

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR  
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The Dominican Republic is a representative constitutional democracy with a population of approximately 9.7 million, plus an estimated 900,000 to 1.2 million undocumented immigrants, mostly Haitians or their descendents. In May 2008 voters elected President Leonel Fernandez of the Dominican Liberation Party (PLD) for a third term, and in 2006 elections the PLD won majorities in both chambers of Congress. Impartial outside observers assessed both elections as generally free and fair. While civilian authorities generally maintained effective control of the security forces, there were instances in which elements of the security forces acted independently.

Although the government's human rights record continued to improve, serious problems remained: unlawful killings; beatings and other abuse of suspects, detainees, and prisoners; poor to harsh prison conditions; arbitrary arrest and detention of suspects; a large number of functionally stateless persons; widespread corruption; harassment of certain human rights groups; violence and discrimination against women; child prostitution and other abuses of children; trafficking in persons; severe discrimination against Haitian migrants and their descendants; violence and discrimination against persons based on sexual orientation; ineffective enforcement of labor laws; and child labor.

## **RESPECT FOR HUMAN RIGHTS**

Section 1 Respect for the Integrity of the Person, Including Freedom From:

### **a. Arbitrary or Unlawful Deprivation of Life**

The government or its agents did not commit any politically motivated killings; however, there were numerous reports that security forces were involved in many killings that were unlawful, unwarranted, or involved excessive use of force.

According to the Attorney General's Office, police killed 346 persons in 32 jurisdictions in the course of duty during the year, a decrease from 455 police killings reported in 2008. Lack of training, accountability, and inadequate supervision by superiors contributed to these police killings. Human rights nongovernmental organizations (NGOs) asserted that, as in previous years, the police continued to employ unwarranted deadly force against criminal suspects.

In May eyewitnesses reported that a police officer shot and killed 19-year-old Jose Gomez Taveras at point-blank range after forcing him to kneel, even though he seemed cooperative.

In October five police officers shot and killed two suspected kidnappers in Guayabin, Montecristi Province, in what the officers asserted was an "exchange of gunfire." In November the police chief established a three-member investigatory committee headed by a special prosecutor to investigate the incident. The committee rejected the officers' assertion and concluded that the officers, along with a marine sergeant accomplice, executed the suspects. The five officers and the marine sergeant were free on bail and awaiting their trial at year's end.

On October 17, a police officer shot and killed 23-year-old Lissandro Cuevas Ferreras, who was handcuffed while waiting for medical attention at a hospital in San Cristobal. Authorities detained the officer involved and initiated an investigation.

There were reports of use of excessive force throughout the year against demonstrators and protesters by members of the security forces. Security forces routinely dispersed protesters with tear gas and water cannons, as well as with live fire. On July 17, during a demonstration in Santo Domingo, police opened fire on a group of protesters, and two persons were killed, including a minor. Ballistics tests confirmed an officer's gun fired the bullet that killed the boy, and authorities brought charges against the officer involved, who awaited trial at year's end.

In July a court convicted and sentenced to 12 years in prison the two officers involved in the May 2008 deaths of four civilians and one police officer in Boca Chica.

There was no information available about the police killing of three minors who were suspected in a store robbery in May 2008.

There were no known developments in the case of the 2008 police killing of a minor during a demonstration or the police killing of a 17-year-old playing basketball near a demonstration.

Despite previous reports that the inspector general had named a commission to investigate the 2007 police killing of Rafael Concepcion while in police custody and that the police officers involved in the shooting had been detained, there was no information that anyone was assigned to investigate or that any charges were filed.

On a number of occasions reported in the media, citizens attacked alleged criminals in vigilante-style reprisals for theft, robbery, or burglary. These incidents were attributed to an increase in crime and the inability of security forces to stem or combat these crimes.

In August a mob in the province of Azua killed a Dominican and a Haitian national and afterwards set both bodies on fire in retaliation for an alleged murder of a community resident. In October a group of armed assailants attacked and killed three Haitians, including two minors, who were preparing charcoal from illegally harvested trees near Jimani. Judicial authorities charged two men as accomplices in the murder of the three Haitians, and an investigation continued at year's end.

#### b. Disappearance

There were no reports of politically motivated disappearances.

Despite the Public Ministry's 2007 announcement that it would reopen the investigation, there were no developments, and none were expected, in the case of journalist Narciso Gonzalez, who disappeared in 1994 after allegedly criticizing the government.

#### c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

Although the law prohibits torture, beating, and physical abuse of detainees and prisoners, members of the security forces, primarily police, continued such practices. The Attorney General's Office reported that the police were involved in incidents that resulted in maiming or severely injuring unarmed civilians. However, improvements in oversight, awareness, and accountability led to a perception that the police were making efforts to reduce incidents of physical abuse of detainees. Nonetheless, human rights organizations stated that uniformed vigilantism persisted on a nonlethal level. There were also reports of use of excessive force against demonstrators and protesters by members of the security forces.

The law provides penalties for torture and physical abuse, including sentences from 10 to 15 years in prison. Civilian prosecutors sometimes filed charges against police and military officials alleging torture, physical abuse, and related crimes. Authorities sent abuse and torture cases to civilian criminal courts rather than police tribunals.

Senior police officials treated the prohibition on torture and physical abuse seriously, but lack of supervision and training throughout the law enforcement and corrections systems undercut efforts to contain the problem. Although observers agreed that conditions improved somewhat due to an increase in professionally trained corrections officers, human rights groups and prisoners reported physical abuse of detainees, most commonly beatings. In July the president of the National Commission on Human Rights, an NGO, made a formal complaint to the chief of police, alleging that torture had been used as a method of interrogation in several instances throughout the country.

On April 3, an arrestee reported that a police officer forced a potato into his mouth, put a bag over his head, and beat him with a phone book. On September 27, in another incident, police forced an onion into a suspect's mouth, pulled a bag over his head, and beat him with a glass bottle.

There were no developments in the May 2008 beating of a missionary who refused to remove her clothing for examination at the Najayo prison or in the 2007 complaint by the National Commission on Human Rights against the police with regard to the case of Javier Vicente Reyes Segura.

Lawyers from the National District prosecutor's office monitored the investigative process to ensure that detainees' rights were respected in high-volume police stations and in several National Drug Control Directorate (DNCD) offices. Assistant prosecutors at times reportedly acquiesced in improper police practices rather than insisting they be changed to conform to constitutional standards.

#### Prison and Detention Center Conditions

While prison conditions generally ranged from poor to extremely harsh, the government made advances with newer "model prisons" known as Correctional and Rehabilitation Centers (CRCs) where prisoners experienced improved conditions in comparison to the other facilities. According to the Office of the Attorney General, there were 18,701 prisoners and detainees held in 36 prisons, with an intended capacity of approximately 10,000. The new CRCs held 2,864 prisoners, while 15,837 prisoners were held in conventional prisons. Virtually all prisons, other than the CRCs, experienced extreme overcrowding. La Victoria prison, the largest in the country, held more than 4,000 prisoners in a facility designed for 1,300. This severe overcrowding led to an informal market wherein prisoners paid as much as 40,000 pesos (approximately \$1,200) to acquire a bed. The cell blocks consisted of makeshift bed cubicles, stacked three high, in a densely packed warren of cells. Air circulation was a problem, and the danger of a fire outbreak was high.

Reports of mistreatment and inmate violence in prisons were common, as were reports of harassment, extortion, and inappropriate searches of prison visitors. Health and sanitary conditions were poor, and some prisons were out of the control of authorities and effectively run by criminal gangs of armed inmates. In May a riot to protest lack of water at the Santiago juvenile detention center resulted in a fire in which two prisoners died; in two other prisons that same month, violence among prisoners led to the injury of at least 11 prisoners. On September 2, seven prisoners in La Romana prison were injured during what was reported as an altercation between rival gangs; another report suggested that the incident had been a prisoners' riot to protest prison conditions, including water shortages. A common sentiment among prison wardens at conventional prisons was that while the wardens may control the perimeter, inside the prison the inmates often made their own rules and had their own system of justice. In general this situation differed from the CRCs, where specialized prison guards increased control of prison areas. The attorney general reported that the incidence of corruption within the CRCs remained minimal.

