

PTQ2145

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 FM AMEMBASSY SANTO DOMINGO
 TO SECSTATE WASHDC 6383

UNCLAS E F T O SECTION 01 OF 09 SANTO DOMINGO 006684

SENSITIVE

NOFORN

E.O. 12356: N/A
 TAGS: PHUM, ELAB, DR
 SUBJECT: DOMINICAN REPUBLIC: DRAFT COUNTRY REPORT ON
 HUMAN RIGHTS PRACTICES

REF: STATE 17623

1. NOFORN -- ENTIRE TEXT.
2. FOLLOWING IS THE 1995 COUNTRY HUMAN RIGHTS REPORT FOR THE DOMINICAN REPUBLIC.

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3. DOMINICAN REPUBLIC DECONTROLLED/UNCLASSIFIED

THE CONSTITUTION OF THE DOMINICAN REPUBLIC PROVIDES FOR A POPULARLY ELECTED PRESIDENT AND A BICAMERAL CONGRESS. IN PRACTICE, THE SYSTEM HEAVILY FAVORS THE EXECUTIVE BRANCH, HEADED BY SEVEN-TERM PRESIDENT JOAQUIN BALAGUER. THE PRESENT SUPREME COURT HEADS AN ONLY NOMINALLY INDEPENDENT JUDICIARY WHOSE MEMBERS ARE APPOINTED BY THE SENATE. FUTURE SUPREME COURTS WILL BE NAMED BY A SEVEN-MEMBER COMMISSION DRAWN FROM THE EXECUTIVE, LEGISLATIVE, AND JUDICIAL BRANCHES. POLITICAL PARTIES REPRESENTING THE IDEOLOGICAL SPECTRUM FROM LEFT TO RIGHT FREELY PARTICIPATE IN ELECTIONS.

THE NATIONAL POLICE (PN), THE NATIONAL DEPARTMENT OF INVESTIGATIONS (DNI), THE NATIONAL DRUG CONTROL DIRECTORATE (DNCD), AND THE MILITARY (ARMY, AIR FORCE, AND NAVY) FORM THE SECURITY SERVICES. THE GOVERNMENT CONTROLS ALL THE SECURITY SERVICES, WHICH ARE GENERALLY RESPONSIVE TO CIVILIAN EXECUTIVE BRANCH AUTHORITY. HOWEVER, SOME MEMBERS OF THESE ORGANIZATIONS CONTINUED TO BE RESPONSIBLE FOR HUMAN RIGHTS ABUSES WITH THE TACIT ACQUIESCENCE OF THE CIVIL AUTHORITIES.

ONCE HEAVILY DEPENDENT ON SUGAR, THE DOMINICAN ECONOMY HAS GROWN MORE DIVERSE; TOURISM AND EXPORT PROCESSING ZONES (EPZ'S) ARE NOW MAJOR SOURCES OF INCOME AND EMPLOYMENT. STATE-OWNED FIRMS SUCH AS THE STATE SUGAR COUNCIL (CEA), THE CONSORTIUM OF STATE ENTERPRISES (CORDE), AND THE DOMINICAN ELECTRICITY CORPORATION (CDE) CONTINUE TO BE HEAVILY INVOLVED IN THE ECONOMY,

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AND THE FINANCIAL AND ADMINISTRATIVE DIFFICULTIES OF
THESE FIRMS STILL IMPEDE ECONOMIC GROWTH.

PRINCIPAL HUMAN RIGHTS PROBLEMS INCLUDED CONTINUING INSTANCES OF POLICE KILLINGS OF CIVILIANS, ARBITRARY DETENTION AND BEATINGS OF SUSPECTS, SECURITY SERVICES' REFUSAL TO OBEY JUDICIAL ORDERS, JUDICIAL CORRUPTION, MALADMINISTRATION OF THE COURTS, AND ABUSES OF HAITIAN MIGRANT WORKERS. WORKERS IN THE STATE-OWNED SUGAR

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PLANTATIONS AND MILLS CONTINUED TO LABOR UNDER DEPLORABLE CONDITIONS. WORKERS IN THE COUNTRY'S EXPORT PROCESSING ZONES ACHIEVED SOME GAINS WITH THE SIGNING OF COLLECTIVE CONTRACTS AND OTHER AGREEMENTS. PROSTITUTION AND DOMESTIC VIOLENCE ARE ALSO SERIOUS PROBLEMS.

RESPECT FOR HUMAN RIGHTS

SECTION 1. RESPECT FOR THE INTEGRITY OF THE PERSON,
- FREEDOM FROM:

A. POLITICAL AND OTHER EXTRAJUDICIAL KILLINGS

NO POLITICAL KILLINGS OCCURRED IN 1995, BUT THERE WERE SEVERAL INSTANCES OF EXTRAJUDICIAL KILLINGS BY THE POLICE. POLICE USE OF EXCESSIVE FORCE LED TO AT LEAST 26 CIVILIAN DEATHS. SOME KILLINGS OCCURRED AS A RESULT OF PERSONAL DISPUTES, BUT OTHERS CLEARLY WERE THE RESULT OF EXCESSIVE FORCE WHILE IN CUSTODY. POLICE PERSONNEL ARE USUALLY DISCHARGED FOR CARRYING OUT EXTRAJUDICIAL KILLINGS AND SUBMITTED TO CIVILIAN UNCLASSIFIED

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JUSTICE.

MILITARY COURTS TRY MILITARY PERSONNEL CHARGED WITH EXTRAJUDICIAL KILLINGS. POLICE TRIBUNALS HAVE ON OCCASION TRIED, CONVICTED, AND SENTENCED PERSONNEL CHARGED WITH EXTRAJUDICIAL KILLINGS.

B. DISAPPEARANCE

THERE WERE NO KNOWN CASES OF POLITICALLY MOTIVATED DISAPPEARANCES. THE 1994 DISAPPEARANCE OF AUTONOMOUS UNIVERSITY OF SANTO DOMINGO PROFESSOR NARCISO GONZALEZ REMAINS UNRESOLVED. THE GONZALEZ FAMILY, ASSISTED BY THE DOMINICAN HUMAN RIGHTS COMMISSION, FILED A COMPLAINT IN SANTO DOMINGO COURTS PRESSING FOR A FULL INVESTIGATION, WHICH HAS STAGNATED.

C. TORTURE AND OTHER CRUEL, INHUMAN, OR DEGRADING

TORTURE AND OTHER FORMS OF PHYSICAL ABUSE ARE ILLEGAL,
BUT THERE CONTINUED TO BE INSTANCES OF SECURITY SERVICE

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PERSONNEL PHYSICALLY ABUSING DETAINEES.

PERPETRATORS USUALLY RECEIVE LITTLE OR NO PUNISHMENT FOR CASES OF ABUSE. ALTHOUGH PUNISHMENT MAY RANGE UP TO FIVE YEARS OF INCARCERATION FOR SERIOUS CASES OF ABUSE, AS A RULE CONVICTED OFFICIALS HAVE BEEN SUBJECT TO SENTENCES RANGING FROM A ONE-MONTH SUSPENSION TO SIX
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MONTHS OF INCARCERATION.

