

# **DOMINICAN REPUBLIC 2012 HUMAN RIGHTS REPORT**

## **EXECUTIVE SUMMARY**

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 descendants. On May 20, voters elected Danilo Medina of the Dominican Liberation Party (PLD) as president for a four-year term. Impartial outside observers assessed these elections as generally free and orderly despite irregularities, including voter fraud, unequal access to the media, and inadequacies in the legal framework that regulates the use of public resources and campaign financing. Security forces generally reported to civilian authorities, but in some instances elements of the security forces acted independently of government control.

The most serious human rights problems were discrimination against Haitian migrants and their descendants, including the retroactive application of immigration policy resulting in de jure and de facto statelessness for persons who have lived in the country for generations; violence against women, including domestic abuse, rape, and femicide; and widespread corruption.

Other human rights problems included extrajudicial killings by security forces, overcrowded and dangerously substandard prison conditions, arbitrary arrest and detention, lengthy pretrial detention, weak rule of law, trafficking in persons, discrimination against persons based on sexual orientation, and inadequate enforcement of labor laws.

Although the government took steps to strengthen respect for human rights and punish officials who committed abuses, there was a widespread perception of impunity afforded to officials, especially those of senior rank.

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

#### **a. Arbitrary or Unlawful Deprivation of Life**

Neither the government nor its agents committed politically motivated killings; however, there were reports that security forces were involved in killings that were unlawful, unwarranted, or involved excessive use of force.

According to the Attorney General's Office, police killed 194 persons in the course of duty from January through December, a decrease of 17 percent from 2011, when police killed 233 persons. The National Human Rights Commission (NHRC), a nongovernmental organization (NGO), estimated there were 290 police killings for the entire year; however, the methodology used to arrive at this figure was unclear. Human rights NGOs asserted that, as in previous years, the police employed unwarranted deadly force against criminal suspects. Police operated in a dangerous environment; gun ownership was widespread, and the murder rate was high, especially in urban areas. The police regularly justified the use of deadly force as an appropriate response to an "exchange of gunfire."

On October 29, members of the security forces in San Francisco de Macorís shot and killed Víctor Alfonso Brito Vásquez (alias El Guachy) and two others (Marcos Noel Brito and Jerry Antonio Lopez) as they tried to escape from prison. During the attempted escape, a witness recorded one of the police officers in the act of shooting El Guachy in the leg. The video was later shown on a national television program, which sparked a heated controversy over the issue of extrajudicial killings. Some civil society members criticized the conduct of the National Police, while others supported the police officer's actions because they felt that Guachy was a dangerous criminal. Local media reported that citizens were growing fearful of rapidly rising crime rates and noted that many citizens supported the extrajudicial killing of alleged criminals (see section 1.d). Police in San Francisco initially reported that the killing happened during an exchange of fire. The National Police leadership, however, did not maintain this defense and fired Lieutenant Rafael Baez Severino for his involvement in the incident. He remained in pretrial detention at year's end; other officers remained under investigation.

On November 8, police shot and killed medical student William Florian Ramírez on the campus of the Autonomous University of Santo Domingo during a violent confrontation between police and protesters. Several other students, protesters, and police were injured during the clash. The National Police arrested 19 police officers and opened a full investigation into the incident. The investigation included ballistic tests of all the police officers' weapons and found evidence suggesting Corporal Jairon Ramon Medrano Germosen was responsible for the killing. He was fired from the National Police and sentenced to pretrial detention. At year's end, he remained in pretrial detention awaiting formal legal charges from the Public Ministry.

In the January 2011 police killing of 21-year-old Luis Alfredo Dominguez Rodriguez, the Public Ministry brought charges against officers Luis Manuel

Rodriguez, Liriano Zapata Valerio, and Rafael Figueroa Castillo. Authorities reported that Rodriguez received a sentence of pretrial detention but was released on bail, and that Zapata Valerio and Figueroa Castillo were also released on bail. At year's end the case was reportedly in the preparation phase awaiting the conclusion of preliminary hearings that were postponed on multiple occasions.

Authorities tried five police officers charged with murder for the July 2010 killing of Elio Reyes Severino. The court absolved four officers of guilt and sentenced the fifth, Major Jose Estrella Fernandez, to five years of minor reclusion in the Monte Plata Rehabilitation Center.

### **b. Disappearance**

There were no reports of politically motivated disappearances.

The Rio Piedras, Puerto Rico, chapter of the Dominican Committee of Human Rights and family members of human rights activist Juan Almonte Herrera, who disappeared in 2009, continued to assert that the government failed to comply with Inter-American Commission on Human Rights requests to investigate the whereabouts of Almonte and to provide adequate protection for his family.

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

Although the law prohibits torture, beating, and physical abuse of detainees and prisoners, there were instances in which members of the security forces, primarily police, continued such practices. The Attorney General's Office reported that 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 police were making efforts to reduce incidents of physical abuse of detainees.

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 physical abuse and related crimes. Authorities often sent physical abuse cases to civilian criminal courts, especially after the abolition of separate police and military courts. However, some abuse cases were handled internally within the security forces.

On March 12, police officers John Gilbert Valenzuela Valera and Eddyson Javier Sufron detained a young couple near the Colonial Zone in Santo Domingo. The officers reportedly sent the 17-year-old male to find bribe money and kept the 18-year-old woman in their custody. Subsequently, both agents sexually assaulted the woman, forcing her to perform oral sex. The courts placed the officers in three months' preventive detention while they were investigated for sexual assault and kidnapping.

