What is it like? What specific tasks do you do?	Cuénteme acerca de su trabajo. ¿Cómo es? ¿Qué tareas específicas realiza?	Rakonte m' sou travay ou. Kouman li ye? Ki travay direktman w fé ?
4	ORGANIZATION OF PERSONNEL IN WORKPLACE		
	Who do you work with? Who do you consider your boss? Do you work in teams? Who are the leaders? Can you tell me about your boss? Are there any other bosses?	¿Con quien trabaja? ¿Quien considera su jefe? ¿Trabajan en equipos? ¿Quiénes son los líderes? ¿Qué puede contar acerca de su jefe? ¿Hay algún otro jefe?	Avek kiyès wap travay? Kiyès ki se lidè travay la? Kouman yo òganize travayè yo? Yo travay an ekip? Ki moun ki se lidè yo? Èske ou ka pale m' de chef w a sou bòs nan travay ou a?
5	EMPLOYER RELATIONSHIP		
	How would you describe your relationship with your employer? <i>Probe:</i> How does he treat you? How often do you see him?	¿Cómo describiría la relación que tiene con su empleador? <i>Indagar:</i> ¿Cómo le trata? ¿Cada cuánto lo ve?	Kouman ou ka dekri relasyon ou gen ak anplwayè ou a? <i>Cheché konnen</i> : Kijan li trete w ? Chak Konbyen tan ou wè l?

6	PATHWAY TO THIS JOB		
	<p>How did you find your job?</p> <p><u>Probe:</u> Was the job arranged before leaving Haiti?</p> <p>Did you use the services of another person to find the job?</p> <p>Did they offer you a loan or advance?</p> <p><u>If so, request details.</u> If through friends/family, was anything expected in exchange?</p>	<p>¿Cómo encontró su trabajo?</p> <p><u>Indagar:</u> ¿Se hizo el arreglo para entrar a ese trabajo antes de salir de Haití?</p> <p>¿Utilizó los servicios de otra persona para encontrar trabajo?</p> <p>¿Le ofrecieron algún préstamo o dinero adelantado?</p> <p><u>En caso afirmativo, pedir detalles.</u> Si lo haya financiado a través de amigos/familia, ¿ellos esperan algo a cambio?</p>	<p>Ki jan ou fè jwenn travay ou a?</p> <p><u>Chèche konnen:</u> Eske yo te fé aranjman pou te antre nan travay la, anvan ou kite Ayiti/soti yiti?</p> <p>Eske ou te itilize sèvis yon lòt moun pou te ka jwen travay sa a?</p> <p>Yo te ofri ou yon davans, pa egzanp prete ou lajan, oswa lajan kach.</p> <p><u>Si se konsa, mande detay.</u> Si li te resevwal nan men yon zanmi / fanmi, eske yo te ap tann yon bagay an retou?</p>
7	NEGOTIATION WITH EMPLOYER		
	<p>What agreement did you come to with your employer in order to start working?</p> <p>Was a contract drawn up or was anything written down?</p> <p>Were you promised anything about your job – for example, benefits?</p> <p><u>If so, what was promised? (Probe:</u></p>	<p>¿Cómo llegó a un acuerdo con su empleador antes de comenzar el trabajo?</p> <p>¿Hicieron algún contrato o documento por escrito?</p> <p>¿Le prometieron alguna cosa en su trabajo – por ejemplo, prestaciones?</p> <p><u>En caso afirmativo, ¿qué le</u></p>	<p>Ki jan ou te fè rive nan yon akó avek patron ou a anvan w te kòmanse travay la?</p> <p>Yo te fè kek kontra, oswa dokiman ekri?</p> <p>Yo te pwomèt ou kek bagay nan travay ou a? pa egzanp, yo ka pretew? <u>Si se</u></p>

	Salary, type of work, hours of work, housing). Did they fulfill that promise? Did you receive a loan or advance?	prometieron? (<i>Indagar</i> : Salario, tipo de trabajo, horas de trabajo, alojamiento). ¿Cumplieron con lo que le prometieron? ¿Recibió algún préstamo o dinero adelantado?	<i>konsa</i> , ki sa yo te pwomèt ou? (<i>Chèche konnen</i> : Salè, Kalite Travay, kantite èdtan travay, lòt benefis, kondisyon lojman). Eske yo te konpli ak sa yo te pwomèt ou yo? Eske ou te resevwa kek lajan davans ?
8	KNOWLEDGE OF OPTIONS IN CASE OF EXPLOITATION		
	What options do you or other workers have if promises aren't fulfilled? What would you do if they did not come through on what you agreed upon? (For example, if the pay isn't what was agreed upon). What do you do?	¿Qué otras opciones tiene Ud. u otros compañeros de trabajo si no cumplen las promesas? ¿Qué usted haría en caso de que no cumplan con lo acordado? (Por ejemplo, si no les pagan la suma acordada). ¿Qué hacen?	Ki lòt opsyon ou menm avek lot kòlèg travay ou yo genyen si yo pa konpli avek pwomès yo te fè nou? (Pa egzanp, si yo pa peye w kontite kob yo te di). Kisa nou fè lé sa?
9	PAYMENT		
	How much is someone paid for doing the type of work you do? How do you receive your payment? Who pays you? Do you get anything else for your work in addition to money?	¿Cuánto le pagan a una persona que hace este tipo de trabajo, como el que usted hace? ¿Cómo recibe su pago? ¿Quién le paga? ¿Recibe algo más por su trabajo además del dinero?	Plis ou mwens konbyen yo konn peye yon moun ki fé menn jan de travay sa? Ki jan w resevwa kob la? Ki moun ki peye w? Eske ou resevwa yon lót bagay pou travay apre kob yo peyew la?

