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2010 Human Rights Report: Dominican Republic

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

2010 Country Reports on Human Rights Practices

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The Dominican Republic is a representative constitutional democracy with a population of approximately 9.7 million, plus an estimated 900,000 to 1.2 million undocumented immigrants, mostly Haitians or their descendents living in the country. In 2008 voters elected President Leonel Fernandez of the Dominican Liberation Party (PLD) for a third term, and in 2010 elections the PLD and its allies won majorities in both chambers of Congress. Impartial outside observers assessed these elections as generally free and fair. There were instances in which elements of the security forces acted independently of civilian control.

Serious human rights problems included unlawful killings; beatings and other abuse of suspects, detainees, and prisoners; fair to harsh prison conditions; arbitrary arrest and detention of suspects; a large number of functionally stateless persons; widespread corruption; harassment of certain human rights groups; violence and discrimination against women; child prostitution and other abuses of children; trafficking in persons; severe discrimination against Haitian migrants and their descendants; violence and discrimination against persons based on sexual orientation; ineffective enforcement of labor laws; and child labor.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life

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

According to National Police statistics, police killed 268 persons in 32 jurisdictions in the course of duty from January to December, a decrease from 346 police killings reported in 2009 by the Attorney General's Office. However, the National Human Rights Commission (NHRC), a nongovernmental organization (NGO), reported 478 police killings, although the methodology used to arrive at this figure was unclear. Lack of training, accountability, and inadequate supervision by

superiors contributed to these police killings. Human rights NGOs asserted that, as in previous years, the police continued to employ unwarranted deadly force against criminal suspects. The National Police regularly justified the use of deadly force by claiming that the deaths occurred during an "exchange of gunfire." This often did appear to be the case. According to the police, 43 officers died from January to June, although it was unclear if all died while on duty.

On January 2, a police officer in La Romana killed 28-year-old Francis Gomez Alfonseca. According to witnesses, Gomez was driving in a traffic jam and asked a police officer to make room for him to pass; the police officer instead forcibly took one of his companions out of the car, threatened him, and then returned to shoot Gomez. Witnesses said that Gomez, who was not carrying a weapon, had asked the officer to explain the treatment of his companion.

According to media reports, on February 13, members of the National Army and the Specialized Frontier Corps (CESFRONT) shot and killed two Haitians as they attempted to cross the border around the area of La Vigía in Dajabon.

On May 14, members of CESFRONT shot 28-year-old Pedro Daniel Feliz (Mello) of Barahona after he threw away more than two pounds of marijuana and attempted to run away from CESFRONT officers in Pedernales. CESFRONT Captain Rafael Montero Concepcion told the media that the soldier who shot Feliz was under investigation and added that the victim had a criminal record. Montero Concepcion also claimed that the victim had lunged at the soldier and tried to remove his weapon, but other witnesses disputed the captain's claim.

On June 26, a police officer shot and killed 23-year-old Abraham Ramos Morel, a law student at the Autonomous University of Santo Domingo, when he failed to follow a policeman's order to stop in a dark area. Attorney General Radhames Jimenez Peña ordered an investigation of the case, and police officers Manuel de Jesus Martinez and Elvis Vinicio Montero were arrested. Authorities sent Martinez to prison as a "preventive" measure pending the investigation and fined Vinicio 75,000 pesos (approximately \$2,000), put him on probation, and ordered him not to leave the country pending the final outcome of the criminal investigation. On December 3, a judge referred the two accused police officers to a formal trial but did not set a trial date.

On July 3, police officers shot and killed an 81-year-old man, Elio Reyes Severino, a passenger in a vehicle ordered to stop while driving between Santo Domingo and Samana. Afterwards, authorities arrested National Police Major Jose Estrella Fernandez, Second Lieutenant Carlos Alberto Peguero Ortiz, Sergeant Edwin Galvez Fernandez, and Sergeant Majors Richard Urbaz Gomez and Miguel Antonio Frias de Jesus and sent them to prison for three months as a preventive measure pending the final outcome of the criminal investigation into the shooting. The incident was one of a number of cases where police officers allegedly killed persons for not stopping their vehicles when asked to do so, which led an NGO and groups of transportation workers to start a campaign to raise awareness of police violence. Transportation workers and supporters wore T-shirts with the phrase "Police, don't kill me, I will stop in a well-lit area."

On August 18, a Metropolitan Transit Authority officer shot and killed 26-year-old Juanito Jimenez Montero. The incident occurred during a confrontation between the transit police and a group of motorcycle taxis in Santo Domingo. Law enforcement arrested the officers involved and initiated an investigation. The Attorney General's Office also began an investigation of the case.

On October 12, a 32-year-old student, Alfredo Gomez, was killed during a protest in the province of Moca. Gomez was killed during what the police term an "exchange of gunfire" between some protesters and law enforcement officials. At year's end police were carrying out an investigation.

In April a judge sentenced police officers Pedro Antonio Cabrera García and Jesús Lázaro Cabrera García to 30 years in prison for the murder of Miguel Antonio Prestol Aquino, who was beaten to death by the officers in February 2009 in Santo Domingo East.

There were no developments in the 2009 police killings of 19-year-old Jose Gomez Taveras; of two suspected kidnappers in Guayabin, Montecristo Province; of Lisandro Cuevas Ferreras; or of two persons killed during a demonstration in Santo Domingo.

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In March the Santo Domingo district court sentenced police Major Domingo Antonio Diaz Rodriguez and First Lieutenant Nicolas Martinez to 30 years in prison and fined them 10 million pesos (\$275,000) after finding them guilty of the 2008 murders of Nairobi Caminero de los Santos, Landri Bertan, and Jason Jeffrex Mena in Santo Domingo East.

There was no information available about the police killing of three minors who were suspected in a store robbery, or in the case of a minor killed during a demonstration, or a 17-year-old killed while playing basketball near a demonstration, all during 2008.

On a number of occasions reported in the media, citizens attacked and killed alleged criminals in vigilante-style reprisals for theft, robbery, or burglary. These incidents were attributed to an increase in crime and the inability of security forces to stem or combat these crimes. In August a mob chased, shot, and beat a man to death who allegedly attempted to steal a motorcycle in Barahona.

Judicial authorities charged two men as accomplices in the vigilante killing of three Haitians near Jimani in October 2009, but no further information was available at year's end.

b. Disappearance

There were no reports of politically motivated disappearances.

In October the human rights group "Derechos Vigentes" and family members accused the minister of the interior and the police of complicity in the September 2009 disappearance of Juan Almonte. Authorities denied the charges and considered Almonte to be a fugitive from justice since he was suspected of complicity in a 2009 kidnapping case.

