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U.S. Department of State

Dominican Republic Country Report on Human Rights Practices for 1996

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DOMINICAN REPUBLIC

The Constitution provides for a popularly elected President and a bicameral Congress. In practice, the distribution of power has favored the executive branch. Following a free and fair presidential election in which political parties across the ideological spectrum participated, Leonel Fernandez of the Dominican Liberation Party assumed the presidency August 16. He replaced Joaquin Balaguer, who served as president for 22 of the past 30 years. The Government began an overhaul of the nominally independent judiciary, which was highly politicized in the past.

The security forces are the National Police (PN), the National Department of Investigations (DNI), the National Drug Control Directorate (DNCD), and the military (army, air force, and navy). The PN is under the Secretary of the Interior and Police; the military is under the Secretary of the Armed Forces; and the DNI and DNCD, which have personnel from both the police and the military, report directly to the President. The security forces are generally responsive to civilian executive branch authority. However, some members of the security forces continued to commit human rights abuses, sometimes with the tacit acquiescence of the civil authorities.

The economy, once heavily dependent on sugar and other agricultural exports, has diversified; tourism and Free Trade Zones (FTZ's) are now major sources of income and employment. Remittances from abroad provide an estimated 10 percent of gross domestic product, which is about \$1,572 per capita. State-owned firms such as the State Sugar Council (CEA), the Corporation for State Enterprises, and the Dominican Electricity Corporation have impeded economic growth because of financial and administrative ineptitude.

Principal human rights problems include continuing instances of extrajudicial killings by police, arbitrary detention and beatings of suspects, security services' refusal to obey judicial orders, interference with the judiciary, judicial corruption, maladministration of the courts, poor prison conditions, detention of suspects' relatives, abuses of Haitian migrants, compulsory labor, and impediments to free association. Workers in the state-owned sugar plantations and mills continued to work under deplorable conditions. Discrimination, violence against women, and prostitution are also serious problems.

RESPECT FOR HUMAN RIGHTS

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

a. Political and Other Extrajudicial Killings

There were no reports of political killings, but there were 85 reports of extrajudicial killings by the security forces. These were usually committed by police pursuing suspects. In February an army patrol killed a child and wounded four others in the city of Santiago when it fired upon a vehicle which did not obey orders to stop. The officials were dismissed. In another incident, a pregnant 19-year-old woman died in police custody, allegedly from beating during interrogation. In another incident, according to the press and human rights activists, a police officer entered a private home and shot a 17-year-old while he slept with his infant child. Although police dispute the killer was actually a police officer, human rights activists report the alleged killer has since been promoted.

Military courts try military personnel charged with extrajudicial killings. Police tribunals have on occasion tried, convicted, and sentenced personnel charged with extrajudicial killings. According to press reports, police referred two cases of extrajudicial killings to civilian criminal courts in 1996.

b. Disappearance

There were no reports of politically motivated disappearances.

The case of Narciso Gonzalez, a university professor and critic of the Balaguer government, who disappeared in May 1994, continued to languish in the court system. The case came before the Inter-American Commission on Human Rights (IACHR) in October. The Fernandez Government then reopened the case. The police gave the Attorney General a detailed report of their findings, and the investigating judge interviewed dozens of people. Although there have been no indictments, the authorities appeared to be pursuing the case seriously and submitted a response to the IACHR in November.

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

Torture and other forms of physical abuse are illegal, but instances of security service personnel physically abusing detainees continued. Lack of supervision, training, and accountability throughout the law enforcement and corrections systems exacerbate the problem of physical abuse. Human rights groups and the press reported numerous incidents of physical abuse of detainees while in custody. Such incidents included the reported beating of four accused car thieves while they were suspended by their wrists for several hours. In December the Attorney General publicly accused the DNCD of practicing torture and called upon its director to stop the practice. The authorities usually order little or no punishment for perpetrators of such abuse. Although punishment may range up to 5 years' incarceration for serious cases of abuse, as a rule judges have sentenced convicted officials to sentences ranging from

a 1-month suspension to 6 months' incarceration.