PRISONS ARE OVERCROWDED, AND HEALTH AND SANITARY CONDITIONS ARE SUBSTANDARD. SOME PRISON PERSONNEL REPORTEDLY ENGAGE IN EXTORTION AND OTHER CORRUPT ACTIVITIES, AND MOST PRISONERS FIND IT NECESSARY TO RELY ON RELATIVES OR THEIR OWN FINANCES TO BE FED ADEQUATELY. PRISON AUTHORITIES ALLOWED GANGS TO OPERATE INSIDE THE PRISONS; THESE GANGS WERE RESPONSIBLE FOR SEVERAL DEATHS AND RAN ACTIVE DRUG MARKETS. CORRUPT PRACTICES BY PRISON PERSONNEL AND OVERCROWDING AT THE MAIN PRISON OF LA VICTORIA LED TO SEVERAL DAYS OF RIOTING, RESULTING IN THE DEATHS OF AT LEAST FIVE INMATES. ALL OF THE PRISON PERSONNEL WERE SUBSEQUENTLY TRANSFERRED TO OTHER FUNCTIONS OUTSIDE THE PRISON AND SEVERAL HUNDRED PRISONERS WERE TRANSFERRED TO OTHER FACILITIES TO EASE THE OVERCROWDING. MEDICAL CARE SUFFERS FROM A LACK OF SUPPLIES AND AVAILABLE PHYSICIANS. DOMINICAN AUTHORITIES ESTIMATE THE NUMBER OF MINORS INCARCERATED IN ADULT PRISONS AT BETWEEN 1,500 TO 2,500 (SEE SECTION 5).

D. ARBITRARY ARREST, DETENTION, OR EXILE

THE CONSTITUTION STIPULATES THAT AUTHORITIES MAY DETAIN SUSPECTS FOR A MAXIMUM OF 48 HOURS FOR INVESTIGATION BEFORE ARRAIGNMENT, AFTER WHICH THEY MUST CHARGE OR RELEASE THEM. HOWEVER, IN SPECIAL CIRCUMSTANCES,

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SUSPECTS MAY BE DETAINED FOR LONGER PERIODS WITH THE APPROVAL OF THE PROSECUTOR'S OFFICE. SECURITY SERVICE OFFICIALS CONTINUED ROUTINELY TO VIOLATE CONSTITUTIONAL UNCLASSIFIED

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PROVISIONS BY DETAINING SUSPECTS FOR "INVESTIGATION" OR "INTERROGATION" BEYOND THE PRESCRIBED 48-HOUR LIMIT. LAW ENFORCEMENT AUTHORITIES TRADITIONALLY DETAIN ALL SUSPECTS AND WITNESSES TO A CRIME AND USE THE INVESTIGATIVE PROCESS TO DETERMINE WHICH ONES ARE INNOCENT AND MERIT RELEASE AND WHICH ONES SHOULD CONTINUE TO BE HELD. CIVIL AUTHORITIES' EFFORTS TO ADDRESS THESE WIDESPREAD ABUSES HAVE NOT YET PRODUCED RESULTS.

MILITARY OFFICERS OCCASIONALLY VIOLATED LEGAL PROVISIONS AGAINST MILITARY DETENTION OF CIVILIANS. DESPITE ANNOUNCEMENTS TO THE CONTRARY, THE DNCD AND NATIONAL POLICE CONTINUED TO ENGAGE IN INDISCRIMINATE ROUNDUPS OF PEOPLE IN POORER NEIGHBORHOODS. EARLY IN THE YEAR, THE SUPREME COURT RULED AGAINST SEARCHES OF HOMES BY DNCD AGENTS AFTER 6:00 P.M. LEGISLATION TO REVERSE THE RULING IS STILL PENDING. THE SECURITY SERVICES ALSO CONTINUED OCCASIONALLY TO DETAIN RELATIVES OF SUSPECTED CRIMINALS WITH THE AIM OF FORCING THE SURRENDER OF SUSPECTS. CIVIL AUTHORITIES HAVE TAKEN NO ACTION TO CURB THESE ABUSES.

THE NATIONAL POLICE AND THE DNCD PERSISTED IN THEIR REFUSAL TO RELEASE SOME PRISONERS AND DETAINEES WHO HAD BEEN GRANTED JUDICIAL RELEASE ORDERS. LAW ENFORCEMENT AND OTHER GOVERNMENTAL AUTHORITIES CITED JUDICIAL CORRUPTION AS THE JUSTIFICATION FOR THIS NONCOMPLIANCE. IN SOME OF THESE CASES INVOLVING NARCOTICS OR TERRORIST-RELATED CRIMES, IT APPEARED THAT EVIDENCE MERITED PURSUING THE CASES IN THE JUDICIAL SYSTEM.

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ALTHOUGH THE RIGHT TO JUDICIAL DETERMINATION OF THE
LEGALITY OF DETENTION EXISTS, PRETRIAL DETENTION IS
LEGAL AND COMMONLY EMPLOYED. THIS CUSTOM, COUPLED WITH
A LACK OF ADMINISTRATIVE AND FINANCIAL SUPPORT FOR THE
SYSTEM, CREATES A MAJOR BACKLOG OF CASES, WHICH IN TURN
CAUSES SUSPECTS TO SUFFER LONG PERIODS OF PRETRIAL
DETENTION THAT SOMETIMES EXCEED POSSIBLE SENTENCES.

WHILE THE LAW DOES NOT PROHIBIT EXILE, THERE ARE NO
KNOWN CASES OF DOMINICAN CITIZENS IN FORCED EXILE.
E. DENIAL OF FAIR PUBLIC TRIAL

ALTHOUGH THE CONSTITUTION STIPULATES AN INDEPENDENT
JUDICIARY, IN PRACTICE, INTERFERENCE FROM OTHER PUBLIC
AND PRIVATE ENTITIES, INCLUDING THE EXECUTIVE BRANCH,
SUBSTANTIALLY UNDERMINES JUDICIAL INDEPENDENCE. THE
COURT SYSTEM INCLUDES A SUPREME COURT, AN APPELLATE

COURT, AND COURTS OF THE FIRST INSTANCE. THE JUDICIAL
SYSTEM IS IN A STATE OF TRANSITION AS THE NATIONAL
CONGRESS ATTEMPTS TO PASS LEGISLATION AND CREATE A
NATIONAL JUDICIAL COUNCIL TO IMPLEMENT CONSTITUTIONAL

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UNCLAS E F T O SECTION 03 OF 09 SANTO DOMINGO 006684

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SUBJECT: DOMINICAN REPUBLIC: DRAFT COUNTRY REPORT ON
HUMAN RIGHTS PRACTICES

REFORMS ENACTED IN 1994. AMONG OTHER THINGS, THESE
CHANGES WILL END THE SENATE'S EXCLUSIVE ROLE IN
APPOINTING JUDGES AND ESTABLISH A PROFESSIONAL CAREER
SERVICE FOR JUDGES, INCLUDING POTENTIAL LIFE-TERM
APPOINTMENTS. THESE REFORMS SHOULD ENHANCE THE OVERALL
AUTONOMY OF THE JUDICIARY.

