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Dominican Republic

Country Reports on Human Rights Practices - [2005](#)

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The Dominican Republic is a representative constitutional democracy with a population of approximately 8.8 million, including an estimated 650 thousand undocumented Haitians. In August 2004 President Leonel Fernandez of the Dominican Liberation Party (PLD) was re-elected in a generally free and fair election. While civilian authorities generally maintained effective control of the security forces, there were some instances in which elements of the security forces acted independently of government authority.

The government's human rights record remained poor. Although there were improvements in a few areas, serious problems remained. The following human rights problems were reported:

- unlawful killings committed by security forces
- torture, beating, and other abuse of suspects, detainees, and prisoners by security forces
- poor to harsh prison conditions
- arbitrary arrest and detention of suspects
- lengthy pretrial detention and long trial delays
- self-censorship practiced by journalists and editors
- restricted movement and arbitrary expulsion of Haitian and Dominican-Haitian migrants
- violence and discrimination against women
- child prostitution and other abuse of children
- severe discrimination against and abuse of Haitian migrants and their descendants
- trafficking in persons
- forced labor
- restrictions on freedom of organization and unsafe labor conditions
- child labor in the informal sector

The government made some advances in improving respect for human rights. A new Criminal Procedures Code and a new Code for Minors provided suspects with additional protections but also stiffer sanctions in cases of sexual or commercial exploitation. The government improved its capacity to fight trafficking in persons, to provide assistance for victims, and to increase investigations of traffickers.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life

Although the government or its agents did not commit any politically motivated killings, security forces were involved in many killings that were unlawful, unwarranted, or involved excessive use of force.

According to the Attorney General's Office, security forces killed between 400 and 440 persons during the year. The National Police reported 371 deaths at the hands of police between January and September, an average of 41 per month. However, such deaths declined in the second half of the year, under the administration of a new police chief, to a monthly figure of 14 in December. In the majority of killings by police, the police stated that the deaths resulted from gunfire exchange in the course of an arrest, which required officers to act in self-defense. According to the National Commission on Human Rights, many killings were related to aggressive tactics on the part of the police.

Human rights organizations stated that the police employed unwarranted deadly force against criminal suspects as in previous years, and uniformed vigilantism persisted on a less-than-deadly level (see section 1.c.). The lack of qualified investigators and the nontransparent conduct of investigations of killings in "exchanges of gunfire" resulted in impunity in a number of cases. Late in the year, however, the new police chief instituted a mandatory formal review whenever a member of the police force was involved in a death by shooting.

Many cases previously referred to courts for investigation remained unresolved or resulted in the release of the accused. There was no record of any Supreme Court investigation into the court-ordered release of police officer Cristino Alvarez Ventura, who shot and killed a youth in 2003.

In October a court sentenced former police Sergeants Rafael Matos Feliz and Homero Zapata and Lieutenant Cristian Feliz Gomez to 20, 10, and 3 years' imprisonment, respectively, for the 2002 killing of a university student in which the officers claimed that they thought he was a delinquent.

Police Lieutenant Juan Bautista Berroa was jailed for an unlawful killing in 2002 in San Francisco de Macoris. His trial was rescheduled several times, most recently for February 2006.

A significant number of deaths occurred in custody due to negligence by prison authorities (see section 1.c.).

There were reports of violence against demonstrators and protesters by members of the security forces, including some killings (see section 2.b.).

On a number of occasions citizens attacked Haitians in vigilante-style reprisals for violent crimes allegedly committed by other Haitians. In some cases the Haitians targeted were killed.

In August a late night drunken robbery attempt in the Santo Domingo suburb of Haina turned into a violent attack when several Dominicans beat four Haitians, then doused them with flammable liquid, and set them on fire. Three died, and the fourth fled with severe burns. A special commission from the National Police investigated the case.

In December in Villa Trina a group of Haitians killed a Dominican who they alleged had been attacking them. Subsequently, unidentified Dominicans killed a Haitian man, injured others, and burned down several Haitian residences.

b. Disappearance

There were no reports of politically motivated disappearances.

There were no developments in the case of Narciso Gonzalez, a university professor and critic of the Balaguer government who disappeared in 1994.

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

Although the law prohibits such practices, security force personnel, primarily mid-level and lower-ranking members of the police, continued to torture, beat, and otherwise physically abuse detainees and prisoners.

The law provides penalties for torture and physical abuse, including sentences of 10 to 15 years in prison. Civilian prosecutors sometimes filed charges against police and military officials alleging torture, physical abuse, and related crimes. New abuse and torture cases were remanded to civilian criminal courts as they arose; mid-level officers sometimes contested civilian jurisdiction (see section 1.e.).

Senior police officials took the prohibition on torture and physical abuse seriously, but lack of supervision, training, and accountability throughout the law enforcement and corrections systems undercut efforts to contain the problem. Human rights groups reported repeated instances of physical abuse of detainees, including various forms of torture, beatings, and sexual abuse.

According to human rights organizations, both the National Police and prison officials used forms of torture. The method most often used was beating. Human rights organizations also reported asphyxiation with plastic bags to elicit confessions as a form of torture.

