



## 2008 Human Rights Report: Dominican Republic

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

**2008 Country Reports on Human Rights Practices**

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The Dominican Republic is a representative constitutional democracy with a population of approximately 9.5 million, including hundreds of thousands of undocumented Haitians. On May 16, 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 improved somewhat, 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 abuse of children; trafficking in persons; severe discrimination against Haitian migrants and their descendants; and disregard of fundamental labor rights.

### 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 455 persons in the course of duty during the year, approximately 19 percent of all violent deaths and an increase of 32 percent over 2007. The police chief, who took office in August 2007, attributed the statistical increase in part to his standing order that all police killings be reported to the attorney general. Some media reports also noted a tendency of criminals to open fire on police.

On May 2, in two separate incidents, police killed seven civilians. In Santo Domingo three minors who were suspected in a store robbery were seen on film alive when the police took them into custody, and their bodies were found later. The second incident, in Boca Chica, resulted in the deaths of four civilians and one police officer, allegedly in an exchange of gunfire when police attempted to recover stolen money from a residence. Following investigations into both cases, authorities brought charges against the officers involved, who were awaiting trial at year's end.

On September 23, during a demonstration against the police killing of a student in Santo Domingo, a minor was shot and killed. Police blamed the death on an unidentified shooter, but other demonstrators attributed the death to

the police. On November 5, according to press reports, a police bullet killed a 17-year-old playing basketball near a demonstration. Security forces routinely dispersed protesters with tear gas and water cannons, as well as with live fire.

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 indeed was assigned to investigate and or that any charges were filed.

Human rights nongovernmental organizations (NGOs) asserted that, as in previous years, the police continued to employ unwarranted deadly force against criminal suspects.

There were no developments in the 2006 cases of two police sergeants charged with homicide in the Luis Manuel Ventura killing or of two police officers charged with the murder of Elvin Amable Rodriguez.

On October 28, a mob in Neiba killed two and injured 12 Haitians, following the alleged killing of a Dominican national by a Haitian.

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.

#### b. Disappearance

There were no reports of politically motivated disappearances.

Despite the Public Ministry's May 2007 announcement that it would reopen the investigation, there were no developments 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 indeed making efforts to reduce incidents of physical abuse of detainees. Nonetheless, human rights organizations stated that uniformed vigilantism persisted on a nonlethal level.

The law provides penalties for torture and physical abuse, including sentences from 10-15 years in prison. Civilian prosecutors sometimes filed charges against police and military officials alleging torture, physical abuse, and related crimes. Authorities sent new 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. Some observers believed that the civilian corrections officers lacked the discipline and cohesion of the military personnel they replaced and were more prone to insubordination and abuse of inmates.

In May prison guards beat a missionary when she refused to remove her clothing for examination after arriving at the Najayo prison to visit inmates. Subsequently authorities removed the top officials of the prison for unrelated corrupt acts.

There were no developments in the July 2007 complaint by the National Commission on Human Rights, an NGO, against the police with regard to the case of Javier Vicente Reyes Segura, shot in the leg during a traffic stop.

There were reports of use of excessive force against demonstrators and protesters by members of the security forces.

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" where prisoners experienced better conditions. Overall, reports of mistreatment and inmate violence in prisons were common, as were reports of guard abuse of prison visitors. The prisons were seriously overcrowded, 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. A common sentiment among prison wardens was that, while they may control the perimeter, inside the prison the inmates often made their own rules and had their own system of justice.

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.

According to the Office of the Attorney General, approximately 18,000 prisoners and detainees were held in 35 prisons with an intended capacity of approximately 9,000. Virtually all prisons experienced extreme overcrowding. La Victoria prison, the largest in the country, held more than 3,500 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.

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.

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

interned.

Female inmates generally were separated from male inmates. Half of the total female population was held in a prison 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 for 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 two-thirds 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 traditional prisons.

Prison authorities continued to revamp certain prisons to create "model" facilities; they improved the aging physical plant of existing facilities, replaced the police and military administration with professionally trained corrections officers under the authority of the Public Ministry, and focused on rehabilitation of and vocational training for inmates. In 2007 authorities began converting Salcedo prison into a model prison facility, one of 10 prisons which have either been converted or were in the process of conversion to a model facility. The attorney general reported that the incidence of corruption within these prisons remained minimal. However, this improvement for some 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.

The government permitted prison visits by independent human rights observers and the press, 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 24 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 Ministry of the 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.