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THE CONSTITUTION PROVIDES FOR PUBLIC TRIAL. THE COURTS
NORMALLY APPOINT LAWYERS AT PUBLIC EXPENSE TO INDIGENT
DEFENDANTS IN FELONY CRIMINAL CASES, BUT RARELY IN
CRIMINAL MISDEMEANOR CASES. THE JUDICIAL PROCESS IS
PLAGUED BY CHRONIC DELAYS: OF THE PENAL SYSTEM'S
APPROXIMATELY 11,000 DETAINEES, ONLY ABOUT 10 PERCENT

HAVE BEEN CONVICTED. ALTHOUGH THE RIGHT TO JUDICIAL DETERMINATION OF THE LEGALITY OF DETENTION EXISTS, PRETRIAL DETENTION IS LEGAL AND COMMONLY EMPLOYED. THIS CUSTOM, COUPLED WITH A LACK OF ADMINISTRATIVE AND FINANCIAL SUPPORT FOR THE SYSTEM, CREATES A MAJOR BACKLOG OF CASES, WHICH IN TURN CAUSES SUSPECTS TO SUFFER LONG PERIODS OF PRETRIAL DETENTION THAT SOMETIMES EXCEED POSSIBLE CRIMINAL PENALTIES.

THE JUDICIAL SYSTEM PROVIDES FOR BAIL. HOWEVER, CASES IN WHICH BAIL IS POSTED RARELY COME TO TRIAL, CIRCUMVENTING THE INTENDED PURPOSE OF BAIL.

MILITARY OR POLICE COURTS HAVE JURISDICTION OVER MEMBERS OF THE ARMED FORCES AND POLICE, BUT A MILITARY OR POLICE BOARD FREQUENTLY REMANDS CASES TO CIVILIAN COURTS AFTER REVIEW.

THERE IS NO EVIDENCE THAT THE DOMINICAN REPUBLIC HOLDS POLITICAL PRISONERS.

F. ARBITRARY INTERFERENCE WITH PRIVACY, FAMILY, HOME
- OR CORRESPONDENCE

THE GOVERNMENT DOES NOT ARBITRARILY INTERFERE WITH THE
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PRIVATE LIVES OF PERSONS OR FAMILIES AND GENERALLY OBSERVES CONSTITUTIONAL PROVISIONS AGAINST INVASION OF THE HOME. THE AUTHORITIES MAY NOT SEARCH A RESIDENCE EXCEPT IN THE PRESENCE OF A PROSECUTOR OR AN ASSISTANT PROSECUTOR, EXCEPT IN CASES OF "HOT PURSUIT" OR INSTANCES WHERE THERE IS PROBABLE CAUSE TO BELIEVE THAT A CRIME IS IN PROGRESS. THERE ARE CONTINUING REPORTS OF CLANDESTINE EAVESDROPPING OF PERSONAL CONVERSATIONS.

SECTION 2. RESPECT FOR CIVIL LIBERTIES, INCLUDING:

A. FREEDOM OF SPEECH AND PRESS

THE LAW PROVIDES FOR THESE LIBERTIES AND THEY ARE USUALLY RESPECTED IN PRACTICE.

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DOMINICANS OF ALL POLITICAL PERSUASIONS EXERCISE FREEDOM OF SPEECH, BUT A 1971 LAW PROHIBITS FOREIGN-LANGUAGE BROADCASTS. THE NUMEROUS PRIVATELY OWNED RADIO AND TELEVISION STATIONS BROADCAST ALL POLITICAL POINTS OF VIEW.

THE GOVERNMENT CONTROLS ONE TELEVISION STATION, BUT NO MAJOR NEWSPAPERS. NEWSPAPERS FREELY REFLECT INDEPENDENT AND OPPOSITION POINTS OF VIEW. ALTHOUGH JOURNALISTS OPERATE IN A RELATIVELY TOLERANT ENVIRONMENT, A CERTAIN AMOUNT OF SELF-CENSORSHIP EXISTS FOR FEAR OF RETALIATION, RANGING FROM LOSS OF INFLUENCE TO LOSS OF A JOB. ECONOMIC CONSIDERATIONS ALSO INHIBIT FREE EXPRESSION, AS ALL THE PRINCIPAL MEDIA OUTLETS ARE OWNED BY POWERFUL ECONOMIC CONSORTIUMS OR WEALTHY,
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INFLUENTIAL FAMILIES. IN ADDITION, SOME JOURNALISTS SOLICIT, OR ARE RESPONSIVE TO, BRIBES TO GENERATE REPORTS.

THE NATIONAL DRUG CONTROL BUREAU (DNCD) WAGED A CAMPAIGN TO DESTROY MATERIAL WHICH IT SEES AS PROMOTING OR CONDONING THE USE OF DRUGS. CLOTHING AND MUSIC TAPES DEEMED BY THE DNCD TO PROMOTE DRUG USE ARE PUBLICLY INCINERATED, ALONG WITH CONFISCATED DRUGS. SOME OF THESE MATERIALS HAVE BEEN FORCIBLY REMOVED FROM THEIR OWNERS.

PUBLIC AND PRIVATE UNIVERSITIES ENJOY BROAD ACADEMIC FREEDOM. THE MAIN PUBLIC UNIVERSITY, THE AUTONOMOUS UNIVERSITY OF SANTO DOMINGO, WITH APPROXIMATELY 35,000 STUDENTS, HAS NO RESTRICTIONS ON ENROLLMENT AND MAINTAINS A POLICY OF NONINTERVENTION (OTHER THAN CURRICULUM DEVELOPMENT) IN CLASSROOM AFFAIRS. THE GOVERNMENT EXERTS NO CONTROL OVER PRIVATE UNIVERSITIES EXCEPT FOR THE PRESERVATION OF STANDARDS, AND TEACHERS ARE FREE
TO ESPOUSE THEIR OWN THEORIES WITHOUT

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SENSITIVE

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HUMAN RIGHTS PRACTICES

GOVERNMENT OVERSIGHT.

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B. FREEDOM OF PEACEFUL ASSEMBLY AND ASSOCIATION

THE CONSTITUTION GRANTS THESE FREEDOMS, WHICH THE GOVERNMENT COMMONLY RESPECTS IN PRACTICE. OUTDOOR PUBLIC MARCHES AND MEETINGS REQUIRE GOVERNMENT PERMITS,
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WHICH ARE USUALLY GRANTED. POLITICAL PARTIES FREELY AFFILIATE WITH THEIR FOREIGN COUNTERPART ORGANIZATIONS. PROFESSIONAL ORGANIZATIONS OF LAWYERS, DOCTORS, TEACHERS, AND OTHERS FUNCTION FREELY AND CAN MAINTAIN RELATIONS WITH COUNTERPART INTERNATIONAL BODIES OF DIVERSE POLITICAL PHILOSOPHIES.

C. FREEDOM OF RELIGION

THE CONSTITUTION PROHIBITS DISCRIMINATION ON RELIGIOUS GROUNDS AND THE GOVERNMENT DOES NOT INTERFERE WITH THE PRACTICE OF RELIGION.