According to the National Commission on Human Rights, military and police officials reportedly harassed, beat, and randomly deported Haitians living in the border towns of Pedernales and Elias Pina (see section 2.d.).

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 (see section 1.d.). There was some evidence that assistant prosecutors at times acquiesced in traditional police practices rather than attempt to raise these practices to constitutional standards. However, with the implementation of the new Criminal Procedures Code in September 2004, detainees received additional protections, and respect for detainee rights improved, including through increased enforcement of time limits for pretrial detention (see section 1.d.).

Both the National Police and armed forces offered training courses in human rights (see section 1.d.).

Prison and Detention Center Conditions

Prison conditions ranged from poor to harsh. Reports of torture and mistreatment in prisons were common. The prisons were seriously overcrowded, health and sanitary conditions were poor, and some prisons were out of the authorities' control. Budget allocations for necessities such as food, medicine, and transportation were insufficient. Most inmates begged or purchased food from persons in the vicinity of the prison or obtained it from family members. Prisoners were not taken to their trials unless they paid bribes to the guards (see sections 1.d. and 1.e.), and visitors often had to bribe prison guards in order to visit prisoners. Prison officials accepted money in exchange for a recommendation that a prisoner be furloughed or released for health reasons. Prisons often did not provide adequate medical care to

inmates. Prisoners immobilized by AIDS or who had terminal illnesses were not transferred to hospitals.

According to the Directorate of Prisons, the police and the military held approximately 13 thousand prisoners and detainees in 35 prisons with an intended capacity of approximately 9 thousand. 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 thousand and had only 354 beds for its inmates. Rafey prison held approximately 1,200 prisoners in a facility designed to hold 600.

Although a warden who reports to the attorney general was responsible for running each prison, in practice a police or military officer (generally appointed for a period of only three to six months and responsible for providing security) was usually in charge of the prison. Overcrowding was so severe that some prisons were totally out of the authorities' control and were, in effect, operated by gangs and armed inmates.

The press and human rights groups reported extensive drug and arms trafficking within the prisons, as well as prostitution and sexual abuse, including abuse of minors.

There were a number of deaths due to negligence in the prisons. During a riot in March, armed rival gangs fought for control of a section of the Higuey prison called Vietnam. During the fight inmates set fire to a cellblock. At least 136 inmates died and 26 were injured. According to the National Police, firefighters could not reach the prisoners in time because inmates had jammed the locks with sand and other debris. While the Higuey prison was built to hold 80 inmates, the prison director reported that it held 426 inmates at the time of the fire. The burned cellblock, designed for no more than 40, held more than 150 inmates. The majority of the persons who died in the fire were in pretrial custody. Government officials announced that authorities would file murder charges against prisoners and law enforcement officials who were involved, and they arrested five inmates who were awaiting trial at year's end.

Although female inmates generally were separated from male inmates, there were some cases of male and female prisoners being held together. Half of the total female population was held in a female-only prison. Conditions in the female prison wings generally were better than those in male prison wings. There were some reports of guards physically and sexually abusing female inmates. 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 often were detained with the general prison population. The authorities sometimes treated minors as adults and incarcerated them in prison rather than juvenile detention centers.

Pretrial detainees were held together with convicted prisoners. Inmates were not separated by crime within the prison population; however, they could be put into solitary confinement for disturbances while incarcerated.

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

d. Arbitrary Arrest or Detention

Although the Criminal Procedures Code implemented in September 2004 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.

Role of the Police and Security Apparatus

The National Police, the National Department of Investigations (DNI), the DNCD, the Airport Security Authority (CESA), Port Security Authority (CESEP), 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's domestic responsibilities include maintaining public order and protecting persons and property. The military, CESA, and CESEP are under the secretary of the armed forces; and the DNI and the DNCD, which have personnel both from the police and from the military, report directly to the president.

According to the National Commission on Human Rights, the military and police collaborated with their Haitian counterparts at the border to obtain bribes from Haitians attempting to cross illegally.

The Police Abuse Prevention Center (CEPRAPO) reported more than 40 cases of police abuse to the police Office of Internal Affairs. According to CEPRAPO, police officially responded to only two of these cases.

Police officers were fired for violent attacks, extortion, drug use, and trafficking. Significant problems of this nature remained, in part because of insufficient vetting of the backgrounds of police recruits. Many persons with prior criminal records allegedly were incorporated into police ranks, either under false names or with identification or recommendations from other state institutions, such as the army. Many members of the police force lacked basic education, had received inadequate training, and showed weak discipline, all factors that directly contributed to unlawful or unwarranted killings and to cruel or inhuman treatment (see section 1.a.).

The Institute of Human Dignity, a branch of the National Police, monitors human rights abuses committed by members of the National Police. The institute held more than 100 courses, seminars, and conferences, which were attended by members of the National Police, armed forces, and civilians. From January to September, more than 1,500 participants graduated from the police human dignity course.

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. Nearly seven thousand participants from the military and civil society received training during the year.

Systems for monitoring and sanctioning abuses of human rights remained ineffective.