In response to a December 2009 request from the Inter-American Commission of Human Rights, the Public Ministry continued the investigation into the case of journalist Narciso Gonzalez, who disappeared in 1994 after allegedly criticizing the government. The investigation remained open at year's end.

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

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

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

Senior police officials treated the prohibition on torture and physical abuse seriously, but lack of supervision and training through much of the law enforcement and corrections systems undercut efforts to contain the problem. Although observers agreed that conditions improved somewhat due to an increase in professionally trained corrections officers, human rights groups and prisoners reported physical abuse of detainees, most commonly beatings. The National Human Rights

Commission reported that the police continued to use different types of torture to obtain confessions from detained suspects, including beatings that left lifelong scars.

On July 4, police shot Elvis Gutierrez. According to Gutierrez, he was driving with his wife and a friend around 1 a.m. when the police signaled him to stop. Instead of stopping in a poorly-lit area, Gutierrez kept driving and stopped in a better lit area. Police ordered him to step out of the car and to lay down face-front. As soon as he lay down, he was shot in his left leg.

There were no developments, and none were expected, in the 2008 beating of a missionary who refused to remove her clothing for examination at the Najayo prison.

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

Prison and Detention Center Conditions

While prison conditions generally ranged from fair to extremely harsh, the government made advances with newer "model prisons" known as Correctional and Rehabilitation Centers (CRCs) where prisoners experienced improved conditions in comparison with other facilities. The CRC program had 13 model prisons, with more to come, based on the concept that most detainees will eventually return to their communities, and thus the CRCs should serve to prepare them for a second opportunity in life. The CRCs, which held 16 percent of all prisoners, strive to provide educational, labor, and artistic opportunities necessary to rehabilitate detainees in a setting of respect and discipline. In contrast to the traditional prisons, the model prisons were run entirely by trained civilian guards, were not overcrowded, and met the basic nutritional need of the inmates. According to the Director of Prisons, per capita expenditure for CRC prisoners was three times more than that spent in conventional prisons. However, this improvement for some prisoners came at the expense of others in the system, because when a facility was converted to a model prison, excess or dangerous inmates were transferred to other locations, increasing the strain on the already-overcrowded prison system.

According to the Directorate of Prisons, there were 20,609 prisoners and detainees, of which 552 were female, held in 40 prisons, with an intended capacity of 11,055. The new CRCs held 3,315 of these prisoners. Virtually all prisons, other than the CRCs, experienced extreme overcrowding. La Victoria prison, the largest in the country, held 5,309 prisoners in a facility designed for 2,000. The prison in Santiago Rodriguez was the most overcrowded prison, holding 135 inmates in a prison with an intended capacity of 23. Air circulation was a problem, and the danger of a fire outbreak was high.

Reports of mistreatment and inmate violence in prisons were common, as were reports of harassment, extortion, and inappropriate searches of prison visitors. Health and sanitary conditions were poor, and some prisons effectively were out of the control of authorities and run by criminal gangs of armed inmates. In August the National Police accused three prisoners of killing inmate Jose Gabriel Arias Castillo, "Alex el Pelotero," at La Victoria Prison in what was believed to have been a drug-related contract killing. A common sentiment among prison wardens at conventional prisons was that while the wardens may control the perimeter, inside the prison the inmates often made their own rules and had their own system of justice. In general this situation differed from the CRCs, where specialized prison guards increased control of prison areas. The attorney general, who oversaw the model prisons, reported that the incidence of corruption within the CRCs remained minimal.

Most inmates in conventional prisons begged for or purchased food from persons in the vicinity of the prison or obtained it from family members. Prisoners were often not taken to their trials unless they paid bribes to the guards, and visitors often

had to bribe prison guards in order to visit prisoners. Similarly, detainees had to pay bribes to be allowed to attend vocational training offered at some facilities. Prison officials accepted money in exchange for a recommendation that a prisoner be furloughed or released for health reasons. There were credible allegations that prisoners could obtain early release on parole for a bribe.

Prisons often did not provide adequate medical care to inmates. According to the Directorate for the Control of Sexually Transmitted Diseases and HIV/AIDS, three prisons in the system provided HIV/AIDS treatment and care services as of June. A 2006 study reported that in four prisons in the country the rate of tuberculosis in prisoners was as high as 100 cases per 10,000 inmates compared with the general population, which the World Health Organization estimated to have 8.5 cases per 10,000 persons. Prisoners with severe cases of AIDS or who had terminal illnesses were not transferred to hospitals.

The National Directorate of Prisons reported 72 prisoner deaths during the year, 59 of which were due to natural causes. Four deaths resulted from inmate upon inmate violence; none of the deaths were attributed to guards. The majority of the deaths were related to various illnesses, including tuberculosis and AIDS.

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

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

Female inmates generally were separated from male inmates. Half of all female inmates were held in prisons only for women, and two of the 13 CRCs were female-only. Conditions in the prison wings for women generally were better than those in prison wings for men. During the year the government began allowing female inmates conjugal visits. Those who gave birth while incarcerated were permitted to keep their babies with them up to a year.

Juveniles were processed using specialized juvenile courts and, with increasingly rare exceptions, were held in one of seven juvenile facilities, although the press reported that some juveniles were being held in regular prisons.

Although the law states that prisoners must be separated according to the severity of the criminal offense, in general authorities did not attempt to do so. Pretrial detainees were held together with convicted prisoners in most cases, although in the CRCs convicted felons were separated from those in preventive custody. The Directorate of Prisons estimated that 65 percent of the prisoners were in preventive custody, awaiting trial. This figure was difficult to verify, as many prisoners were considered to be in preventive custody after an initial conviction because they were awaiting an appeal. The law states that the pretrial waiting period should not exceed three months, but it can be extended up to 18 months in certain complex cases.

There were also insufficient efforts to segregate and provide services to the mentally ill.

Prisoners had access to visitors and were permitted religious observance. Prisoners could submit complaints about their treatment to district attorneys who made monthly prison visits for this purpose. Complaints were referred to the prison director and, if necessary, to the Directorate of Prisons.

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

d. Arbitrary Arrest or Detention

The criminal procedures code (CPC) prohibits detention without a warrant unless a suspect is apprehended during the commission of a criminal act or in other limited circumstances. By law authorities may detain a person without charges for up to 48 hours. However, arbitrary arrest and detention continued to be problems, and there were numerous reports of individuals held and later released with little or no explanation for the detention.