Prison conditions are poor. Prisons are grossly overcrowded, and health and sanitary conditions are substandard. Conditions at the largest prison, La Victoria, pose a serious threat to life and health. Suspects awaiting trial are kept with convicts serving their sentences. The Government estimated that in September there were 500 prisoners awaiting trial at La Victoria who have been jailed longer than the maximum sentence for their crime.

Juveniles are at times held with adult offenders. The Attorney General in September estimated that as many as 300 minors were in custody in La Victoria prison. Some prison personnel reportedly engage in extortion and other corrupt activities, and most prisoners find it necessary to rely on relatives or their own finances to be fed adequately. Medical care suffers from a lack of supplies and available physicians.

Shortly after the new Government took office, inmates rioted in several prisons, including three times at La Victoria. The Government responded with an overhaul of the penal system in conjunction with its program of judicial reform. The authorities took a census of all the prisons, and the Attorney General's office began a case-by-case review of all prisoners. The authorities segregated minors, the infirm, and the mentally ill from other prisoners. They began a renovation program, starting at La Victoria, and sent medical teams to visit the prisons. Prisoners are now allowed access to telephones and recreation programs are under consideration.

The Government permits prison visits by independent human rights monitors.

d. Arbitrary Arrest, Detention, or Exile

The Constitution stipulates that authorities may detain suspects for a maximum of 48 hours before arraignment, after which they must charge or release them. However, in special circumstances, suspects may be detained for longer periods with the approval of the prosecutor's office. Security forces continued to violate constitutional provisions by detaining suspects for "investigation" or "interrogation" beyond the prescribed 48-hour limit. Security forces traditionally detain all suspects and witnesses in a crime and use the investigative process to determine which ones are innocent and merit release and which ones they should continue to hold. Under the new Government, police commanders must report the previous day's arrests to the local prosecutor to preclude abuse of the 48-hour limit.

The DNCD and National Police continued to engage in indiscriminate roundups of people in poorer neighborhoods. The security forces also continued to detain relatives and friends of suspected criminals with the aim of forcing the surrender of suspects. Civil authorities have not acted to curb these abuses.

While the law does not prohibit exile, there are no known cases of citizens in forced exile. Before the June 30 presidential election, a former prosecutor, who while abroad charged that senior Dominican officials were involved in corruption and drug trafficking, was not allowed to return. The IACHR heard the case but has not released any findings. After the election, she entered the country without incident.

e. Denial of Fair Public Trial

Although the Constitution stipulates an independent judiciary, in practice, interference from other public and private entities, including the executive branch, substantially undermines judicial independence.

The judicial system was in flux during the second half of the year. In August the National Judicial Council (CNM) was finally named after being mandated by the 1994 constitutional reforms. The seven-

member CNM includes the President and legislators from both houses of Congress, the president of the Supreme Court, and a second supreme court justice. Beginning in September, the council held its first meetings, which dealt with procedural matters. Historically the Senate chose all judges, but the constitutional reforms ended the Senate's exclusive role in appointing judges and provide for a professional career service for judges, including lifelong appointments. The CNM is to appoint justices of the Supreme Court, and they will name judges to the lower courts. At year's end, the CNM had not named the justices for the new Supreme Court. The autonomy of the judiciary remains in question.

The Constitution provides for public trial. The courts normally appoint lawyers at public expense for indigent defendants in felony cases but rarely in criminal misdemeanor cases. The judicial system is plagued by chronic delays. Many suspects suffer long pretrial detention; nearly 86 percent of the prison population is awaiting trial. There are also perennial accusations of corruption. The judicial system provides for bail. However, cases in which bail is posted rarely come to trial, circumventing the intended purpose of bail.

Military or police courts have jurisdiction over members of the security forces, but a military or police board frequently remands cases involving capital crimes (murder, rape, etc.) to civilian courts for review after dishonorable discharge.

There were no reports of political prisoners.

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

Generally, the Government does not arbitrarily use wiretapping or other surreptitious methods to interfere with the private lives of persons or families and observes constitutional provisions against invasion of the home. The authorities may only search a residence in the presence of a prosecutor or an assistant prosecutor, or in cases of "hot pursuit," or where there is reason to believe that a crime is in progress.

The security forces continued to detain relatives and friends of suspects to try to compel suspects to surrender (see Section 1.d.).