The NHRC reported that police continued to use various forms of physical and mental abuse to obtain confessions from detained suspects. According to local NGOs and media, security officials mistreated civilians, detainees, prisoners, and migrants. According to the NHRC, excessive methods used to extract confessions included rubbing onions in prisoners' eyes, covering prisoners' heads with plastic bags, hitting prisoners with broom handles, and hitting prisoners in the ears with gloves or cloths so as not to leave marks. Other reported abuses included cases of illegal deportations, degrading treatment of prisoners, and mass round-ups that were used as opportunities for extortion. Instances of cruel and inhumane treatment most often occurred in poor urban areas as well as in the border region between the Dominican Republic and Haiti involving undocumented Haitian migrants.

Senior police officials treated the prohibition on physical abuse and inhumane treatment seriously, but lack of supervision and training throughout 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. Lawyers from the National District Prosecutor's Office were assigned to monitor the investigative process to ensure that detainees' rights were respected in high-volume police stations and in several National Drug Control Directorate (DNCD) offices.

According to Reseau Frontalier Jeannot Succes, a network of human rights organizations that monitors the border, a group of Haitians illegally entered the Dominican Republic on April 9 and were intercepted by soldiers near the city of Las Matas de Farfan in the province of San Juan. The migrants attempted to flee, but two men were captured. The soldiers struck the two men with machetes, severing one man's hand and wounding the other man's back. No information was available about action, if any, taken against the soldiers, since the military generally does not corroborate such reports.

## Prison and Detention Center Conditions

Prison conditions ranged from fair to extremely harsh. Threats to life and health included communicable diseases, poor sanitation, poor access to health services, a lack of well-trained prison guards, and prisoners brutalizing other inmates. These problems were exacerbated by severe overcrowding, problems staffing the prisons due to the risk of contracting infectious diseases, and a lack of capacity to segregate tens of thousands of pretrial prisoners as well as inmates with communicable diseases from the general population.

Physical Conditions: As of October, there were approximately 23,300 prisoners held in 42 detention centers with an overall intended capacity of only 11,505. The inmate population nearly doubled in the past six years. Of the 42 detention centers, 22 were traditional prisons, 13 were newer “model prisons” known as Correctional and Rehabilitation Centers (CRCs), and seven were Palaces of Justice intended to house temporary detainees. The CRCs held 5,200 prisoners, which was 22 percent of the total prison population. Virtually all prisons experienced overcrowding, with the exception of the CRCs.

There were approximately 700 female prisoners, or 3 percent of the inmate population. According to a 2010-11 national prison census, prisoners in the traditional prisons of Montecristi and La Romana were not segregated by gender. In contrast, prisoners in the CRCs were segregated by gender. There were separate structures at the prisons of Najayo, Bani, and Rafey exclusively for female prisoners. According to the Directorate of Prisons, however, there were eight prisons holding female inmates, and female prisoners were segregated in all cases. Police officers convicted of criminal activity were held in special sections of the prisons or the Palaces of Justice. Pretrial and sick inmates were not separated from other inmates. Only two prisons had on-site hospitals.

The Directorate of Prisons reported that overcrowding and communicable disease presented the most critical problems. La Victoria prison, for example, which is the largest and most overcrowded prison in the country, held 6,300 prisoners in a facility designed for less than 2,000 prisoners. Najayo men’s prison, the second largest in the country, was built for 950 prisoners and held more than 2,500 prisoners. Most reported deaths were related to illnesses including tuberculosis and HIV/AIDS. According to the government’s most recent figures, 67 prisoners died in correctional facilities in 2011, compared with 72 deaths in 2010.

Health and sanitary conditions were generally poor, and prisons generally did not provide adequate medical care to inmates. Rates of illness among prisoners rose due to the growing problem of overcrowding. Common illnesses included cold, flu, bronchitis, upper-respiratory infections, intestinal illnesses, skin infections, parasites, tuberculosis, hepatitis, and HIV/AIDS. According to the Directorate for the Control of Sexually Transmitted Diseases and HIV/AIDS, 9 percent of the prison population was HIV/AIDS positive. Nonetheless, only two prisons in the system provided on-site HIV/AIDS treatment and care services. Other prisons reportedly took HIV/AIDS patients to the provincial hospitals once a month to receive medication and follow-up care. Efficient logistics and timely transportation to and from the hospitals was a problem. Many inmates could not attend their monthly appointments.

According to the director of the CRCs, most of the 13 model prisons had inmates with HIV/AIDS, and all provided HIV/AIDS treatment and care services to those inmates. Inmates in the model prisons who had severe cases of HIV/AIDS or terminal illnesses were transferred to hospitals temporarily and often benefitted from requests made to change penalties to house arrest.

According to the Directorate of Prisons, a sufficient amount of food was provided to the prisons for each inmate. However, many inmates in traditional prisons reportedly purchased food from persons in the vicinity of the prison, obtained it from family members, or resorted to begging.

Reports of mistreatment and violence in prisons were common, as were reports of harassment, extortion, and inappropriate searches of prison visitors. However, no deaths were attributed to abuses by prison guards. Some prisons were effectively out of the control of authorities. There were continued allegations of drug and arms trafficking, prostitution, and sexual abuse within prisons. A common sentiment among prison wardens at traditional prisons was that while the wardens may control the perimeter, inmates often ruled the inside with their own rules and system of justice. In general this situation differed from the CRCs, where specialized prison guards increased control of prison areas.