The military is only responsible for domestic policing when so decreed by the president, and the armed forces continued to provide troops to support the National Police in its nightly patrols of Santo Domingo, Santiago, and other areas of the country.

The police chief appointed in August 2007 announced a zero tolerance policy for abuses and violations of rights. Police officers were fired or prosecuted through the criminal justice system when found to have acted outside of established police procedures.

Under new management, 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 November Internal Affairs had conducted 1,820 investigations that resulted in 312 dismissals and 563 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 authorities rounded up undocumented construction workers and other manual laborers of Haitian origin or descent in an attempt 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 curriculum included a policy regarding use of force, wherein some police officers were trained in engaging 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 807 officers of various ranks and 199 civilians during the year.

#### Arrest and Detention

The constitution provides that an accused person may be detained for up to 48 hours 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 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 beyond the constitutionally prescribed 48-hour. 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.

Given the inefficiency of and corruption within the judicial system, a significant number of defendants granted bail failed to appear in court for a trial. 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 disappearing.

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, with foreign donor support, 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 140 public defenders, 72 part-time defense lawyers and five investigators. The government continued its program to train public defenders on relevant changes caused by implementation of the CPC and expanded training for prosecutors. As mandated by law, the Attorney General's Office emphasized assistance to crime victims by conducting civil cases for victims who did not have the means to hire a private lawyer. To represent these victims, the Attorney General's Office operated a Legal Representation Victim's Office with 10 trained lawyers.

Police continued the practice, albeit less frequently, 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 decreased but 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 14 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 handle 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 lacked the 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.

In addition to the judicial service offices established in La Vega and Moca in 2006-07, another was installed in Puerto 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. The latest such office was inaugurated in the district of Santo Domingo in September. These judicial service offices are 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 improperly influence lower court decisions. In addition corruption continued to be a serious problem.

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.

Overall, the professionalism of the judiciary continued to improve, largely as the result of an intensive government reform program initiated in 1996, including a training program for judges upon entry and continuing legal education.

The professionalism of attorneys remained spotty, with no formal minimum standards for general attorneys and almost automatic approval to practice law following general law classes. The Dominican Bar Association consistently argued against a bar examination. Public defenders and public prosecutors, however, 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. 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.

Military and police tribunals no longer exercise exclusive jurisdiction over cases involving members of the security forces. Civilian criminal courts handle cases of killings allegedly committed by members of the security forces during the year.

#### 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 were beginning to seek amparo in major cases.

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 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 local journalists' association reported threats and aggression against the free exercise of the press.

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 practiced self-censorship, particularly when coverage could adversely affect the economic or political interests of media owners. Owners at times used the media to attack their critics. Coverage of the major bank fraud trials was often influenced by the fact that two of the major newspapers were owned by defendants in the trials.

In Bani in June, the district attorney, Victor Cordero Jimenez, allegedly attacked journalist Manuel Guillermo Mejia when Mejia asked about the district attorney's performance in a drug-related case, which ultimately led to his dismissal. The judge in Bani banned Cordero from leaving the country while the case against him was heard and required him to appear in court once every 30 days.

In September a local judge authorized a police search to obtain video and documents from the offices of two investigative journalists, Huchi Lora and Nuria Piera; however, they appealed and the search was not conducted. The journalists had released a story about nutritional deficiencies in milk the government was serving to school children. LADOM, the firm that supplied the milk, sued the journalists for slander and requested the police search; it later withdrew the suit in the face of strong media criticism. The government initiated a corruption investigation after it was reported that the daughter of the minister of education was a LADOM employee.

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

On August 7, cameraman Normando Garcia was killed in Santiago. An investigation examining the possibility that his death was related to his work as a journalist remained pending at year's end. The National Journalists' Union reported that civil, police, and military authorities; criminals; and other persons assaulted or threatened more than 53 journalists between March and September. As of October the NGO Reporters Without Borders reported more than 32 threats of violence against journalists or physical attacks on news organizations in which those responsible were often security forces. The government did little to investigate the threats of violence or physical attacks on journalists, but according to NGOs, journalists were frequently summoned when their reporting was critical of the government.

The police were protecting Carlos Corporan, a journalist from San Cristobal, following the revelation of a plot by unknown assailants to kill him for the reporting he completed linking local judges to drug trafficking.