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The law provides for these freedoms, and the Government usually respects them in practice. During the presidential campaign, a court tried a journalist, Juan Bolivar Diaz, in absentia and sentenced him to 6 months' imprisonment for libel for a book that set forth the case for fraud in the 1994 elections. The incident provoked vigorous public protest; Diaz appealed the sentence and remained free at year's end.

Citizens of all political persuasions exercise freedom of speech. The numerous privately owned radio and television stations broadcast all political points of view. A 1971 law prohibits foreign-language broadcasts.

The Government controls one television station but no major newspapers. Newspapers freely reflect independent and opposition points of view. Although journalists operate in a relatively tolerant environment, some self-censorship exists for fear of retaliation, ranging from loss of influence to loss of employment.

Public and private universities enjoy broad academic freedom. The main public university, the Autonomous University of Santo Domingo, with approximately 35,000 students, has no restrictions on enrollment and maintains a policy of nonintervention (other than curriculum development) in classroom affairs. The Government exerts no control over private universities, except for the preservation of standards, and teachers are free to espouse their own theories without government oversight.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for these freedoms, which the Government commonly respects in practice. Outdoor public marches and meetings require permits, which the Government usually grants. Political parties freely affiliate with their foreign counterpart organizations. Professional organizations of lawyers, doctors, teachers, and others function freely and can maintain relations with counterpart international bodies of diverse political philosophies.

c. Freedom of Religion

The Constitution prohibits discrimination on religious grounds, and the Government does not interfere with the practice of religion.

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

Citizens face no unusual legal restrictions on travel within or outside the country.

Haitians continue to come to the Dominican Republic, some legally but most undocumented, in search of economic opportunity. Throughout the year, security forces, particularly the army, repatriated undocumented Haitian nationals believed to be in the country illegally. The expulsions occurred in various regions of the country. Thousands were expelled immediately prior to the May 16 presidential election, but there was no noticeable upsurge in expulsions prior to the June 30 runoff election or since. According to international and Dominican human rights groups and the United Nations High Commissioner for Refugees (UNHCR), during the first few months of the year, Haitian deportees were humiliated by having their heads shaved and painted and being left without their belongings far from where they live in the country. The UNHCR reported that there were 607 Haitian refugees.

According to a 1984 law, an applicant for refugee status must be referred to the National Committee for Refugees by the National Office of Refugee Affairs, which has not been established. Instead, the Department of Immigration issues documentation to UNHCR-certified refugees. While these documents are accepted by the police and immigration officials, the process by which they are issued does not comply with the law.

The Government cooperates with the UNHCR and other humanitarian organizations in assisting refugees. The Government provides first asylum and resettlement. The Government provided documentation in 14 asylum cases in 1996; there were no resettlements. There were no reports of the forced return of persons to a country where they feared persecution.

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

The Dominican Republic is a constitutional democracy. The President, all 150 members of the Senate and Chamber of Deputies, and the mayors and city council members of more than 100 municipalities are freely elected every 4 years by secret ballot and universal adult suffrage. Active duty police and military personnel may not vote. The President appoints the governors of the 29 provinces. Opposition groups of

the left, right, and center operate openly.

Presidential elections were held on May 16 with a runoff election between the two top contenders on June 30. A new system of voting was used to reduce opportunities for fraud. There were accusations from all sides of attempted fraud and other irregularities, including vote suppression through buying or confiscating voter identification cards. In spite of these accusations, international and Dominican observers praised the process as the cleanest elections in the country's history; the losing candidates accepted the results; and power was transferred peacefully and smoothly.

The nation has a functioning multiparty system. In practice the President can dominate public policy formulation and implementation. He can exercise his authority through the use of the veto, discretion to act by decree, and influence as the leader of his party. Traditionally, the President has predominant power in the Government, effectively making many important decisions by decree.

Congress had limited power under the previous government. The two main opposition parties and their allies combined hold 88 and 96 percent of the lower and upper houses, respectively, leaving President Fernandez's party with scant congressional presence. The Congress also provides an open forum for the free exchange of views and debate.