Budget allocations for necessities such as food, medicine, and transportation were insufficient. Most inmates begged for or purchased food from persons in the vicinity of the prison or obtained it from family members. Prisoners were often not taken to their trials unless they paid bribes to the guards, and visitors often had to bribe prison guards in order to visit prisoners. Similarly, detainees had to pay bribes to be allowed to attend vocational training offered at some facilities. Prison officials accepted money in exchange for a recommendation that a prisoner be furloughed or released for health reasons. There were credible allegations that prisoners could obtain early release on parole for a bribe. Prisons often did not provide adequate medical care to inmates. Prisoners immobilized with HIV/AIDS or who had terminal illnesses were not transferred to hospitals.

The National Directorate of Prisons reported at least 52 deaths in prisons; 38 of the reported deaths in prison were related to various illnesses, including tuberculosis and HIV. Other deaths and injuries were reported as the result of violence, and guards reportedly shot and killed two prisoners who were attempting to escape.

Although a warden who reports to the attorney general was technically responsible for running each prison, in practice police or military officers (generally appointed for a period of only three to six months and responsible for providing security) were usually in charge of most prisons. Approximately 80 percent of prison guards were military or police officers rather than civilian correctional officers, who were employed exclusively at the CRCs.

There were continued allegations of drug and arms trafficking, prostitution, and sexual abuse within the prisons. There continued to be special sections within prisons where police officers convicted of criminal activity, including a few known human rights abusers, were interned.

As of September, 12 CRCs were built or converted from conventional prisons, while still more were scheduled to open in the near future. However, this improvement for 16 percent of the prisoners came at the expense of others in the system, because when a facility was converted to a model prison, excess inmates were transferred to other locations, principally La Victoria, increasing the strain on that already-overcrowded facility.

Female inmates generally were separated from male inmates. Half of all female inmates were held in prisons only for women. Conditions in the prison wings for women generally were better than those in prison wings for men. Female inmates, unlike their male counterparts, were prohibited from receiving conjugal visits. Those who gave birth while incarcerated were permitted to keep their babies with them up to a year.

Juveniles were processed using specialized juvenile courts and, with increasingly rare exceptions, were held in juvenile facilities.

Because of serious overcrowding, authorities at many smaller facilities, such as Higuey prison, did not attempt to segregate prisoners according to the severity of criminal offense.

Pretrial detainees were held together with convicted prisoners. The Directorate of Prisons estimated that 62 percent of the prisoners were in preventive custody, awaiting trial. This figure was difficult to verify, as many prisoners were considered to be in preventive custody after an initial conviction because they were awaiting an appeal. The law states that the pretrial waiting period should not exceed three months, but it can be extended up to a year in certain cases.

There were also insufficient efforts to segregate and provide services to the mentally ill, especially at conventional prisons.

The government permitted prison visits by independent human rights observers and the media, and such visits took place during the year.

#### d. Arbitrary Arrest or Detention

Although the criminal procedures code (CPC) prohibits detention without a warrant unless a suspect is apprehended in

the act or in other limited circumstances, arbitrary arrest and detention continued to be problems. By law authorities may detain a person without charges for up to 48 hours. There were numerous reports of individuals held and later released with little or no explanation for the detention.

#### Role of the Police and Security Apparatus

The National Police, the National Department of Intelligence (DNI), the DNCD, the Airport Security Authority (CESA), the Port Security Authority (CESEP), the Border Authority (CESFRONT), and the armed forces (army, air force, and navy) form the security forces. The Secretariat of Interior and Police is responsible for making policy decisions affecting the police force. The military, CESA, CESEP, and CESFRONT are under the secretary of the armed forces; the DNI and the DNCD, which have personnel both from the police and military, report directly to the president.

In 2008 the police chief announced a zero tolerance policy for human rights abuses. Police officers were fired or prosecuted through the criminal justice system when found to have acted outside of established police procedures. In March a special police commission was designated to investigate police officers who had alleged links to narcotraffickers. The police arrested and prosecuted 31 police officers from Puerto Plata and 20 officers from Bonao.

The Internal Affairs Unit effectively investigated charges of gross misconduct by members of the National Police. These cases involved physical or verbal aggression, death threats, improper use of a firearm, muggings, and theft. By December Internal Affairs had conducted 2,664 investigations that resulted in 332 dismissals and 985 sanctions.

On many occasions police officials attempted to solicit bribes from individuals facing arrest or imposition of fines. Local human rights observers reported on a few occasions that immigration and police authorities rounded up undocumented construction workers and other manual laborers of Haitian origin or descent to extort money from them. NGOs alleged corruption among the military and migration officials stationed at border posts and noted that these officials sometimes were complicit in the illegal transit of Haitian workers into the country.

The Institute of Human Dignity, a branch of the National Police, conducted training courses for police officers. In the revised police curriculum, both new and existing officers received human and civil rights training as well as increased technical training. In addition the Police Academy trained police officers to engage suspects with less lethal force.

Training for military and DNCD enlisted personnel and officers included instruction on human rights. The Military Institute of Human Rights offered diploma courses in human rights and regularly sent representatives to border units to conduct mandatory human rights training. The Secretariat of the Armed Forces provided human rights training or orientation to 1,266 officers of various ranks as well as civilians during the year.

#### Arrest Procedures and Treatment While in Detention

The constitution provides that an accused person may be detained for up to 48 hours without a warrant before being presented to judicial authorities. It also provides for recourse to habeas corpus proceedings to request the release of those unlawfully held. Any prisoner detained for more than 48 hours without being formally charged is entitled to file a motion of habeas corpus. The presiding judge at the habeas corpus hearing is empowered to order the prisoner's release when the prisoner has been detained for more than 48 hours without being formally charged or when there is insufficient proof of a crime to warrant further detention. The judge's decision to release a prisoner is subject to appeal by the district attorney.

The law also permits police authorities to apprehend without an arrest warrant an accused person when the person is caught at the moment of committing a crime or could be reasonably linked to a crime (e.g. escaped from prison or detention facility, hot pursuit, etc.).

The CPC establishes a more restrictive 24-hour time limit in which to make formal charges, which was generally observed.

Despite the foregoing provisions, at times the police detained suspects for investigation or interrogation longer than 48 hours. Police often detained all suspects and witnesses in a crime and used the investigative process to determine the individuals who were innocent and merited release and those whom they should continue to hold. Even so, successful habeas corpus hearings reduced these abuses significantly.

Although previously granted only to a few defendants, bail became more common under the new CPC, which requires judicial review of detentions at an earlier point in a criminal case, but the system proved inadequate to prevent defendants from going into hiding. In some cases observers suspected that the granting of bail and subsequent disappearance of the suspect were due to corruption or inefficiencies within the judicial system.

The law requires provision of counsel to indigent defendants, but most detainees and prisoners unable to afford defense

services did not have prompt access to a lawyer. The National Office of Public Defense provided legal advice and representation to indigent persons, but resource constraints resulted in inadequate levels of staffing. Nationwide there were 16 public defense offices, with 184 public defenders, 72 part-time defense lawyers, and 23 investigators. The government continued its program to train public defenders on relevant changes caused by implementation of the CPC and expanded training for prosecutors.

Police continued the practice, albeit less frequently than in previous years, of making sporadic sweeps or roundups in low-income, high-crime communities, during which they arrested and detained individuals without warrants, allegedly to fight delinquency. During these sweeps police arrested large numbers of residents and seized personal property allegedly used in criminal activity.