Arrest and Detention

The law provides that an accused may be detained for 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; however, at times the police violated constitutional and legal provisions by detaining suspects for investigation or interrogation beyond the prescribed 48-hour limit or detaining suspects without a warrant. Police often detained all suspects and witnesses in a crime and used the investigative process to determine who were innocent and merited release, and who they should continue to hold. Additionally police continued to detain relatives and friends of suspects in order to pressure suspects to surrender or to confess. These practices were employed less often after the new Criminal Procedures Code came into force.

Given the historical inefficiency of the courts (see section 1.e.), granting bail served as a de facto criminal justice system, and defendants awarded bail rarely faced an actual trial. Few defendants were granted bail, although bail became more common following implementation of the new Criminal Procedures Code, which requires judicial review of detentions at an earlier point in a criminal case.

Most detainees and prisoners did not have prompt access to a lawyer and could not afford adequate defense services. The National Office of Judicial Defense, with foreign donor support, provided legal advice and representation to indigent persons. As of October the government's program to train public defenders had placed 80 public defenders in Santo Domingo, Santiago, and some smaller areas. The Supreme Court also paid 97 private lawyers across the country to provide part-time legal services to indigent defendants.

Police continued the practice of making sporadic sweeps or roundups in low-income, high-crime communities in which they arrested and detained individuals without warrant, allegedly to fight delinquency. During these sweeps, police arrested large numbers of residents and seized property, including motorcycles, other vehicles, and weapons. Prosecutors generally did not actively investigate cases; they often depended on police reports, many of which were based on forced confessions.

Local human rights observers reported roundups of Haitian and Dominican-Haitian construction workers. Officials allegedly took groups of darker-skinned or "Haitian-looking" individuals to empty buildings soon after they were paid, in order to extort money from them.

There were no reports of political detainees.

Many suspects endured long pretrial detention. According to several reports, 66 percent of inmates were held without charges or while awaiting trial. The average pretrial detention was more than six months. Time served in pretrial detention counted toward a sentence.

Juveniles held 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 questioning.

The failure of prison authorities to produce the accused for court hearings caused a significant percentage of trial postponements (see section 1.e.). In addition inmates often had their court dates postponed because their lawyer or witnesses did not appear. The authorities held some inmates even though there were no formal charges against them.

A large backlog of criminal cases under the previous Criminal Procedures Code remained in the National District and throughout the country. The Supreme Court's plans to unclog the court dockets proceeded slowly due to budget constraints. Dockets were crowded with traffic infractions that, by statute, should have been heard in traffic courts; these courts had not been established, due to a lack of funds. Other complications in clearing the backlog arose from the lack of funds for transporting inmates to court. Many cases were rescheduled when the accused or key witnesses did not appear. In some instances a defendant would appear before the judge on the scheduled trial date, but the trial would not go forward due to the absence of one or more co-defendants. The decision of the trial judge to decline to try co-defendant cases separately prejudiced defendants who complied with the law.

e. Denial of Fair Public Trial

Although the law provides for an independent judiciary, public and private entities continued to undermine judicial independence. The judiciary received training in the Criminal Procedures Code to help create and maintain professional standards, but undue influence remained a problem.

The judiciary includes a 16-member Supreme Court, appeals courts, courts of first instance, and justices of the peace. There are specialized courts that handle tax, labor, land, and juvenile matters. The Supreme Court is responsible for naming all lower court judges according to criteria defined by law. The government established 17 of the 25 tribunals provided for by law and 5 courts of appeals for children and adolescents. The Code for Minors outlines the judicial system for criminal cases involving juveniles and family disputes.

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 not to be a witness against oneself; and the right to a defense in an impartial and public trial. The authorities commonly violated these rights.

Citizens have recourse to the remedy of *amparo*, an action to seek redress of any violation of a constitutional right, including violations by judicial officials. This remedy was rarely used, except by those with sophisticated legal counsel.

Until recently, military and police tribunals enjoyed exclusive jurisdiction over cases involving members of the security forces; however, some cases of killings allegedly committed during the year by members of the security forces were remanded to civilian criminal courts (see section 1.a.).

Political Prisoners

There were no reports of political prisoners.

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

The law contains provisions against arbitrary entrance into one's home except when police are in hot pursuit of a suspect or when a suspect is caught in the act of committing a crime. Although all other entrances require a judge to issue an arrest or search warrant, the police conducted illegal searches and seizures. The Dominican Human Rights Committee reported that police carried out raids on private homes in many poor Santo Domingo neighborhoods.

Although the government denied using unauthorized wiretapping and other surreptitious methods to interfere with the private lives of individuals and families, human rights groups alleged continued interference. There was an active illegal private wiretapping industry.

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.

Newspapers and magazines presented a variety of opinions and criticisms. There were eight daily newspapers, a number of weekly newspapers, and several online news outlets. Editors at times practiced self-censorship, particularly when coverage could adversely affect the economic or political interests of media owners.

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

In February an editorial in a newspaper of limited circulation alleged that the government-operated Dominican Telecommunication Institute (Indotel) had suspended two television programs for criticizing a government project to construct a subway. Indotel denied this allegation.

There were occasional reports of harassment of journalists. In February two agents of the Metropolitan Transportation Police beat two photo journalists after they had allegedly run a red light. Witnesses said the transportation police used unwarranted force when one journalist attempted to take photos of the arrest of his colleague.