#### 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.

#### 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 injured demonstrators or bystanders.

##### 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. For example, the cardinal has the rank of a military general officer and 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 2008 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

#### 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 October, it had repatriated 6,184 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 law provides for the granting of asylum or refugee status in accordance with the 1951 UN 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 once during the past 14 years. The commission includes the three members of the subcommittee, the legal advisor to the president, and members from the National Police, the Ministry of Labor, and the Attorney General's Office.

As of October the Migration Directorate reported between 300 and 400 asylum applications, nearly all made by Haitians. Some of these cases had been awaiting decision since 2000, with only six new cases 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, and due to lack of training, may not be recognized by all officials who might apprehend such a person. Authorities took no affirmative action to prevent deportation of registered asylum seekers.

The 1951 UN Convention relating to the Status of Refugees provides that children born to refugees also be entitled to refugee status. 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 those "in transit." However, the government regularly used the in transit exception to deny registration as nationals to children born in the country of parents of Haitian descent, 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 a year. 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, thousands of Dominican-born persons of Haitian descent were functionally stateless; one estimate placed the number at between 600,000 and one million persons.

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 persons who are undocumented cannot obtain the national identification card (cedula) or a voting card. Persons without a cedula have 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 owning land or property.

Government officials often took strong measures related to citizenship for persons of Haitian descent. In March 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, that the cases numbered in the hundreds, and that only a small fraction 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. In September the JCE completed an internal memo directed at revoking 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 was unable to locate similar memos directed at other nationalities by year's end. In July, the JCE reported discovering 2,416 cedula "irregularly issued" to foreigners between 1994 and 1997. Of these, 82, or 3 percent, were issued to Haitian migrants or persons of Haitian descent.

In May, although the courts initially decided to issue a birth certificate to Nuny Angra Luis, whose parents were not Dominican, the JCE appealed and won based on an argument that the original birth certificate was "issued in an irregular manner."

The government has taken no action in the case of Norberto Selvi, who was denied a copy of his birth certificate in 2007.

Also in March 2007, the JCE 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 November the JCE reported that approximately 200 of some 300 children registered in the foreigner's book were of Haitian descent. Based on average birth rates and the estimated population of Haitians in the country, between 10,000 and 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 are 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

On May 16, PLD candidate Leonel Fernandez won the presidency in an election described as generally free and fair by the Organization of American States, 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.

#### Government Corruption and Transparency

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and officials who engaged in corrupt practices did so with impunity. The World Bank's worldwide governance indicators reflected that government corruption was a serious problem.

Government officials brought a number of private and public sector corruption cases to trial, although there appeared to be a reluctance to investigate seriously and prepare for trial cases involving senior government officials of either the current or former government. In those cases that went to trial, the prosecution had little success in obtaining either convictions or prison sentences. An exception was a case involving Plan RENOVE, a public transportation program. In February 2007 the Supreme Court issued a final verdict of conviction and sentenced the defendants to six months of house arrest or minimum security prison. The use of nonjudicial sanctions, such as dismissal or transfer, against armed forces members, police officers, and other minor government officials engaged in bribe taking and other corrupt behavior accelerated but ultimately provided insufficient incentive to check pervasive petty corruption. Society's widespread attitude of tolerance toward at least some forms of corruption complicated the problem.

The Commission for Ethics and the Fight Against Corruption, appointed by the president, continued to operate, although with little or no impact as it lacked well-defined authorities and decision-making structures.

The Attorney General's Office removed three prosecutors in Bani for their alleged involvement in a case related to the killing of seven supposed drug traffickers, and arrested several naval officers and a former police officer. Authorities also removed two other district attorneys for "professional misconduct."

Judicial proceedings related to the fraud-based 2003 collapse of Banco Intercontinental (Baninter) concluded in July when the Supreme Court ratified the conviction of three defendants and found the fourth defendant guilty on appeal. In addition to fines, the court sentenced three defendants to 10 years in prison and the fourth one to five years. Civil society commentators considered the trial to be a major challenge to impunity; two of the principal defendants, Baninter former president Ramon Baez Figueroa and economist Luis Alvarez Renta, reportedly had

strong ties within local political circles.

On December 22, however, President Fernandez pardoned a convicted former Baninter vice president as well as four persons convicted in the RENOVE case. Most members of the Pardons Commission resigned in protest against the pardons.

Judicial rulings were often not enforced. In a case involving a foreign firm the government refused to enforce a court ruling to halt an illegal blockade of a refining plant by disgruntled ex-contractors.