Although the law states that prisoners must be separated according to the severity of the criminal offense, authorities did not have the capacity to do so. According to estimates from the Directorate of Prisons, 65 percent of prisoners were in pretrial or preventive custody. 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.

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

In the case of the CRCs, some mentally ill prisoners were separated and received treatment, including therapy, for their illnesses. In contrast, there were no efforts to segregate and provide services to mentally ill prisoners in the traditional prisons.

Administration: The CRC program was created to address the fact 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 strove 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 generally met the basic nutritional needs of inmates. In the traditional prisons, although a warden who reported 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. According to the Directorate of Prisons, military and police personnel guarded traditional prisons, while a trained civilian guard corps provided security at the CRCs.

Recordkeeping in prisons was inadequate. The director of prisons acknowledged this problem and took steps to improve recordkeeping practices during the year. However, the Directorate of Prisons was limited regarding improvements in recordkeeping due to scarcity of resources. Authorities used alternative sentencing for nonviolent offenders; however, information regarding specific laws, executive orders, and accurate statistics were not available.

Prisoners had access to visitors and could observe religious practices. Inmates were allowed conjugal visits, and female prisoners who gave birth while incarcerated could keep their babies with them for up to a year. However, visitors frequently had to bribe prison guards to visit prisoners, and prisoners were often not taken to their trials unless they paid bribes to the guards. 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.

Although there is no specific prison ombudsman, prisoners could submit complaints about their treatment verbally or in writing, and most often did so through family members, lawyers, or human rights defenders. Public defenders also provided legal services to prisoners and in some cases they assisted with certain complaints. In some cases, complaints were referred to the Directorate of Prisons.

Monitoring: The government permitted visits and monitoring in accordance with standard modalities by independent nongovernmental observers and the media.

Improvements: The government made advances with newer CRCs, where prisoners experienced slightly improved conditions in comparison with other facilities. The number of prisoners in the CRCs rose by more than 1,000. In September the director of prisons initiated a new program, focused on La Romana Prison, designed to survey the prison populations with the aim of segregating pretrial and sick inmates from the general population.

#### **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. 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 Tourist Police, the National Department of Intelligence (DNI), the DNCD, the Airport Security Authority and Civil Aviation (CESAAC), the Metro Police, the Port Security Authority (CESEP), the frontier guards (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, CESAAC, CESEP, and CESFRONT are under the minister of the armed forces; the DNI and the DNCD, which have personnel from the police and military, report directly to the president.

Authorities fired police officers or prosecuted them in the criminal justice system when found to have acted outside of established police procedures. The Internal Affairs Unit effectively investigated charges of gross misconduct by members of

the National Police. These cases involved physical or verbal aggression, threats, improper use of a firearm, muggings, and theft. Internal Affairs conducted 1,415 investigations from January to October. Of these, 182 were for excessive use of force, 208 for aggression, 183 for death threats, and 225 for police corruption. The investigations resulted in 155 dismissals and 539 sanctions. Prosecution or investigation of high-level officials suspected of involvement in illicit activities was pursued to a lesser degree. Internal Affairs reported that from January to October, it investigated 129 senior officers for illicit activities resulting in seven dismissals and 26 disciplinary actions.

Training for military and DNCD enlisted personnel and officers, as well as members of the National Police, included instruction on human rights. A total of 2,478 police officers underwent human rights training at the Police Institute of Higher Learning during the year, and an additional 30,768 police and civilians were trained in human rights at the Police Institute of Human Dignity. The Ministry of the Armed Forces provided human rights training or orientation to officers of various ranks as well as civilians during the year. CESFRONT conducted mandatory human rights training at its training facilities for several hundred border officials. The director of the Graduate School of Human Rights and International Humanitarian Rights reported that the school trained 522 persons from January to October. The school also has postgraduate programs in which military members and civilians from Congress, district attorney offices, the Supreme Court, government ministries, the National Police, and the Central Electoral Commission participate.

On November 26, President Medina created a commission to reform the National Police. This presidential decree followed a number of high-profile cases of unlawful deprivation of life and misconduct during a year in which the National Police received heavy scrutiny over its poor track record on extrajudicial killings and misconduct. The commission's primary objective was to formulate policy initiatives, regulations, and comprehensive administrative reform.

Certain members of congress, however, as well as many citizens, publicly supported extrajudicial killings as a means of curbing the rising level of crime. During a congressional hearing in December, several deputies urged the chief of police to take extrajudicial action against criminals. One told the chief, "When you're going to take down a criminal, don't let the media see." Other congressmen suggested that criminals be lined up against a wall for a firing squad. As for the public, an online poll on El Nacional, a national media provider, indicated that 67 percent of citizens supported extrajudicial killings by police. In response to the

public support for extrajudicial killings, the Supreme Court reiterated that the police must only apply the law. The attorney general stated that police violence would be investigated and that human rights violations would not be permitted.

### **Arrest Procedures and Treatment While in Detention**

The 2010 constitution 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 or hot pursuit).

Despite the foregoing provisions, at times 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. The system did not prevent defendants released on bail 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 2010 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 22 public defense offices, with 164 public defenders, 21 criminal court defense lawyers, and 15 investigators. The government continued its program to train public defenders on relevant changes caused by implementation of the CPC and expanded training for prosecutors.

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

Arbitrary Arrest: Police continued the practice of making sporadic sweeps or roundups in low-income, high-crime communities, during which they arrested and detained individuals without warrants, allegedly to fight crime. During these sweeps police arrested large numbers of residents and seized personal property claimed to have been used in criminal activity.