There were no government restrictions on the Internet or academic freedom.

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 some occasions, when police officers used force to break up spontaneous demonstrations, they caused deaths and injuries, either to demonstrators or bystanders. In August police injured at least 10 demonstrators in Nagua who were seeking construction of basic city infrastructure. They also killed a 12-year-old bystander who received a shot in the head when police began shooting toward demonstrators.

Freedom of Association

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

c. Freedom of Religion

The law provides for freedom of religion, and the government generally respected this right in practice. The law prohibits discrimination on

religious grounds, and many religions and 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 there is a Catholic chapel at the presidential palace. The Catholic Church also received public funding to cover some church expenses such as rehabilitation of church facilities.

Societal Abuses and Discrimination

Relations among different religious congregations were harmonious, and society was generally tolerant with respect to religious matters. However, because Catholics enjoy some special treatment, there was resentment by non-Catholic groups towards Catholics.

The Jewish community is very small, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the [2005 International Religious Freedom Report](#)

.d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation

Although the law provides for these rights, and the government generally respected these provisions in practice, there were some exceptions. For example human rights groups alleged that many Haitians were not allowed to leave the sugarcane plantations where they worked (see section 6.e.). Local and international human rights groups charged that there was discrimination against Haitian migrants and that they were subject to arbitrary and unjustified action by the authorities (see section 5).

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

Haitians continued to immigrate in great numbers to the country in search of economic opportunity, and many of them were repatriated. Migration authorities and security forces conducted periodic sweeps throughout the year to locate and repatriate illegal migrants. Some of the Haitians 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. Migration officials and security forces sometimes destroyed and confiscated expellees' residency documents. In some cases expellees with appropriate legal documents received permission to return. Government officials stated that President Fernandez ordered the suspension of "mass repatriations" in June.

The constitution provides that anyone born in the country is a citizen, except those in transit or children born to diplomats. NGOs defending Haitians reported that children born of Haitian parents in the country often were denied registration as citizens under the transit exception, even when their parents had resided in the country for long periods of time (see section 5). In December the Supreme Court ruled that "in transit" status applied to children of illegal migrants.

The government's policy was that of strict enforcement of documentary requirements and repatriation of individuals found to be lacking documents. However, enforcement was selective and affected by dependence on Haitian labor for certain types of poorly paid work in agriculture and construction. Military officers and other officials exercised discretion, and many regularly collected bribes in return for releasing individuals suspected to be in irregular or undocumented status.

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, but the government has not established a system for providing protection to refugees. In practice the government provided some protection against *refoulement*, the return of persons to a country where they feared persecution. This 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. However, the government did not apply standards agreed upon with the office of the UN High Commissioner for Refugees (UNHCR) to improve receipt and adjudication of refugee claims. Although the UNHCR strengthened its protection activities in 2003 by re-establishing its presence in Santo Domingo, in July UNHCR withdrew its personnel and subsequently monitored migration and refugee issues from a regional office outside the country.

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, made up of members from the Foreign Ministry, the DNI, and the Migration Directorate. The commission, with responsibility for the final decision on the application, 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 267 applications awaiting decision, nearly all made by Haitians. Some of these cases had been pending since 2000. In April the National Commission for Refugees reviewed and granted asylum in five cases, three of which were submitted by members of the same family. This was the committee's first meeting in 10 years. According to the UNHCR, as many as 600 recognized refugees were living in the country, most of whom lacked documentation sufficient to obtain permission to work legally and to exercise other rights, such as obtaining documentation for their children.

The Union of Haitian Refugees in the Dominican Republic stated that authorities regularly issued Haitians requesting asylum a migration

document, which the petitioners must renew every two months. The document cost approximately \$8 (250 pesos), a fee collected upon every renewal. The organization considered the document to be worthless because even Haitians bearing it were arrested and repatriated.

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

The law provides citizens with 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 2004 PLD candidate Leonel Fernandez won the presidency in an election described as generally free and fair by the Organization of American States, the National Democratic Institute, and the International Foundation for Electoral Systems, as well as by the government electoral board and the nongovernmental organization (NGO) Citizen Participation.

By law parties must reserve for women 33 percent of positions on their lists of candidates for the Chamber of Deputies and city councils; in practice the parties often placed women so low on the lists as to make their election difficult or impossible. Women held three cabinet posts in the Fernandez administration. There were 2 women in the 32-member Senate, 24 women in the 150-member Chamber of Deputies, and 5 women on the 16-seat Supreme Court.

Government Corruption and Transparency

There were reports of, and a widespread perception of, corruption in government. The authorities lodged charges against a number of officials from the previous administration and individuals who had done business with them, and the courts convicted some of them.

In April the president appointed a Government Ethics and Anti-Corruption Commission with authority to receive allegations of corruption within the government and channel the complaints to the offices that had authority to investigate.

In 2004 Congress passed and the president promulgated a comprehensive law providing public access to government information. It allows limits on the availability of public information only under specified circumstances (such as to protect national security) and provides for a penalty 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.

In September Congress ratified a free trade agreement that requires measures to prevent corruption in trade matters and to enhance transparency of government procurement.