Role of the Police and Security Apparatus

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

Police officers were fired or prosecuted through the criminal justice system when found to have acted outside of established police procedures. From January to October, authorities dismissed 157 members of the police force and referred 684 to the judicial system for prosecution.

The Internal Affairs Unit effectively investigated charges of gross misconduct by members of the National Police. These cases involved physical or verbal aggression, death threats, improper use of a firearm, muggings, and theft. By December Internal Affairs had conducted 1,964 investigations that resulted in 157 dismissals and 805 sanctions.

Training for military and DNCD enlisted personnel and officers included instruction on human rights. The Military Institute of Human Rights offered diploma courses in human rights and regularly sent representatives to border units to conduct mandatory human rights training. The Ministry of the Armed Forces provided human rights training or orientation to 228 officers of various ranks as well as civilians during the year.

Arrest Procedures and Treatment While in Detention

Like its predecessor, the new constitution implemented in January provides that an accused person may be detained for up to 48 hours without a warrant before being presented to judicial authorities. It also provides for recourse to habeas corpus proceedings to request the release of those unlawfully held. The CPC establishes a more restrictive 24-hour time limit in which to make formal charges, which was generally observed. Any prisoner detained for more than 48 hours without being formally charged is entitled to file a motion of habeas corpus. The presiding judge at the habeas corpus hearing is empowered to order the prisoner's release when the prisoner has been detained for more than 48 hours without being formally charged or when there is insufficient evidence that the arrestee committed a crime that warrants further detention. The judge's decision to release a prisoner is subject to appeal by the district attorney.

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

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

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

The new constitution gives public defenders constitutional recognition, and the law requires provision of counsel to indigent defendants. However, most detainees and prisoners unable to afford defense services did not have prompt access to a lawyer. The National Office of Public Defense provided legal advice and representation to indigent persons, but resource constraints resulted in inadequate levels of staffing. Nationwide there were 19 public defense offices, with 171 public defenders, 21 part-time defense lawyers, and eight investigators. The government continued its program to train public defenders on relevant changes caused by implementation of the CPC and expanded training for prosecutors.

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

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

The law prohibits interrogation of juveniles by the police or in the presence of police. Prosecutors and judges handled juvenile interrogations.

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

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

e. Denial of Fair Public Trial

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

The new constitution mandated the creation within one year of a Constitutional Court composed of 13 judges to review the constitutionality of laws and decrees. A Magistrate's Council selects Supreme Court and Constitutional Court justices based on factors such as general reputation and time in service, although the politicized composition of the council leaves open the possibility for appointments based on political loyalties. Lower-court judges are appointed following passage of rigorous entrance examinations, completion of a training program, and successful completion of an examination. Public defenders and public prosecutors were typically well qualified; their particular organizations required passage of objective examinations for employment.

Trial Procedures

The law provides for a presumption of innocence, the right of appeal, and the right to confront or question witnesses. The law establishes a citizen's right not to be deprived of liberty without trial or legal formalities or for reasons other than those provided by law, the right against self-incrimination, and the right to a defense in an impartial and public trial. Defendants have the right to remain silent. The law also provides for a public defense attorney for every person that cannot afford an attorney. Trials are public, but no juries are used. According to the constitution and the law defendants have the right to be present and consult with an attorney in a timely manner.

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

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

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

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

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

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

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

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

The NHRC reported several cases in which law enforcement officials punished family members for alleged crimes committed by individuals. The NGO reported that the mother of a 23-year-old man wanted for killing an individual was repeatedly abused and threatened by the police. The police allegedly took her to their headquarters, handcuffed her, leaving bruises on her arms, and threatened to have her fired from her job if her son did not surrender. In another instance, the NHRC reported that law enforcement repeatedly detained the brother of an alleged killer and handcuffed him, leaving bruises. The brother eventually was left alone after the alleged killer was found dead.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The law provides for freedom of speech and of the press, and the government generally respected these rights in practice. Individuals or groups generally were able to criticize the government publicly and privately without reprisal, although a national journalists' association reported threats against and physical intimidation of journalists. The new constitution provides complete protection of the confidentiality of journalists' sources and introduced a "conscience clause" allowing journalists to refuse assignments. Nonetheless, a journalists' association and a prominent television producer reported that self-censorship was becoming more common, particularly when coverage could adversely affect the economic or political interests of media owners.

In March the Dominican Telecommunications Institute (INDOTEL) shut down Channel 53 in Santiago for broadcasting without the appropriate license the day after the producer used incendiary language against the president and his cabinet. Other sources, however, cited the use of obscene and often homophobic language on air as the reason for the station's closure. The station's owners sued INDOTEL for the necessary broadcast license, and the case was still in the court system at year's end.

The National Journalists' Union reported that during the months prior to the May Congressional elections, other television channels also closed down or experienced interruptions in broadcasting due to political pressure. In other instances certain stations experienced broadcasting interruptions following reports critical of government officials and conflicts over selling broadcast time already reserved by other individuals to political parties.

In June the media rallied around television investigative journalist Alicia Ortega after the director of the Dominican Agrarian Institute (IAD), Hector Rodriguez Pimentel, upset over Ortega's reports linking him to corruption, sent letters to 50 advertisers threatening to include them in suits for defamation if they continued to place commercials on Ortega's program. Minister of the Presidency Cesar Pina Toribio sought to distance the government from Rodriguez's actions, insisting that Rodriguez was acting in his private capacity, even though he identified himself as IAD director in his letters to the advertisers. As the media outcry over threats to press freedom escalated, Rodriguez retracted his threat to sue the advertisers, although he reserved the right to sue Ortega and her television channel, Noticias SIN, if they continued what he characterized as a baseless "slander" campaign against him.

Two of the country's leading investigative publications, the weekly newspaper *Clave* and its sister Internet publication *Clave Digital*, ceased operations on August 5. While *Clave's* publisher publicly stated that the closure was temporary and due to economic reasons, a communique signed by more than 200 members of the media implied that the media organs closed in response to pressure and threats following *Clave's* reporting on former police chief Rafael Guzman Fermin's

alleged close connections to a Spanish narcotics trafficker. In the days prior to the closing of the publication, two gunmen shot and killed a man who looked like the *Clave* director in a park in Santo Domingo.

In September a judge revoked a previous decision to exclude the press during sections of the high-profile narcotics money laundering trial of the narcotics trafficker Jose David Figueroa Agosta. The revocation came after the president of the Supreme Court made a public statement regarding the constitutional right to freedom of information and the need to maintain transparency in judicial processes.