Pretrial Detention: Many suspects endured long pretrial detention. Under the CPC the judge has authority to order a detainee to remain in police custody between three and 18 months. According to the Directorate of Prisons, 65 percent of prisoners were in pretrial custody, and the average pretrial detention time in 2011 (latest data available) was typically 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 allowed prosecutors to track pretrial detention cases more effectively, and although not its primary purpose, the system reduced the number of occasions in which CPC time limits were exceeded.

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 authorities held inmates beyond the mandated deadlines even though there were no formal charges against them.

The judiciary created service offices in multiple cities to handle urgent matters requiring a judge, such as obtaining an arrest or search warrant and conducting arraignments. These judicial service offices were part of an effort to increase efficiency and reorganize the courts to conform to the CPC.

Detention of Rejected Asylum Seekers or Stateless Persons: During the year there were isolated cases of asylum seekers detained for lack of documentation. Stateless persons faced constant risks of detention and deportation, including via mass roundups and deportations conducted by migration authorities (see sections 2.d. and 6).

#### **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. 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).

In December 2011 the National Judicial Council (CNM) selected the new members of the Supreme Court. Due to the politicized composition of the CNM, there was a public perception that appointments were made based on political loyalties. The CNM was comprised primarily of members from the ruling PLD party, including then president Fernandez, the president of the Senate, the president of the Chamber of Deputies, the attorney general, the president of the Supreme Court, and a senator from an allied party.

In October the Judicial Council (a separate entity from the CNM) removed two judges from their positions for what it called, “serious misconduct in the exercise of their duties.” The council criticized the judges for applying their own interpretation of the law; one granted bail to a defendant accused of murdering his spouse in front of his three children, and the other failed to place seven defendants charged with various offenses in pretrial detention. The Association of Judges, the Dominican Bar Association, and leading judicial watchdog Foundation of Institutionalism and Justice objected to the council’s actions. They characterized the council’s decision as a blow to judicial independence. On November 7, dozens of local and appellate judges gathered outside the Supreme Court to protest the firing of the two judges. The judges were not reinstated.

Also in December 2011, the CNM selected the first members of the new Constitutional Tribunal, mandated by the 2010 constitution to review the constitutionality of laws and decrees, guarantee the supremacy of the constitution,

protect fundamental rights, and review international treaties before they are ratified by congress. The tribunal, comprised of 13 judges who serve nine-year terms, became operational in January. After determining its internal procedures and structure, the tribunal processed more than 60 cases, including international treaties pending Supreme Court decisions for nearly a decade.

### **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, but staffing levels were inadequate to meet demand. 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 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. This remedy was rarely used, except by those with sophisticated legal counsel.

### **Regional Human Rights Court Decisions**

Since 2005 the government has not fully complied with a ruling by the Inter-American Court of Human Rights that the country had the legal obligation to recognize the citizenship of Dominican-born children of migrants under its existing constitution, as well as under international conventions. The government made court-ordered payments to the two petitioners and made some changes to procedures for late registration of births.

On February 27, the Inter-American Court of Human Rights issued a judgment on the case of Gonzalez Medina and family versus the Dominican Republic. The court held, unanimously, that the Dominican Republic was responsible for the forced disappearance in 1994 of journalist Narciso Gonzales Medina after he criticized the government. The court ordered the government to investigate the disappearance and whereabouts of Gonzalez Medina. In addition the court ordered the government to provide psychological and psychiatric assistance to victims upon request, make a public acknowledgment of responsibility, pay compensation for material and moral damages, and reimburse the plaintiffs for legal fees. At year's end the government had not complied with the ruling.

In May the Inter-American Court of Human Rights issued a judgment on the case of Nadege Dorzema and others ("Guayubín Massacre") versus the Dominican Republic. The case concerned events that took place along the border with Haiti in June 2000 when members of the Dominican army opened fire on a vehicle that was transporting a group of Haitians. Seven individuals lost their lives, and several others were injured. The acts were prosecuted in military courts, but after several years of proceedings the military courts acquitted the soldiers involved. The court ruling found that some of the victims who survived suffered a violation to their personal liberty and violation of their right to a fair trial and to judicial protection, given that they were expelled from the Dominican Republic without having received due guarantees based on their status as migrants. A press release issued by the Inter-American Commission on Human Rights stated, "the case fell within a

context of structural discrimination against Haitians or persons of Haitian origin at the hands of Dominican agents.”

The court held, unanimously, that the Army applied unnecessary use of deadly force in order to stop the truck. It ordered the government to make a public acknowledgment of international responsibility, reopen the investigation, prosecute and punish those responsible for their acts, and establish the whereabouts of the bodies of the deceased and repatriate them to their families. In addition the court ordered the government to provide psychological treatment to victims for as long as necessary, implement training programs for officials responsible for immigration and border control, pay compensation for material and immaterial damages, and reimburse the plaintiffs for costs and legal fees. Moreover, the court ordered the state to conduct a media campaign on the rights of regular and irregular migrants in the Dominican territory. It ruled that the state shall submit an annual report for three consecutive years, indicating the actions taken to this end. At year’s end the government had not complied with the ruling.

#### **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 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 that such interference continued.

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

#### **a. Freedom of Speech and Press**

The constitution provides for freedom of speech and press, and the government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and press.

Freedom of Press: The independent media were active and expressed a wide variety of views without restriction. Individuals and groups were generally able to criticize the government publicly and privately without reprisal, although there were several incidents in which authorities intimidated journalists or other news professionals.