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. Government officials generally were cooperative and responsive to their views.

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 organizations, both secular and religious, that addressed, among other things, women's rights, labor issues, and the rights of Haitians.

Even though a 2001 law created a human rights ombudsman's office with authority over public sector problems involving human rights, the environment, women's issues, youth issues, and consumer protection, selection of an ombudsman remained pending at year's end.

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

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 1 year to 30 years in prison and fines ranging from approximately \$20 to \$7 thousand (600 to 210 thousand pesos). Several newspaper articles alleged that society had become more violent, and many government officials and NGOs publicly denounced the problem. However, a lack of awareness and training of police, prosecutors, and investigators hampered action against crimes of domestic violence (as well as other types of crime). A local NGO estimated that 24 percent of women between the ages of 15 and 49 had been victims of physical abuse. According to the Secretariat of Women, from January to July, 94 women were killed in "crimes of passion" by their spouses or lovers, compared with 117 such victims in all of 2004.

The Secretariat of Women, as well as various NGOs, conducted outreach programs on domestic violence and legal rights. The Non-Violence

Department of the Secretariat of Women received approximately 388 complaints of domestic violence during the year.

Female victims of abuse had few resources, although the NGO Piedra Blanca operated a shelter for battered women, and the Secretariat of Women supported operation of a center for victims of domestic violence in Bani, where victims of abuse could make a report to the police and receive counseling. In August the Attorney General's Office created the National Advisory Directorate for Victims, which coordinates efforts of official and nongovernmental institutions that offer services to victims of violence including domestic and sexual abuse.

Rape was a serious and widely underreported problem. The penalties for committing rape are 10 to 15 years in prison (or 10 to 20 years in case of rape against a vulnerable person or under other egregious circumstances) and a fine of approximately \$3,300 to \$6,600 (100 thousand to 200 thousand pesos). 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. In 2002, the last year for which official statistics were compiled, the Secretariat of Women reported more than 3,300 complaints of sexual abuse. 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. The police were reluctant to handle rape cases and often encouraged victims to seek assistance from NGOs.

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 was a serious problem in Sosua and Boca Chica. Human rights groups reported continuing prostitution in sugarcane work camps and areas outside of the capital. NGOs conducted programs on prostitution and child sexual exploitation for hotel and industrial zone workers, male and female prostitutes, and other high-risk groups. Trafficking in women and children was a problem (see section 5, Trafficking).

The law prohibits sexual harassment in the workplace, which was considered a misdemeanor and carried a possible penalty of 1 year in prison and a fine of up to \$333 (10 thousand pesos); 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. Traditionally, women have not enjoyed equal social and economic status or opportunity with men, and men held the majority of leadership positions in all sectors. In many instances women were paid less than men in jobs of equal content and requiring equal skill level. Some employers reportedly gave pregnancy tests to women before hiring them, as part of a required medical examination. Union 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. The Code for Minors, which was implemented in October 2004, established the National Council for Children and Adolescents (CONANI) as a noncabinet, decentralized public agency to coordinate public policy to protect children's human rights and to administer the code. While the law stipulates that CONANI is to receive at least 2 percent of the national budget and that a minimum of 5 percent of municipal government budgets must be devoted to projects to benefit children, this requirement was not met.

Education is free, universal, and compulsory for all minors through the eighth grade, but legal mechanisms provide only for primary schooling, which was interpreted as extending through the fourth grade. Although the Ministry of Education reported a 97 percent enrollment rate in grades 1 through 8 in 2004, a government study also estimated that the average grade level achieved by children in public schools was the fifth grade in rural areas and the sixth grade in urban areas. Children of Haitian descent, and those of undocumented citizens, experienced difficulties gaining acceptance to school due to their lack of official status (see section 5, National/Racial/Ethnic Minorities).

There were several government programs to provide medical care for children in public hospitals, but these programs, as well as all other medical programs, faced severe budget limitations.

Abuse of children, including physical, sexual, and psychological abuse, was a serious problem. According to a CONANI employee, the Santo Domingo District Attorney's Office received up to 25 reports of child abuse per day. CONANI asserted that 3 of every 10 children in Santo Domingo had been sexually abused. 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 85 percent of 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.

In February CONANI asked the attorney general to carry out an investigation of Hogar Luby, a home for disabled children in Santo Domingo, based on allegations of child abuse, neglect, and misuse of funds. As of September the owner of the home had gone into hiding, and the investigation was inactive.

In a highly publicized October 2004 case, 12 persons were accused of sexually abusing at least 29 young children at a shelter in Higüey. They were held in preventive detention, and in March two of the accused died in the Higüey prison fire (see section 1.c.). In July a judge of instruction dismissed the charges, and the attorney general appealed the dismissal. At year's end six of the accused were free on bail, one had died from heart failure, and the remaining three suspects were in detention awaiting the outcome of the appeal.

According to local monitors, instances of child abuse were underreported because of traditional beliefs that family problems should be dealt with inside the family. The law contains strengthened provisions against the problem areas of child abuse, including physical and emotional mistreatment, sexual exploitation, and child labor (see sections 5, Trafficking and 6.d.). 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.

