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S.E. Leonel Fernández
President of the Republic
Palacio Nacional
Santo Domingo
Dominican Republic

London, 08 March 2006

Dear Mr. President,

I am writing to convey Amnesty International's deep concern with regard to the deteriorating human rights situation of Haitian migrant workers and Dominican nationals of Haitian descent in the Dominican Republic. Since May 2005, Haitian and Dominicans of Haitian descent have been subjected to collective and arbitrary expulsions by the Dominican authorities in violation of the Dominican Republic's obligations under international standards including the American Convention on Human Rights and the International Covenant of Civil and Political Rights. At the same time, in an increasing climate of xenophobia and harassment against them, Haitians and Dominicans of Haitian descent have become the victims of acts of mob violence which have taken the form of physical attacks and even lynchings. In this context it has been alleged that victims have not received adequate protection from the Dominican authorities and official complaints have not been properly investigated.

Collective expulsions of Haitians and Dominican of Haitian descent

According to reports received by Amnesty International, on 9 May 2005 in Hatillo Palma, Montecristi Province, Dominican shopkeeper Maritza Núñez was killed and her husband Domingo Luzón was injured during an attack allegedly carried out by two Haitians. Following this alleged attack, between 13 and 15 May members of the Dominican armed forces accompanied by immigration officials reportedly peremptorily expelled more than 2,000 Haitians and Dominicans of Haitian descent who were living in the area. According to the testimony of those expelled, military personnel entered their homes and places of work in order to round them up. The majority of those expelled were women and children.

During these events, it was reported that police and military authorities denied those about to be expelled their right to submit a reason why they should not be expelled, including through presenting documents proving the legality of their residence in the Dominican Republic, either because they are Dominican nationals or are holders of valid temporary migrant worker permits. According to reports, these documents were confiscated, destroyed or ignored by military personnel during the expulsions. Similarly, the military and immigration authorities did not give Dominicans of Haitian descent the opportunity to prove their citizenship and, according to reports, their documents arbitrarily were declared invalid. Also deported were Haitians over 60 years of age who had lived more than 30 years in the Dominican Republic and who had no longer any ties with their country of origin. It was reported that none of those expelled was allowed to make a telephone call to seek legal representation to challenge the lawfulness of

his or her deportation, nor were they allowed any contact with relatives and/or friends. The decisive criterion for the expulsions appeared to be overtly racist, i.e. based on the skin colour of the persons deported.

The organization has also received allegations of the inhumane manner in which the operation was carried out. Among those subjected to collective arbitrary expulsion were minors, pregnant women, women who had recently given birth and persons over 60 years of age. They were placed on trucks and buses and travelled for more than three hours. According to local non-governmental human rights organizations, they were “piled up like animals.” It was reported that during the expulsion process those deported were denied access to drinking water and food for several hours. The theft by the Dominican authorities of personal possessions was also reported, including money, mobile telephones and even motorcycles. That these deportation operations were not carried out according to national and international standards has not been contested by the Dominican authorities. In a television interview on 11 October 2005, the Dominican Director of Immigration, Sr. Carlos Amarante Baret admitted that on occasions “excesses” were committed during arrests and deportations.¹

Local non-governmental human rights organizations have stated that since May 2005 more than 8,000 Haitians and Dominicans of Haitian descent have been arbitrarily expelled to Haiti. According to the Dominican press² on 15 August 2005 the authorities expelled 1,012 Haitians and a further 310 persons were expelled on 24 October. This practice of collective expulsions means that Haitians and Dominicans of Haitian descent in the Dominican Republic live in the continual fear of being expelled, without an effective opportunity to challenge the decision to expel, and in conditions that are abusive of their fundamental human rights.

While Amnesty International recognizes the Dominican Republic’s right to manage its borders, this cannot be at the expense of the human rights of any migrant, regardless of his or her legal status. Any attempt to expel a person must follow due process and conform with national and international human rights standards. Importantly, all persons subject to expulsion procedures must have their case decided individually, have access to competent legal counsel and be able to present reasons against the contemplated expulsion. In addition, all appeals against expulsion should have suspensive effect and should be examined by a competent, independent authority. As a member of the United Nations (UN), the Dominican Republic has the duty to uphold the principles of the Universal Declaration of Human Rights. The Declaration enshrines internationally recognized human rights, and many of its provisions are considered to be reflective of customary international law binding on all states.