Many suspects endured long pretrial detention. Under the CPC the judge has authority to order a detainee to remain in police custody between three months and one year. According to the Directorate of Prisons, average pretrial detention typically was between three and six months. Time served in pretrial detention counted toward completing a sentence. The Public Ministry continued implementing an automated case-tracking system that permitted prosecutors to adhere more effectively to pretrial detention regulations and thereby reduce the number of occasions when the CPC time limits were exceeded. This system covered 15 of 32 district attorney offices.

Juveniles at the Department for Minors at the Villa Juana police station commonly were held well beyond the 12-hour limit for sending the case to the district attorney's office. The law prohibits interrogation of juveniles by the police or in the presence of police. Prosecutors and judges handled juvenile interrogations.

The failure of prison authorities to produce the accused for court hearings caused a significant percentage of trial postponements. Inmates often had their court dates postponed because they were not taken from prison to court or because their lawyer, codefendants, or witnesses did not appear. The government did not provide funding to transport all defendants between prison and court. Despite additional protections for defendants in the CPC, in some cases the authorities continued to hold inmates beyond the mandated deadlines even though there were no formal charges against them.

The judiciary has judicial service offices in La Vega, Moca, and Puerta Plata. These offices allowed urgent matters in need of a judge (such as obtaining an arrest or search warrant and conducting arraignments) to be attended to 24 hours a day. These judicial service offices were part of an effort to increase efficiency and reorganize the courts so they operate in conformance with the CPC. This reorganization proceeded at a steady, if not rapid, pace.

#### e. Denial of Fair Public Trial

The law provides for an independent judiciary; however, despite increasing independence in the judiciary, instances of political influence in decision making were still evident. Interference by public entities, when it occurred, tended toward public pronouncements regarding active cases and selective prosecution, as opposed to direct intervention in existing cases. On occasion, however, it appeared that judges in superior courts attempted to influence lower court decisions. In addition, corruption continued to be a serious problem (see section 4).

The judiciary consists of a 16-member Supreme Court, various appeals courts, courts of first instance, and justices of the peace. There are specialized courts that handle tax, labor, land, and juvenile matters. A Magistrate's Council selects Supreme Court justices based on factors such as general reputation and time in service, although the political composition of the council leaves open the possibility for patronage appointments. Lower court judges are appointed following passage of rigorous entrance examinations, completion of a training program, and successful completion of an examination.

Public defenders and public prosecutors were typically well qualified; their particular organizations required passage of objective examinations for employment.

#### Trial Procedures

The law provides for a presumption of innocence, the right of appeal, and the right to confront or question witnesses. The law establishes a citizen's right not to be deprived of liberty without trial or legal formalities or for reasons other than those provided by law, the right against self-incrimination, and the right to a defense in an impartial and public trial. Defendants have the right to remain silent. The law also provides for a public defense attorney to every person that cannot afford an attorney.

There were credible allegations that authorities violated these rights in some cases, but there was improved adherence to due process as authorities became increasingly familiar with the modifications to the CPC. The district attorney's office must notify the defendant and attorney about the criminal charges as well as the evidence the district attorney's office will present in court. Defendants and attorneys have access to government-held evidence, but only after the preliminary

hearing, when the indictment is approved by the judge.

Military and police tribunals shared jurisdiction over cases involving members of the security forces. While the tribunals have jurisdiction over cases involving breaking internal rules and regulations, civilian criminal courts handled cases of killings and other serious crimes allegedly committed by members of the security forces.

#### Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

#### Civil Judicial Procedures and Remedies

There are separate court systems for claims under criminal law, commercial and civil law, and labor law. Commercial and civil courts reportedly suffered lengthy delays in adjudicating cases, although their decisions were generally enforced. As in criminal courts, undue political or economic influence in civil court decisions remained a problem.

Citizens had recourse to the remedy of "amparo," an action to seek redress of any violation of a constitutional right, including violations by judicial officials. Although this remedy was rarely used except by those with sophisticated legal counsel, civil society and journalists sought amparo in some major cases during the year.

#### f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The law prohibits arbitrary entry into a private residence, except when police are in hot pursuit of a suspect or when a suspect is caught in the act of committing a crime. The law provides that all other entries into a private residence require an arrest warrant or search warrant issued by a judge. In practice, however, the police conducted illegal searches and seizures, including raids without warrants on private residences in many poor Santo Domingo neighborhoods.

Although the government denied using unauthorized wiretapping or other surreptitious methods to interfere with the private lives of individuals and families, human rights groups and opposition politicians alleged such interference continued.

#### Section 2 Respect for Civil Liberties, Including:

##### a. Freedom of Speech and Press

The law provides for freedom of speech and of the press, and the government generally respected these rights in practice. Individuals or groups generally were able to criticize the government publicly and privately without reprisal, although a national journalists' association reported threats and aggression against journalists.

Newspapers and magazines presented a variety of opinions and criticisms. There were eight daily newspapers, a number of weekly newspapers, and numerous online news outlets. Editors at times seemed to practice self-censorship, particularly when coverage could adversely affect the economic or political interests of media owners. Coverage of the major bank fraud trials was also often influenced by the fact that two of the major newspapers were owned by defendants in the trials.

On May 22, a judge ordered Senator Alejandro Williams to cease and desist from all actions against three journalists, Margarita Cordero, Maria Isabel Soldevila, and Norma Sheppard. The three journalists had filed suit against the senator, saying that men whom he had hired posed as foreign investigators and harassed the journalists for their unfavorable reporting about Williams.

In June 2008 a district attorney, Victor Cordero Jimenez, allegedly attacked journalist Manuel Guillermo Mejia when the latter questioned Cordero's performance in a drug-related case, which ultimately led to the dismissal of Cordero. Subsequently, Bani Senator Wilton Guerrero accused Cordero of complicity with drug dealers in the province. Cordero filed a suit against the senator, claiming defamation and libel, but a judge dismissed the charges.

There were many privately owned radio and television stations, broadcasting a wide spectrum of political views. The government owned one official television and radio station. International media operated freely.

There were no known developments in the case of cameraman Normando Garcia, who was killed in Santiago in August 2008.

The National Journalists' Union reported that civil, police, and military authorities, criminals, and other persons assaulted or threatened more than 70 journalists during the year. In October the NGO Reporters Without Borders' evaluation of press freedom in the country cited a high index of violence, harassment, and abuse against news organizations and journalists. The government did little to investigate the threats of violence or physical attacks on journalists.

## Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. Internet access was widely available, including Wi-Fi hotspots. Blog functions were also available on several local press sites that allowed strongly stated views against the government and other powerful sectors. According to the International Telecommunication Union, there were 22 Internet users per 100 inhabitants in 2008.

## Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

### b. Freedom of Peaceful Assembly and Association

#### Freedom of Assembly

The law provides for freedom of assembly, but outdoor public marches and meetings require permits, which the government usually granted. On several occasions, police officers used force to break up spontaneous demonstrations and killed or injured demonstrators or bystanders (see section 1.a.).

#### Freedom of Association

The law provides for freedom of association, and the government generally respected this right in practice.

### c. Freedom of Religion

The constitution provides for freedom of religion, and the government generally respected this right in practice. The law prohibits discrimination on religious grounds, and many religious denominations were active.

The Catholic Church enjoyed special privileges not extended to other religions, under the terms of a concordat signed in 1954. For example, the government only recognizes civil and Catholic marriages.

## Societal Abuses and Discrimination

There were no reports of societal abuses or discrimination against members of religious groups. The Jewish community was very small, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2009 International Religious Freedom Report* at [www.state.gov/g/drl/rls/irf](http://www.state.gov/g/drl/rls/irf).