Women and minorities confront no serious legal impediments to political participation. Women hold 14 seats in the 120-member House of Deputies and 1 seat in the 30-member Senate. Women continue to have representation in appointed positions, albeit limited. One of the 15 Cabinet secretaries is a woman, and women hold 3 of 29 provincial governorships.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigations of Alleged Violations of Human Rights

Nongovernmental human rights organizations operate freely without governmental interference. In addition to the Dominican Human Rights Committee, several other Haitian, church, and labor groups exist.

Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The law prohibits discrimination based on race and sex. Such discrimination exists in society, but the Government has not acknowledged its existence or made efforts to combat it.

Women

Domestic violence and sexual harassment are widespread. There are no laws protecting citizens from abuse by their spouses, and victims rarely report such abuse.

The Government does not vigorously enforce prostitution laws. Sex tourism is a growing industry, particularly in the north coast resort city of Sosua. The Government has no program in the area to educate prostitutes about the dangers of sexually transmitted diseases. Dominican women are also victims of rings that smuggle third-world women to Europe to work as prostitutes in conditions rife with exploitation and mistreatment. Corruption and a reluctance to restrict emigration hinder enforcement of the law.

Divorce is easily obtainable by either spouse, and women can hold property in their own names apart from their husbands. Traditionally, women have not shared equal social and economic status or

opportunity with men, and men hold the overwhelming majority of leadership positions in all sectors. In many instances women are paid less than men in jobs of equal content and equal skill level. Some employers in industry reportedly give pregnancy tests to women before hiring them, as part of a medical examination. Some employers have stated, and workers confirm, that pregnant women are not hired.

Children

The former government did not support its professed commitment to child welfare with financial and human resources. Despite the existence of government institutions dedicated to child welfare, private social and religious organizations carry the principal burden. The private institutions receive no government financing. In September at a gathering of children celebrating National Children's Rights Day, President Fernandez promised the Government's full support to the entities charged with implementing the 1994 Minor's Code. The law requires only 6 years of formal education.

The most serious abuse involving children is the failure of the judicial system to protect the status of minors in criminal cases. The authorities sometimes treated minors as adults and incarcerated them in prison rather than juvenile detention centers. Courts for minors, mandated by the code, have not been established.

The unimplemented Minor's Code contains provisions against child abuse, including physical and emotional mistreatment, sexual exploitation, and child labor. It also provides for removal of a mistreated or delinquent child to a protective environment. However, according to local monitors, instances of child abuse were underreported because of traditional beliefs that family problems should be dealt with inside the family. Some in the tourist industry have provided or facilitated sexual exploitation of children. Tours are marketed overseas with the understanding that boys and girls can be found for sex partners.

People with Disabilities

Disabled persons encounter discrimination in employment and provision of other services. Although the law contains provisions for physical access for the disabled to all new public and private buildings, the authorities have not uniformly enforced this law.

National/Racial/Ethnic Minorities

Dominicans are strongly prejudiced against Haitians, many of whom are illegal immigrants and constitute a significant percentage of the unskilled manual labor force. The Government has not acknowledged the existence of this discrimination nor made any efforts to combat it. Darker-skinned Dominicans also face informal barriers to social and economic advancement.

Credible sources charge that the Government at times refuses to recognize individuals of Haitian ancestry born in the country as Dominican citizens. Lack of documentation also sometimes hinders the ability of children of Haitian descent to attend school where there is one available; some parents fail to seek documentation for fear of being deported.

Section 6 Worker Rights

a. The Right of Association

The Constitution provides for the freedom to organize labor unions and also for the right of workers to strike (and for private sector employers to lock out workers). All workers, except the military and police,

are free to organize, and workers in all sectors exercise this right.

Requirements for calling a strike include the support of an absolute majority of the workers of the company, a prior attempt to resolve the conflict through arbitration, written notification to the labor secretariat, and a 10-day waiting period following notification before proceeding with a strike. The Government respects association rights and places no obstacles to union registration, affiliation, or the ability to engage in legal strikes.

The Labor Code specifies in detail the steps legally required to establish a union, federation, and confederation. The code calls for automatic recognition of a union if the Government has not acted on its application within a specific time. In practice, the Government has readily facilitated recognition of labor organizations. Organized labor represents little more than 10 percent of the work force and is divided among three major confederations, four minor confederations, and a number of independent unions. Unions are independent of the Government and political parties.