D. FREEDOM OF MOVEMENT WITHIN THE COUNTRY, FOREIGN
- TRAVEL, EMIGRATION, AND REPATRIATION

CITIZENS FACE NO UNUSUAL LEGAL RESTRICTIONS ON TRAVEL WITHIN OR OUTSIDE THE COUNTRY. THROUGHOUT THE YEAR, DOMINICAN MILITARY PERSONNEL REPATRIATED UNDOCUMENTED HAITIAN NATIONALS BELIEVED TO BE IN THE COUNTRY ILLEGALLY. THE EXPULSIONS OCCURRED IN VARIOUS REGIONS OF THE COUNTRY; HUMAN RIGHTS GROUPS ESTIMATED THAT BETWEEN SEVERAL HUNDRED AND A FEW THOUSAND HAITIANS WERE EXPELLED. SOME OF THESE WERE LEGAL RESIDENT HAITIANS AND PERSONS OF HAITIAN ANCESTRY WHO MAY HAVE CLAIMS TO DOMINICAN CITIZENSHIP. THE AUTHORITIES DID NOT ALLOW THE HAITIANS OPPORTUNITY TO ESTABLISH THEIR POSSIBLE CLAIMS TO CITIZENSHIP. CHARGES OF HAITIANS, SOME OF THEM MINORS, BEING RECRUITED UNDER FALSE PRETENSES TO WORK ON SUGAR PLANTATIONS, INCREASED IN COMPARISON TO 1994 (SEE SECTION 6.C.).

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SINCE THE 1991 COUP IN HAITI, THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES (UNHCR) ACCORDED REFUGEE STATUS TO 1,341 HAITIANS WHO FLED TO THE DOMINICAN REPUBLIC. ALTHOUGH THE GOVERNMENT BEGAN PROCESSING PETITIONS FOR DOMINICAN RECOGNITION OF THE UNHCR WARDS IN 1991, ONLY 10 PERCENT HAVE BEEN GRANTED SUCH STATUS. SOME HAITIANS HAVE RETURNED TO HAITI FOLLOWING THE RESTORATION OF DEMOCRACY THERE.

SECTION 3. RESPECT FOR POLITICAL RIGHTS: THE RIGHTS
- OF CITIZENS TO CHANGE THEIR GOVERNMENT

IN AUGUST, THE SUPREME COURT REJECTED LEGAL CHALLENGES TO THE CONSTITUTIONAL REFORMS ENACTED IN 1994, BASED ON THE PACT FOR DEMOCRACY. AS A RESULT OF THE CONSTITUTIONAL REFORMS, PRESIDENTIAL ELECTIONS ARE SCHEDULED FOR MAY 16, 1996. AMONG OTHER THINGS, THE REFORMS ALSO CURTAILED PRESIDENT BALAGUER'S CURRENT TERM TO TWO YEARS, PROHIBITED CONSECUTIVE PRESIDENTIAL RE-ELECTION, AND ESTABLISHED THE THRESHOLD FOR VICTORY IN THE FIRST ROUND AT 50 PERCENT OF THE VOTE.

THE DOMINICAN REPUBLIC IS A CONSTITUTIONAL DEMOCRACY. THE PRESIDENT, ALL 150 MEMBERS OF THE SENATE AND CHAMBER OF DEPUTIES, AND THE MAYORS AND CITY COUNCILMEMBERS OF MORE THAN 100 MUNICIPALITIES ARE FREELY ELECTED EVERY FOUR YEARS BY SECRET BALLOT AND UNIVERSAL SUFFRAGE (EXCEPT FOR ACTIVE DUTY MILITARY AND POLICE, WHO MAY NOT VOTE). THE PRESIDENT APPOINTS THE GOVERNORS OF THE 29 PROVINCES. OPPOSITION GROUPS OF
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THE LEFT, RIGHT, AND CENTER OPERATE OPENLY.

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ALTHOUGH THE NATION HAS A FUNCTIONING MULTIPARTY SYSTEM, IN PRACTICE THE PRESIDENT DOMINATES PUBLIC POLICY FORMULATION AND IMPLEMENTATION. HE EXERCISES HIS AUTHORITY THROUGH USE OF THE VETO, DISCRETION TO ACT BY DEGREE, AND INFLUENCE AS THE LEADER OF HIS PARTY. THE CONGRESS TRADITIONALLY HAS HAD LIMITED POWERS, THOUGH THE CURRENT CONGRESS IS SHOWING GREATER AUTONOMY THAN ITS PREDECESSORS IN SUBSTANTIALLY MODIFYING PROPOSALS SUBMITTED BY THE EXECUTIVE BRANCH. THE CONGRESS ALSO PROVIDES AN OPEN FORUM FOR THE FREE EXCHANGE OF VIEWS AND DEBATE. THE GOVERNING REFORMED CHRISTIAN SOCIAL PARTY HAS A TWO-VOTE MAJORITY IN THE 30-SEAT SENATE WHEN IT COMBINES ITS 14 VOTES WITH ONE VOTE FROM THE DOMINICAN LIBERATION PARTY (PLD) AND ONE VOTE FROM THE DEMOCRATIC UNION (UD). SIMILARLY, IT HAS IN COALITION WITH THE PLD A WORKING PLURALITY IN THE CHAMBER OF DEPUTIES.

WOMEN AND MINORITIES CONFRONT NO LEGAL OR PRACTICAL IMPEDIMENTS TO POLITICAL PARTICIPATION. WOMEN HOLD 8

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OF THE COUNTRY'S 29 APPOINTED GOVERNORSHIPS, 5 CABINET-
 LEVEL EXECUTIVE BRANCH POSITIONS, 14 SEATS IN THE 120-
 MEMBER HOUSE OF DEPUTIES, AND 1 SEAT IN THE SENATE.

SECTION 4. GOVERNMENTAL ATTITUDE REGARDING
 - INTERNATIONAL AND NONGOVERNMENTAL
 - INVESTIGATIONS OF ALLEGED VIOLATIONS OF
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 - HUMAN RIGHTS

NONGOVERNMENTAL HUMAN RIGHTS ORGANIZATIONS OPERATE
 FREELY WITHOUT GOVERNMENT INTERFERENCE. IN ADDITION TO
 THE DOMINICAN HUMAN RIGHTS COMMITTEE (CDH), SEVERAL
 OTHER HAITIAN, CHURCH, AND LABOR GROUPS EXIST. THE
 DOMINICAN REPUBLIC HAS BEEN SLOW TO ACKNOWLEDGE
 REQUESTS FOR INFORMATION AND CRITICISM FROM SOME
 INTERNATIONAL HUMAN RIGHTS ORGANIZATIONS. IT HAS NOT
 RESPONDED TO CRITICISMS LEVELED BY THE U.N. HUMAN
 RIGHTS COMMISSION IN 1993 REGARDING TREATMENT OF
 HAITIAN REFUGEES.

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SECTION 5. DISCRIMINATION BASED ON RACE, SEX,
- RELIGION, DISABILITY, LANGUAGE, OR
- SOCIAL STATUS

A. WOMEN

THE LAW PROHIBITS DISCRIMINATION BASED ON RACE AND SEX. SUCH DISCRIMINATION EXISTS IN SOCIETY, BUT THE GOVERNMENT HAS NOT ACKNOWLEDGED ITS EXISTENCE OR MADE EFFORTS TO COMBAT IT.