### d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice; however, there were some exceptions. Local and international human rights groups reported that hundreds of thousands of persons without proper documentation, including Haitian migrants and other persons of Haitian descent, faced obstacles in traveling both within and outside of the country.

Although the government claimed it no longer practiced mass deportation, such practices were still reported. The new border control authority reported that from January to September, it had repatriated 6,619 Haitians. NGOs reported that in the majority of these cases, the government's agents did not follow due process or internal basic human rights guidelines, despite the terms of a bilateral agreement with Haiti regarding repatriation of undocumented Haitians and express instructions from the director of migration to follow the guidelines.

The law prohibits forced exile, and there were no reports of its use.

## Protection of Refugees

The country is a party to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, and the government established a system for providing protection to refugees but has not implemented it effectively.

An applicant for refugee status must be referred by the National Office of Refugees in the Migration Directorate to the Technical Subcommittee of the National Commission for Refugees, which is chaired by the Foreign Ministry. The subcommittee has the responsibility of making a recommendation to the commission, consisting of members from the Foreign Ministry, the DNI, and the Migration Directorate. The full commission has the responsibility for the final decision on the application but met only twice during the past 15 years.

As of December the Migration Directorate reported between 400 and 500 asylum applications, nearly all made by Haitians. Some of these cases had been awaiting decision since 2000, but five cases were approved (three Russians, one Haitian, and one Guatemalan), and 85 new cases were filed during the year. According to NGOs, hundreds of other

asylum seekers submitted claims that had not been processed, leaving those individuals in a state of legal limbo for years. Most of these individuals lacked documentation sufficient to obtain permission to work legally and to exercise other rights, such as obtaining documentation for their children.

Although the government provided some protection against the expulsion or return of persons to countries where their lives or freedom might be threatened, there was still a risk of deportation. Protection generally applied to individuals who gained access to the refugee process and had been issued proof that they were refugees or had applications pending. The documents provided do not bestow significant legal rights, including residency, or prevent disruption of educational studies past eighth grade to children of refugees. Due to lack of training, these documents may not be recognized by all officials who might apprehend such a person.

There were reports that children born to Haitian refugees—even those born to holders of migration documents—were routinely denied birth certificates as well as education, health, and security documentation. In this respect they received the same treatment as any undocumented Haitian migrant.

#### Stateless Persons

The constitution provides that anyone born in the country is a Dominican national, except children born to diplomats or to those who are "in transit." The government regularly used the transit exception to deny registration as nationals to children born in the country of parents of Haitian descent, whom the government considers to be in the country illegally, even when their parents and grandparents had resided in the country for long periods of time. In 2005 the Supreme Court ruled that transit status applied to children of undocumented migrants.

Haitian consulates reported that they were legally authorized to register only those births that were declared within two years. Parents declaring a birth were required to submit valid forms of identification in order to file a claim. These requirements could not be met by a significant number of persons of Haitian descent in the country, and thus their children remained undocumented. Consequently, hundreds of thousands of Dominican-born persons of Haitian descent were functionally stateless. According to a report submitted to the UN Human Rights Council by the government, an estimated 900,000 to 1.2 million undocumented immigrants, mostly of Haitian descent, were in the country.

The Dominicans and Dominican-born persons of Haitian descent who lacked citizenship or identity documents faced obstacles in traveling both within and outside of the country. In addition undocumented persons cannot obtain the national identification card (cedula) or a voting card. Persons without a cedula had limited access to formal sector jobs, public higher education, marriage and birth registration, formal economy services such as banks and loans, access to courts and judicial procedures, and ownership of land or property.

Government officials often took strong measures related to citizenship for persons of Haitian descent. In 2007 the Central Elections Board (JCE) issued an administrative instruction ordering officials to refrain from issuing, signing, and providing official copies of birth documents for individuals whose parents were foreigners and had not legally proven their residency. This resulted in cases of retroactive cancellation of birth and identity documents, many pertaining to persons of Haitian descent. The government stated that such cancellations were based on evidence that the documentation had been obtained fraudulently, and that of 2,416 cases through July 2008, only 72 involved parents of Haitian descent. However, advocacy groups alleged that the revocations targeted persons whose parents were Haitian or whose names sounded Haitian and that the number of revocations was in the thousands. As of March the JCE had provisionally revoked the birth certificates and cedula of 126 children born to Haitian migrants and their children. Some of the births had been recorded decades ago, with several from the early 1970s. The JCE also cancelled 65 cedula issued to foreign nationals on grounds of fraud, 12 of which were held by Haitians.

The government has taken no action, and none was expected, in the case of Norberto Selvi, who was denied a copy of his birth certificate in 2007.

In 2007 the JCE also created a registration system that allowed children born in the country of parents who were not legal residents to receive a special birth certificate. This involved a registration book for foreigners. Regulations stipulated that children born of parents who were not legal residents of the country and have documentation from their home country may register their child in the book, after which the parents would be given an official report of birth, which does not confer citizenship. Only children born in hospitals are eligible for registration in the book. Children of undocumented mothers are given provisional birth certificates until the mother obtains her documents. An undocumented mother may make a late declaration in the civil registry by presenting her parents' birth certificates. However, most undocumented mothers could not comply with this requirement as their parents also did not have documents.

Local and international NGOs reported that since implementation of the foreigner's book, hospitals and civil registries did not register numerous children of Haitian migrants and their descendants. As of October the JCE reported that approximately 631 children registered in the foreigner's book were of Haitian descent. An estimated 10,000 to 20,000

children are born to Haitian migrants and their descendants each year. NGOs reported that some Haitian parents who were in the country legally, and whose children were Dominican nationals under Dominican law, were required to register their children's births in the foreigner's book.

### Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of nearly universal suffrage. Active-duty police and military personnel may not vote or participate in partisan political activity.

#### Elections and Political Participation

In May 2008 PLD candidate Leonel Fernandez won the presidency in an election described as generally free and fair by the Organization of American States, other independent observers, and the government electoral board. Observers also described the 2006 congressional and municipal elections as generally free and fair.

By law parties must reserve for women 33 percent of positions on their lists of candidates for the House of Representatives and city councils; in practice the parties often placed women low on the lists. There were two women in the 32-member Senate, 33 women in the 178-member House of Representatives, two women in the cabinet, and five women on the 16-seat Supreme Court.

### Section 4 Official Corruption and Government Transparency

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and administration officials who engaged in corrupt practices were not prosecuted, although some were removed from office and others were submitted to the Office for the Prosecution of Corruption for investigation. The World Bank's worldwide governance indicators continued to reflect that government corruption was a serious problem. Moreover, a 2008 survey showed that 81 percent of citizens believed that the country was corrupt (43 percent) or very corrupt (38 percent). The same study showed that more than 25 percent of citizens considered corruption to be an impediment to development. The World Economic Forum Global Competitiveness report also listed corruption as the most problematic factor for doing business in the country.

Government officials were reluctant to investigate seriously and prepare for trial cases involving senior government officials of either the current or former government. The attorney general concluded six corruption cases against lower-level officials, either by conviction or acquittal, compared to 17 in 2008.

The May 2008 death in jail of convicted narcotics kingpin Rolando Florian Feliz led to revelations that he ran his criminal enterprise from a deluxe cell where he had access to books, television, and prostitutes. However, the chief of the prison system did not resign, nor was he fired.

The efforts of the criminal justice system to combat financial crimes and corruption were blunted by five pardons issued by President Fernandez for certain persons convicted in two well-known corruption cases in December 2008: the RENOVE and Baninter cases. Most members of the Pardons Commission resigned in protest against the pardons.