Violence and Harassment: The Inter American Press Association reported that civil, police, and military authorities assaulted or threatened more than 25 journalists from January to October. In contrast, the National Journalists' Association reported 70 cases of assault, threats, and aggression against journalists during this same period.

In February military and police officials raided the residence of Guillermo Gomez, owner of the online daily newspaper Siglo21.com, and the offices of Aeromundo TV for alleged involvement in hacking private e-mail accounts of prominent individuals, including the first lady, Margarita Ceden de Fernandez. On the orders of the attorney general, the police shut down the online daily. In July police arrested the daily owner's son for his alleged participation in the hacking scandal. The daily's owners claimed it was shut down because they intended to publish a special series on government corruption. At year's end the defendant was free on bail and the case remained pending, but no hearings had taken place.

Censorship or Content Restrictions: The 2010 constitution provides complete protection of the confidentiality of journalists' sources and introduced a "conscience clause" allowing journalists to refuse assignments. Nonetheless, local journalists continued the practice of self-censorship, particularly when coverage could adversely affect the economic or political interests of media owners.

On election day, May 20, government broadcast regulators took two popular national television channels (11 and 33) off the air on the grounds that they violated an electoral law prohibiting distribution of exit poll or other unofficial information regarding the final results of the electoral process. Both channels were closed on the afternoon of May 20 and reopened the next morning.

Libel Laws/National Security: In January a court in Nagua sentenced journalist Johnny Alberto Salazar to six months in jail and an indemnification of one million pesos (\$24,845) for slander and libel. The charges stemmed from Salazar's on-air comments accusing Pedro Baldera, a local official, of "protecting delinquents and people linked to organized crime." Salazar, an elected council member and well-known local critic, said prior to his arrest that he had been receiving threats from

the government for his criticism of officials. In June an appeals court threw out the decision, which would have been the first time the country's criminal defamation laws led to jailing a journalist for professional activities. A new hearing on this case was scheduled for December 12 but was postponed.

### **Internet Freedom**

There were no government restrictions on access to the Internet or credible reports that the government monitored e-mail or Internet chat rooms without judicial oversight. According to the International Telecommunication Union, 12 percent of households had Internet access and 36 percent of citizens used the Internet in 2011.

### **Academic Freedom and Cultural Events**

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

### **b. Freedom of Peaceful Assembly and Association**

The law provides for freedom of assembly and association, with some exceptions, and the government generally respected these rights.

#### **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 demonstrations and killed or injured demonstrators or bystanders.

In August authorities confronted approximately 30 young Dominicans of Haitian descent from the Reconocido movement in Monte Plata as they protested the government's practice of denying nationality documents to Dominicans of Haitian descent. Police used tear gas on the crowd and arrested eight protesters. Reconocido, which advocates for recognition of its members' Dominican citizenship, applied for permits days prior to the planned protest; however, the permits were denied on the grounds that as Dominicans of Haitian descent, they did not have the right to demonstrate. A police officer reportedly assaulted three of the detainees. All eight detainees were released the same day, and no charges were filed against the demonstrators.

In September protesters marched in Cotui, a city in the country's central region, in protest of the activities of Barrick Gold mining company. Police fired on the group during the protest, injuring 37 civilians as well as four journalists covering the event. Media reported that a police officer shot 17-year-old Johan Jose Medina in the head during the clash. Authorities noted, however, that the legal medical certificate said Johan suffered a severe head/brain injury, but that he was not shot during the protest. At year's end Medina was alive but suffering from the injury. The police chief immediately submitted the case to the attorney general for investigation, dismissed regional commander Coronel Miguel Angel Menendez and a number of mid-ranking officers involved in the incident, and placed the officer suspected of firing on civilians in pretrial confinement while waiting for the case to come before the civilian courts. The Attorney General's Office reported Captain Santo Leon Genao also was placed under pretrial detention for his involvement in the incident. His preliminary hearing was set for January 8, 2013.

### **Freedom of Association**

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

### **c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at [www.state.gov/j/drl/irf/rpt](http://www.state.gov/j/drl/irf/rpt).

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

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice, with some exceptions.

The government enhanced cooperation with the Office of the UN High Commissioner for Refugees (UNHCR) in providing protection and assistance to refugees and asylum-seekers.

In-country Movement: Local and international human rights groups reported that potentially hundreds of thousands of persons without proper documentation, including Haitian migrants and persons of Haitian descent born in the Dominican Republic, faced obstacles in traveling both within and outside of the country.

The Migration Directorate (DGM) refused to release statistics on the number of persons expelled to Haiti during the year. Throughout the year government agents continued to violate due process or internal human rights guidelines, despite the terms of a bilateral agreement with Haiti regarding repatriation of undocumented Haitians.

In October 2011 then president Fernandez promulgated regulations that partially implement the 2004 Migration Law. The new regulations define the bureaucratic bodies that handle migration issues, call for the registration of all foreigners in the country, mandate the registration of babies born to nonresident foreigners in a special registry (pink book), set forth the requirements for obtaining legal residency status, lay out a scheme for importing temporary labor (making employers responsible for the return of workers they bring in), and explicitly reiterate existing policy that subjects all undocumented migrants to deportation/expulsion.

NGOs monitoring the practices of migration officials reported indications that racial profiling was a key criterion used to justify the arrest and deportation of individuals. During the year many Dominicans of Haitian descent were reportedly deported based on their appearance or lack of documentation. Due to the summary nature of deportation proceedings, the right to family integrity and the right to property were commonly violated.

