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## U.S. Department of State

### Dominican Republic Country Report on Human Rights Practices for 1998

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#### DOMINICAN REPUBLIC

The Constitution provides for a popularly elected president and a bicameral congress. President Leonel Fernandez of the Dominican Liberation Party (PLD) took office in 1996 after a free and fair election. The opposition Dominican Revolutionary Party (PRD), after free and fair congressional elections in May, dominates the Senate, holding with its allies 24 of the 30 seats, and has the largest presence in the lower house, occupying 73 of the 149 seats. Although judicial reform efforts have led to a more effective judiciary, there have been attempts from other public and private entities, including the executive branch, to undermine judicial independence.

The National Police (PN), the National Department of Investigations (DNI), the National Drug Control Directorate (DNCD), and the military (army, air force, and navy) form the security forces. 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 the DNCD, which have personnel from both the police and the military, report directly to the President. The security forces generally are responsive to civilian executive branch authority. However, some members of the security forces continue 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, continues to diversify; tourism, telecommunications, and free trade zones (FTZ's) are major sources of income and employment. Remittances from abroad, estimated to exceed \$1 billion, are equivalent to approximately 10 percent of the \$1,800 per capita gross domestic product. On September 22, Hurricane Georges caused major losses in the country's agricultural and tourism sectors, as well as severe damage to power and

transportation infrastructure. State-owned firms such as the State Sugar Council, the Corporation for State Enterprises, and the Dominican Electricity Corporation impede economic growth because of inept financial and administrative practices.

The Government's human rights record improved slightly, although serious abuses remain. Principal human rights problems include an increase in extrajudicial killings by police, police beatings of suspects, poor prison conditions, arbitrary detention of suspects and suspects' relatives, and the security forces' refusal to obey judicial orders. Most reports of human rights abuses involved the police, rather than the DNCD or the military. Other serious problems include lengthy pretrial detention, interference with the judiciary, and administrative corruption. The administration and effectiveness of the justice system improved somewhat, as the Supreme Court replaced most judges. There were instances in which the police used force to disperse demonstrators. The Government restricts the movement of Haitian sugar cane workers. Discrimination and violence against women, trafficking in women and girls, prostitution, abuse of children, discrimination against the disabled, abuse of Haitian migrants and their descendants, and instances of forced labor and child labor are serious problems. Workers in the state-owned sugar plantations and mills continue to work under unfair and unsafe conditions.

## **RESPECT FOR HUMAN RIGHTS**

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

#### **a. Political and Other Extrajudicial Killing**

There were no reports of political killings by government officials, but there were reports of 75 extrajudicial killings by the police, a sharp increase from 1997. The Dominican Human Rights Committee and the National Human Rights Commission stated publicly that the police often attempt to justify unwarranted killings by claiming that they are the result of exchanges of gunfire with suspects. There is no coherent policy on the use of deadly force. Late in the year, police spokespersons alarmed civil rights advocates by publicly confirming the existence of an informal policy to shoot persons in the legs when they attempted to flee from police. This policy and the general climate of violence in which the police operate contribute to the problem of extrajudicial killings. There were no reports of extrajudicial killings by the DNCD, unlike during the previous year.

In July the police fired live ammunition to disperse a crowd of university student demonstrators and killed law student Franklin Bortolo Fabian Mejia. The authorities detained the police officers implicated in the incident, and they faced trial at year's end. Also in July, the police killed a man suspected of robbing a Santiago pharmacy, alleging that he had threatened them with a knife. In August police in Santo Domingo killed a priest after allegedly mistaking him for a murder suspect. At least one witness said that the officers killed the priest while he sat in his car. Police killed at least one demonstrator and wounded a number of others in September (see Section 2.b.).

The authorities provisionally arrested 20 policemen in Santiago in connection with a triple homicide on November 25; they subsequently released 18 of them and kept 2 in pretrial detention. The three young male victims may have been killed because of their refusal to share the proceeds of a recent robbery with the police. The arrested policemen, all of whom were agents of the Crimes Against Property Division, were on duty the night the murders occurred.