Following the investigation and dismissal by Congress of the members of the Court of Accounts, new members were named in September 2008. The new members voted themselves Christmas bonuses but after a public outcry returned the money. Since then, the new Court of Accounts made significant efforts to strengthen itself institutionally and increase its capacity to carry out effective audits of government institutions. During the year the Court of Accounts submitted a number of audit reports to Congress with significant findings of misuse of public funds and lack of proper procedures. These included several municipalities, institutions of state, and the national budget. By the end of the year, there were no known follow-up measures or sanctions taken.

The use of nonjudicial sanctions continued. These measures included the dismissal or transfer of armed forces members, police officers, judges, and other minor government officials engaged in bribe taking and other corrupt behavior. Society's widespread attitude of tolerance toward at least some forms of corruption complicated the effort to reduce corruption. In a 2008 survey, respondents acknowledged that they did not condemn specific acts of corruption (such as paying a small bribe to a government official) because they considered that they gained something in return.

The Commission for Ethics and Combating Corruption continued to operate, although with minimal practical results as it lacked well-defined authorities and decision-making structures. In August the president appointed Marino Vinicio Castillo as the new president of the commission. Castillo vowed to take actions necessary to improve prosecution of corruption in addition to strengthening prevention, although there was no noticeable improvement by year's end.

In September the Supreme Court approved a change of venue for the prosecution of several naval officers and a former police officer in Bani for their alleged involvement in killing seven supposed drug traffickers after some of the accused threatened prosecutors and judges. The trial of 27 defendants continued in Santo Domingo at year's end; however, it was not clear that the judicial system would be able to pursue powerful individuals alleged to be behind the crimes.

The law requires that the president and vice president, members of Congress, some agency heads, and other officials such as mayors and council members, as well as income tax and customs duty collectors, make declarations of their personal and real property within a month of being hired, as well as when they "end their responsibilities." Efforts were made to encourage compliance, but it was not clear how effective these were. The Department of Prosecution of Corruption, an office within the Public Ministry, is in charge of reviewing these declarations.

The law provides for public access to government information, with limits on the availability of such information only under specified circumstances (such as to protect national security). It also provided for penalties of up to two years in prison and a five-year ban from positions of public trust for government officials who obstruct access to public information. A court may review the decision of an agency to deny access to information. While often timely, responses were also often incomplete, and the government rejected subsequent requests. Moreover, there was little consistency in the determination of what was considered public information and what was not.

#### Section 5 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. While government officials generally were cooperative and responsive to their views, human rights groups who advocated for the rights of Haitians and persons of Haitian descent were an important exception and faced occasional government harassment and threats.

Principal domestic NGOs included the Dominican Human Rights Committee, the National Human Rights Commission, and the Santo Domingo Institute of Human Rights. There were also several smaller secular and religious organizations that addressed women's rights, labor issues, and the rights of Haitians and their descendants in the country.

By year's end the government had not implemented a 2001 law mandating the creation of a human rights ombudsman's office.

#### Section 6 Discrimination, Societal Abuses, and Trafficking in Persons

Although the law prohibits discrimination based on race and gender, such discrimination existed, and the government seldom acknowledged its existence or made efforts to combat it.

##### Women

Rape was a serious and widely underreported problem. The law provides penalties for rape of from 10 to 15 years in prison (or 10 to 20 years in case of rape of a vulnerable person, a child, or if occurred under other egregious circumstances) and a fine of 100,000 to 200,000 pesos (approximately \$2,770 to \$5,540). The state may prosecute a suspect for rape even if the victim does not file charges, and rape victims may press charges against spouses. Victims often did not report cases of rape because of fear of social stigma, as well as the perception that the police and the judiciary would fail to provide redress. Police were reluctant to handle rape cases and often encouraged victims to seek assistance from NGOs.

Domestic violence continued to be a serious problem. Under the Law against Domestic Violence, the state can prosecute rape, incest, sexual aggression, and other forms of domestic violence. Penalties for these crimes range from one to 30 years in prison and fines from 700 to 245,000 pesos (approximately \$20 to \$6,800). A local NGO estimated that 20 percent of women between the ages of 15 and 49 had been victims of physical abuse at some point in their lives. Between January and May, the government reported 41 women killed as a result of domestic violence.

The district attorney of Santo Domingo in the National District, which includes approximately 10 percent of the country's population, had a specialized Violence Prevention and Attention Unit with 14 satellite offices around the city. At these offices victims of violence could file criminal complaints, obtain free legal counsel, and receive psychological and medical attention. Police were instructed to forward all domestic violence and sexual assault cases to these offices. Each office had professional psychologists on staff to counsel victims of violence and to assess the threat of impending danger associated with a complaint. These offices had the authority to issue temporary restraining orders immediately after receiving complaints and to serve as messengers for the victims, which prevented contact between the victim and the abuser.

As of December, 7,598 complaints had been made to the specialized Violence Prevention Unit, a slight increase from the

same period in 2008. The cases reported were either settled through mediation, remained in investigation, or were taken to court.

The National Directorate for Assistance to Victims coordinated efforts of official and nongovernmental institutions that offer services to victims of violence. It had three offices in Santo Domingo and two others elsewhere. These offices not only accepted criminal complaints from victims of violence throughout the country but also provided counseling and protection services and, when necessary, referrals to medical or psychological specialists. The Attorney General's Office, the Secretariat of Women, and various NGOs conducted outreach and training programs on domestic violence and legal rights. Additionally, the Attorney General's Office established a public information campaign against sexual and labor exploitation and launched a national hotline for prevention and victim assistance.

The Secretariat of Women also operated two shelters for victims of domestic violence in undisclosed locations, where abuse victims could make a report to the police and receive counseling.

Prostitution is legal, although there are some prohibitions against sex with minors, and it is illegal for a third party to derive financial gain from prostitution. However, the government usually did not enforce prostitution laws. Sex tourism existed throughout the country, particularly in Las Terrenas, Cabarete, Sosua, and Boca Chica. Human rights groups reported continuing prostitution in sugarcane work camps and areas outside the capital. NGOs conducted programs about prostitution and child sexual exploitation for hotel and industrial zone workers, male and female prostitutes, and other high-risk groups.

Sexual harassment in the workplace is a misdemeanor and carries a possible penalty of one year in prison and a fine of up to 10,000 pesos (approximately \$277); however, union leaders reported that the law was not enforced, and sexual harassment remained a problem.

Reproductive rights were generally respected. While contraceptives were freely available, many low-income women used contraceptives inconsistently due to both irregular availability of contraceptives from public agencies as well as social and religious bias against family planning. Maternal mortality remained high (159 per 100,000 live births), yet 98 percent of deliveries took place in hospital settings. Most maternal and neonatal deaths were due to poor quality of care and failure to adhere to standards norms and protocols, resulting in mismanagement of both normal and complicated deliveries. In addition the number of Caesarean sections was extremely high. Most women had access to some postnatal care. However, in some poor provinces such as Pedernales, 29 percent of women received no postnatal care. Access to diagnostic services and treatment of sexually transmitted diseases was limited by technical, financial, and management issues affecting equally both men and women. Approximately 12,000 persons with HIV/AIDS--the majority of whom were women--had access to antiretroviral treatment.

Although the law provides that women have the same legal status as men, in practice women experienced discrimination. Women did not enjoy social and economic status or opportunity equal to those of men, and men held most leadership positions in all sectors. In many instances women received less pay than men in jobs of equal content and requiring equal skills. Some employers reportedly gave pregnancy tests to women before hiring them, as part of a required medical examination. Although it is illegal to discriminate based on such tests, NGO leaders reported that pregnant women often were not hired and that female employees who became pregnant sometimes were fired. There were no effective government programs to combat economic discrimination against women.

#### Children

Citizenship is acquired by birth in the country, except children born to diplomats or to those who are "in transit," a broadly defined category (see section 2.d.). Children born to parents of Haitian descent, even when the parents had resided in the country for a lifetime, were denied citizenship under the transit exception. A child not registered at birth is undocumented until a late declaration is made, and there were limitations on late declarations. The most recent report by the NGO Profamilia and the UN Children's Fund indicated that 13 percent of children under 15 were not registered. Undocumented children, particularly those of Haitian descent, faced challenges in accessing primary public education.