WOMEN TRADITIONALLY HAVE NOT SHARED EQUAL SOCIAL AND ECONOMIC STATUS OR OPPORTUNITY WITH MEN, AND MEN HOLD THE OVERWHELMING MAJORITY OF LEADERSHIP POSITIONS IN ALL SECTORS. IN MANY INSTANCES, WOMEN ARE PAID LESS THAN MEN IN JOBS OF EQUAL CONTENT AND EQUAL SKILL LEVEL. DIVORCE IS EASILY OBTAINABLE BY EITHER SPOUSE, AND WOMEN CAN HOLD PROPERTY IN THEIR OWN NAMES APART
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FROM THEIR HUSBANDS. CONGRESS DID NOT ACT IN 1995 ON LEGISLATIVE PROPOSALS INTRODUCED IN 1993 TO MODIFY WOMEN'S STATUS UNDER THE CIVIL AND PENAL CODE.

DOMESTIC VIOLENCE AND SEXUAL HARASSMENT ARE WIDESPREAD. ACCORDING TO ONE REPORT, APPROXIMATELY 7,000 RAPES OCCUR ANNUALLY, BUT VICTIMS REPORT ONLY 1,500 CASES TO THE POLICE. SPOUSAL ABUSE ITSELF IS NOT A CRIME AND IS RARELY REPORTED.

DOMINICAN WOMEN ARE VICTIMS OF RINGS WHICH SMUGGLE THIRD-WORLD WOMEN TO EUROPE TO WORK AS PROSTITUTES IN CONDITIONS RIFE WITH EXPLOITATION AND MISTREATMENT. THE GOVERNMENT DOES NOT VIGOROUSLY ENFORCE PROSTITUTION LAWS, BUT DOES PERIODICALLY PROSECUTE ORGANIZED ALIEN SMUGGLING RINGS.

B. CHILDREN

THE GOVERNMENT HAS NOT SUPPORTED ITS PROFESSED COMMITMENT TO CHILD WELFARE WITH FINANCIAL AND HUMAN

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RESOURCES. DESPITE THE EXISTENCE OF GOVERNMENT INSTITUTIONS DEDICATED TO CHILD WELFARE, THE PRINCIPAL BURDEN IS CARRIED BY PRIVATE SOCIAL AND RELIGIOUS ORGANIZATIONS. THE MOST SERIOUS ABUSE INVOLVING CHILDREN IS THE FAILURE OF THE JUDICIAL SYSTEM TO RESPECT THE STATUS OF MINORS IN CRIMINAL CASES. IN SEPTEMBER THE CONGRESS PASSED LEGISLATION ESTABLISHING MINORS' COURTS WHICH ARE IN PART DESIGNED TO ALLEVIATE THIS PROBLEM. IN NARCOTICS CASES, MINORS ARE SOMETIMES TREATED AS ADULTS AND INCARCERATED IN PRISON RATHER

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THAN JUVENILE DETENTION CENTERS. ONE GROUP OF ATTORNEYS INTERESTED IN THE ISSUE REPORTED IN 1995 THAT THERE ARE MORE THAN 344 MINORS IN THE COUNTRY'S MAIN PRISON. SOME OF THESE JUVENILES HAVE BEEN TRANSFERRED TO JUVENILE CENTERS OR SIMPLY RELEASED. A GREAT MANY REMAIN AT THE MAIN PRISON, SERVING LONGER THAN THE PRESCRIBED TIME HAD THEY BEEN SENTENCED.

ACCORDING TO LOCAL MONITORS, THE INCIDENCE OF CHILD ABUSE IS UNDERREPORTED BECAUSE OF TRADITIONAL BELIEFS THAT FAMILY PROBLEMS SHOULD BE DEALT WITH INSIDE THE FAMILY. SPORADIC INSTANCES OF HAITIAN CHILD LABOR ON SUGAR PLANTATIONS CONTINUED TO OCCUR (SEE SECTION 6.D.). A NEW MINOR'S CODE WENT INTO EFFECT ON JANUARY 1, 1995. THE CODE CONTAINS PROVISIONS AGAINST CHILD ABUSE, INCLUDING PHYSICAL AND EMOTIONAL MISTREATMENT, SEXUAL EXPLOITATION, AND CHILD LABOR. IT ALSO PROVIDES FOR REMOVAL OF A MISTREATED OR DELINQUENT CHILD TO A PROTECTIVE ENVIRONMENT.

C. NATIONAL/RACIAL/ETHNIC MINORITIES

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	ADS-00	NSAE-00	NSCE-00	OIC-02	PA-01	PRS-01	P-00
	SP-00	SS-00	STR-01	TRSE-00	USIE-00	PRME-01	DRL-09
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TO SECSTATE WASHDC 6388

UNCLAS E F T O SECTION 06 OF 09 SANTO DOMINGO 006684

SENSITIVE

NOFORN

E.O. 12356: N/A
TAGS: PHUM, ELAB, DR
SUBJECT: DOMINICAN REPUBLIC: DRAFT COUNTRY REPORT ON
HUMAN RIGHTS PRACTICES

DOMINICANS ARE STRONGLY PREJUDICED AGAINST HAITIANS,
MANY OF WHOM ARE ILLEGAL IMMIGRANTS AND WHO CONSTITUTE
A SIGNIFICANT PERCENTAGE OF THE UNSKILLED MANUAL LABOR
FORCE. THE GOVERNMENT HAS NOT ACKNOWLEDGED THE
EXISTENCE OF THIS DISCRIMINATION NOR MADE ANY EFFORTS
TO COMBAT IT. DARKER-SKINNED DOMINICANS ALSO FACE
INFORMAL BARRIERS TO SOCIAL AND ECONOMIC ADVANCEMENT.

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CREDIBLE SOURCES CHARGE THAT A LONG-STANDING GOVERNMENT PRACTICE IS TO OBSTRUCT THE RECOGNITION OF INDIVIDUALS OF HAITIAN ANCESTRY BORN IN THE COUNTRY AS DOMINICAN CITIZENS. LACK OF DOCUMENTATION ALSO SOMETIMES HINDERS THE ABILITY OF CHILDREN OF HAITIAN DESCENT TO ATTEND SCHOOL; SOME PARENTS FAIL TO SEEK DOCUMENTATION FOR FEAR OF BEING DEPORTED.

D. PEOPLE WITH DISABILITIES

DISABLED PERSONS ENCOUNTER DISCRIMINATION IN EMPLOYMENT AND THE PROVISION OF OTHER SERVICES. LAW NO. 21-91, WHICH TOOK EFFECT IN SEPTEMBER 1991, MANDATES CERTAIN PROVISIONS FOR PHYSICAL ACCESS FOR THE DISABLED FOR ALL NEW PUBLIC AND PRIVATE BUILDINGS. THE LAW, HOWEVER, HAS NOT BEEN UNIFORMLY ENFORCED.