On January 12, police arrested Jaimi Antonio Flete, alleged mastermind of the 2008 Santiago killing of cameraman Normando Garcia. Authorities charged Flete with hiring two men to kill the cameraman and also charged them with murder.

The National Journalists' Union reported that civil, police, and military authorities, criminals, and other persons assaulted or threatened 65 journalists during the year. In May the NGO Reporters Without Borders' evaluation of press freedom in the country cited a high index of violence, harassment, and abuse against news organizations and journalists but noted that physical attacks against the media declined. The government did little to investigate the threats of violence or physical attacks on journalists.

Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. Internet access was widely available, including wireless hotspots. Blog functions were also available on several local press sites that allowed strongly stated views against the government and other powerful sectors. According to the International Telecommunication Union, there were 27 Internet users per 100 inhabitants in 2009.

Academic Freedom and Cultural Events

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

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

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

Freedom of Association

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

c. Freedom of Religion

For a complete description of religious freedom, please see the *2010 International Religious Freedom Report* at www.state.gov/g/drl/rls/irf.

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

The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice; however, there were some exceptions. Local and international

human rights groups reported that hundreds of thousands of persons without proper documentation, including Haitian migrants and other persons of Haitian descent, faced obstacles in traveling both within and outside of the country.

Following the January 12 earthquake in Haiti, the president announced a moratorium on all deportations of Haitians living in the country. According to the Directorate of Migration (DGM), the policy remained in effect as of year's end. Although the government claimed it no longer practiced mass deportation, such practices were still reported. According to the International Organization for Migration (IOM), the government reduced the number of deportations of Haitians living outside the border region since the earthquake. The DGM reported 3,185 Haitians expelled to Haiti during the year, although other reports from border crossing posts reflected a higher number. NGOs reported that in the majority of these cases, the government's agents did not follow due process or internal basic human rights guidelines, despite the terms of a bilateral agreement with Haiti regarding repatriation of undocumented Haitians and express instructions from the director of migration to follow the guidelines. One NGO reported that seven children were repatriated in one roundup in Jimani in September.

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

Protection of Refugees

The government established a system for providing protection to refugees but has not implemented it effectively. An applicant for refugee status must be referred by the National Office of Refugees in the Migration Directorate to the Technical Subcommittee of the National Commission for Refugees, which is chaired by the Foreign Ministry. The subcommittee has the responsibility of making a recommendation to the commission, consisting of members from the Foreign Ministry, the DNI, and the Migration Directorate. The full commission has the responsibility for the final decision on the application but met only twice during the past 16 years.

As of December the Migration Directorate reported between 400 and 500 asylum applications, nearly all made by Haitians. Some of these cases had been awaiting decision since 2000, but five cases were approved (three Russians, one Haitian, and one Guatemalan) in 2009, and 15 new cases were filed during the year. According to NGOs, hundreds of other asylum seekers submitted claims that had not been processed, leaving those individuals in a state of legal limbo for years. Most of these individuals lacked documentation sufficient to obtain permission to work legally and to exercise other rights, such as obtaining documentation for their children.

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

There were reports that children born to Haitian refugees--even those born to holders of migration documents--were routinely denied birth certificates as well as education, health, and security documentation.

Stateless Persons

The new constitution provides that anyone born in the country is a Dominican national, except children born to diplomats, children born to parents who are "in transit," or children born to parents who are in the country illegally. The exception for children of parents illegally in the country is an addition to what the previous constitution provided and reflects a 2005 Supreme Court ruling that children born to parents who were in the country illegally did not qualify as citizens. Thus, even

before implementation of the new constitution, children of illegal migrants were denied Dominican nationality. According to the UN Universal Periodic Review in 2009, the government asserted that even children born of Haitian parents who were legal permanent residents in the Dominican Republic could not be registered as Dominican nationals because the Haitian government does not recognize dual nationality, and the Haitian constitution states that any child born to Haitian parents is a Haitian national. However, the new Dominican constitution does recognize dual nationality and would confer citizenship on children born to legal resident Haitians.

Haitian consulates reported that they were legally authorized to register only those births that were declared within two years. Parents declaring a birth were required to submit valid forms of identification in order to file a claim. These requirements could not be met by a significant number of persons of Haitian descent in the country, and thus their children remained undocumented. Consequently, hundreds of thousands of Dominican-born persons of Haitian descent were functionally stateless. From January to October, the Haitian consulate in Santo Domingo registered 471 children. In 2009 the government informed the UN Human Rights Council that an estimated 900,000 to 1.2 million undocumented immigrants, mostly of Haitian descent, were in the country. The IOM estimated that following the January 12 earthquake, there was an influx of approximately 130,000 additional undocumented migrants. Street Action, a Santiago-based NGO that works with unaccompanied street children, reported that it had seen an increase in the percentage of children from Haiti in its caseload. In October the Director of Migration stated that approximately 200,000 more Haitians were living in the country illegally since the earthquake.

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

Government officials continued to take strong measures against citizenship for persons of Haitian descent, including retroactive cancellation of birth and identity documents, many pertaining to persons of Haitian descent. The government stated that such cancellations were based on evidence of fraudulent documentation, but advocacy groups alleged that the revocations targeted persons whose parents were Haitian or whose names sounded Haitian and that the number of revocations was in the thousands. As of March the Central Electoral Board (JCE) had provisionally revoked the birth certificates and cedula of 126 children born to Haitian migrants and their children. Some of the births had been recorded decades ago, with several from the early 1970s. The JCE also cancelled 65 cedula issued to foreign nationals on grounds of fraud, 12 of which were held by Haitians.

In one case reported by the Jesuit Service for Refugees and Migrants (SJRM), the Civil Registry Office denied a 24-year-old woman with a Dominican passport and cedula a copy of her birth certificate. The registry placed her case in "observation" status, claiming that her parents' legal status at the time of her birth needed to be verified. That person cannot register for university without the copy of the birth certificate.

In 2007 the JCE also created a registration system (the foreigner's book) that allowed children born in the country of parents who were not legal residents to receive a special birth certificate. Such children whose parents had documentation from their home country may be registered in the book, after which the parents would be given an official report of birth, which does not confer citizenship. Local and international NGOs reported that since implementation of the foreigner's book, hospitals and civil registries did not register numerous children of Haitian migrants and their descendants. An estimated 10,000 to 20,000 children are born to Haitian migrants and their descendants each year, but in October 2009 the JCE reported only 631 children registered in the foreigner's book were of Haitian descent. NGOs reported that some

Haitian parents who were in the country legally, and whose children were Dominican nationals under Dominican law, were required to register their children's births in the foreigner's book.