Abuse of children, including physical, sexual, and psychological abuse, was a serious problem. As of August, 1,558 complaints had been filed in the National District, which primarily represents the capital city of Santo Domingo. Of these, more than half were awaiting a court appointment. Few such cases reached the courts, due to fear of family embarrassment, lack of economic resources, or lack of knowledge regarding available legal assistance. The Santo Domingo district attorney's office reported that in most abuse cases, the accused was a person close to the child, such as a family member or close family friend. The law provides for removal of a mistreated child to a protective environment.

Local observers believed that instances of child abuse were underreported because of the social norm that such problems should be dealt with inside the family. The law contains provisions concerning child abuse, including physical and emotional mistreatment, sexual exploitation, and child labor. The law provides penalties of between two and five

years' incarceration and a fine of three to five times the monthly minimum wage for persons found guilty of abuse of a minor. The penalty is doubled if the abuse is related to trafficking.

The law covers statutory rape, and the age of consent is 18. Penalties for statutory rape are 10 to 20 years in prison and a fine of 100,000 to 200,000 pesos (\$2,778 to \$5, 556) if rape is committed against a child or adolescent. The law also contains specific provisions that prohibit child pornography and child prostitution, prescribing penalties for sexual abuse of children of 20 to 30 years' imprisonment and fines from 100 to 150 times the minimum wage.

The government's National Directorate for Assistance to Victims coordinated efforts of official and nongovernmental organizations to assist children who were victims of violence and abuse.

Trafficking, sexual exploitation of children, and child sex tourism remained serious problems, particularly in major urban areas and popular tourist destinations. Child prostitution often was based on economic need, and the government conducted several programs to combat the sexual exploitation of minors, including notices in airports and targeted programs in popular tourist locations.

#### Trafficking in Persons

Although the law prohibits trafficking in persons for all purposes, there were reports that men, women, and children were trafficked to, from, and within the country.

The prevalence of the problem was uncertain because of its illegal nature. The NGO Center for Integral Orientation and Investigation (COIN) estimated that from 17,000 to 33,000 Dominican women abroad were victims of trafficking.

Dominican women reportedly were trafficked to a wide variety of nations, principally in Western Europe, Latin America, and the Caribbean for commercial sexual exploitation. Women 18 to 25 years of age, in particular those with low levels of education, were at the greatest risk of being trafficked. Internally trafficked victims were typically women or adolescents trafficked for sexual exploitation to urban or tourist areas. Women and children were also reportedly trafficked internally for domestic servitude.

According to COIN and the International Organization for Migration (IOM), trafficking organizations were typically small groups. Individuals in the country recruited the persons to be trafficked and obtained identification and travel documents. Traffickers frequently met women through friends and family; they promised some form of employment, obtained false or legitimate documents for the women, and often retained their passports after arrival in the destination country. NGOs operating in the country report helping only a few victims a year. As of October the IOM had assisted 28 victims of trafficking.

The law includes penalties for traffickers of 15 to 20 years' imprisonment and a fine of up to 175 times the monthly minimum wage. The Protection of Children and Adolescents Law provides penalties for the transfer of a child to someone else, in exchange for compensation, for forced labor, commercial sexual exploitation or other degrading activities, of 20 to 30 years' imprisonment and fines from 100 to 150 times the minimum wage. Nevertheless, the government generally failed to prosecute trafficking cases. During 2008 the Attorney General's Office claimed to have opened four investigations.

In late 2008 the National Commission against Trafficking in Persons, a body established by the government, produced a national plan to combat trafficking and improve victim protection but did not fund its implementation. Law enforcement services cooperated with foreign governments investigating trafficking and child prostitution cases.

The involvement of government officials in trafficking was unproven, but some activists believed trafficking in persons could not happen without the cooperation or acquiescence of some officials. The government reported investigating public officials who facilitated, condoned, or were complicit in trafficking activities, but there were no known prosecutions. The Migration Department fired numerous investigators that it suspected of possible involvement in trafficking.

The government provided some assistance to trafficking victims both overseas and in the country, but it relied on NGOs and international organizations to provide the bulk of protection services. The Ministry of Foreign Affairs developed a worldwide network of consular officers trained to recognize and assist victims of trafficking. There were several church-run shelters that provided refuge to children who escaped prostitution, with some government support. Public shelters for victims of domestic violence were generally not accessible to trafficking victims. The government had an awareness-raising campaign by radio, television, and print media to discourage illegal emigration and combat human trafficking.

The Prevention Unit of the Department of Alien Smuggling and Trafficking in Persons, in coordination with the Secretariats of Labor and Education, provided outreach training at schools around the country. The courses warned children of the dangers of alien smuggling, commercial sexual exploitation, and trafficking. Additionally, the government and various organizations made efforts to address the problem of sex tourism in high-volume tourism areas. NGOs also conducted programs for hotel and industrial zone workers about prostitution and child sexual exploitation issues.

COIN and the IOM counseled women planning to accept job offers in Europe and the eastern Caribbean about immigration, health, and other problems, including the dangers of trafficking, forced prostitution, and forced domestic servitude. COIN administered the Center for Health and Migration Information for Migrant Women, which carried out community education campaigns in high-risk areas on these issues, as well as citizenship documentation and legal work requirements. With IOM support, COIN also provided a minimal level of clinical services and adult education classes for returned women, many of whom were trafficking victims.

There were no reports that the government inappropriately incarcerated, fined, penalized, or prosecuted identified victims, nor did the government discourage people from filing complaints.

The State Department's annual *Trafficking in Persons Report* can be found at [www.state.gov/g/tip](http://www.state.gov/g/tip).

#### Persons with Disabilities

Although the law prohibits discrimination against persons with disabilities, these individuals encountered discrimination in employment and in obtaining other services. The law provides for physical access for persons with disabilities to all new public and private buildings, but the authorities did not enforce this provision. The Dominican Association for Rehabilitation, which had 17 branches around the country, received a subsidy from the Secretariat of Public Health to provide rehabilitation assistance to persons with disabilities.

Discrimination against persons with mental illness was common across all public and private sectors, and there were few resources dedicated to the mentally ill.

#### National/Racial/Ethnic Minorities

There was significant evidence of racial prejudice and discrimination against persons of dark complexion, but the government denied that such prejudice as well as discrimination existed and, consequently, did little to address the problem.

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.

Local NGOs reported incidents where darker-skinned persons were denied access or services in banks, service in restaurants and stores, entry into nightclubs, enrollment in private schools, and birth registration in hospitals. In a 2007 report, the UN special rapporteurs for racism and the rights of minorities urged authorities to recognize the existence of racism and discrimination against minorities, adopt a national action plan to address the problem, revise a JCE rule that resulted in revocation of identity documents for Haitians, and cease mass repatriations of Haitians. Government officials responded to the report with a denial that racism existed in the country, referencing comments that the country was a mulatto community. They asserted that the JCE rule focused on fraud and that Haitians in the country could receive their identity documents in Haiti. The government also claimed there were no grounds to state that black Dominicans were being repatriated to Haiti and noted that authorities suspended repatriations on Fridays to prevent employers from using this as a tool to avoid paying laborers for the week's work.

Haitians continued to immigrate to the country in search of economic opportunity, and the government repatriated many of them. Migration authorities and security forces conducted periodic sweeps throughout the year to locate and repatriate undocumented persons of Haitian descent. Some of those removed from the country reported that they were denied the opportunity to demonstrate that they were legal residents, to make arrangements for their families or property, or to express a credible fear of persecution or torture if returned to Haiti. NGOs reported that migration officials and security forces sometimes confiscated and destroyed expellees' residency documents and passports despite standing government orders to respect the human rights of the expellees. In some cases expellees with appropriate legal documents received permission to return.