The authorities made progress in the investigation of the 1975 murder of journalist Orlando Martinez Howley, who had been critical of the administration of former President Joaquin Balaguer. The case went to trial in November but was postponed to January 1999. The Government is seeking the

extradition of the alleged killer, Mariano Cabrera Duran. The authorities also charged five other individuals, including three retired general officers of the armed forces, in connection with the crime.

In November the judge denied defense motions to remove Balaguer's name from the lists of potential witnesses, who are vulnerable to future charges of complicity and obstruction of justice in this case. In his 1988 memoirs, Balaguer stated that he left instructions with an unnamed person to publish what the former president knew about the case some years after his death. In a 1998 interview with journalists, Balaguer said that he had nothing to add and that his memoirs contain his opinion. The frail but lucid Balaguer has recognized the court's jurisdiction by requesting that his participation in the trial be through a deposition to be taken at his home, although no date had been agreed upon by year's end.

Military courts try military personnel charged with extrajudicial killings. Police tribunals on occasion have tried, convicted, and sentenced personnel charged with extrajudicial killings. Police officers may be tried by police courts or remanded to civilian court jurisdiction. Police courts sentenced 50 members of the police (39 enlisted persons and 11 officers) for serious crimes, while the authorities dismissed a number of other members of the police and remanded their cases to the civilian court system.

Election campaigning was relatively peaceful, although there were isolated incidents of violence. For example, opposition political parties accused activists working for the ruling PLD of beating air force reserve General Luis Santiago on April 10, causing his death a few days later. The police investigated the murder, arrested eight persons, and charged them with murder; they remained in custody pending trial at year's end.

According to press reports in May, a juvenile named Juan Valverde was killed by machete blows in the Quisqueya neighborhood north of Santo Domingo, allegedly by progovernment activists. On April 28, the press reported that unknown assailants killed two persons during protests over the cost of living.

#### b. Disappearance

There were no reports of politically motivated disappearances.

The authorities made progress in the case of Narciso Gonzalez, a university professor and critic of the Balaguer government who disappeared in May 1994. In August a team of armed forces and National Police special investigators submitted their report to President Fernandez, who sent it to the Attorney General for criminal prosecution. Subsequently, the Santo Domingo district attorney formally charged former air force intelligence chief General Rafael Reyes Bencosme with the disappearance. He was detained at year's end and expected to face trial in 1999.

On February 25, members of the nongovernmental Truth Commission investigating the Gonzalez case testified before the Inter-American Commission on Human Rights (IACHR) that the Government refused to cooperate with the joint committee established at the IACHR's request. They also testified that the Government has not granted the joint committee sufficient power to call witnesses or to issue directives to the investigating judge. The Government promised to cooperate with the Truth Commission and to intensify its own investigation.

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

Torture and other forms of physical abuse are illegal, but instances in which security service personnel physically abused detainees continue. 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 various incidents of physical abuse of detainees while in custody. For example, police allegedly beat a farmer while he was detained in handcuffs in Cabrera. Following the dismissal of the DNCD Director in September 1997, there were no further reports that members of the DNCD abused suspects.

A 1994 DNCD videotape of the beating of a suspect generated significant media coverage in 1998. The video showed a DNCD agent slapping the ears of suspect Luis Manuel Matos Felix in the presence of Colonel Luis Humeau Hidalgo, now an admiral and the country's top antinarcotics official. Many DNCD officials had known of the video's existence in 1994, yet no action was taken against the offending agent until the video was shown on national television. Human rights advocates cite the impunity of the agent in the interim years as evidence of still inadequate DNCD internal controls to prohibit such practices and punish perpetrators. The authorities discharged the DNCD agent in December.

Police on occasion used force--at times deadly force (see Section 1.a.)--to disperse demonstrators. In addition, according to the press, the police reportedly wounded at least 13 persons with gunfire and arrested several dozen when they removed peasants squatting on private land in the community of La Horca.

The prosecutor's office continued to place lawyers in high-volume police stations and several DNCD offices to monitor the investigative process and assure that detainees' rights are respected (see Section 1.d.). Most National Police and DNCD investigators responded positively to this new oversight, but the initiative largely remains limited to the Santo Domingo metropolitan area, with a lesser presence in Santiago. Less qualified prosecutors assigned to the rest of the country have not yet assumed stronger roles in managing criminal investigations and ensuring the rights of suspects. Human rights courses are an integral part of military and DNCD training, both for enlisted personnel and officers.