	<p>How often are you paid?</p> <p>Are you generally paid on time?</p>	<p>¿Cada cuánto le pagan?</p> <p>¿Generalmente le pagan a tiempo?</p>	<p>Chak konbyen tan yo peye w?</p> <p>An jeneral yo peye w a tan?</p>
10	LOANS AND DEBT		
	<p>Is there anywhere you can get a loan or buy things on credit if you need to? Where?</p> <p>Do you owe money to anyone at this time?</p> <p><i>(Probe: To whom and under what terms? Are you able to repay? What are the consequences of non-repayment? Would you leave your job if you weren't in debt?)</i></p>	<p>¿Hay algún sitio donde Ud. puede conseguir dinero prestado o comprar fiado de ser necesario? ¿Dónde?</p> <p>¿Le debe dinero a alguien en este momento?</p> <p><i>(Indagar: ¿A quién y bajo qué términos? ¿Puede pagarlo? ¿Qué pasará si no lo puede pagar? Si no tuviera esa deuda, ¿dejaría su trabajo?)</i></p>	<p>Èske gen yon kote ou ka prete lajan, oswa achte kredi, si li ta nesesè? Ki kote?</p> <p>Eske ou dwe kek moun lajan nan moman sa a ?</p> <p><i>(Poze kesyon: ki moun e nan ki kondisyon Èske ou ka peye l ? Kisa ki ka pase si w pa ka peye ? Si ou pa te gen det sa, ou ta kite travay la?)</i></p>

11	LIVING CONDITIONS		
	Where do you live? Where do you eat?	¿Dónde vive? ¿Dónde come?	Kote w ap viv?
	Where do you buy food and other necessities? Do you ever use credit to buy items? (<i>Probe</i> : What are the terms? Is it difficult to repay? What happens if unable to repay?)	¿Dónde compra la comida y otras cosas? ¿Hace las compras fiado? (<i>Indagar</i> : ¿Bajo qué términos? ¿Es difícil pagarlo? ¿Qué pasa si no lo puede pagar?)	Ki kote ou achte manje ak lòt bagay ou bezwen? Ou achte maje kredi? (<i>Chèche konnen</i> : Dapre ki kondisyon? Èske li difisil pou peye l ? Kisa ki ka pase, si w pa ka peye?)
12	WORK SCHEDULE AND FREEDOM OF MOVEMENT		
	What is your work schedule like?	¿Cómo es su horario de trabajo?	Kouman orè/lé travay ou ye?
	How many hours a day do you work?	¿Cuántas horas trabaja al día?	Konbyen édtan w travay nan yon jou?
	How many days per week?	¿Cuántos días a la semana?	Konbyen jou nan yon semèn?
	Are you free to come and go from the worksite outside of work hours or do you have to stay there?	¿Está libre de entrar y salir del sitio de trabajo fuera del día laboral o tiene que quedarse ahí?	Èske li gen libéte pou antre e soti kote w ap travay la jou w pap travay ? oubyen ou gen obligasyon pou rete nan travay la ?
13	OVERTIME		
	Do you work overtime?	¿Trabaja horas extras Ud.?	Ou travay lé an plis?
	If so, are you paid for overtime?	<i>En caso afirmativo, ¿le pagan por las horas extras?</i>	<i>Si se konsa, yo peye w lè travay an plis yo?</i>
	What would happen if you refused to work overtime?	Si Ud. dijera que no quisiera trabajar las horas extras que le piden, ¿qué ocurriría?	Si ou ta di ou pa vle travay nan le an plis yo, ki sa ki ka rive?