In November DGM officials arbitrarily held two young Dominicans, Miguel Fene and Santos Bone, for more than 24 hours at the Center for Attention to Immigrants in Haina. They were arrested outside the Central Electoral Board (JCE) headquarters, located in the Plaza de la Bandera, where they had gone to request copies of their national identification cards. Immediately after their interaction with the JCE, DGM officials detained them. The young men claimed that although they presented their identification cards and birth certificates to DGM officials, the agents ordered them into a vehicle destined for the detention center in Haina.

While in detention the men were subjected to poor sanitary conditions, extremely overcrowded holding spaces, and on at least one occasion they were pepper sprayed by officials. After spending more than 24 hours detained without justification, Miguel Fene and Santos Bone were released. Local human rights advocates claimed their release was secured only through the presence of journalists and NGOs that remained at the detention center to investigate and publicize the situation.

According to NGOs, the conditions and the treatment of detainees in the Center for Attention to Immigrants, the processing center for deportations, were deplorable. On International Human Rights Day, Centro Bono, a local NGO, protested outside the center demanding respect for the rights of Haitian immigrants and their descendants. The protest highlighted the fact that the detainees were mistreated, deprived of due process, and did not receive ample food or water while in the holding facilities. The NGO stated that approximately 50 men were held in a room with the capacity to house only six men. The room had no lights, only one bathroom, no chairs, and no beds.

According to local media, the Center for Attention to Immigrants is the only detention center for immigrants subject to deportation proceedings in the country. Local NGOs reported that the DGM kept no records of those processed at the Center. At year's end there was reportedly no legal protection for due process for individuals being processed for deportation. The constitution provides that no authority may impose direct or indirect measures to deprive individuals of their liberty, but this was not followed in practice. Racial profiling by the DGM placed thousands of Dominicans at risk of deportation and becoming stateless. This created a culture of fear among those at risk of being deported by the DGM, thereby limiting their freedom of movement.

### **Protection of Refugees**

Access to Asylum: The government established a system for providing protection to refugees but has not implemented it effectively. The government has, however, expressed a renewed commitment to providing protection to refugees. 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 (CONARE), 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, DNI, and DGM. The full commission has the responsibility for the final decision on the application.

The commission met in June for the first time since 2005, fulfilling a pledge made by the government at the UNHCR ministerial meeting in December 2011 to reactivate CONARE and to continue collaborating with the UNHCR in evaluating asylum claims. The commission reached a decision regarding 19 cases. In October President Danilo Medina met with CONARE members and requested the

commission meet regularly, clear all pending claims in collaboration with the UN, and submit a report to him within six months.

According to the UNHCR, there were 203 pending asylum cases, corresponding to 822 individual claimants and their families, the vast majority of whom were Haitian. Some of these cases had been awaiting decision since 2000. 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, rendering them de facto stateless.

In addition to the pending asylum seekers, the UNHCR conducted a census and identified 144 Haitian refugee families in the country, comprising 725 individuals who were granted residency and refugee documentation by the government. Since 2000 the rights of these refugees have allegedly been withdrawn as a result of the government's failure to renew refugee documentation. In March the UN Committee on Human Rights expressed concern over the lack of clarity concerning the status of these refugees and recommended the government provide them with adequate identity documents to ensure protection from deportation and access to social and economic opportunities.

Refoulement: 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, such as residency, nor do they 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.

Access to Basic Services: Children born to Haitian refugees were routinely denied birth certificates as well as education, health, and security documentation.

### **Stateless Persons**

The 2010 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 was an addition to what the previous

constitution provided and reflected a 2004 migration law and a 2005 Supreme Court ruling that children born to parents who were in the country illegally did not qualify as citizens. Even prior to implementation of the new constitution, therefore, authorities denied Dominican nationality to children of undocumented migrants. Before 2004, however, migration laws granted “in transit privileges” to foreigners who entered the country “with the principal intention of proceeding through the country to an exterior destination.” The regulations further specified that a “period of 10 days will normally be considered sufficient to allow passage through the Republic.”

The 2004 General Law on Migration redefined the phrase “in transit.” Under this law the constitutional exception that denied nationality to Dominican-born children of persons in transit no longer applied just to parents that were transiting through the country for a period of 10 days or less; instead it considered all nonresidents as being in transit status. The law broadly defined nonresidents to include tourists, students, and temporary foreign workers.

In 2007 the JCE put in place a registration system known as the “pink 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 pink book, hospitals and civil registries did not register numerous children of Haitian migrants and their descendants. An estimated 10,000 to 20,000 children were born to Haitian migrants and their descendants each year, but few of the children registered in the pink 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.

At the same time, civil registry authorities started reviewing the legal status and civil documentation of Dominicans of Haitian descent. Many of these individuals were born on Dominican territory at a time when it was generally accepted that the constitution’s *jus soli* provision granted them Dominican nationality. Since 2007, however, government officials have taken strong measures against providing citizenship to persons of Haitian descent born in the country whose parents were unable to document their legal stay in the country. These measures included refusals to renew Dominican birth and identity documents, resulting in *de jure* statelessness. The government stated that such refusals were based on evidence of

fraudulent documentation, but advocacy groups alleged that the moves targeted persons whose parents were Haitian or whose names sounded Haitian and constituted acts of denationalization.