Civilian prosecutors sometimes file charges against police and military officials alleging physical abuse, torture, and related crimes. Penalties for torture and physical abuse were toughened by a law passed in 1997 that provides for sentences ranging from 10 to 15 years in prison. However, these provisions were not fully known or applied by prosecutors and judges, and some sentences were less than what the law stipulates.

Prison conditions are poor. The prisons are grossly overcrowded, and health and sanitary conditions are poor. A warden is supposed to run each prison and report to the Attorney General through the Directorate of Prisons. A police or military colonel (or lieutenant colonel) reports to the warden and is responsible for providing security. However, in practice the colonel is in charge of the prison, and neither the Directorate of Prisons nor the individual wardens have much power.

Prisons controlled by the military generally are administered better than those controlled by the National Police. Conditions at La Victoria prison, run by the PN, pose a serious threat to life and health. The Government added almost 1,200 beds to La Victoria, raising its capacity to 2,600, but as many as 3,200 inmates were held there at one point. The 46-year-old prison flooded as a result of Hurricane Georges, making difficult conditions temporarily even worse. One police officer and an unknown number of inmates died when some inmates attempted to escape during the flooding. Najayo prison, also run by the PN, was built for 700 inmates, yet housed 1,800 prisoners in September. Medical care suffers from a lack of supplies and available physicians. Prisoners immobilized by and dying of AIDS are not transferred to a hospital, but some terminal-stage inmates were released early to spend their last days at home.

In July inmates at the San Francisco de Macoris prison seized 119 hostages, including their own relatives, who were prevented from leaving after visiting hours. The inmates later released 38 persons but held 81 others to press for improvements in prison conditions, for the removal of the warden and several guards, and for faster processing of their cases by the courts. The inmates released the remaining hostages within 30 hours. The Government agreed to move back to San Francisco de Macoris some prisoners who had been moved to other prisons and agreed to increase prisoner privacy in order to facilitate conjugal visits.

Female prisoners are separated from male inmates. In general, conditions in the female prison wings are superior to those found in male prison wings, and there have been few reports of abuse by guards.

The law requires that juveniles be detained separately from adults. However, in a September report, the Government's Commissioner for the Support of Justice Reform and Modernization found a high incidence of violations, with 156 minors jailed with adults at Najayo prison.

The Government permits prison visits by independent human rights monitors.

#### d. Arbitrary Arrest, Detention, or Exile

The Constitution stipulates that the authorities may detain suspects for a maximum of 48 hours before arraignment, after which they must charge or release them, although in special circumstances suspects may be detained for longer periods with the approval of the prosecutor's office. However, the security forces continue to violate constitutional provisions by detaining suspects for investigation or interrogation beyond the prescribed 48-hour limit. The 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. After the prosecutor's office placed its lawyers in several police stations in 1997, the police began to curtail the practice of arbitrary detention in those precincts. However, progress has been slow, and this pilot program has been limited largely to the Santo Domingo metropolitan area.

The police imprisoned drivers associated with the National Federation of Transportation--the New Option labor union--after a protest against new public buses on January 29. The drivers were jailed for blocking traffic, not for expressing antigovernment views. Nonetheless, the authorities held the drivers for several days before charging them with crimes. After the 48-hour period lapsed, several prominent persons--including opposition leader Jose Francisco Pena Gomez--complained publicly. The authorities charged and released the drivers on February 2, about 96 hours after their arrest.

The National Police continued to engage in indiscriminate roundups of persons in poorer neighborhoods. The security forces also continued to detain relatives and friends of suspected criminals with the aim of forcing suspects to surrender (see Section 1.f.).

Many suspects suffer long pretrial detention. In September over 75 percent of the national prison population was awaiting trial, an increase of about 5 percent from the end of 1997. However, while suspects nationwide still suffer long pretrial detention, judicial statistics show reduced delays for the last 2 years in the Santo Domingo National District (an area that represents approximately 45 percent of all criminal cases in the country). In this area, the average pretrial detention dropped from 13.8 months in 1996 to 10 months in 1997 and 6.5 months in 1998. However, the rest of the country apparently has experienced only modest decreases in judicial delays.