SECTION 6. WORKER RIGHTS

A. THE RIGHT OF ASSOCIATION

THE CONSTITUTION PROVIDES FOR THE FREEDOM TO ORGANIZE LABOR UNIONS AND ALSO FOR THE RIGHTS OF WORKERS TO STRIKE (AND FOR PRIVATE SECTOR EMPLOYERS TO LOCK OUT WORKERS). ALL WORKERS, EXCEPT MILITARY AND POLICE, ARE FREE TO ORGANIZE, AND WORKERS IN ALL SECTORS EXERCISE THIS RIGHT. THE NEW LABOR CODE ENACTED IN 1992 SIGNIFICANTLY STRENGTHENED THE RIGHT OF FREEDOM OF ASSOCIATION AND REMOVED SOME RESTRICTIONS ON THE RIGHT TO STRIKE BY NARROWING THE DEFINITION OF ESSENTIAL

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SERVICES TO EXCLUDE TRANSPORTATION, FOOD SERVICES, AND
FUEL SERVICES. REQUIREMENTS FOR CALLING A STRIKE
INCLUDE THE SUPPORT OF AN ABSOLUTE MAJORITY OF THE
WORKERS OF THE COMPANY, A PRIOR ATTEMPT TO RESOLVE THE
CONFLICT THROUGH ARBITRATION, WRITTEN NOTIFICATION TO
THE LABOR SECRETARIAT, AND A 10-DAY WAITING PERIOD
FOLLOWING NOTIFICATION BEFORE PROCEEDING WITH THE
STRIKE. THE CODE ALSO ELIMINATED PREVIOUS PROHIBITIONS
AGAINST POLITICAL AND SYMPATHY STRIKES. THE GOVERNMENT
RESPECTS ASSOCIATION RIGHTS AND PLACES NO OBSTACLES TO
UNION REGISTRATION, AFFILIATIONS, OR THE ABILITY TO
ENGAGE IN LEGAL STRIKES.

STRIKES IN 1995 OCCURRED MAINLY IN THE PUBLIC SECTOR.
NURSES AND DOCTORS STAGED PERIODIC STRIKES AND
WALKOUTS. EMPLOYEES OF STATE-OWNED COMPANIES ALSO
STAGED STRIKES BECAUSE OF UNPAID WAGES AND BENEFITS, AS
WELL AS THREATS OF JOB LOSS. THE LABOR CODE SPECIFIES
IN DETAIL THE STEPS LEGALLY REQUIRED TO ESTABLISH A
UNION, FEDERATION, AND CONFEDERATION. THE CODE CALLS
FOR AUTOMATIC RECOGNITION OF A UNION IF THE GOVERNMENT
HAS NOT ACTED ON ITS APPLICATION WITHIN A SPECIFIC
TIME. IN PRACTICE, THE GOVERNMENT HAS READILY
FACILITATED RECOGNITION OF LABOR ORGANIZATIONS.
ORGANIZED LABOR REPRESENTS BETWEEN 10 AND 13 PERCENT OF
THE WORKFORCE AND IS DIVIDED AMONG THREE MAJOR
CONFEDERATIONS, FOUR MINOR CONFEDERATIONS, AND A NUMBER
OF INDEPENDENT UNIONS. THE INTERNATIONAL LABOR
ORGANIZATION'S (ILO) COMMITTEE OF EXPERTS (COE)
CONSIDERS THAT THE TWO-THIRDS MAJORITY VOTE REQUIRED TO
FORM CONFEDERATIONS IS TOO HIGH, BUT THIS HAS NOT
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IMPEDED UNIONS FROM JOINING TOGETHER, FOR EXAMPLE, WITH
THE FORMATION OF THE "AUTONOMOUS INSTITUTIONAL WORKERS
CENTRAL" IN AUGUST.

UNIONS ARE INDEPENDENT OF THE GOVERNMENT AND POLITICAL
PARTIES, ALTHOUGH SYMPATHIZERS OF VARIOUS POLITICAL
PARTIES ARE FOUND IN MOST UNION ORGANIZATIONS. LABOR
UNIONS CAN AND DO FREELY AFFILIATE REGIONALLY AND

B. THE RIGHT TO ORGANIZE AND BARGAIN COLLECTIVELY

COLLECTIVE BARGAINING IS LAWFUL AND MAY TAKE PLACE IN FIRMS IN WHICH A UNION HAS GAINED THE SUPPORT OF AN ABSOLUTE MAJORITY OF THE WORKERS. ONLY A MINORITY OF COMPANIES HAS COLLECTIVE BARGAINING PACTS. THE LABOR CODE STIPULATES THAT WORKERS CANNOT BE DISMISSED BECAUSE OF THEIR TRADE UNION MEMBERSHIP OR ACTIVITIES. THE PREVIOUS CODE ALLOWED ARBITRARY TERMINATION OF A WORKER SO LONG AS SEVERANCE PAY WAS PROVIDED; THE 1992 CODE EXEMPTS FROM DISMISSAL SPECIFIC NUMBERS OF UNION ORGANIZERS AND OFFICIALS. THE NUMBER OF UNION

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NOFORN

E.O. 12356: N/A

TAGS: PHUM, ELAB, DR

SUBJECT: DOMINICAN REPUBLIC: DRAFT COUNTRY REPORT ON
HUMAN RIGHTS PRACTICES

ORGANIZERS OR OFFICIALS GIVEN PROTECTION FROM LAYOFFS
CAN TOTAL UP TO 20 MEMBERS OF A UNION IN FORMATION,
BETWEEN 5 TO 10 MEMBERS OF A UNION EXECUTIVE COUNCIL
(DEPENDING ON THE SIZE OF THE WORKFORCE), AND UP TO 3
MEMBERS OF A COLLECTIVE BARGAINING NEGOTIATING
COMMITTEE. NONETHELESS, WORKERS ARE AT TIMES FIRED
WITHOUT REGARD TO THE LAW.

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THE 1992 CODE ESTABLISHED A SYSTEM OF LABOR COURTS FOR
DEALING WITH LABOR DISPUTES, BUT THEIR EFFECTIVENESS IS
LIMITED. LABOR COURT EMPLOYEES HALTED THEIR ACTIVITIES
IN THE SUMMER BECAUSE OF POOR WORKING CONDITIONS AND
LACK OF BASIC MATERIALS. THE HALT ILLUSTRATED THE NEW
COURTS' OPERATIONAL SHORTCOMINGS. ON OCCASION, CORRUPT
ATTORNEYS AND COURT OFFICIALS, ACTING WITH POWERS OF
ATTORNEY FROM UNWITTING WORKERS, ENFORCED SPURIOUS
JUDGMENTS AGAINST BUSINESSES AND OFFICES. THE NEW
COURTS ARE LOCATED IN THE TWO JURISDICTIONS WITH THE
MOST LABOR ACTIVITY, BUT THE JUDICIAL PROBLEMS WHICH
THE COURTS WERE ESTABLISHED TO ADDRESS STILL PREVAIL IN
THE REST OF THE COUNTRY. VIOLATIONS OF FREEDOM OF
ASSOCIATION, THE MINIMUM WAGE, AND OVERTIME PAY
CONTINUE.

IN SEPTEMBER, AUTHORITIES DETAINED NEARLY FIFTY SUGAR

INDUSTRY UNION LEADERS AND MEMBERS, THE MAJORITY OF THEM FOR 24 HOURS OR MORE. THE THREE LEADERS OF THE COUNTRY'S TWO MAJOR SUGAR WORKERS' FEDERATIONS WERE DETAINED FOR EIGHT HOURS WHEN THEY ATTEMPTED TO MEET WITH WORKERS IN TWO OF THE COUNTRY'S STATE-OWNED MILLS. THE UNIONISTS WERE COORDINATING A STRIKE TO PROTEST THE NATIONWIDE TWO-MONTH SUSPENSION OF 12,700 SUGAR WORKERS.