14	ILLNESS & ACCIDENTS		
	<p>What happens if you get sick or injured?</p> <p>Do you still have to work? Why?</p> <p>Do you have access to medical treatment?</p> <p>Who would pay for your treatment if you got hurt at work?</p>	<p>¿Qué ocurre en caso de que se enferme o sufre alguna lesión?</p> <p>¿Siempre tiene que trabajar? ¿Por qué?</p> <p>¿Tiene acceso a atención médica?</p> <p>¿Quién pagaría el tratamiento si se lesionara en el trabajo?</p>	<p>Kisa ki ka rive si w malad oswa si w frape/blese?</p> <p>Malgre sa ou toujou gen pou travay? Poukisa?</p> <p>Ou gen aksè a swen medikal?</p> <p>Ki moun kap peye tretman an nan ka aksidan nan travay la?</p>
15	LABOR EXPLOITATION / FORCED LABOR		
	<p>Could you leave your job if you wanted to?</p> <p>Is there anything that prevents you from leaving?</p> <p>What would happen if you did?</p>	<p>Si Ud. quisiera dejar su trabajo, ¿podría?</p> <p>¿Hay algo que no le deja salir de su trabajo?</p> <p>¿Qué ocurriría si lo dejara?</p>	<p>Si ou ta vle kite djòb ou a, eske w kapab?</p> <p>Eske gen yon bagay ki ki enpeché w kite travay la?</p> <p>Sa kap pase si w kite travay la?</p>
16	THREATS		
	<p>Have you ever seen anyone threatened at work?</p> <p><i>(Probe: physical violence, psychological abuse, deprivation of food/water/sleep, fines, wage deductions/withholding, threats of dismissal, denunciation to authorities, confinement, retention)</i></p>	<p>¿Alguna vez ha visto que le han amenazado a alguien en su sitio de trabajo?</p> <p><i>(Indagar: violencia física, abuso psicológico, privación de comida/agua/sueño, multas, le descuentan de su salario o no le pagan, amenazas de despido, denuncias ante autoridades, encierre)</i></p>	<p>Eske yo konn menase nou nan espas travay ou a?</p> <p><i>(Chèche konnen: vyolans fizik, abi sikolojik, privasyon manje / dlo/ dòmi, peye amann, li dedui nan salè li oswa pa peye, menas la revokasyon, plent otorite, sèk fizik/ fémen yon kote, kenbe dokiman idantite).</i></p>

	<p>of identity documents).</p> <p>What happened?</p> <p>Have you ever felt threatened or been threatened in any way at work? Please explain.</p>	<p>físico, retención de documentos de identidad).</p> <p>¿Qué ocurrió?</p> <p>¿Alguna vez se ha sentido amenazado en cualquier forma en el trabajo? Favor explicar.</p>	<p>Kisa ki te pase?</p> <p>Èske w konn santiw menase pafwa nan yon fason kelkonk nan travay la? Tanpri eksplike.</p>
17	ABUSE		
	<p>Are Haitian workers ever mistreated in construction work?</p> <p>What happens?</p> <p>Have you ever been mistreated? Please explain.</p> <p>What can Haitians who are being mistreated do?</p> <p>Is there anyone you could report mistreatment to?</p>	<p>¿Maltratan a los obreros haitianos en el trabajo de construcción?</p> <p>¿Qué ocurre?</p> <p>¿Alguna vez le han maltratado a Ud.? Favor explicar.</p> <p>¿Qué pueden hacer los haitianos que han sufrido algún abuso?</p> <p>En caso de abuso, ¿a quién puede reportarlo?</p>	<p>Yo konn maltrete travayè ayisyen yo nan travay konstriksyon an?</p> <p>Ki sa ki konn pase?</p> <p>Èske yo konn maltretew? Tanpri eksplike.</p> <p>Ayisyen ki soufri abi, kisa li ka fé?</p> <p>Nan ka abi, a ki moun w ka pote plent?</p>
18	DOCUMENTATION		
	<p>What type of identity documents do you have in the Dominican Republic?</p> <p><i>[For respondents with ID] Has your employer ever withheld your papers? Please explain.</i></p>	<p>¿Qué tipo de documento de identidad tiene Ud. en la República Dominicana?</p> <p><i>[Para aquellos que tengan algún documento de identidad], ¿su empleador ha retenido sus documentos alguna vez? Favor explicar.</i></p>	<p>Ki kalite dokiman ou genyen /dokiman/pyes ou gen nan Repiblik Dominikèn?</p> <p><i>[Pou moun ki gen kek dokiman, pyes, kat idantite], eske met travay la konn kenbe dokiman yo kek fwa? Tanpri eksplike.</i></p>