Trafficking and sexual exploitation of children within the country were problems, particularly in popular tourist destinations (see section 5, Trafficking). Adolescent girls and boys from poor families sometimes were enticed into performing sexual acts by the promise of food or clothing.

Child labor was a serious problem in the informal sector of the economy (see Section 6.d.).

Trafficking in Persons

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

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 Code for Minors provides penalties for sexual abuse of children of 20 to 30 years' imprisonment and fines from 100 to 150 times the minimum wage.

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 created an antitrafficking department, which coordinates 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 International Organization for Migration (IOM) estimated that 50 thousand Dominican women worked in prostitution around the world and of these women, one third were victims of trafficking.

Principal destination countries were in Europe, the Caribbean, and Latin America, and included Argentina, Australia, Austria, Brazil, Costa Rica, Germany, Greece, Italy, the Netherlands, Panama, Spain, St. Maarten, and Switzerland. Japan became a new destination for trafficking, while traffickers in the Caribbean strengthened their networks. Women 18 to 25 years of age were at the highest risk of being trafficked. Many victims were uneducated single mothers desperate to improve the living conditions of their children.

Within the country, the prostitution of minors, primarily in the tourist areas, was a problem. An official 2003 study estimated that 50 to 60 Haitian children were trafficked into the country each week and that many Haitian girls age 12 and older were brought into the country to work as prostitutes.

In April DNI dismantled a child prostitution and pornography ring in Sosua that had posted sexually explicit photos of young children on the Internet. Police arrested two men. At the request of the attorney general, police closed down several bars, nightclubs, and "massage parlors" in Santiago, Santo Domingo, and Boca Chica used for child prostitution and sexual exploitation of women.

In May a judge convicted and sentenced 3 men to 15 years in prison under the antitrafficking law for sexually exploiting 24 children in Boca Chica in 2004. As of October a fourth suspect was in detention and awaiting trial.

NGOs estimated that there were hundreds of alien smuggling and trafficking rings operating within the country. According to the NGO Center for Integral Orientation and Investigation (COIN) and the 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 were introduced to women through friends and family; they promised some form of employment, obtained false or legitimate documents for the women, and often retained their passports once in the destination country. Trafficking organizations reportedly received \$5 thousand to \$8 thousand (150 thousand pesos to 240 thousand pesos) for trafficking a woman for purposes of prostitution.

Some elements within the tourist industry facilitated the sexual exploitation of children. Particular problem areas were Boca Chica, Puerto Plata, and Sosua. Europeans overseas marketed tours by suggesting that boys and girls could be found as sex partners.

In March the Supreme Court resumed proceedings in the trial of Congressman Guillermo Radhames Ramos Garcia (formerly a consul in Cap Haitien, Haiti) on charges of alien smuggling. Because of Ramos Garcia's status as a congressman, the case was assigned directly to the Supreme Court. The Supreme Court found Ramos guilty and sentenced him to 18 months in prison. He was paroled in October after completing nine months and eight days of his sentence, including periods of pretrial detention. Two co-defendants were found guilty and sentenced to time served.

The government made efforts to investigate, fire, and prosecute when appropriate public officials who facilitated, condoned, or were complicit in trafficking activities or migrant smuggling. NGOs alleged corruption among the military and migration officials stationed at border posts and noted that these officials sometimes facilitated the illegal transit of Haitian workers into the country to work on sugar plantations and construction sites (see sections 2.d. and 6.c.). There were also elements within the Migration Directorate and the National Police that organized or facilitated the smuggling of aliens through the international airports.

The government provided limited assistance to trafficking victims by working with NGOs to develop job-training programs for returned women. When trafficked individuals were repatriated from abroad, they were given a control record that went into their official police record and were interviewed by a migration inspector. According to COIN, most victims were too embarrassed or frightened to seek legal action against traffickers and victims received no psychological counseling. COIN worked to develop relationships with embassies and consulates

that serve trafficked victims and with other NGOs in destination countries that serve similar populations. There were several church-run shelters that provided refuge to children who escaped prostitution.

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 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 various issues, including citizenship, legal work requirements, dangers of trafficking, forced prostitution, and domestic servitude. With IOM support, COIN also provided a minimal level of clinical services and adult education classes for returned women.

Persons with Disabilities

Although the law prohibits discrimination against persons with disabilities, they encountered discrimination in employment and in the provision of other services. While the law provides for physical access for persons with disabilities to all new public and private buildings, the authorities did not enforce this law. The Dominican Association for Rehabilitation, which has 17 branches around the country, receives a subsidy from the Ministry of Public Health to provide rehabilitation assistance to persons with disabilities. Little effort was made to design public works to accommodate persons with disabilities.

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

CONANI charged that a home for disabled children was abusing and neglecting them. As of October authorities were investigating the case (see section 5, Children).

National/Racial/Ethnic Minorities

There was racial prejudice targeting persons of dark complexion, but the government did little to address the problem. As a result, acts of discrimination were common, ranging from the petty to the more serious. 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 (see sections 1.d. and 2.d.). Few government officials acknowledged the existence of this discrimination; others regularly and publicly asserted that there was no discrimination against Haitians or other persons of dark complexion.