As a result the descendants of Haitian migrants who worked and settled in the country throughout the 20th century--who were born in the country prior to 2010 and enjoyed a right to Dominican nationality--faced an increased risk of becoming stateless. This was exacerbated by the fact that until June, the Haitian Constitution did not allow dual citizenship. Individuals of Haitian descent who obtained Dominican nationality forfeited their right to Haitian citizenship. Additionally, acquiring Haitian nationality through the application of a jus sanguinis nationality framework could pose problems for persons whose parents had lost meaningful links with Haiti and/or did not have proof of Haitian citizenship as a result of their long-established presence in the Dominican Republic. These problems became more serious for persons who were second or even third generation-born in the Dominican Republic.

Dominican-born persons of Haitian descent who lacked citizenship or identity documents faced obstacles traveling both within and outside the country. In addition undocumented persons cannot obtain national identification cards (cedulas) or voting cards. Persons who did not have a cedula or birth certificate had limited access to formal sector jobs, public education, marriage and birth registration, formal economy services such as banks and loans, access to courts and judicial procedures, and ownership of land or property.

The Socio-Cultural Movement for Haitian Workers, an NGO formed in 1985 by Haitian immigrants, Dominicans of Haitian descent, and other vulnerable workers, recently compiled personal accounts from six persons affected by lack of documentation. It outlined multiple visits to JCE authorities in unsuccessful attempts to obtain the documentation needed to gain access to health services, higher education, certain types of employment, as well as enter their children into the national registry. In each of the six cases the JCE rejected their efforts.

In March the UN Human Rights Committee voiced its concern over cases in which recognition of Dominican nationality of individuals of Haitian descent born on Dominican territory had been withdrawn due to the retroactive application of the law. Many of these cases related to adult individuals whose Haitian parents were considered to have been “in transit” at the time of the individuals’ birth, regardless of the duration of their stay in the country. In September the Organization of American States (OAS) Electoral Observer Mission also expressed concern over

complaints about Dominican citizens of Haitian descent lacking identity documents and the consequences regarding their right to vote.

More than 200 affected individuals filed amparo remedies against the civil registry requesting the issuance of birth certificates and national identity cards. Rulings by courts in San Pedro de Macoris and El Seibo stated the authorities had violated the rights of nationality of these individuals by denying their identity documents and instructed the civil registries to deliver their documentation. The JCE, however, filed an appeal and refused to comply with the judgments. Local NGOs as well as journalists reported that JCE and police officials harassed the plaintiffs following the court decisions. JCE officials reportedly went to the plaintiffs' homes and forcefully asked them to sign legal documents as well as the foreign registry (pink book).

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, and thus their children remained undocumented. Consequently, potentially hundreds of thousands of Dominican-born persons of Haitian descent were at risk of statelessness.

### **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**

Recent Elections: On May 20, PLD candidate Danilo Medina won the presidency in an election that was generally free and orderly despite some irregularities. The Dominican Revolutionary Party won the most votes of any single party, but the PLD won the popular vote with the support of coalition parties. The OAS, which had an electoral observation mission present throughout the electoral process, noted several inadequacies in the legal framework that regulates the electoral process in important areas such as the use of public resources, campaign financing, and equitable access to the media. The observation mission and other independent

observers received complaints regarding the right of Dominicans of Haitian descent to vote. Due to restrictive civil registry policies enforced by the JCE, thousands of Dominicans of Haitian descent were unable to obtain the citizenship documents required to participate in the elections.

Observers witnessed the purchase of identity cards and votes by supporters of the various political parties on election day. Observers also reported the use of electoral propaganda in voting centers.

Participation of Women and Minorities: By law parties must reserve 33 percent of positions on their lists of candidates for the House of Representatives and city councils for women. There were three women in the 32-member Senate, 39 women in the 190-member House of Representatives, four women in the cabinet, and four women on the 16-seat Supreme Court. The law requires each party's candidates for mayor and deputy mayor to be of different genders; there were 12 female mayors and 143 female deputy mayors.

#### **Section 4. Corruption and Lack of Transparency in Government**

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and officials frequently engaged in corrupt practices with impunity. During the year the government took some steps to combat corruption; after his August 16 inauguration, President Medina established a government code of ethics, removed one corrupt official from office, and prosecutors investigated other allegedly corrupt officials. Nevertheless, government corruption remained a serious problem and a key public grievance before and after the presidential election.

The attorney general concluded 25 corruption cases against lower-level and mid-level officials, either by conviction or acquittal. Government officials were reluctant to investigate seriously and prepare for trial cases involving current and former senior officials, with two exceptions in September and November, when the attorney general asked the Supreme Court to vacate decisions suspending the investigation of two senators. Senator Felix Bautista was accused of bribing Haitian President Michel Martelly and other officials to obtain lucrative Haitian post-earthquake construction contracts valued at 15 billion pesos (\$385 million) in 2010. Senator Amable Aristy Castro was accused of embezzling up to 250 million pesos (\$6.4 million) when he was secretary general of the Dominican Municipal League in 2010. Both cases were suspended in August just before President Fernandez left office. The attorney general's request received immediate political

resistance, and President Medina neither publicly supported nor opposed the attorney general's actions.

The unregulated practice of publicly funded "complimentary pension plans" for government jobs gained wide media attention. Under intense public scrutiny, Medina fired the recently appointed Comptroller General Haivanjoe Ng Cortinas for approving his own monthly pension of 651,000 peso (\$16,600) for previous service as superintendent of banks, while also receiving his comptroller salary. The practice, viewed as highly unethical, was technically legal. In October in the wake of the scandal, Medina suspended the use of public funds for supplemental pensions, although the administration fired no other officials and did not attempt to recover lost funds.