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

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

Elections and Political Participation

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

By law parties must reserve for women 33 percent of positions on their lists of candidates for the House of Representatives and city councils; in practice the parties often placed women low on the lists. There were four women in the 32-member Senate, 38 women in the 178-member House of Representatives, two women in the cabinet, and five women on the 16-seat Supreme Court. The law requires each party's candidates for mayor and deputy mayor to be of different genders, and there were 12 female mayors and 145 female deputy mayors.

Section 4 Official Corruption and Government Transparency

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and administration officials who engaged in corrupt practices were not prosecuted, although some were removed from office and others were submitted to the Office for the Prosecution of Corruption for investigation. The World Bank's worldwide governance indicators continued to reflect that government corruption was a serious problem, and the World Economic Forum Global Competitiveness report also listed corruption as the most problematic factor for doing business in the country.

On October 20, the Participative Anti-Corruption Initiative (IPAC) presented 30 recommendations to combat corruption to the president and other officials, various NGOs, and the media. These recommendations—developed by government officials, civil society representatives and the donor community and covering a variety of issues such as government procurement transparency, energy, and water—were the fruits of the IPAC process, which was born of the president's 2009 request to the international community for help in dealing with the "perception" of corruption in the country. President Fernandez welcomed the recommendations but provided no timelines for implementation and downplayed the extent of corruption in the country.

Government officials continued to be reluctant to investigate seriously and prepare for trial cases involving senior government officials of either the current or former government. The attorney general concluded six corruption cases against lower and mid-level officials, either by conviction or acquittal, the same number as was reported in 2009.

On many occasions police officials attempted to solicit bribes from individuals facing arrest or imposition of fines. Local human rights observers reported on a few occasions that immigration and police authorities rounded up undocumented construction workers and other manual laborers of Haitian origin or descent to extort money from them. NGOs alleged corruption among the military and migration officials stationed at border posts and checkpoints and noted that these officials were often complicit in the illegal transit of Haitian workers into the country. The SJRM and the coordinator for the National Migration Roundtable reported that an undocumented migrant paid an average cost of 3,000 to 5,000 pesos (\$82 to \$137) to be transported from Jimani, the largest border post, to Santo Domingo. The SJRM report stated that

transporters paid an average bribe of 100 pesos (\$2.70) per person at each of the 16 checkpoints from Jimani to the capital.

Although the newly constituted Court of Accounts submitted a number of audit reports to Congress with significant findings of misuse of public funds and lack of proper procedures, there were no known follow-up measures or sanctions taken. The use of nonjudicial sanctions continued. These measures included the dismissal or transfer of armed forces members, police officers, judges, and other minor government officials engaged in bribe taking and other corrupt behavior. Society's widespread attitude of tolerance toward at least some forms of corruption complicated the effort to reduce corruption.

The Commission for Ethics and Combating Corruption continued to operate, although with minimal practical results as it lacked well-defined authorities and decision-making structures.

In September 2009 the Supreme Court approved a change of venue for the prosecution of several naval officers and a former police officer in Bani for their alleged involvement in killing seven supposed drug traffickers after some of the accused threatened prosecutors and judges. On December 3, three judges sentenced 16 of the 22 suspects in the case to prison terms and acquitted six defendants for lack of evidence. Seven of the 16 convicted, including five former members of the Navy, were sentenced to 30 years' imprisonment, while four others, including a former sailor, will be in jail for 20 years. The only woman involved was sentenced to 10 years in prison. A number of those convicted were also ordered to pay fines of 50,000 pesos (\$1,350). Some of those convicted announced they would appeal.

The law requires that the president and vice president, members of Congress, some agency heads, and other officials such as mayors and council members, as well as income tax and customs duty collectors, make declarations of their personal and real property within a month of being hired, as well as when they "end their responsibilities." The new constitution further requires public officials not only to declare their property but also to explain its provenance. The Department of Prosecution of Corruption, an office within the Public Ministry, is in charge of reviewing these declarations. Although the press reported a number of incidents in which newly elected members of congress and other government officials did not comply with these disclosure requirements, according to the department, government officials generally complied with the law. Any benefits of previous disclosures were unclear, since government officials were not then required to explain the sources of their property.

The new constitution provides for public access to government information. The law places limits on the availability of such information only under specified circumstances (such as to protect national security). It also provided for penalties of up to two years in prison and a five-year ban from positions of public trust for government officials who obstruct access to public information. A court may review the decision of an agency to deny access to information. While often timely, responses were also often incomplete, and the government rejected subsequent requests. Moreover, there was little consistency in the determination of what was considered public information and what was not. In a 2009 report, Citizen Participation, an NGO focused on increasing civil society participation in the political process, found that overall government compliance with the freedom of information law was low. However, certain government institutions, including the Attorney General's Office, were an exception to the general trend and displayed a high degree of transparency.

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

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

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

The new constitution establishes the position of ombudsman, although the government never implemented a 2001 law mandating the creation of a human rights ombudsman's office. The ombudsman's functions as outlined in the constitution are to safeguard the fundamental human rights of persons and to protect collective interests established in the constitution and the law.

Section 6 Discrimination, Societal Abuses, and Trafficking in Persons

Although the new constitution prohibits discrimination based on race, gender, disability, language, and social status, such discrimination existed, and the government seldom acknowledged its existence or made efforts to combat it.

Women

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

According to the *Third International Report on Partner Violence against Women*, published by the Queen Sofia Center, the country had a high number of killings of women related to domestic violence, approximately 22 out of every million women. Despite some government efforts to improve the situation, violence against women continued to be common and increased during the year. Under the Law against Domestic Violence, the state can prosecute rape, incest, sexual aggression, and other forms of domestic violence. Penalties for these crimes range from one to 30 years in prison and fines from 700 to 245,000 pesos (approximately \$20 to \$6,800). A local NGO estimated that 20 percent of women between the ages of 15 and 49 had been victims of physical abuse at some point in their lives. Between January and June, the Attorney General's Office reported 57 women killed as a result of domestic violence. In December two women's rights organizations, the Women's Forum and the Movement for a Life without Violence, reported 150 women killed as a result of domestic violence.

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

As of December, 7,114 complaints had been made to the Violence Prevention and Attention Unit. The cases reported were either settled through mediation, remained in investigation, or were taken to court.

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

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

Sex tourism existed throughout the country, particularly in Las Terrenas, Cabarete, Sosua, and Boca Chica. NGOs conducted programs about it for hotel and industrial zone workers, male and female prostitutes, and other high-risk groups.