Efforts by the authorities to stem the influx of illegal Haitian immigrants made life more difficult for those Haitians already in the country legally. Police regulations permit the confiscation of vehicles offering transportation to illegal immigrants, thereby discouraging taxi and bus drivers from picking up darker-skinned persons. In roundups aimed at illegal immigrants, the authorities picked up and expelled darker Dominicans as well as legal Haitian residents (see section 1.d.).

The IOM estimated that approximately 650 thousand Haitian immigrants--or 7.5 percent of the country's population--lived in shantytowns or sugarcane work camps known as *bateyes*, which were harsh environments with limited or no electricity, usually no running water, and no adequate schooling. Although some Haitians were brought to the country specifically to work in sugarcane camps, many had no documentation. Human rights NGOs, the Catholic Church, and activists described Haitian living conditions in *bateyes* as modern-day slavery. In most *bateyes*, medical assistance either was rudimentary or not readily available. Housing in the *bateyes* was poor; many individuals slept in barracks on iron beds without mattresses or on dirt floors. Many families of 5 or more shared living quarters that measured as little as 10 by 9 feet. Bathroom facilities, where available, were generally unhygienic, and cooking facilities were usually improvised. The availability of fresh food, including fruits and vegetables, was severely limited. Clean water was often unavailable.

Some individuals estimated that as many as one million Haitians lived in the country, many illegally, but several Haitian rights NGOs were concerned that this estimate included Haitians born in Haiti and their offspring born in the Dominican Republic. The civil registry authorities regularly refused to recognize and document as citizens many individuals of Haitian ancestry born in the country (see section 2.d.). Since many Haitian parents never possessed documentation of their own births, they were unable to demonstrate their own citizenship or that of their children.

On October 8, the Inter-American Court of Human Rights found against the government in a case brought on behalf of two Dominican girls of Haitian ancestry to whom government registrars had refused to provide birth certificates. Plaintiffs had lodged the case with the Inter-American Human Rights Commission in 1998, and when mediation failed to achieve an amicable solution in 2001, including changes to laws and procedures, the commission referred the case to the court. A December 12 press release quoted the foreign minister as saying that even though the verdict against the country was unjust, the country would pay as instructed by the court.

Although a legal ordinance allows undocumented children to attend school through the fifth grade, some school administrators denied undocumented children access to school, particularly those who appeared to be of Haitian ancestry. NGOs reported that undocumented Haitian children were prevented from enrolling in school to a greater degree than were similarly undocumented Dominican children.

When permitted to attend primary school, the children of poor Haitian parents, like poor Dominican children in the same *bateyes*, rarely progressed beyond the sixth grade.

Other Societal Abuses and Discrimination

Persons with HIV/AIDS, particularly women, faced discrimination in the workplace and elsewhere. An estimated 50 thousand to 100 thousand persons in the country were infected with the disease. According to Human Rights Watch, workers in many industries faced

involuntary 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 healthcare. Although the law prohibits the use of HIV testing to screen employees or for medical services unrelated to the disease, this law rarely was enforced.

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.

Although the law forbids companies to fire union organizers or members, it was enforced inconsistently, and penalties were insufficient to deter employers from violating worker rights. There were additional reports of harassment and intimidation by employers in an effort to prevent union activity, especially in the free trade zones (FTZs) (see section 6.b.). The Dominican Federation of Free Trade Zone Workers (FEDOTRAZONAS) reported additional incidents of antiunion activity at the FM company in Santiago, 1 of 13 production facilities belonging to apparel manufacturing firm Grupo M, one of the largest private sector employers in the country. FM company management conducted a public campaign against union organizers and affiliates, which included the creation of a rival union favoring company policies. As of October, a decision on the legality of this group was pending.

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 have collective bargaining pacts, and the International Labor Organization (ILO) considered the requirements for collective bargaining rights to be excessive and an impediment to collective bargaining.

The law establishes a system of labor courts for dealing with disputes. While cases did make their way through the labor courts, the process was often long and cases remained pending for several years.

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. Despite this prohibition, government-employed physicians of the Dominican Medical Association went on strike repeatedly throughout 2004 and during the first half of the year for periods ranging from one day to one week, insisting on salary increases and improvements in resources for government-run hospitals. The health minister and eventually the president became directly involved in these labor negotiations. The government did not propose any sanctions against those who had disregarded the legal prohibition on strikes. In October the president and health minister signed an agreement with the Dominican Medical Association president, undertaking, among other items, to provide salary increases in 2007. The agreement met the association's principal demands.

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 sugar and construction industries did not exercise their rights, fearing deportation or job loss.

The Labor Code applies in the 40 established FTZs, which employed approximately 175 thousand workers. According to the National Council of Labor Unions, only four of the unions that had achieved collective bargaining agreements in the FTZs were active. 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, and it was sometimes enforced through locked doors or loss of pay or employment for those who refused (see section 6.c.).

There were reports of widespread covert intimidation by employers in the FTZs in an effort to prevent union activity (see section 6.a.). 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. Some FTZ companies were accused 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 (FENATRAZONAS) or FEDOTRAZONAS (see section 6.a.). FEDOTRAZONAS estimated that less than 10 percent of the workers in the FTZs were unionized. Employer resistance to union organization, especially in the FTZs, increased in response to growing competitive pressure from firms in Asia. Industry observers estimated that 30 thousand jobs had been lost in the sector as a result.