Because of the inefficiency of the courts (see Section 1.e.), the granting of bail serves as the de facto

criminal justice system. As a rule, defendants awarded bail rarely face an actual trial; those denied bail can serve their entire sentences while awaiting trial. (Time already served counts toward a sentence.) This situation improved somewhat as a result of the steps taken by the Santo Domingo District Attorney and the judiciary, in cooperation with the Director of Prisons, to introduce a prisoner registry system whose goal is to ensure that prisoners receive a timely trial. The prison system (see Section 1.c.) remains underfunded and sometimes unable to account for prisoners who are scheduled for release. As a result, some prisoners remain incarcerated even after a court orders their release.

The law prohibits forced exile.

#### e. Denial of Fair Public Trial

Although the Constitution stipulates an independent judiciary, interference from other public and private entities, including the executive branch, undermines judicial independence. In August 1997, the National Judiciary Council chose members of the Supreme Court for the first time, beginning a new independence from the executive and legislative branches.

The judiciary, based primarily on the French judicial system, includes a 16-member Supreme Court, appeals courts, courts of first instance, and justice of the peace courts. There are also specialized courts that handle administrative, labor, traffic, land registration, and juvenile matters.

Military or police courts have jurisdiction over members of the security forces. Public pressure has resulted in military or police boards remanding some cases involving serious crimes to civilian courts for review, after the boards ordered the perpetrators to be dishonorably discharged.

Judges, rather than juries, render all verdicts. Under the 1994 constitutional amendments, the Supreme Court is responsible for naming all lower-court judges in accordance with a judicial career law, which entered into force in August. The National Judiciary Council selects new justices of the Supreme Court. The Council consists of the President, the President of the Senate, the President of the Chamber of Deputies, two at-large members they designate, and two current justices designated by the Supreme Court.

The Supreme Court continued to combat judicial corruption and incompetence by holding public hearings to evaluate all 480 sitting judges, and it replaced about two-thirds of them. The new judges were selected using more professional and less political criteria. The Supreme Court set up a system to evaluate allegations and investigate charges of corruption by judicial branch employees. At year's end, based on investigation of corruption charges, the Court had dismissed several of the new judges it selected in January.

The Constitution provides for public trial and for representation by counsel. During the closed pretrial investigative phase of the criminal justice process, the State traditionally provides no counsel to imprisoned indigents. In August the Government inaugurated a small (13-person) public defender organization to provide service to indigent defendants in the Santo Domingo metropolitan area. Where no public defender is available, the judges assign indigent cases to 70 part-time, private attorneys, whose services are paid for by the State.

The judicial system is still plagued by delays, and many suspects suffer lengthy pretrial detention (see Section 1.d.). The Government's 5-year program to modernize courts in Santo Domingo, begun in September 1997, made some progress in reducing the judicial backlog.

A screening mechanism for Santo Domingo National District public prosecutors was established, and the Government replaced a number of less competent prosecutors with others with better credentials. However, since appointees of the ruling party essentially perform the screening, this process was not entirely free of political influence.

There were no reports of political prisoners.

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

The Constitution contains provisions against invasion of the home. Although the Government does not arbitrarily use wiretapping or other surreptitious methods to interfere with the private lives of persons or families, it tolerates an active private wiretapping industry.

The law permits the arrest of a suspect captured in the act of committing a crime, and police may enter a residence or business in hot pursuit. Otherwise, judges must authorize arrests and issue search warrants. However, the National Police and occasionally the DNCD continue to violate these requirements. Some prosecutors confess that out of "tactical necessity to combat criminality" and "with great reluctance," they tolerate the illegal search practices. They justify their actions by arguing that the Government has not provided sufficient resources or attention to criminal investigation and that, given the cumbersome and antiquated criminal procedures, adhering to the letter of the law would make enforcing the law nearly impossible.

The security forces continued to detain relatives and friends of suspects to try to compel suspects to surrender (see Section 1.d.). The police allegedly followed a leader of a human rights group on several occasions in late 1997 (see Section 4).

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

#### a. Freedom of Speech and Press

The law provides for these freedoms, and the Government respects them in practice.

Citizens of all political persuasions exercise freedom of speech. Newspapers and magazines freely present a diversity of opinion and criticism. However, self-censorship is practiced, particularly when coverage could adversely affect the economic or political interests of media owners.