The collective expulsions of Haitians and Dominicans of Haitian descent from the Dominican Republic have been a concern of Amnesty International for several years and the organization has previously written to the Dominican authorities in regard to this practice.³ In reference to the collective and arbitrary expulsion, Amnesty International would like to remind the government of the Dominican Republic of the obligations assumed by the country following the ratification of the American Convention on Human Rights, which expressly prohibits the collective expulsion of foreign nationals (Article 22.9), and the International Covenant of Civil and Political Rights (Article 13).

The UN Human Rights Committee has also affirmed that most of the rights set forth in the International Covenant of Civil and Political Rights (ICCPR) are applicable to aliens regardless of immigration status. In its interpretation of Article 13 of the ICCPR, the UN Human Rights Committee declared that: “[the article’s] *purpose* [...] *is clearly to prevent arbitrary expulsions* [...] *it entitles each alien to a decision in his own case and, hence, Article 13 would not be satisfied with laws or decisions providing for collective*

¹ EFE, 11 October 2005

² Hoy Digital, 16 August 2005

³ See letter from Amnesty International to the Dominican government (reference: TG AMR 99/27.13), 18 November 1999.

or mass expulsions.”⁴ Article 2 of the ICCPR calls on each state party to undertake “to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized” therein. In this regard, the UN Human Rights Committee has stated that “Article 2 requires that States Parties adopt legislative, judicial, administrative, educative and other appropriate measures in order to fulfil their legal obligations. The Committee believes that it is important to raise levels of awareness about the Covenant not only among public officials and State agents but also among the population at large.”⁵

Amnesty International calls on your government to ratify without delay the UN International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (The Migrant Workers Convention) which came into force on 1 July 2003. The Convention outlines the human rights safeguards which all migrant workers and their families, regardless of their status, must receive. Under the provisions of the Convention, migrant workers are entitled to protection of their fundamental human rights, including protection against collective expulsion. Collective expulsions are inherently arbitrary since it is impossible to guarantee and respect the rights of each individual, especially the rights of those most vulnerable such as children, and the elderly, to provide the necessary procedural guarantees and to ascertain whether among those expelled are some who are legally entitled to be in the country. Amnesty International believes that ratification and full implementation of the Migrant Workers Convention is an important affirmation of your country’s commitment to respect, protect and promote the human rights of everyone on your territory.

The collective expulsions also contravene the undertakings agreed by the Dominican Republic following its signing of the *Protocol of understanding on the mechanisms of repatriation* with the Haitian government in December 1999, by which the Dominican Republic undertook to improve its deportation mechanisms. Among the commitments made by the Dominican Republic are the following guarantees: not to deport Haitians at night (between 6:00 p.m and 6:00 a.m), during Saturday afternoons or during public holidays in both countries; to avoid separating nuclear families during the process of repatriation; to allow those being deported to collect their belongings and keep their identity documents; to give to each person being deported a copy of their deportation order and inform the Haitian authorities beforehand about the repatriations. According to the information received by Amnesty International, in the majority of cases of repatriation which occurred during 2005, Dominican military and immigration officials did not fully comply with these commitments.

With regard to the legal status of Dominicans of Haitian descent, Amnesty International would like to draw your attention to the 8 September 2005 ruling from the Inter-American Court of Human Rights in the case of *Dilcia Yean and Violeta Bosico v. Dominican Republic*. The Inter-American Court condemned the country’s discriminatory application of nationality and birth registration laws and affirmed the human right to a nationality. The Court found that the denial of Dominican nationality to the two girls, who are of Haitian descent, born on Dominican territory and have lived there all their lives, is in contravention of the American Convention on Human Rights and the Dominican Republic’s Constitution. Due to this denial of nationality, they were unable to obtain birth certificates or enrol in school, and remained vulnerable to expulsion. The Court called on the Dominican authorities to take legislative and administrative measures to remedy this situation. Article 11 of the Dominican Constitution confers Dominican nationality on all those who are born within the country’s territory, with the exception of children of foreign diplomats and of foreign individuals “in transit”. However, in its report on the human rights situation of the Dominican Republic in 1999, the Inter-American Commission on Human Rights called into question the concept of “in transit” stating that “[...] around 500,000 undocumented Haitian workers live in the Dominican Republic. Many of these are people have lived in the country for 20 or 40 years and many of them were born in Dominican territory [...] It is not possible

⁴ UN Human Rights Committee - General Comment No. 15: The position of aliens under the Covenant, paragraph 10; 11 April 1986.