Some Haitian immigrants lived in shantytowns or sugarcane work camps known as "bateyes." As in many poor areas in other parts of the country, these were harsh environments with limited or no electricity, running water, sanitary facilities, or adequate schooling. In many bateyes medical assistance either was rudimentary or not readily available, and clean water was rarely available. Many batey residents, lacking documentation, felt they had little choice but to remain in their communities, where they felt relatively safe from the risks of deportation and harassment that existed elsewhere in the country.

Private sector enterprises in the sugar sector continued to make improvements at their facilities, a process that began in 2007, including new schools and both new and renovated housing. In Nuevo Cayacoa, construction of a modern housing and community development for 132 cane workers and their families concluded its first phase in September.

During the year there were reports of vigilante violence and attacks against Haitians (see section 1.a.).

#### Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

NGOs reported widespread social discrimination against persons based on sexual orientation. Members of the lesbian, gay, bisexual, and transgender (LGBT) community voiced concerns about discrimination in all areas of society, including health, education, and work. Numerous credible reports indicated members of the LGBT community were expelled from public school, arrested without reason, fired from work, or denied access to rent or own homes.

Gays and lesbians faced physical attacks, intimidation, harassment, and threats of violence. NGOs reported that these groups were reluctant to file charges or complain to authorities due to fear of reprisal or humiliation. Several killings during the year were linked to the victims' sexual orientation. In March a transgender sex worker, Francisco Encarnacion Urbi, was thrown from a moving vehicle and later died at a hospital in Santo Domingo. In April two transgender sex workers were assaulted and later killed in Santiago. On August 11, 18-year-old Janet Cerda, a lesbian in Santiago, was found killed by an unknown attacker in the streets. On October 20, a transgender sex worker, Richard Joel Cuevas Castillo, was shot and wounded by four unknown suspects on motorcycles in Santo Domingo. On November 25, unknown attackers shot and killed a transgender sex worker, Alejandro Correa Pichardo, in Santo Domingo. Investigations into these killings were pending at year's end.

Since the first gay pride celebration in 2001, authorities have rejected or delayed all other permission requests for its formal celebration by gay and lesbian organizations. Activists reported that these organizations substituted marches and concentrations by small informal gatherings in recreational spaces, activities that do not require any type of permission from authorities.

#### Other Societal Violence or Discrimination

Persons with HIV/AIDS faced discrimination in the workplace and elsewhere. According to the UN agency UNAIDS, an estimated 52,000 to 71,000 persons were infected with the disease. A study by the Network of Persons Living with HIV, Profamilia, and Alianza Solidaria revealed that, among the sample of persons living with HIV who were interviewed, 62 percent reported being the subject of gossip, 30 percent were the victims of verbal aggression, 27 percent were the victims of verbal threats, and 14 percent were victims of attacks or physical threats.

According to Human Rights Watch and Amnesty International, workers in many industries faced obligatory HIV testing in the workplace or when seeking medical care or medical insurance. Many workers or patients found to have the disease were not hired or were fired from their jobs or denied adequate health care. Although the law prohibits the use of HIV testing to screen employees or for medical services unrelated to the disease, there were no known instances where this was enforced, despite reports that official complaints had been filed.

#### Section 7 Worker Rights

##### a. The Right of Association

The law provides for the freedom to organize labor unions, and all workers, except the military and the police, were free to form and join unions of their choice. There were some restrictions placed on civil servants for union formation; 40 percent of civil servant employees must agree to join the union in a given government entity for it to be formed. Organized labor represented an estimated 8 percent of the work force. Although the law requires that unions be registered by the Ministry of Labor in order to be legal, it provides for automatic recognition of a union if the Secretary of Labor has not acted on the application within 30 days.

A few labor unions represented a small number of Haitian workers, who are covered by the Labor Code regardless of legal status. (Persons who register unions must have documentation, but enforcement of documentation rules for union members was lax.) Various NGOs reported that many Haitian laborers and Dominicans of Haitian descent in the agricultural and construction industries did not exercise their rights, fearing firing or deportation. Although 500 undocumented Haitian employees of a private sugar producer sued their employer and won the right to benefits and a written contract in November 2008, a court later rejected the ruling on appeal. The decision held that a contract does not have to be written to be enforceable, and the Labor Code does not require a written contract. Various NGOs reported that companies took advantage of the slow and ineffective legal system to appeal cases, which left workers without labor rights protection in the interim.

The law provides for the right of most workers to strike but includes a number of requirements for the strike to be legal, and formal strikes were not common. Formal requirements for a strike include the support of an absolute majority of all company workers whether unionized or not, a prior attempt to resolve the conflict through mediation, written notification to the Ministry of Labor, and a 10-day waiting period following notification before proceeding with the strike.

Government workers and essential public service personnel are not allowed to strike. The Ministry of Labor offered a worker-employer conciliation process in an effort to provide due process to protect workers' rights.

#### b. The Right to Organize and Bargain Collectively

The law protects the right to organize and bargain collectively. While the law requires that collective bargaining be used in firms in which a union has gained the support of an absolute majority of the workers, it does not allow for collective bargaining unless a trade union represents an absolute majority of the workers. The International Labor Organization (ILO) considered this requirement to be excessive and an impediment to collective bargaining. Few companies had collective bargaining pacts, partly because companies created obstacles and could afford to go through lengthy judicial processes that nascent unions could not afford.

The law establishes a system of labor courts for dealing with disputes. This process was often long, with cases remaining pending for several years. The most recent study by the Foundation for Institutionalism and Justice, a local NGO, showed that the average case resolution time was 15.3 months in courts of first instance and 16.4 months in appeals court.

Many participants reported that the ministry's nonbinding conciliation process, involving 37 mediators in eight locations, was the most effective method for resolving worker-company disputes.

The law forbidding companies from firing union organizers or members was enforced inconsistently, and penalties were insufficient to deter employers from violating worker rights. Some NGOs reported that workers who tried to form unions were routinely fired. There were reports of harassment and intimidation by employers in an effort to prevent union activity, especially in the free trade zones (FTZs). The Dominican Federation of Free Trade Zone Workers (FEDOTRAZONAS) noted incidents of antiunion activity at Gildan Active Wear, Andin Caribe, Kola Real, and Loadway Enterprise. There were complaints made that the management of these companies conducted public antiunion campaigns, which included threats to fire union members, engaged in activities to forestall attainment of union membership sufficient to establish collective bargaining rights, and violated worker rights under the labor code.

Given the scarcity of formal sector employment, the fear of reprisal greatly limited workers ability to freely associate. Workers were often asked to sign documents agreeing not to participate in union activities. Companies often supported company unions to counter free and democratic unions.

Local NGOs reported that companies routinely attempted to create "yellow" or company-backed unions in an effort to dilute the worker union's power. In addition, the use of short-term contracts and subcontracting was increasing—often making union organizing and collective bargaining more difficult.

There were no new developments in the Ministry of Labor's 2008 investigation of labor rights violations—including discrimination against union members, forced overtime, and minimum wage violations—reportedly committed by an agricultural export company in the north of the country. FEDOTRAZONAS reported that the company continued to discriminate openly against its members during the year.

The labor code applies in the 57 established FTZs, which employed approximately 155,000 workers. According to the National Council of Labor Unions, unions were active in only eight companies in the FTZs, and only four unions had established collective bargaining rights. Workplace regulations and their enforcement in the FTZs did not differ from those in the country at large. Working conditions were reportedly sometimes better, and the pay in the FTZs was occasionally higher than in the public or agricultural sectors. At the same time, mandatory overtime was a common practice.