The numerous privately owned radio and television stations broadcast all political points of view. The Government controls one television station but no major newspapers.

Public and private universities enjoy broad academic freedom. The main public university, the Autonomous University of Santo Domingo, with approximately 100,000 mostly part-time students, has no restrictions on enrollment and maintains a policy of nonintervention (other than on 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 freedom of assembly, and the Government generally respects this right in practice. Outdoor public marches and meetings require permits, which the Government usually grants.

However, there were incidents in which the police used force to break up demonstrations. In July the police killed one demonstrator while dispersing a crowd (see Section 1.a.) There were a number of clashes between police and protesters in September in Licey and Salcedo, which resulted in at least one death and several injuries attributed to police. These protests were largely prompted by power shortages, rising prices, and the deteriorating infrastructure.

The Constitution provides for freedom of association, and the Government generally respects this right in practice. 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.

Judicial branch statistics concerning use of the criminal charge of "association with criminal elements" suggest improvement in conditions for political dissent under the Fernandez administration. This charge traditionally was used against dissidents and those involved in street demonstrations against the Government. From 1990 to 1996, this charge represented 13 to 16 percent of all criminal charges filed in the Santo Domingo National District. In 1997 and 1998, this figure dropped to less than 2 percent.

#### c. Freedom of Religion

The Constitution prohibits discrimination on religious grounds, and the Government does not interfere with the practice of religion. However, attendance at Catholic Mass for members of the National Police is compulsory.

The Catholic Church, which signed a concordat with the Government in 1954, enjoys special privileges not extended to other religions. These include the use of public funds to underwrite some church expenses, such as rehabilitation of church facilities, and a complete waiver of customs duties when importing goods into the country.

#### 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; however, Haitian sugar cane workers face restrictions on their freedom of movement (see Section 6.c.).

Haitians continue to migrate in great numbers to the Dominican Republic, some legally but most without legal documents, in search of economic opportunity. Throughout the year, the security forces, particularly the army, deported undocumented Haitian nationals believed to be in the country illegally. International observers estimated that the Government deported approximately 10,000 Haitians between January and September. In many cases, the Government denied those deported the opportunity to demonstrate that they resided legally in the Dominican Republic. Haitian Government officials complained that Haitians often were detained with little or no food and then deported without notice to Haitian authorities.

NGO representatives working in rural areas reported that decisions to deport often were made by lower ranking members of the security forces, sometimes based upon the racial characteristics of the deportees.

According to a 1984 presidential decree, an applicant for refugee status must be referred to the Technical Subcommittee of the National Commission for Refugees by the National Office of Refugee Affairs. The Subcommittee, which makes a recommendation to the Commission, is made up of members from the Foreign Ministry, the DNI, and the Immigration Directorate. The Commission, which makes a final decision on the application, comprises the three members of the Subcommittee; the legal

advisor to the President; and members of the PN, the Secretariat of Labor, and the Attorney General's office.

In practice, the National Office of Refugee Affairs is not yet functioning. Instead, the Immigration Directorate issues documentation to refugees certified as such by the United Nations High Commissioner for Refugees (UNHCR). While these documents are accepted routinely by the police and immigration officials, the process by which they are issued does not comply with the decree.

The UNHCR recognized two persons, a Haitian and a Chinese, as refugees, bringing the total of UNHCR-recognized refugees to 634. It is not known how many undocumented refugees actually are living in the country.

The Government cooperates with the UNHCR and other humanitarian organizations in assisting refugees. The Government provides first asylum and resettlement. In March, by agreement with the Cuban Government, it readmitted the two Cubans who were returned to Cuba from the Dominican Republic in 1997.

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, and its citizens last exercised this right in free and fair congressional elections in May. The President and all 179 members of the Senate and Chamber of Deputies are elected freely every 4 years by secret ballot. There is universal adult suffrage; however, 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.

In August the Senate, dominated by the opposition PRD, appointed the five members of the Central Electoral Board (JCE), the body that organizes and supervises elections. The ruling PLD and the opposition Social Christian Reformist Party have questioned the legitimacy of the selections, claiming that electoral law requires that board members be apolitical or apportioned among the three major parties. The dispute remained unresolved at year's end, and the Government intentionally delayed disbursement of funds to the JCE in order to impede it.