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. Workers were not always aware of such codes or the principles they contained.

c. Prohibition of Forced or Compulsory Labor

Although the law prohibits forced or compulsory labor, including by children, there were reports that such practices occurred (see section 5).

Some young children, particularly Haitians, were "adopted" by families and worked under a kind of indentured servitude (see section 6.d.). There were also reports that workers in sugarcane plantations were prevented from leaving during the harvest (see section 6.e.).

d. Prohibition of Child Labor and Minimum Age for Employment

While the law prohibits employment of children less than 14 years of age and places restrictions on the employment of children under the age of 16, child labor was a serious problem. The Central Bank's Statistics Department estimated that 15 percent of children between the ages of 14 and 17 engaged in some sort of work. Regulations applying to children between the ages of 14 and 16 limited the number of hours worked daily to 6, prohibited employment in dangerous occupations or in establishments serving alcohol, and limited nighttime work. Fines and legal sanctions may be applied to firms employing underage children. While the government effectively enforced these regulations, child labor was largely a problem in the informal sector beyond regulatory reach.

The high level of overall unemployment and the lack of a social safety net created pressures on families to allow or encourage children to earn supplemental income. Tens of thousands of children began working before the age of 14. Child labor took place primarily in the informal economy, small businesses, clandestine factories, sugarcane fields, and places of prostitution. Conditions in clandestine factories were generally poor, unsanitary, and often dangerous. There was evidence that poor Haitian and Dominican adolescents accompanied their parents to work in sugarcane fields, with the tacit approval of sugar companies. Children 12 years old and younger also worked planting sugarcane, earning as little as \$1 (30 pesos) for a full day of labor.

Some poor Haitian families arranged for Dominican families to "adopt" and employ their children, in hopes of assuring a more promising future for them. The adopting parents usually registered the child as their own. In exchange the birth parents received monetary payment or a supply of clothes and food. In many cases adoptive parents did not treat the adopted children as full family members and expected them to work in the households or family businesses rather than to attend school. This resulted in a kind of indentured servitude for children and adolescents.

The Ministry of Labor, in collaboration with the ILO's Program for the Eradication of Child Labor and other international labor rights organizations, continued programs to combat child labor. These included programs to eliminate child labor in the tomato-producing province of Azua, the coffee-growing province of San Jose de Ocoa, and the agricultural province of Constanza, and a program to combat the commercial sexual exploitation of minors in popular tourist destinations. The Ministries of Labor and Education continued to support the Combating Child Labor through Education Program, which established several camps that hosted more than one thousand children and adolescents. An ILO and Ministry of Labor program in Boca Chica to combat commercial sexual exploitation of minors provided psychological support and medical assistance, returned children to classrooms, and reunited children with their families and communities whenever possible. The program also provided legal assistance to child victims in order to arrest and convict exploiters. The Ministry of Education provided a subsidy of \$17 (500 pesos) monthly to the poorest families to keep their children in school and away from work. The Armed Forces sponsored a program to rescue, supervise, and rehabilitate victims of child labor or those at risk and operated several walk-in programs and a permanent "village" that provided room, board, and educational activities.

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 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 approximately \$119 (3,561 pesos) in the FTZs and \$164 (4,920 pesos) outside the FTZs. The minimum wage for the public sector was approximately \$64 (1,906 pesos) per month. The minimum wage for farm workers who are covered by minimum wage regulations was approximately \$0.43 an hour (13 pesos), based on a 10-hour 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 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. Observers suspected fraud at some weighing stations, 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 and weighed less. The amount of cane a worker could cut varied, but many cane cutters earned less than \$2.50 (75 pesos) per day. Workers were paid every two weeks with tickets that were exchangeable for cash only in centers that often were far away. Workers who used the tickets to purchase items at private stores located on the plantations often had to pay a 10 percent "service charge." Starting in December, however, workers were no longer paid in tickets but directly in cash.

Conditions for agricultural workers were poor, particularly in the sugar industry. Most sugarcane worker villages lacked schools, medical facilities, running water, and sewage systems, and had high rates of disease. Company-provided housing was sub-standard (see section 5). Approximately 83 percent of sugarcane workers were Haitian or of Haitian descent. In various sugarcane industry shantytowns, field guards reportedly kept workers' clothes and documents to prevent them from leaving until the end of the harvest. Employers also withheld wages to keep workers in the fields. Sugarcane workers often did not receive medical services or pensions due them even though deductions were taken from their pay.

The Diocese San Pedro de Macoris developed a proposed model work contract and submitted it to the Vicini Consortium and other companies in 2001. The companies did not adopt the contract, but the consortium continued to improve working and living conditions of

sugarcane workers. The Diocese continued to promote Haitian worker rights in the *bateyes* and to seek a work contract for Haitian workers. Officials of the association of sugar industries regularly criticized the priest heading this effort, and newspapers carried unfounded allegations that he had encouraged workers to destroy property.

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 185 active inspectors. Inspector positions customarily were filled through political patronage, and inspectors typically took bribes from businesses. 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.

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