In July, following allegations of corruption within the Court of Accounts, Congress investigated and voted to remove all members of the institution.

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 inventory of personal and real property within a month of being hired and when they "end their responsibilities." However, compliance was spotty, verification inadequate, and the information required was not particularly useful. 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 public information only under specified circumstances (such as to protect national security), and penalties of up to six months 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. Since its first use in 2007 involving documents related to a costly underground public works project, which required Supreme Court intervention to force the documents' production, there were no subsequent recourses to the courts to enforce requests. While often timely, responses were also often incomplete, and the government dismissed subsequent requests.

#### Section 4 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.

In August police entered the house of Manuel Maria Mercedes, the human rights pastor for the Evangelical Church, without authorization.

In March 2007 the JCE prepared an internal memo recommending that Dominican-Haitian activist Sonia Pierre be stripped of her citizenship, an action seen by many as retaliation for her advocacy. The JCE's president subsequently disavowed the leaked internal investigation report, stating that the inquiry had been carried out at the request of a single congressman.

Also in 2007, government officials protested overseas showings of documentary films such as Sugar Babies and The Price of Sugar, produced by activist groups that advocate improved labor and human rights conditions in the sugar industry.

Principal local groups 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 still not implemented a 2001 law mandating the creation of a human rights ombudsman's office.

#### Section 5 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 penalties for rape are 10 to 15 years in prison (or 10 to 20 years in case of rape of a vulnerable person or under other egregious circumstances) and a fine of 115,000 to 230,000 pesos (approximately \$3,300 to \$6,600). The state may prosecute a suspect for rape even if the victim does not file charges, and rape victims may press charges against a spouse. 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 \$7,000). 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. In 2007, 177 women were killed as a result of violence against women.

According to the district attorney, in the National District, which includes a large section of Santo Domingo with approximately 10 percent of the country's population, more than 6,000 women had experienced gender violence. Of those claims, 31 percent involved physical violence and 32 percent included psychological abuse and verbal threats. The district attorney of Santo Domingo had a specialized Violence Prevention and Attention Unit. With 14 satellite offices around the city, 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.

Although the number of complaints received by the Violence Prevention and Attention Unit increased, which may have reflected the growing awareness of the resources available to victims, few cases went to trial. As of September the unit received 7,478 cases of violence against women. Of the total cases, 2,210 were in the process of investigation, 1,027 were sent to trial, and 300 were dismissed.

The National Directorate for Assistance to Victims coordinates efforts of official and nongovernmental institutions that offer services to victims of violence. It has three offices in Santo Domingo and another three around the country. 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 hot line for prevention and victim assistance.

The Secretariat of Women also operated two refugee 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 remained a serious problem, 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 \$286); however, union leaders reported that the law was not enforced, and sexual harassment was a problem.

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

The government declared its commitment to children's rights and welfare and tried to increase protection for children, with emphasis on eliminating child labor. However, the government did not meet the law's stipulation that the noncabinet National Council for Children and Adolescents (CONANI) receive at least 2 percent of the national budget and that a minimum of 5 percent of municipal government budgets be devoted to projects to benefit children.

In October the NGO Profamilia and the UN Children's Fund (UNICEF) reported that 13 percent of children were not registered at birth. A child not registered at birth is undocumented until a late declaration is made, and there were limitations on late declarations. Undocumented children, particularly those of Haitian descent, faced challenges in accessing primary public education (see section 2.d.).

Although education is free, universal, and compulsory for all minors through the eighth grade, legal mechanisms provide only for primary schooling, which was interpreted as extending through the fourth grade.

Abuse of children, including physical, sexual, and psychological abuse, was a serious problem. Through June, in orphanages alone, CONANI reported 20 cases of sexual abuse, 46 cases of physical abuse, and 47 cases of commercial sexual exploitation of children under the age of 18. 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 monitors 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 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 and sexual exploitation of children within the country were problems, particularly in major urban areas and popular tourist destinations. Child prostitution often was based on economic need, and the government initiated several programs to combat the sexual exploitation of minors, including notices in airports and targeted programs in popular tourist locations.

Child labor was a serious problem in the informal sector of the economy.