There were reports of widespread covert intimidation by employers in the FTZs to prevent union activity, firing of workers for union activity, and blacklisting of trade unionists. Unions in the FTZs reported that their members hesitated to discuss union activity at work, even during break time, for fear of losing their jobs. Unions accused some FTZ companies of discharging workers who attempted to organize unions. The majority of the unions in the FTZs were affiliated with the National Federation of Free Trade Zone Workers or with FEDOTRAZONAS. FEDOTRAZONAS estimated that fewer than 10 percent of the workers in the FTZs were unionized. Many of the major manufacturers in the FTZs had voluntary codes of conduct that included worker rights protection clauses generally consistent with the ILO Declaration on Fundamental Principles and Rights at Work. However, workers were not always aware of such codes or of the principles they contained.

#### c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, but there were reports of forced labor of both children and adults within the country. There were reports that both adults and children were forced to work as domestic servants. Children were also subjected to forced prostitution, particularly in coastal resort areas (see section 6).

Haitian workers' lack of documentation and illegal status in the country often placed them in a tenuous situation and

made them vulnerable to forced labor. Although specific data on the issue were limited, there were reports that some Haitian nationals may have been subjected to forced labor in the service, construction, and agricultural sectors. A foreign government report asserted there was reason to believe that at least some sugar in the country was produced with forced labor. Private sugar producers acknowledged that they hired some Haitian workers already residing and working in the country but insisted that they did not force these individuals to work. NGOs reported that the practice of bringing in new, undocumented migrant labor from Haiti continued and that labor conditions in sugar cane plantations remained harsh.

Mandatory overtime, a common practice, was sometimes enforced through locked doors or loss of pay or employment for those who refused.

#### d. Prohibition of Child Labor and Minimum Age for Employment

While the law prohibits employment of children younger than 14 years of age and places restrictions on the employment of children under the age of 16, child labor remained a serious problem, although there was some evidence it lessened during the year. Some NGOs estimated that 436,000 minors between five and 17 years of age worked illegally.

Regulations limited working hours of those between the ages of 14 and 16 to six hours per day; for those under age 18, the law limited night work and prohibited employment in hazardous occupations, under unhealthy working conditions, or in establishments serving alcohol. Fines and legal sanctions may be applied to firms employing underage children. While the government effectively enforced these regulations in the formal sector, child labor was a problem in the informal sector largely beyond regulatory reach.

Child labor took place primarily in the informal economy, small businesses, private households, and agriculture. In particular, there were reports that children worked in the production of garlic, potatoes, coffee, tomatoes, and rice. There were also limited reports of children working in mining of larimar in the Barahona region. Children often accompanied their parents to work in agricultural fields, in part because parents had nowhere else to leave their children, since schools were usually in session only for a few hours a day. The commercial sexual exploitation of children remained a problem, especially in popular tourist destinations and urban areas.

Children also worked as domestic servants, and many appeared to be victims of forced labor. There were credible reports that poor Haitian families arranged for Dominican families to "adopt" and employ their children. In some cases adoptive parents reportedly did not treat the children as full family members, expecting them to work in the households or family businesses rather than to attend school, which resulted in a kind of indentured servitude for children and adolescents.

The Ministry of Labor and other government institutions, as well as organizations from civil society, continued to work with the ILO's International Program on the Elimination of Child Labor to prevent 5,500 children from entering or continuing in exploitive labor and to mitigate certain conditions, such as eliminating employment of children in hazardous agriculture in rice-growing regions. The effort also included a program to combat the commercial sexual exploitation of minors in popular tourist destinations such as Boca Chica, Sosua, and Las Terrenas. These programs provided psychological support and medical assistance, returned children to classrooms, and reunited children with their families and communities whenever possible. The programs also provided legal assistance to child victims and their families to arrest and convict exploiters.

The Ministry of Labor, following site inspections, reported that the sugar consortium's bateyes no longer used child labor on their property. NGO sources, however, stated that child labor could still be found in these facilities. The Secretariat of Labor employed 203 labor inspectors, all of whom received special training to locate and eliminate illegal child labor.

The National Steering Committee against Child Labor's plan to eliminate the worst forms of child labor set objectives, identified priorities, and assigned responsibilities so that exploitive labor could be efficiently tackled and the number of child laborers significantly reduced. In January 2008 the Ministry of Labor launched a program to support public-private partnerships aimed at preventing hazardous child labor with a goal of withdrawing 8,500 children from exploitive labor. The program helped reduce the number of children exposed to the worst forms of child labor from 9.3 percent in 2004 to 6.4 percent in 2008.

#### e. Acceptable Conditions of Work

The executive branch sets minimum wage levels for public workers, and the tripartite National Salary Committee sets levels for the private sector, with the exception of workers in the FTZs and the sugar, construction, hotel, and shoe manufacturing industries. A Tripartite Commission negotiates minimum wages for each of these industries separately, and the Ministry of Labor enforces the minimum wages. The minimum monthly salary was 4,900 pesos (approximately \$136) in the FTZs and between 5,158 and 8,465 pesos (\$143 and \$235), depending upon the size of the company,

outside the FTZs. The minimum wage for the public sector was 2,600 pesos (\$72) per month. The daily minimum wage for farm workers covered by minimum wage regulations was 175 pesos (\$4.86), based on a 10-hour day, which includes all agricultural products except sugarcane. Cane workers were subject to a special, lower minimum wage for the sugar industry of 95 pesos (\$2.64) per day. The national minimum wage did not provide a decent standard of living in any industry for a worker and family. All workers, including migrants, are covered by minimum wage provisions.

The law establishes a standard work period of 44 hours per week and stipulates that all workers are entitled to 36 hours of uninterrupted rest each week. The law provides for premium pay for overtime, although enforcement was ineffective. At some firms in the FTZs, overtime was mandatory. The FEDOTRAZONAS reported that some companies set up "4x4" work schedules, in which employees work 12-hour shifts for four days. Some companies also started a practice to pay every eight days instead of every seven days, which resulted in a loss of wages for workers.

On sugar plantations cane cutters usually were paid by the weight of cane cut rather than the hours worked. Cane cutters continued to suspect fraud by weighing station operators and noted that employers sometimes did not provide trucks or carts to transport the newly cut cane at the end of the workday, causing workers to receive lower compensation because the cane dried out overnight and weighed less. Company officials denied that there were delays in transporting cane, noting that any delay would be detrimental to their business operation. The amount of cane a worker could cut varied, but most young able-bodied workers were able to cut two to three tons of cane in a workday, yielding a daily wage of 160-240 pesos (approximately \$4.44-\$6.67). However, older, less able-bodied workers were paid only for the amount of the cane they actually cut, even if the amount was less than the minimum wage. During the six-month off-season, some workers in sugar plantations who opted to remain in their communities were offered part-time jobs such as clearing land or cleaning sugarcane. Such workers generally were not paid the legally mandated minimum wage.

Conditions for agricultural workers were poor, with many workers working long hours and exposed to hazardous working conditions including the exposure to pesticides, excessive exposure to the sun, and use of sharp and heavy tools. Many activists reported that workers in the sugarcane industry who lived in company-owned bateyes had inadequate access to schools, medical facilities, running water, and sewage systems. Some employers in the sugarcane industry allegedly withheld a portion of wages to ensure that workers returned for the next harvest. Sugarcane workers often did not receive medical services or pensions due to the lack of documentation even though deductions were taken from their pay.

The Dominican Social Security Institute (IDSS) sets workplace safety and health conditions. Both the IDSS and the Ministry of Labor had a small corps of inspectors charged with enforcing standards. Although the inspectors noted over 2,000 infractions, the findings of these inspections were not effectively enforced. Workers complained that inspectors were not trained, did not respond to health and safety complaints, and more quickly responded to requests from employers than workers. 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.