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

Reproductive rights generally were respected. While contraceptives were freely available, many low-income women used contraceptives inconsistently due to both irregular availability of contraceptives from public agencies as well as social and religious bias against family planning. The Population Reference Bureau reported a 73 percent rate of some method of contraceptive use among married women. Maternal mortality remained high (estimated at 100 deaths per 100,000 live births in 2008 UN data), yet 98 percent of deliveries took place in hospital settings. Despite the high percentage of institutional deliveries, there were groups of women with limited access to qualified care. Such is the case of the border province of Elias Pina where, according to a 2007 survey, 14 percent of the deliveries took place at home.

Most maternal and neonatal deaths were due to poor quality of care and failure to adhere to standards norms and protocols, resulting in mismanagement of both normal and complicated deliveries. Most women had access to some postnatal care although the lack of postnatal care was higher among young, uneducated women and those in the lowest economic quintiles. In some poor provinces such as Pedernales, 29 percent of women received no postnatal care. Access to diagnostic services and treatment of sexually transmitted diseases was limited by technical, financial, and management issues, which equally affected both men and women. Approximately 15,500 persons with HIV/AIDS--the majority of whom were women--had access to antiretroviral treatment.

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

Children

Citizenship is acquired by birth in the country, except children born to diplomats, to those who are "in transit," or to parents who are illegally in the country (see section 2.d.). A child not registered at birth is undocumented until a late declaration is made, and there were limitations on late declarations. The most recent report by the NGO Profamilia and the UN

Children's Fund indicated that 13 percent of children under 15 were not registered. Undocumented children, particularly those of Haitian descent, faced challenges in accessing primary public education.

Abuse of children, including physical, sexual, and psychological abuse, was a serious problem. The Attorney General's Office has a special Children and Adolescent's Unit, which maintains a hotline where persons may call in to report cases of child abuse. The hotline received about 30 calls a month. As of September, 1,888 complaints had been filed in the National District, which primarily represents the capital city of Santo Domingo. Of these, more than half were awaiting a court appointment. Few such cases reached the courts, due to fear of family embarrassment, lack of economic resources, or lack of knowledge regarding available legal assistance. The Santo Domingo district attorney's office reported that in most abuse cases, the accused was a person close to the child, such as a family member or close family friend. The law provides for removal of a mistreated child to a protective environment.

Local observers believed that instances of child abuse were underreported because of the widespread belief that such problems should be dealt with inside the family. The law contains provisions concerning child abuse, including physical and emotional mistreatment, sexual exploitation, and child labor. The law provides penalties of between two and five years' incarceration and a fine of three to five times the monthly minimum wage for persons found guilty of abuse of a minor. The penalty is doubled if the abuse is related to trafficking.

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

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

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

The Ministry of Labor continued a program to combat the commercial sexual exploitation of minors in popular tourist destinations such as Boca Chica, Sosua, and Las Terrenas. These programs provided psychological support and medical assistance, returned children to classrooms, and reunited children with their families and communities whenever possible. The programs also provided legal assistance to child victims and their families to arrest and convict exploiters.

The government is a party to the 1980 Hague Convention on International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at http://travel.state.gov/abduction/resources/congressreport/congressreport_4308.html.

Anti-Semitism

The Jewish community was very small, about 300 persons, and there were no reports of anti-Semitic acts.

Trafficking in Persons

For information on trafficking in persons, please see the Department of State's annual *Trafficking in Persons Report* at www.state.gov/g/tip.

Persons with Disabilities

Although the law prohibits discrimination against persons with disabilities, these individuals encountered discrimination in employment and in obtaining other services. The law provides for physical access for persons with disabilities to all new public and private buildings, but the authorities did not enforce this provision. The Dominican Association for Rehabilitation, which had 23 branches around the country, received a large subsidy from the Secretariat of Public Health and from the Presidency to provide rehabilitation assistance to persons with physical and learning disabilities. The association cited the lack of accessible public transportation for persons with disabilities as a major impediment. The 2000 disability law states that the government should ensure that people with disabilities have access to the labor market and cultural, recreational, and religious activities.

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

National/Racial/Ethnic Minorities

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

There were also strong prejudices against Haitians, which disadvantaged many Haitians and Dominicans of Haitian ancestry, as well as other foreigners of dark complexion. Few government officials acknowledged the existence of this discrimination; others regularly and publicly denied that it existed.

Local NGOs reported incidents where darker-skinned persons were denied access or services in banks, service in restaurants and stores, entry into nightclubs, enrollment in private schools, and birth registration in hospitals. In a 2007 report, the UN special rapporteurs for racism and the rights of minorities urged authorities to recognize the existence of racism and discrimination against minorities, adopt a national action plan to address the problem, revise a JCE rule that resulted in revocation of identity documents for Haitians, and cease mass repatriations of Haitians. Government officials responded to the report with a denial that racism existed in the country, referencing comments that the country was a mulatto community. The government's 2009 UN Universal Periodic Review report asserted that the JCE rule focused on fraud and that Haitians in the country could receive their identity documents in Haiti. The government also claimed there were no grounds to state that black Dominicans were being repatriated to Haiti and noted that authorities suspended repatriations on Fridays to prevent employers from using this as a tool to avoid paying laborers for the week's work.

Haitians continued to immigrate to the country in search of economic opportunity and relief, especially following the January earthquake. According to the Directorate of Migration, there was no repatriation or deportation of Haitians since the earthquake in accordance with the president's policy to halt them in the aftermath of the crisis. However, the directorate continued to carry out devoluciones or "returns" of undocumented Haitians to Haiti. Officials claimed that these removals should not be considered repatriations or deportations, although the distinction between the two was unclear. Some of those removed from the country reported that they were denied the opportunity to demonstrate that they were legal residents, to make arrangements for their families or property, or to express a credible fear of persecution or torture if returned to Haiti. NGOs reported that migration officials and security forces sometimes confiscated and destroyed expellees' residency documents and passports despite standing government orders to respect the human rights of the expellees. In some cases expellees with appropriate legal documents received permission to return.

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

their communities, where they felt relatively safe from the risks of deportation and harassment that existed elsewhere in the country.

Private enterprises in the sugar sector continued to make improvements at their facilities, a process that began in 2007, including new schools and both new and renovated housing. In Nuevo Cayacoa, more than 40 families were living in the new facilities, and the school enrolled 325 students from the batey and neighboring areas. The community also had a clinic where batey workers and their families received medical care from a doctor. A neighboring batey located at the area where the sugarcane is processed had a school with 620 students from bateyes and the bordering neighborhoods.