#### Trafficking in Persons

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

The NGO Center for Integral Orientation and Investigation (COIN) estimated that from 17,000 to 33,000 Dominican women abroad were victims of trafficking. Principal destination countries were in Western Europe, Argentina, Brazil, and Central American and the Caribbean. Women 18 to 25 years of age were at the greatest risk of being trafficked. Many victims were single mothers with low levels of education seeking to improve the living conditions of their children. Internally trafficked victims were typically women or adolescents trafficked for sexual exploitation to urban or tourist areas.

NGOs estimated that there were hundreds of alien smuggling and trafficking rings operating within the country operated by Dominicans and foreigners. 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. Trafficking organizations reportedly received 175,000-280,000 pesos (approximately \$5,000-\$8,000) for trafficking a woman for purposes of sexual exploitation.

The law includes penalties for traffickers of 15-20 years' imprisonment and a fine of up to 175 times the monthly minimum wage. The Code for Minors provides penalties for sexual abuse of children of 20-30 years' imprisonment and fines from 100-150 times the minimum wage.

In October 2007 the government established the National Commission against Trafficking in Persons, charged with developing a national strategy to combat trafficking and improve victim protection, but at year's end it was unclear whether the government would approve and fund it. As of year's end, the Attorney General's Office had four open investigations into trafficking in persons. The government completed investigation of a case involving two Dominican women trafficked to Turkey, a court issued arrest warrants for two trafficking suspects, and authorities were engaged in a manhunt for them. In May the Department of Alien Smuggling and Trafficking in Persons rescued 16 women who were trafficking victims in Santo Domingo. The IOM provided shelter for 15 of them for 15 days, after which they returned to their country. Only one of the women agreed to cooperate with the prosecutor's office and stayed several more days to testify in open court against the traffickers.

The attorney general's antitrafficking unit coordinated the investigation and prosecution of trafficking cases. Units at the National Police, the Migration Directorate, and the Attorney General's Office targeted trafficking in persons, as did the interagency Committee for the Protection of Migrant Women. The Migration Directorate's antitrafficking department coordinated with the Attorney General's Office and the National Police to find and prosecute persons dedicated to trafficking women for prostitution and commercial sexual exploitation.

The government made efforts to investigate public officials who facilitated, condoned, or were complicit in trafficking activities or migrant smuggling, but lack of resources and access to closed ethnic communities hampered efforts to bring cases to trial.

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. Public shelters for victims of domestic violence were generally not accessible to trafficking victims. The government began 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 Ministries of Labor and Education, continued outreach training at schools around the country. The courses warned children of the dangers of alien smuggling, commercial sexual exploitation, and trafficking. The government and various organizations continued 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.

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 Ministry 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 against persons of dark complexion, but the government denied that such prejudice exists and therefore did little to address the problem. Acts of discrimination were common. In particular there were 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, enrollment in private schools, and birth registration in hospitals. In a November 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, usually no running water, and no 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.

Although human rights NGOs and activists described living conditions in the bateyes as modern-day slavery, private sector enterprises in the sugar sector continued to make improvements at their facilities that began in 2007, including new schools and both new and renovated housing. In Nuevo Cayacoa the construction of a fully modern housing and community development was well underway.

#### Other Societal Abuses and Discrimination

There were no reports of violence against persons on the basis of their sexual orientation.

Persons with HIV/AIDS, particularly women, faced discrimination in the workplace and elsewhere. According to the UN agency UNAIDS, an estimated 60,000-65,000 persons in the country were infected with the disease. 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. Workers or patients found to have the disease could be 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 law was enforced, despite reports that official complaints had been filed.

#### Section 6 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. Organized labor represented an estimated 8 percent of the work force. The law calls for automatic recognition of a union if the government has not acted on its 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. Various NGOs reported that the majority of Haitian laborers in the agricultural and construction industries did not exercise their rights, fearing firing or deportation. In November, however, 500 undocumented Haitian employees of a private sugar producer sued their employer and won the right to benefits and a written contract. The ruling was on appeal at year's end.

The law provides for the right of most workers to strike (and for private sector employers to lock out workers), but 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.

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

Collective bargaining is legal and must be used in firms in which a union has gained the support of an absolute majority of the workers. Few companies had collective bargaining pacts, and the International Labor Organization (ILO) considered the requirements for such pacts to be excessive and an impediment to collective bargaining.

The law establishes a system of labor courts for dealing with disputes. While cases made their way through the labor courts, the process was often long and cases remained 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 nonbinding mediation facilitated by the Ministry of Labor 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. 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) reported continued incidents of antiunion activity at the TOS Dominicana plant in Bonao. The Ministry of Labor facilitated talks between the plant owners and employees, and in August the parties signed a three-year collective bargaining agreement following nearly one year of negotiation.