THE LABOR CODE APPLIES IN THE 32 ESTABLISHED EXPORT PROCESSING ZONES (EPZ'S COMPRISED OF MORE THAN 400 MOSTLY U.S.-OWNED OR ASSOCIATED COMPANIES AND EMPLOYING MORE THAN 170,000 WORKERS, MOSTLY WOMEN. SOME EPZ

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 COMPANIES HAVE A HISTORY OF DISCHARGING WORKERS WHO ATTEMPT TO ORGANIZE UNIONS. ALTHOUGH THE GOVERNMENT REGISTERED MORE THAN 50 UNIONS IN THE EPZ'S SINCE THE NEW LABOR CODE WENT INTO EFFECT IN JUNE 1992, FEWER THAN 10 OF THESE UNIONS STILL HAVE THEIR MEMBERSHIP INTACT. SOME UNIONS APPARENTLY CEASED TO FUNCTION DUE TO FIRINGS OF UNION MEMBERS, WHILE SOME MAY HAVE DISSOLVED BECAUSE OF VOLUNTARY RESIGNATIONS OR COMPANY CLOSURE. THE SECRETARIAT OF LABOR HAS BROUGHT CRIMINAL CHARGES AGAINST XX EPZ FIRMS FOR LABOR CODE VIOLATIONS INVOLVING WORKERS RIGHTS. THE COURTS FOUND IN FAVOR OF MANAGEMENT IN THE MAJORITY OF CASES CONCLUDED. THE UNIONS WON TWO CASES, A NUMBER OF CASES WERE UNDER APPEAL, AND OTHERS ARE STILL PENDING AT YEAR'S END.

THE STATE SUGAR COUNCIL (CEA) EMPLOYS WORKERS FROM MORE THAN 100 UNIONS. DOMINICAN WORKERS PREDOMINATE IN THE UNIONS, ALTHOUGH BETWEEN TWO AND FIVE UNIONS ARE HAITIAN-DOMINATED. THE CEA'S NEGATIVE ATTITUDE TO ADDITIONAL EFFORTS BY HAITIANS TO ORGANIZE IS UNCHANGED.

C. PROHIBITION OF FORCED OR COMPULSORY LABOR

FORCED OR COMPULSORY LABOR IS PROHIBITED BY LAW. DURING PREVIOUS YEARS, THE GOVERNMENT AND THE CEA FORCIBLY RECRUITED HAITIAN SEASONAL AGRICULTURAL

WORKERS AND THEN RESTRICTED THEM TO SPECIFIC SUGAR PLANTATIONS. CEA DENIED THE USE OF PAID RECRUITERS INSIDE HAITI TO OBTAIN WORKERS, AND THERE IS NO CONCLUSIVE EVIDENCE THAT EITHER PRACTICE OCCURRED TO

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ANY SIGNIFICANT DEGREE IN 1995. IN JULY THE HAITIAN AMBASSADOR PUBLICLY ACCUSED THE DOMINICAN ARMED FORCES OF FORCIBLY RECRUITING HAITIANS ALREADY IN THE D.R. TO WORK IN SUGAR PLANTATIONS FAR FROM THEIR PLACE OF RESIDENCE. THERE ARE NO FIRM STATISTICS ON THE NUMBER OF CANE CUTTERS ON CEA PLANTATIONS; MOST ESTIMATES PLACE THE NUMBER AT AS MANY AS 42,000, OF WHICH UP TO THIRTY PERCENT ARE HAITIANS. HOWEVER, HAITIAN WORKERS CONTINUED TO FACE OTHER PROBLEMS (SEE BELOW).

HAITIAN SUGAR CANE WORKERS CONTINUED TO ENCOUNTER RESTRICTIONS ON THEIR FREEDOM OF MOVEMENT. THEY INCLUDED THE PRESENCE OF ARMED GUARDS IN AND AROUND VARIOUS SUGAR PLANTATIONS AND THE SEQUESTERING OF WORKERS' BELONGINGS IN ORDER TO DISCOURAGE THEIR MOVEMENT TO OTHER CEA PLANTATIONS OR OTHER TYPES OF EMPLOYMENT. CEA AND THE DOMINICAN OFFICE OF IMMIGRATION INITIATED A PROGRAM IN LATE 1991 TO ISSUE ONE-YEAR TEMPORARY WORK PERMITS TO REGULARIZE THE STATUS OF THE IMMIGRANT LABORERS. HAITIANS' RIGHT TO WORK IS THUS DOCUMENTED, BUT A CONTRACTUAL OBLIGATION IS ALSO IMPOSED FOR WORKERS TO REMAIN IN A SPECIFIC

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UNCLAS E F T O SECTION 08 OF 09 SANTO DOMINGO 006684

SENSITIVE

NOFORN

E.O. 12356: N/A
TAGS: PHUM, ELAB, DR
SUBJECT: DOMINICAN REPUBLIC: DRAFT COUNTRY REPORT ON
HUMAN RIGHTS PRACTICES

AREA FOR THE DURATION OF THE WORK CONTRACT. MANY
HAITIANS DO NOT UNDERSTAND THE CONTRACTUAL PROCESS, AND
WORK CONDITIONS TANTAMOUNT TO INDENTURED SERVITUDE
PREVAIL. ACCORDING TO THE MOST RECENT SURVEY (1993) BY
AN INDEPENDENT POLLING FIRM, 50 PERCENT OF ALL
ITINERANT HAITIAN WORKERS POSSESSED PERMITS. THERE ARE
NO FIGURES AVAILABLE ON THE NUMBER OF ILLEGAL HAITIAN

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CANE AND COFFEE WORKERS DEPORTED IN 1995, BUT THE
PRACTICE CONTINUED, DEPENDING UPON THE DEMAND FOR LABOR
AND THE LAW ENFORCEMENT CAPABILITIES OF THE
AUTHORITIES.

D. MINIMUM AGE FOR EMPLOYMENT OF CHILDREN

THE LABOR CODE PROHIBITS EMPLOYMENT OF YOUTH UNDER 14
YEARS OF AGE AND PLACES VARIOUS RESTRICTIONS ON THE
EMPLOYMENT OF YOUTH UNDER AGE 16. THESE RESTRICTIONS
INCLUDE A LIMITATION OF NO MORE THAN SIX HOURS OF DAILY
WORK, NO EMPLOYMENT IN DANGEROUS OCCUPATIONS OR JOBS
INVOLVING THE PROVISION OF INTOXICATING BEVERAGES, AND
LIMITATIONS ON NIGHTTIME WORK.

IN PRACTICE, EMPLOYERS IGNORE MANY OF THE CHILD LABOR
RESTRICTIONS. THE HIGH LEVEL OF UNEMPLOYMENT AND THE
LACK OF A SOCIAL SAFETY NET CREATE PRESSURES ON
FAMILIES TO ALLOW CHILDREN TO EARN SUPPLEMENTAL INCOME.
A UNITED NATIONS CHILDREN'S FUND STUDY ESTIMATED THAT
APPROXIMATELY 58,000 MINORS WORK AS ITINERANT VENDORS
IN OCCUPATIONS SUCH AS SHINING SHOES, SELLING
NEWSPAPERS, AND CLEANING CARS. DURING THE PAST FEW
YEARS, THE LABOR SECRETARIAT MADE SOME EFFORT TO
ENFORCE THE LAW IN CASES WHERE COMPANIES EMPLOYED
UNDER-AGE WORKERS, BUT PENALTIES WERE LARGELY LIMITED
TO SMALL FINES. SOME YOUNG WORKERS OBTAINED WORK
PERMITS AND CONTINUED THEIR EMPLOYMENT; THOSE UNABLE TO
OBTAIN PERMITS WERE DISMISSED.