⁵ UN Human Rights Committee - General Comment No. 31: Nature of the General Legal Obligation on States Parties to the Covenant, paragraph 7; 29 March 2004.

to consider persons to be in transit who have lived for many years in a country where they have developed innumerable links of all kinds.”⁶

Incidents of mob violence against Haitians and Dominicans of Haitian descent

Following the murder of the Dominican shopkeeper in Hatillo Palma in May 2005, a growing climate of racism and xenophobia has existed against Haitians and Dominicans of Haitian descent which has manifested itself in physical attacks and killings in different areas of the country. These acts of violence have taken place in border communities, from Montecristi, in the north-west, to Elías Piña in the centre and Pedernales in the south-west, and has spread to other regions such as Santiago, Moca and to Higüey in the far east of the country. It is with profound concern that Amnesty International has received reports of a dozen lynchings and violent attacks against Haitians. According to reports, these random attacks have taken place in apparent reprisal for attacks against and killings of Dominican citizens which have been attributed to Haitians. According to the information received, groups of Dominican citizens armed with firearms, sharp instruments, baseball bats and rocks have attacked, causing deaths or injuries, and looted property of persons suspected of being Haitian, often solely based on the colour of their skin.

According to the Dominican press, on 16 August, three young Haitians, Pablo Marcos, Willie Pie and Gilbert Dominique, 19, 20 and 22 years old respectively, were sprayed with a chemical substance and set alight in the Mirador Oeste sector of the capital Santo Domingo. They died four to seven days later in hospital. A fourth Haitian, Bernius Pierre, managed to escape and reported that among their attackers was an individual dressed in police uniform who was carrying a firearm. The press reported that the Chief of Police appointed a commission to investigate the incident. Amnesty International would welcome information in regard to any progress made in the investigation.

Amnesty International is gravely concerned by reports which indicate the apparent indifference of the Dominican security forces to intervene and the lack of investigation of these crimes on the part of the Dominican authorities. States are required to exercise due diligence to protect the security and physical integrity of persons under its jurisdiction, including by investigating criminal acts and bringing the perpetrators to justice and ensuring reparation for the victims. Amnesty International expects the Dominican authorities to take the appropriate measures to effectively prevent and investigate with the same rigour violent acts perpetrated against both Dominican citizens and Haitians alike.

Other cases of attacks against Haitians or Dominicans of Haitian descent which have been reported by the Dominican press and require the immediate attention of the Dominican authorities to ensure they are effectively investigated and those found responsible brought to justice include:

- the bodies of two Haitians who had been shot were found on 12 May 2005 on the Santiago-Tamboril road;
- on 23 May 2005 sisters Lilian and Ana Luz Pierre were beaten and stabbed to death in Puerto Plata;
- on 24 June 2005 Daniel Pie died from knife wounds he sustained in the town of Comendador, Elías Piña Province. Two days later Boca Pie (no relation) was shot to death in the same town;
- on 7 September 2005, the murder of a hotel employee attributed to a Haitian in the tourist area of Bavaro, Altagracia Province led to attacks against Haitians and the looting of their property;
- a similar incident took place on 8 September 2005 following the murder of a Dominican in Barranca, Bahoruco Province. Two Haitians were hospitalized after receiving wounds from a machete. Around twenty Haitians had to seek refuge in the parish house of the local sugar cane plantation settlement;

⁶ Inter-American Commission on Human Rights, “Report on the Human Rights Situation in the Dominican Republic”, OEA/Ser.L/V/II.104, doc.49, rev. 1, 7 October 1999, paragraph 363.

- the body of a seven year old Haitian girl, Iliana Magolé Pierre was found on 22 September 2005 in a rice paddyfield in Esperanza in the region of Mao, Valverde Province She had been raped and her body cut into pieces;
- on 27 September 2005, two unidentified bodies which according to press reports had “Haitian features”, were found under a bridge in Jamao al Norte, Espaillat Province;
- on 7 December 2005 a mob of Dominicans burned at least 35 dwellings belonging to Haitians following the murder of a Dominican man who had reportedly been hacked to death with machetes by a group of Haitians during in a robbery near Villa Trina in the north of the country. The body of a murdered Haitian was found by Dominican authorities in the same town a few days later;
- 21 January 2006, the killing of a Dominican Air Force sergeant in the town of Guerra lead to a revenge attack which left seven Haitians injured, including a nine year old boy and 27 houses families were torched to the ground, the majority of which belonging to Haitian families.