Local NGOs reported that companies routinely attempted to create "yellow" or company-backed unions in an effort to dilute the worker union's power.

The International Trade Union Congress reported an agricultural export company in the north of the country still refused to recognize a union following a protracted fight ultimately requiring the workers to seek and receive legal recognition of the union. According to FEDOTRAZONAS, the company continued its antiunion campaign and discriminated openly against union members, who were forced to work overtime and were refused water and

transport in and outside the fields. FEDOTRAZONAS also reported that Haitian workers at the company were being paid below the minimum wage and that all employees were required to take a blood test allegedly related to HIV. The Ministry of Labor was investigating these claims at year's end.

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, although working conditions were sometimes better and the pay was occasionally higher. Mandatory overtime was a common practice.

There were reports of widespread covert intimidation by employers in the FTZs to prevent union activity. 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, including by children, but there were reports of trafficking in children within the country. Mandatory overtime, a common practice, was sometimes enforced through locked doors or loss of pay or employment for those who refused.

Private sugar producers asserted that they have ceased transporting new, undocumented workers from Haiti, for a variety of reasons; however, the producers acknowledged hiring some new Haitian workers already residing in the country. NGOs reported that the practice of bringing in new, undocumented migrant labor from Haiti continued.

#### 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 evidence it lessened during the year. In October the NGO Profamilia and UNICEF reported that 9.7 percent of minors between 10 and 17 years of age worked illegally, compared with a 2000 survey that estimated this proportion at 18 percent. Regulations limited working hours of those between the ages of 14 and 16 to six hours per day, prohibited employment of those under the age of 18 in hazardous occupations or in establishments serving alcohol, and limited night work. 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. Children often accompanied their parents to work in agricultural fields, in part because parents had nowhere else to leave their children, since schools in the countryside 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.

There continued to be inconclusive evidence that poor Haitian families arranged for Dominican families to "adopt" and employ their children, in hopes of assuring a more promising future for them. The adoptive parents commonly considered the child as their own and sometimes provided the birth parents a monetary payment or a supply of

clothes and food. In some cases adoptive parents reportedly did not treat the adopted 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 Program for the Elimination of Child Labor that aims to withdraw 2,900 children from and prevent 2,200 children from entering exploitive labor, as well as other programs aimed at combating child labor. These included programs to eliminate the 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 to arrest and convict exploiters.

The Ministry of Labor confirmed through site inspections 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 Ministry 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 the Ministry of Labor launched a program to support public-private partnerships aimed at preventing hazardous child labor with a goal of withdrawing or preventing 8,500 children from exploitive labor.

The Ministries of Labor and Education continued to support the Combating Child Labor through Education program, which established several camps that hosted large numbers of children and adolescents. The government also created a program in the provinces of Barahona, Baharuco, and Independencia to eliminate the worst forms of child labor in the sugar plantation-linked bateyes.

There were no confirmed reports of forced child labor in the formal sector.

#### 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. The minimum monthly salary was 4,900 pesos (approximately \$140) in the FTZs and between 4,485 and 7,360 pesos (\$128 and \$210), depending upon the size of the company, outside the FTZs. The minimum wage for the public sector was 2,600 pesos (\$81) per month. The daily minimum wage for farm workers covered by minimum wage regulations was 150 pesos (\$4.70), based on a 10-hour day. Cane workers were subject to a special, lower minimum wage for the sugar industry, 95 pesos (\$2.71) per day. The national minimum wage did not provide a decent standard of living for a worker and family.

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, which was mandatory at some firms in the FTZs.

On sugar plantations cane cutters usually were paid by the weight of cane cut rather than the hours worked. Cane cutters suspected 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 \$5.00-\$7.50). However, older, less able-bodied workers were only paid for the amount of the cane they actually cut, even if the amount was less than the minimum wage. In addition during the six-month off-season, workers in some sugar plantations who opted to remain in their communities were offered small jobs such as clearing land, which were generally insufficient to earn the legally mandated minimum wage.

Conditions for agricultural workers were poor. Workers in the sugarcane industry who lived in bateyes had inadequate schools, medical facilities, running water, and sewage systems. Employers in the sugar cane 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 them 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. The Secretariat of Labor had 203 active inspectors. Workers complained that inspectors were not trained and did not respond to health and safety complaints. 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.