19	TREATMENT OF IRREGULAR MIGRANTS		
	<p>At work, are migrants without papers treated any differently than those who have their papers in order?</p> <p>In what way is the treatment different?</p> <p>Have you heard of someone's migration status being used against them at work? How so?</p> <p>Has anyone at work ever threatened to call migration? <u>Probe</u>: What happened? Who threatened to do this?</p>	<p>En el trabajo, ¿tratan a los migrantes sin documentos de manera diferente a la que tratan a los que tengan sus documentos al día?</p> <p>¿En qué difiere el trato?</p> <p>¿Ha escuchado de algún caso en que se ha utilizado el estatus migratorio en contra de algún trabajador? Favor explicar.</p> <p>¿Alguna vez alguien ha amenazado que van a llamar a Migración/ "la camiona"? <u>Indagar</u>: cómo fue? ¿Quién le amenazó?</p>	<p>Nan travay la, yo trete imigran san papye yon fason diferan ke sa yo ki gen dokiman yo?</p> <p>Ki diferans ki gen sou tretman an?</p> <p>Eske ou tande kek ka kote nou te itilize kondisyon migratwa kont kek travayè? Tanpri eksplike.</p> <p>Èske pa fwa gen moun ki konn fe menase ke yo pral rele imigrasyon? ¿Koman sa te pase?</p> <p>¿Kiyés moun ki te menase w?</p>
20	EARTHQUAKE		
	<p>We are interested in learning more about the effect of the 2010 earthquake in Haiti.</p> <p>How has the earthquake affected your life?</p> <p>Has anything in your life changed since the earthquake in Haiti? Please explain.</p>	<p>Nos interesa aprender más sobre el efecto del terremoto de 2010 en Haití.</p> <p>¿En qué manera le ha afectado el terremoto su vida?</p> <p>¿Algo ha cambiado en su vida desde el terremoto en Haití? Favor explicar.</p>	<p>Kijan tranbleman tè a an Ayiti afekté la vi w?</p> <p>Èske gen bagay ki chanje nan lavi ou depi tranbleman tè an Ayiti? Tanpri eksplike.</p>

21	CONCLUSION		
	Is there anything else you would like to add?	¿Hay algo más que nos quiere contar?	Èske gen kek lòt bagay w ta renmen rakonte m?
	Thank you very much for your time and your valuable contribution.	Muchas gracias por su tiempo y su valioso aporte.	¡Mèsi anpil pou tan ou ak patisipasyon ou!

NOTES/OBSERVATIONS OF INTERVIEWER (fill out after interview):

- Do you have any observations about the disposition/attitude of the interviewee?
- Observations on the worksite or place of interview?

APPENDIX D: LIST OF ALL ABUSIVE AND EXPLOITATIVE PRACTICES DETECTED AGAINST HAITIAN CONSTRUCTION WORKERS IN THE DR

Category	Specific Practices Detected
Labor exploitation	Little to no disclosure of terms of employment
	Forcible signing of document renouncing rights
	Paying ongoing recruitment fee to third party
	Violation of mandatory 36-hour rest period per week
	Obligatory, unpaid overtime
Pay-related abuses	Retention of pay (non-payment, delayed payment, partial pay)
	Withholding for health insurance but providing no coverage
	Payment of less than minimum wage
	Withholding money from pay for "Haitian State," loan payback, etc.
Lending practices	Usurious lending practices by employer and acquaintances
	Obligating workers to buy food from on-site cook (often an acquaintance of <i>maestro</i>) and discounting from pay
Threats	Threat of dismissal
	Death threats with weapon, especially when claiming pay or rights
	Verbal threats
	Calling migration to arrange for deportation
	Threat of physical violence
	Calling police
	Threats to prevent claiming of rights
	Confinement
Verbal abuse	Humiliation and insults
	Racist epithets
	Blame and accusations (of robbery, etc.)
	Yelling to pressure into working harder and faster
Physical abuse	<i>Maestros'</i> hitting with construction materials (hammer, board, etc.)
	Punching, hitting or slapping workers
	Stabbing or cutting
	Excessive demands of physical labor (forcing workers to carry heavy loads up unfinished staircases, etc.)
	Inhumane conditions (no potable water, no breaks, working in rain)
	Physical confinement

Category	Specific Practices Detected
Accidents	Employer negligence: providing neither basic protective gear nor health or accident insurance coverage
	Employer refusal to assume responsibility for workers' care when hurt on job
	Disappearing of body when workers killed on job
Complicit and corrupt authorities	Police abuse, including arbitrary arrest & detention of construction workers, extortion, and threatening workers in complicity with employers
	Employers "calling migration" on pay day to avoid paying workers (though questions remain as to frequency and who is responsible)
	Organization of "false migration raids" in which Haitian workers are rounded up and extorted, but not deported
	Ministry of Labor—reports of inspectors being in cahoots with exploitative labor lawyers and employers
Discrimination (cross-cutting)	Reserving the dirtiest, hardest and most dangerous jobs for Haitian migrant workers
	Providing no health or accident insurance
	Racist verbal abuse
	Directing physical abuse toward Haitians
	Retention and/or destruction of identity documents