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. President Fernandez reduced the reliance on rule by decree during the first 2 years of his administration.

Congress provides an open forum for the free exchange of views and debate. The main opposition party holds with its allies 80 percent of the upper house and almost half of the lower house.

Women and minorities confront no serious legal impediments to political participation, but they are underrepresented. Under the law 25 percent of positions on voting lists must be reserved for women. However, the parties often place women so low on the lists as to make their election difficult or impossible. Women hold 2 seats in the 30-member Senate and 25 seats in the 149-member Chamber of Deputies. Women continue to be represented in appointed positions, albeit to a limited degree. Two of the 15 cabinet secretaries are women, but none of the 29 provincial governors are female. Women fill 5 of the 16 seats on the Supreme Court.

#### **Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights**

Nongovernmental human rights organizations operate freely without governmental interference. In addition to the Dominican Human Rights Committee, the National Human Rights Commission, and the nongovernmental Truth Commission (dealing with the Narciso Gonzalez case), several Haitian, church, women's, and labor groups exist. There is no ombudsman's office.

In late 1997, a human rights advocate alleged that police had followed him on several occasions in late 1997. After he voiced his concerns in the media and to the National Police leadership, the alleged harassment ended.

#### **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 seldom acknowledged its existence or made efforts to combat it.

##### **Women**

Domestic violence and sexual harassment are widespread. Under the 1997 Law Against Domestic Violence, the State can prosecute a suspect for rape, even if the victim does not file charges. This law also allows a rape victim to press charges against her husband without having her marriage annulled. However, because the law was passed relatively recently, its effectiveness in enhancing women's lives could not yet be determined. The Government's Office of Women's Issues assists women with outreach programs on domestic violence and legal rights. In May the Government opened a center for the forensic examination of abused women, which handled 10 to 15 cases a day, most of them involving minors. However, there still are no shelters for battered women.

The Government does not vigorously enforce prostitution laws. Sex tourism is a growing industry throughout the country as the number of international visitors increases. NGO's have ongoing HIV/AIDS and sexually transmitted disease prevention programs for male and female prostitutes, as well as for hotel and industrial zone workers. Women and girls are also victims of rings trafficking women and children to work as prostitutes in Europe in conditions rife with exploitation and mistreatment. One NGO counsels women planning to accept job offers in Europe and the eastern Caribbean about immigration, health, and other issues. The program also provides services to returning women. The 1997 Law against Domestic Violence prohibits acting as an intermediary in a transaction of prostitution, and the Government has used the law to prosecute third parties who derive profit from prostitution.

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 majority of leadership positions in all sectors. In 1991 12.3 percent of managers and administrators were women; in 1996 women held 21 percent of such positions. In 1996 9 percent of women over the age of 16 had some higher education, compared with only 7 percent of men. 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 required medical examination. Union leaders and human rights advocates report that pregnant women often are not hired.

##### **Children**

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. The 1994 Minor's Code 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. In 1997 the Government began to implement the 1994 Minor's Code, laying the groundwork for the juvenile court system that the code mandated. The Supreme Court inaugurated the first of 11 juvenile courts in August and chose judges for the other 10 courts. These juvenile courts are to be organized with a focus on rehabilitating offenders. There are legal defenders for juveniles in Santo Domingo and La Vega.

The 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. According to local monitors, instances of child abuse were underreported because of traditional beliefs that family problems should be dealt with inside the family. However, child abuse is receiving increasing public attention.

Some in the tourist industry have facilitated the sexual exploitation of children. Tours are marketed overseas with the understanding that boys and girls can be found as sex partners.

Trafficking in girls for prostitution is a problem. There are no shelters providing refuge to children who break free from the prostitution trade. However, the Government made some progress in combating child prostitution. In January the authorities closed 4 motels that were being used as brothels, removed 24 women and 4 girls, and arrested the motel administrators. In July the Santo Domingo prosecutor's office rescued five girls under the age of 15 from a prostitution ring and arrested two individuals. In September police arrested two foreign citizens in connection with an investigation of child pornography.