There were two instances of union members being fired without cause. The unions have brought these cases to court, and the cases were still under consideration at year's end. Widespread discreet intimidation of union activity was reported. For example, union members in free trade zones (FTZ's) report that they hesitate to discuss union activity at work, even during break time, for fear of losing their jobs.

Labor unions can and do freely affiliate regionally and internationally.

b. The Right to Organize and Bargain Collectively

Collective bargaining is lawful and may take place in firms in which a union has gained the support of an absolute majority of the workers. Only a minority of companies has collective bargaining pacts. The Labor Code stipulates that workers cannot be dismissed because of their trade union membership or activities.

The Labor Code establishes a system of labor courts for dealing with disputes, but their effectiveness is limited by lack of resources and political judges. Some labor courts enjoy reputations for honesty, depending on the presiding judge. Labor courts exist in five jurisdictions, but the problems that the courts were established to address still prevail in the rest of the country.

The Labor Code applies in the 32 established FTZ's, which employ approximately 170,000 workers, mostly women. Workplace regulations and their enforcement in the FTZ's do not differ from those in the country at large, although working conditions are sometimes better. Some FTZ companies have a of discharging workers who attempt to organize unions. Although there are approximately 70 unions in the FTZ's, many exist only on paper. The majority are affiliated with the National Federation of Free Trade Zone Workers.

The State Sugar Council (CEA) employs workers from more than 100 unions. Dominican workers predominate in most of the unions, although two unions are Haitian-dominated. The CEA has long maintained a negative attitude toward additional organizing efforts.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor.

There were numerous credible reports of forced or coerced overtime in factories. Employers, particularly in the FTZ's, sometime locked the exit doors of factories at the normal closing time so that workers could not leave. There have been reports of workers being fired for refusing to work overtime, and both employers and workers state that newly hired workers are not informed that overtime is optional.

Haitian sugar cane workers continued to encounter restrictions on their freedom of movement. These include armed guards on the plantations who try to find departing workers before they leave company lands. While pay is still low and living conditions harsh, experts from NGO's and unionists agree that working and living conditions among Haitian cane workers have improved in the past 5 years.

d. Minimum Age for Employment of Children

The Labor Code prohibits employment of children under 14 years of age and places restrictions on the employment of children under the age of 16. These restrictions include a limitation of no more than 6 hours of daily work, no employment in dangerous occupations or establishments serving alcohol, and limitations on nighttime work. The law requires 6 years of formal education.

The high level of unemployment and lack of a social safety net create pressures on families to allow children to earn supplemental income. Tens of thousands of children work selling newspapers, shining shoes, or cleaning cars, often during school hours. The Government has proposed a fine for the parents of truant children.

There were no reports of child labor among cane cutters.

e. Acceptable Conditions of Work

The Constitution provides the Government with legal authority to set minimum wage levels and the Labor Code assigns this task to a National Salary Committee. Congress may also enact minimum wage legislation. The minimum wage is approximately \$75 (1,014 pesos) per month. This covers only a fraction of the living costs of a family in Santo Domingo, but many workers receive only the minimum wage. For example, 60 percent of government employees earn only the minimum wage.

The Labor Code establishes a standard work period of 8 hours per day and 44 hours per week. The code also stipulates that all workers are entitled to 36 hours of uninterrupted rest each week. In practice, a typical workweek is Monday through Friday plus a half a day on Saturday, but longer hours are not unusual. The code grants workers a 35 percent differential for work over 44 hours up to 68 hours per week and double time for any hours above 68 hours per week.

The Dominican Social Security Institute (IDSS) sets workplace safety and health conditions. The existing social security system does not apply to all workers and is underfunded. Both the IDSS and the Labor Secretariat have small corps of inspectors charged with enforcing standards. Inspector positions are customarily filled through political patronage. In practice, workers cannot remove themselves from hazardous workplace situations without jeopardy to continued employment.

Conditions for agricultural workers are in general much worse, especially in the sugar industry. On many sugar plantations, cane cutters are paid by the weight of cane cut rather than hours worked. Many cane cutters earn approximately \$3.70 (50 pesos) per day. Many worker villages have high rates of disease and lack schools, medical facilities, running water, and sewage systems.

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