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

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

Treatment of lesbian, gay, bisexual, and transgender (LGBT) individuals ranged from ambivalent tolerance to staunch homophobia. While no law criminalizes homosexuality, members of the LGBT community continued to be discriminated against in all areas of society, including health, education, and work, since no law protects individuals against discrimination based on sexual orientation or gender identity. Transgender individuals were particularly at risk of being victims of violence.

NGOs reported widespread social discrimination against persons based on sexual orientation. Numerous credible reports indicated members of the LGBT community were expelled from public school, arrested without reason, fired from work, or denied access to rent or own homes.

Gay and lesbian persons faced physical attacks, intimidation, harassment, and threats of violence. NGOs reported that these groups were reluctant to file charges or complain to authorities due to fear of reprisal or humiliation. Several killings during the year were linked to the victims' sexual orientation.

On March 30, Ramon de Jesus Crisostomo de Leon ("Monchina"), a transgender sex worker, was killed. On May 11, authorities arrested a suspect, who later confessed to the crime, claiming he was the victim of deception since he thought Crisostomo was "a woman and not a transsexual person."

On July 1, three male clients allegedly stabbed and killed Daniel Corporan Suero ("Arenita"), a 22-year-old transgender sex worker in Santo Domingo.

Several LGBT advocates confirmed reports that authorities denied members of the LGBT community the right to congregate in public spaces, specifically Duarte Park, a traditional LGBT gathering place in Santo Domingo's Colonial Zone. On April 6, the newspaper *Listin Diario* ran several articles citing concerns by Catholic Cardinal Nicolas de Jesus Lopez Rodriguez regarding the "vulgarity" carried out by couples of the same sex late at night. Additionally, some members of the local neighborhood association complained of sexual exhibitionism by gays, lesbians, and heterosexuals alike and charged that the LGBT community in particular was not respectful of morality and tradition. The Cardinal's concerns led the National Police to increase the number of police patrolling the area. The inability to freely associate and gather in Duarte Park became a point of contention between government authorities and members of the LGBT community, who claimed they are the victims of police harassment whenever they gather in public places.

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

Other Societal Violence or Discrimination

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

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

Section 7 Worker Rights

a. The Right of Association

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

The law allows unions to conduct their activities without government interference. In June the National Council of United Unions (CNUS), one of the largest confederations, brought a complaint against the government before the International Labor Organization (ILO) for obstructing the right to unionize and to register unions in companies. CNUS accused the Labor Ministry's national director of labor of obstructing the registration of unions in major companies, including Barrick Gold. CNUS claimed that the director was blocking the formation of unions by rejecting their registration applications and delaying approvals. The Ministry of Labor argued that the only reason unions were not allowed to register was because of their lack of compliance with (unspecified) ILO regulations. Following the filing of the ILO complaint, the ministry approved the Workers Union of the Barrick Gold Company and other unions whose registrations had previously been rejected. The complaint is scheduled to be reviewed by the ILO at the next International Labor Conference scheduled for June 2011.

A few labor unions represented a small number of Haitian workers, who are covered by the labor code regardless of legal status. Persons who join unions must have documentation, but enforcement of documentation rules for union members was lax allowing some undocumented Haitians to participate in practice. Various NGOs continued to report that many Haitian laborers and Dominicans of Haitian descent in the agricultural and construction industries did not exercise their rights, fearing firing or deportation.

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

All government workers and essential public service personnel are not allowed to strike. The labor code defines essential public service personnel as those working in communications, water supply, gas and electricity supply for domestic and street lighting, and hospital pharmacists. The Ministry of Labor offered a worker-employer conciliation process in an effort to provide due process to protect workers' rights.

b. The Right to Organize and Bargain Collectively

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

The ILO noted that the law did not specifically address the right to collective bargaining of public servants not engaged in the administration of the state. Public sector workers are allowed to form associations registered through the Office of Public Administration, not the Ministry of Labor.

The law establishes a system of labor courts for dealing with disputes. This process was often long, with cases remaining pending for several years. Although the government stated that there have been some improvements in this process, unions noted that the process remained long. In smaller municipalities the system can be shorter, taking about one year, but in the more populated cities, including Santiago and Santo Domingo, the process continued to take several years. The most recent study by the Foundation for Institutionalism and Justice, a local NGO, showed that the average case resolution time was 15.3 months in courts of first instance and 16.4 months in appeals court. Various NGOs reported that companies took advantage of the slow and ineffective legal system to appeal cases, which left workers without labor rights protection in the interim.

Public officials reported that the ministry's nonbinding conciliation process, involving 37 mediators in eight locations, was the most effective method for resolving worker-company disputes though other sources reported that the conciliation process's effectiveness has diminished in the past two years.

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

According to the National Labor Force survey completed by the Central Bank, about 56 percent of the workforce is in the informal sector. In view of the scarcity of formal sector employment, the fear of reprisal greatly limited worker ability to freely associate. Workers were often asked to sign documents agreeing not to participate in union activities. Companies often created and supported "yellow" or company-backed unions to counter free and democratic unions. In addition the use of short-term contracts and subcontracting was increasing--often making union organizing and collective bargaining more difficult.

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

The labor code applies in the 57 established FTZs, which employed approximately 115,000 workers. According to the National Council of Labor Unions, unions were active in only 12 or 13 businesses out of approximately 200 companies in the FTZs, and only four unions had established collective bargaining rights. Workplace regulations and their enforcement in the FTZs did not differ from those in the country at large. Working conditions were reportedly sometimes better, and the pay in the FTZs was occasionally higher than in the public or agricultural sectors. At the same time, mandatory overtime was a common practice.

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

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, but there were reports of forced labor of both children and adults within the country. There were reports that both adults and children were forced to work as domestic servants (see section 7.d.).

Haitian workers' lack of documentation and legal status in the country often placed them in a tenuous situation and made them vulnerable to forced labor. Although specific data on the issue were limited, there continued to be reports that some Haitian nationals may have been subjected to forced labor in the service, construction, and agricultural sectors.

Labor conditions in sugar cane plantations remained harsh. There continued to be conflicting views regarding whether or not forced labor was used in the production of sugar. Some credible NGOs reported that, although undocumented Haitian workers were vulnerable to exploitation, forced labor was no longer used in the sugar industry. However, there also continued to be some reports of exploitive labor practices that some observers maintained could constitute forced labor when considered together. These reports included deceptive recruiting practices, nonpayment or payment in vouchers which were difficult to convert into cash, and restrictions on some workers' ability to leave plantations--including forcible capture and return of workers, withholding of documents, and threats of deportation. Private sugar producers noted that the overall number of workers in the sugar industry has declined with increased mechanization and a decrease in the relative importance of sugar production in the economy. They acknowledged that they continued to hire some undocumented Haitian workers already residing and working in the country but insisted that they did not force these individuals to work.