### People With Disabilities

Disabled persons encounter discrimination in employment and in the 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 enforced this law uniformly. To improve opportunities for disabled citizens, in 1997 the Government created a Subsecretariat for Rehabilitation under the Secretariat of Public Health, established a new recreation center for the disabled in Las Caobas, and founded a new department in the Sports Secretariat to facilitate athletic competition for the disabled. Also in 1997, the Government instructed the Secretariat of Education to begin a pilot project to integrate mentally retarded children and other children with special needs into the public school system. In 1998 the Government took its first steps to implement the project, integrating children with special needs into five public schools in marginal areas of the Santo Domingo National District.

A private entity founded in 1962, the Dominican Rehabilitation Association (ADR) has grown from a 1-room operation to a large complex with 17 affiliates throughout the country. It provides services for 2,500 persons daily. The Government provides about 25 percent of the ADR's budget.

### National/Racial/Ethnic Minorities

A strong prejudice against Haitians runs through society, disadvantaging many Haitians and Dominicans of Haitian ancestry. 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.

Perhaps 500,000 Haitian immigrants--or 7 percent of the country's population--live in bateyes, or shantytowns, in harsh conditions with limited or no electricity, running water, or schooling. Human rights groups regularly charge the Government with unlawful deportations of and police brutality toward these legal and illegal immigrants.

Credible sources charge that the Government at times, in violation of the Constitution, refuses to recognize and document as Dominican citizens individuals of Haitian ancestry born in the country. Children born to Haitian parents are caught in a bureaucratic dilemma: Since many Haitian parents have never processed documentation for their own birth, they are unable to demonstrate their own citizenship. As a result, they cannot declare their children's births at the civil registry and thereby establish Dominican citizenship for their offspring. Some civil registry offices do not accept late declarations of birth for children of Haitian immigrants, although they routinely accept late declarations for children of Dominican parents. Lack of documentation often 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.

Haitian parents encounter difficulties registering their children for school. It falls to the discretion of public school principals whether children may attend, since immigrant parents usually have no identity cards or birth certificates to register children formally. Even when permitted to attend primary school, it is rare that the offspring of Haitian parents progress beyond sixth grade.

Although the Government largely has eliminated the use of children for cutting sugar cane, poor Haitian and Dominican parents sometimes arrange for Dominican families to "adopt" and employ their children. (The adopting parents can simply register a child of any age as their own.) In exchange, the parents receive monetary payment or a supply of clothes and food. They believe that this ensures their children a more promising future. In many cases, adoptive parents do not treat the adoptees as full family members and expect them to work in the households or family businesses rather than attend school. There were reports that Haitian girls between the ages of 10 and 14 were the most sought after, especially in border areas.

The Government is doing little to improve the conditions of Haitian immigrants and generally relies upon relief organizations. A number of NGO's and other agencies provide assistance in the shantytowns.

## **Section 6 Worker Rights**

### **a. The Right of Association**

The Constitution provides for the freedom to organize labor unions and for the right of workers to strike (and for private sector employers to lock out workers). All workers, except the military and the 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 all company workers whether unionized or not, a prior attempt to resolve the conflict through mediation, written notification to the Labor Secretariat, and a 10-day waiting period following notification before proceeding with the strike. The Government respects association rights and places no obstacles to union registration, affiliation, or the ability to engage in legal strikes.

There were fewer strikes during the year than in 1997. University employees struck in January for more

than 2 months. Leaders of the National Federation of Transport Workers and 30 drivers held a short hunger strike in April to protest the Government's new line of buses. In January police had imprisoned drivers associated with this union for blocking traffic during protests. Doctors held a 1-day work stoppage in September following a strike by hospital employees.

The 1992 Labor Code provides extensive protection for worker rights and specifies the steps legally required to establish a union, federation, or 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 facilitated recognition of labor organizations readily. Organized labor represents only an estimated 10 percent of the work force and is divided among four major confederations and a number of independent unions. Unions are independent of the Government and generally independent of political parties. However, there were reports of widespread discreet intimidation by employers in an effort to prevent union activity. For example, unions in free trade zones (FTZ's) report that their members hesitate to discuss union activity at work, even during break time, for fear of losing their jobs.

Labor unions can and do affiliate freely 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 have 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. After a recent overhaul by the Supreme Court, these courts have proven more effective at enforcing the law.