INSTANCES OF CHILD LABOR IN CEA SUGAR PLANTATIONS HAVE
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DIMINISHED GREATLY. CEA AND THE LABOR SECRETARIAT TOOK
STEPS TO DISCOURAGE CHILD LABOR, AND IN 1995 IT
OCCURRED IN ONLY ISOLATED INSTANCES, MOST INVOLVING
CHILDREN ACCOMPANYING THEIR FATHERS INTO THE FIELDS.
SOME APPARENTLY UNDERAGE HAITIANS DO WORK IN THE STATE

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CANE FIELDS, BUT THEY USUALLY STEADFASTLY CLAIM THEY ARE OF ADULT AGE, MAKING IT DIFFICULT TO PROVE OTHERWISE.

E. ACCEPTABLE CONDITIONS AT WORK

THE CONSTITUTION GIVES THE GOVERNMENT LEGAL AUTHORITY TO SET MINIMUM WAGE LEVELS, AND THE LABOR CODE ASSIGNS THIS TASK TO A NATIONAL SALARY COMMITTEE. CONGRESS MAY ALSO ENACT MINIMUM WAGE LEGISLATION. MINIMUM WAGE RAISES HAVE NOT COMPENSATED FOR THE LOSS OF PURCHASING POWER, AND SCHEDULED WAGE INCREASES IN MAY 1995 ONLY PROVIDED PARTIAL RELIEF. MOST WORKERS RECEIVE ONLY THE MINIMUM WAGE, WHICH AVERAGES LITTLE MORE THAN 100 USD PER MONTH (1,340.00 PESOS), DEPENDING ON THE SECTOR AND EMPLOYER SIZE. THE MINIMUM WAGE REPRESENTS ONLY 20 PERCENT OF THE ESTIMATED MONTHLY COST OF LIVING FOR AN AVERAGE-SIZED FAMILY IN SANTO DOMINGO. AS A RESULT, MANY PEOPLE HOLD MORE THAN ONE JOB.

THE LABOR CODE ESTABLISHES A STANDARD WORK PERIOD OF EIGHT HOURS PER DAY AND 44 HOURS PER WEEK. THE CODE ALSO STIPULATES THAT ALL WORKERS ARE ENTITLED TO 36 HOURS OF UNINTERRUPTED REST EACH WEEK. IN PRACTICE, A TYPICAL WORKWEEK IS MONDAY THROUGH FRIDAY PLUS A HALF DAY ON SATURDAY, BUT LONGER HOURS ARE NOT UNUSUAL. THE
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CODE GRANTS WORKERS A 35-PERCENT WAGE DIFFERENTIAL FOR WORK OVER 44 HOURS AND UP TO 68 HOURS PER WEEK AND A 100 PERCENT DIFFERENTIAL FOR ANY HOURS ABOVE 68 HOURS PER WEEK.

WORKPLACE SAFETY AND HEALTH CONDITIONS FREQUENTLY DO NOT MEET LEGAL STANDARDS. HEALTH STANDARDS FOR WORKERS ARE SET BY THE DOMINICAN SOCIAL SECURITY INSTITUTE (IDSS). NONHEALTH SAFETY STANDARDS ARE COVERED BY THE LABOR CODE. THE EXISTING SOCIAL SECURITY SYSTEM DOES NOT APPLY TO ALL WORKERS AND IS UNDERFUNDED. FURTHERMORE, SOME EMPLOYERS CHARGE WORKERS FOR SOCIAL SECURITY COVERAGE, BUT FAIL TO PASS THE PAYMENTS ON TO THE IDSS. AS A RESULT, BENEFITS ARE LOW, PAYMENTS

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OFTEN DELAYED, AND MEDICAL CARE IS LIMITED AND AVAILABLE ONLY IN THE MAJOR CITIES.

WORKPLACE REGULATIONS AND THEIR ENFORCEMENT IN THE EPZ'S DO NOT DIFFER FROM THOSE IN THE COUNTRY AT LARGE, ALTHOUGH WORKING CONDITIONS ARE SOMETIMES BETTER. SOME COMPANIES IN PRIVATELY OWNED EPZ'S PRACTICE MUCH HIGHER WORKER SAFETY AND HEALTH STANDARDS. BOTH THE IDSS AND

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NOFORN

E.O. 12356: N/A

TAGS: PHUM, ELAB, DR

SUBJECT: DOMINICAN REPUBLIC: DRAFT COUNTRY REPORT ON
HUMAN RIGHTS PRACTICES

THE LABOR SECRETARIAT HAVE SMALL CORPS OF INSPECTORS CHARGED WITH ENFORCING STANDARDS. ALTHOUGH NEW LABOR INSPECTORS UNDERGO A RIGOROUS PROFESSIONAL SELECTION PROCESS, THESE POSTS WERE CUSTOMARILY FILLED THROUGH POLITICAL PATRONAGE, AND SOME INSPECTORS CONTINUE TO HAVE A REPUTATION FOR CORRUPTION. IN PRACTICE, WORKERS CANNOT REMOVE THEMSELVES FROM WORKPLACE SITUATIONS

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WITHOUT JEOPARDY TO CONTINUED EMPLOYMENT.

CONDITIONS FOR AGRICULTURAL WORKERS ARE IN GENERAL MUCH WORSE, ESPECIALLY IN THE SUGAR INDUSTRY. ALTHOUGH CEA READILY COOPERATES WITH NONGOVERNMENTAL ORGANIZATIONS ACTIVE IN EFFORTS TO IMPROVE THE CONDITIONS OF SUGAR CANE WORKERS, IN SOME CASES CEA AND THE GOVERNMENT HAVE FAILED TO TAKE MEASURES TO IMPLEMENT WRITTEN AGREEMENTS DESIGNED TO OVERCOME THE PROBLEMS FACING SUGAR CANE WORKERS. CANE CUTTERS ON CEA PLANTATIONS ARE PAID BY WEIGHT OF CUT CANE RATHER THAN HOURS WORKED AND THUS ARE USUALLY REQUIRED TO WORK SIGNIFICANTLY MORE HOURS THAN THE STANDARD WORKWEEK TO EARN A WAGE APPROACHING THAT OF WORKERS IN OTHER INDUSTRIES. CANE CUTTERS ALSO FACED CHEATING DURING THE WEIGHING OF THEIR CUT CANE. ALTHOUGH CEA AND THE LABOR SECRETARIAT SIGNED AN AGREEMENT WITH LABOR UNIONS TO ALLOW UNION OFFICIALS TO ASSIST THE LABOR SECRETARIAT IN THE INSPECTION AND MONITORING OF CEA WEIGHT STATIONS, NO ACTION WAS TAKEN TO IMPLEMENT THE AGREEMENT. MANY WORKER VILLAGES CONTINUED TO SUFFER HIGH RATES OF DISEASE AND A LACK OF SCHOOLING, MEDICAL FACILITIES, RUNNING WATER, AND SEWAGE SYSTEMS.

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