Also see the Department of State's annual *Trafficking in Persons Report* at www.state.gov/g/tip.

d. Prohibition of Child Labor and Minimum Age for Employment

While the law prohibits employment of children younger than 14 years of age and places restrictions on the employment of children under the age of 16, child labor remained a serious problem, although there was some evidence it lessened during the year. One NGO estimated that 364,000 minors between five and 17 years of age worked illegally. Regulations limited working hours of those between the ages of 14 and 16 to six hours per day; for those under age 18, the law limited night work and prohibited employment in hazardous occupations, under unhealthy working conditions, or in establishments serving alcohol. Fines and legal sanctions may be applied to firms employing underage children. While the

government effectively enforced these regulations in the formal sector, child labor in the informal sector was a problem largely beyond regulatory reach.

Child labor took place primarily in the informal economy, small businesses, private households, and agriculture. In particular, there were reports that children worked in the production of garlic, potatoes, coffee, tomatoes, and rice. The Ministry of Labor, following site inspections conducted throughout the country, including in sugar growing areas, reported that the sugar consortium's bateyes no longer used child labor on their property. However, others continued to report that children work in sugar plantations alongside their parents. NGOs and the Ministry of Labor also reported that many children worked in the service sector in a number of jobs including as domestic servants in households, as street vendors, as well as in shoe shining, and washing car windows. Children often accompanied their parents to work in agricultural fields, in part because parents had nowhere else to leave their children, since schools were usually in session only for a few hours a day. The commercial sexual exploitation of children remained a problem, especially in popular tourist destinations and urban areas (see section 6, children).

Children also worked as domestic servants, and many appeared to be victims of forced labor. There were credible reports that poor Haitian families arranged for Dominican families to "adopt" and employ their children. In some cases adoptive parents reportedly did not treat the children as full family members, expecting them to work in the households or family businesses rather than to attend school, which resulted in a kind of indentured servitude for children and adolescents. (Also see the Department of State's annual *Trafficking in Persons Report* at www.state.gov/g/tip.) Some NGOs reported an increase in the number of Haitian children working on the streets shoe-shining, window-washing and begging (also see section 6, children).

The Ministry of Labor in coordination with the National Council for Children and Adolescents (CONANI) is responsible for enforcing child labor laws. The Ministry of Labor and CONANI did not always effectively enforce the law, particularly in the large informal sector. The Ministry of Labor employed 222 labor inspectors, all of whom received special training to locate and eliminate illegal child labor. From January to April, the ministry inspectors completed 70,925 inspections at which inspectors only found child labor violations on three occasions.

The National Steering Committee against Child Labor's plan to eliminate the worst forms of child labor set objectives, identified priorities, and assigned responsibilities so that exploitive labor could be efficiently tackled and the number of child laborers significantly reduced. In 2008 the Ministry of Labor launched a program to support public-private partnerships aimed at preventing hazardous child labor with a goal of withdrawing 8,500 children from exploitive labor. It exceeded that goal and had withdrawn 12,044 children by August 31. Nine other programs focused on children working in coffee, tomato and rice production, street vending, domestic labor, and the sex industry. According to the Ministry of Labor, these programs have prevented 63,000 children from entering or continuing in the labor force since 1997. They helped reduce the number of children exposed to the worst forms of child labor from 9.3 percent in 2004 to 6.4 percent in 2008.

e. Acceptable Conditions of Work

In practice the Ministry of Labor did not always enforce the minimum wage. The minimum monthly salary was 5,400 pesos (approximately \$145) in the FTZs, an increase from 2009, and between 5,158 and 8,465 pesos (\$138 and \$227) depending upon the size of the company, outside the FTZs. The minimum wage for the public sector was 5,117 pesos (\$137) per month. The daily minimum wage for farm workers covered by minimum wage regulations was 175 pesos (\$4.70), based on a 10-hour day, which includes all agricultural products except sugarcane. Cane workers were subject to a special, lower minimum wage for the sugar industry of 110 pesos (\$2.95) per 8-hour work day, an increase from 2009. The national minimum wage did not provide a decent standard of living in any industry for a worker and family. All workers, including migrants, are covered by minimum wage provisions.

The law establishes a standard work period of 44 hours per week and stipulates that all workers are entitled to 36 hours of uninterrupted rest each week. The law provides for premium pay for overtime, although enforcement was ineffective. At some firms in the FTZs, overtime was mandatory. Mandatory overtime continued to be a common practice in factories and was sometimes enforced through loss of pay or employment for those who refused. The FEDOTRAZONAS reported that some companies set up "4x4" work schedules, in which employees work 12-hour shifts for four days. Employees working the 4x4 schedules were not paid overtime for hours worked in excess of maximum work hours allowed under labor laws. The Ministry of Labor took no corrective action to address this issue. Some companies also started a practice to pay every eight days instead of every seven days, which resulted in a loss of wages for workers.

On sugar plantations cane cutters usually were paid by the weight of cane cut rather than the hours worked. Cane cutters continued to suspect fraud by weigh station operators and noted that employers sometimes did not provide trucks or carts to transport the newly cut cane at the end of the workday, causing workers to receive lower compensation because the cane dried out overnight and weighed less. Company officials denied that there were delays in transporting cane, noting that any delay would be detrimental to their business operation. The amount of cane a worker could cut varied, but most young able-bodied workers were able to cut two to three tons of cane in a workday, yielding a daily wage of 160-240 pesos (approximately \$4.30-\$6.40). However, less able-bodied workers, who were often older, were paid only for the amount of the cane they actually cut, even if the amount was less than the minimum wage. During the six-month off-season, some workers in sugar plantations who opted to remain in their communities were offered part-time jobs such as clearing land or cleaning sugarcane. Such workers generally were not paid the legally mandated minimum wage.

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

The Dominican Social Security Institute (IDSS) sets workplace safety and health conditions. Both the IDSS and the Ministry of Labor had a small corps of inspectors charged with enforcing standards. Although the inspectors noted over 2,000 infractions, the findings of these inspections were not effectively enforced. Workers complained that inspectors were not trained, did not respond to health and safety complaints, and more quickly responded to requests from employers than workers. While the law requires that employers provide a safe working environment, in practice workers could not remove themselves from hazardous working situations without losing their jobs.

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