The State Sugar Council (CEA) employs workers from more than 100 unions, 2 of them predominantly Haitian. The CEA long has maintained a negative attitude toward additional organizing efforts.

The Labor Code applies in the 40 established FTZ's, which employ approximately 200,000 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 history of discharging workers who attempt to organize unions, but there also have been reports of union organizers extorting money from business owners. Although there are approximately 70 unions in the FTZ's, many exist only on paper. The majority of the unions in the FTZ's are affiliated with the National Federation of Free Trade Zone Workers or the United Federation of Free Trade Zone Workers.

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

The law prohibits forced or compulsory labor, including that performed by children; however, there were instances of such practices. Poor Haitian and Dominican parents sometimes arrange for Dominican families to "adopt" their children, in exchange for money or goods. Such children often are not treated as full family members and are expected to work in households or businesses (see Section 5). In addition, trafficking in women and girls for purposes of prostitution is also a problem (see Section 5). There were also numerous credible reports of coerced overtime in factories and of workers being fired for refusing to work overtime. Union officials 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; some plantations withhold wages until the end of the harvest season, then pay workers on the condition that they depart the premises.

#### d. Status of Child Labor Practices and Minimum Age for Employment

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 in establishments serving alcohol, and limitations on nighttime work. Children between the ages of 14 and 16 may work in apprenticeship and artistic programs. The law requires 6 years of formal education. Children who do not continue in school often seek illegal employment before reaching the minimum working age. The law prohibits forced or bonded labor by children; however, poor Haitian and Dominican parents sometimes arrange the adoption of their children by Dominican families in exchange for money or goods, and such children generally are expected to work in households or businesses (see Sections 5 and 6.c.).

The high level of unemployment and lack of a social safety net create pressures on families to allow children to earn supplemental income. The International Labor Organization estimated in August 1997 that 169,000 children between the ages of 7 and 14 hold jobs. The Government did not sanction the parents of these children. Child labor takes place primarily in the informal economy, small businesses, clandestine factories, and prostitution. Conditions in clandestine factories are generally poor, unsanitary, and often dangerous.

#### 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 also may enact minimum wage legislation. The minimum monthly salary is \$125 (1,932 pesos) in the FTZ's and ranges from \$101 (1,555 pesos) to \$157 (2,412 pesos) outside the FTZ's depending upon the size of the company and the nature of the business. The minimum wage does not provide a decent standard of living for a worker and family. It covers only a fraction of the living costs of a family in Santo Domingo, but many workers receive 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 day on Saturday, but longer hours are not unusual. The code grants workers a 35 percent differential for work totaling between 44 hours to 68 hours per week and double time for any hours above 68 hours per week.

Conditions for agricultural workers are in general much worse, especially in the sugar industry. Many sugar cane worker villages have high rates of disease and lack schools, medical facilities, running water, and sewage systems. On sugar plantations, cane cutters usually are paid by the weight of cane cut rather than the hours worked. Employers often do not provide trucks to transport the newly cut cane at the conclusion of the workday, causing workers to receive lower compensation because the cane has dried out and become lighter.

When the cane finally is weighed, workers are given tickets indicating the weight of cane cut (often rounded in favor of the employer) and the amount of money due. These tickets, issued to a specific person but payable to the bearer, may be turned in to the employer and redeemed for cash every 2 weeks. Many cane cutters earn less than \$4.00 (60 pesos) per day. Because workers earn so little and sometimes cannot wait until payday to redeem their tickets, an informal barter system has evolved in

which the tickets also are used to purchase items at private stores located on the plantations. These private stores make change by giving back a combination of tickets and cash. However, it is not unusual for these stores to retain 10 percent of the cash due a customer. The conditions are somewhat better at some of the privately owned sugar plantations.

The Dominican Social Security Institute (IDSS) sets workplace safety and health conditions. The existing social security system is grossly underfunded and applies to only about 9 percent of the population. Approximately 13,000 employees work in the IDSS bureaucracy to support fewer than 20,000 retirees.

Both the IDSS and the Labor Secretariat have small corps of inspectors charged with enforcing standards. Inspector positions customarily are filled through political patronage, and bribes from businesses are common. In practice, workers cannot remove themselves from hazardous working situations without jeopardy to continued employment.

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