The organisation is also extremely concerned by incidents of mob violence against Dominicans of Haitian descent on racial grounds. As a State Party to the *International Convention on the Elimination of All Forms of Racial Discrimination*, the Dominican Republic must prohibit and eliminate racial discrimination in all its forms and guarantee every person the right to equality before the law, regardless of their race, colour and national or ethnic origin. Article 5 b) establishes that every person has “*the right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution*”. Law enforcement institutions must act promptly and decisively to prevent and respond to these attacks, in all their forms, against persons who are particularly vulnerable due to their race, colour, lineage, or national or ethnic origin. All alleged acts of racism must be effectively investigated and their perpetrators prosecuted. Law enforcement officials must receive specific instructions and training on how to identify and investigate racially-motivated crimes, and how to enforce the rights of the victim.

Human rights defenders

Amnesty International has received with concern reports of harassment against human rights defenders working on behalf of the rights of Haitians in the Dominican Republic. Two Catholic priests who provide pastoral care for Haitian migrants, Father Pedro Ruquoy and Father Christopher Hartley, have allegedly received threats, supposedly because of their work in the defence of the rights of Haitians and Dominicans of Haitian descent. Father Ruquoy had to leave the Dominican Republic in November of last year due to this harassment, following 30 years of missionary work in the country. Amnesty International has also learned of the decision of Sonia Pierre, Director of the non-governmental organization, *Movimiento de Mujeres Dominicano-Haitianas* (Dominican-Haitian Women’s Movement) to leave the Dominican Republic as a result of the hostile atmosphere in which those working to defend the rights of Haitians currently find themselves.

The Dominican authorities have the duty to protect all those who work in defence of human rights. Amnesty International calls on the Dominican government to adopt clear and public policies in relation to human rights defenders, policies which promote the implementation of the principles enshrined in the *Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms* adopted by the UN General Assembly on 9 December 1998.

In light of these concerns, Amnesty International calls on the Dominican government to:

- ensure there are no further collective expulsions and no further expulsions which are unlawful, arbitrary and discriminatory;
- respect and implement the *Protocol of understanding on the mechanisms of repatriation*, signed by the Dominican Republic and Haiti on 2 December 1999 and take concrete measures to put

into practice this Protocol which has as its goal to “*protect the human rights inherent to those repatriated*”;

- guarantee access to procedural safeguards to each person subjected to deportation, including access to competent legal advice, the opportunity to appeal with suspensive effect against deportation, and to have that appeal examined by a competent, independent authority;
- compensate all migrant workers expelled who were not allowed to collect their personal belongings or receive salaries or other payments that were owing to them in the Dominican Republic;
- ensure, in line with its obligations under the Convention on the Rights of the Child, that all children born in the Dominican Republic are registered at birth, and that children of Haitian descent are not rendered stateless through discriminatory denial of nationality;
- put an end to and investigate the mistreatment allegedly perpetrated by military personnel and other agents of the State during collective expulsions; make public the results of investigations, and ensure that those found responsible for these violations are brought to justice and that victims receive due reparation;
- take effective measures to reduce the climate of racism and xenophobia in the Dominican Republic and put an end to the mob violence against Haitians and Dominicans of Haitian descent;
- investigate the killings and official complaints of victims of mob violence; make the results of these investigations public, and bring those found responsible for these violations to justice;
- protect and support the work of human rights defenders who work on behalf of the rights of Haitians migrant workers;
- fully implement the recommendations contained in the September 2005 ruling from the Inter-American Court of Human Rights in the case of *Yean and Bosico vs. Dominican Republic*;
- ratify the UN International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families and effectively implement its provisions.

The President recognized publicly during a seminar on immigration policy on 23 June 2005 that collective expulsions of Haitians were carried out “*in an abusive and inhuman way*”, adding that “*I myself feel offended when I see that what we traditionally do are mass deportations, that certainly do violate the human rights of Haitians, and we cannot permit that in the country we portray an international image that we violate the human rights of our neighbours.*”⁷. Amnesty International would therefore like to respectfully request the President to inform us what measures he envisages be taken by the Dominican authorities to immediately improve the situation of Haitians and Dominicans of Haitian descent highlighted above. We would also like to inform you that Amnesty International has decided to make this letter public.

I look forward to your reply.

Yours sincerely,

Irene Khan
Secretary General
Amnesty International

⁷ Diario Listín, 24 June 2005