On many occasions police officials attempted to solicit bribes from individuals facing arrest or imposition of fines. Local human rights observers reported that immigration and police authorities rounded up undocumented construction workers and other manual laborers of Haitian descent to extort money from them. NGOs reported incidents of corruption among military and migration officials stationed at border posts and checkpoints.

The law requires that the president, vice president, members of Congress, some agency heads, and other officials including tax and customs duty collectors declare their personal property within a month of being hired as well as when they "end their responsibilities." The constitution further requires public officials to declare the provenance of their property, although this does not extend to the assets and income of spouses and dependent children. Government officials generally complied with the law. The Public Ministry is in charge of reviewing these declarations, but there are no criminal penalties for breaches of this law. The General Directorate of Internal Revenue (DGII) was active in policy-making, helping the Presidency draft portions of the Fiscal Reform Law. The DGII collected public revenue into a "Single Account," although government agencies with other sources of revenue kept as many as 6,000 separate accounts, with little or no government oversight.

The Public Ministry, led by the attorney general, was responsible for investigating and prosecuting corruption cases through the Department for the Prevention of Administrative Corruption (DPCA). The Chamber of Accounts provided a measure of government accountability through audits and investigations, which formed the basis of DPCA corruption cases. President Medina renamed the Commission for Ethics and Combating Corruption as the General Directorate of

Ethics and Governmental Integrity, although it retained the same leadership and continued to operate with a strong political mandate but minimal practical results. The Comptroller General's Office was responsible for defining management controls and accounting procedures for all government agencies. A joint commission between the Comptroller General and Chamber of Accounts facilitated audits and investigations.

The Chamber of Accounts submitted 16 audit reports to Congress with significant findings of misuse of public funds and lack of proper procedures. These reports corresponded to actions taken between 2004 and 2010 and implicated both municipal authorities as well as members of the central government. Some of the implicated persons have been brought before the courts, while other cases were still under investigation. The DPCA, Chamber of Accounts, and comptroller general operated independently and appeared free from political influence. Civil society was actively engaged in anticorruption campaigns through NGOs and the media. Government agencies had limited and often adversarial relationships with civil society members, and one government official complained that civil society was preoccupied with accusations instead of solutions. While all government agencies complained of insufficient resources, the greatest hindrance to effective investigations was a lack of political will to enforce the law and prosecute criminals, particularly high-level politicians.

The use of nonjudicial sanctions continued. These measures included the dismissal or transfer of military personnel, police officers, judges, and other minor government officials engaged in bribe-taking and other corrupt behavior. A widespread attitude of tolerance toward some forms of corruption complicated anticorruption efforts.

The 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. Authorities are required to disclose or respond to requests for access within 15 workdays, and the processing fee is either free or very reasonable. The law provides 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. Responses were often timely but incomplete, and the government regularly rejected subsequent requests. There was little consistency in the determination of what was considered public information and what was not, due to the lack of a single oversight agency. Under the Anti-Corruption Participatory Initiative, civil society organizations and

government institutions conducted public outreach activities and public official training to encourage effective use of the law. However, statistics on the number and outcome of requests were unavailable.

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

A number of domestic and international human rights organizations generally operated without government restriction, investigating and publishing their findings on human rights cases. While government officials often 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.

Government Human Rights Bodies: The 2010 constitution establishes the position of human rights ombudsman; however, the government never appointed anyone to the position. 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 constitution prohibits discrimination based on race, gender, disability, language, and social status, such discrimination existed. The government seldom acknowledged its existence or made efforts to address the problem.

#### **Women**

Rape and Domestic Violence: The law criminalizes rape, including spousal rape, and provides penalties for rape ranging from 10 to 15 years in prison (or 10 to 20 years in cases of rape of a vulnerable person, a child, or if rape occurred under other egregious circumstances) and a fine of 100,000 to 200,000 pesos (\$2,620 to \$5,240). Despite the law, rape was a serious and pervasive problem. Survivors of rape often did not report the crime, due to fear of social stigma or retribution, and the perception that the police and the judicial system would fail to provide redress. The state may prosecute a suspect for rape even if the victim does not file charges, and rape victims may press charges against spouses. Police generally encouraged rape victims to seek assistance from the specialized gender-based violence unit

within the National Police force, the Attorney General's Office, public defenders, or NGOs.

Despite government efforts to improve the situation, violence against women continued to be pervasive. Although more recent data were not available, in 2011 there were more than 70,000 gender violence complaints reported to authorities nationwide compared to 62,000 complaints filed in 2010. The law criminalizes violence against women, and 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 (\$18 to \$6,300). 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.

The number of cases of violence against women exceeded the prosecutor general's capacity to deal with the situation. According to the National Police, more than 1,000 women lost their lives due to gender-based violence from January 2008 to October 2012. The vast majority of these victims never filed a complaint with the prosecutor general. The attorney general reported that from January to October, 160 women died as victims of domestic violence, compared with 179 deaths during this same period in 2011.

The Attorney General's Office oversees the specialized Violence Prevention and Attention Unit, which has 15 satellite offices in the 32 provinces in the country. At these offices survivors 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.

In an additional step towards addressing this problem, the Attorney General's Office instructed its officers throughout the country not to conciliate any cases of violence against women and to continue judicial processes--even in cases in which the victim decided to withdraw the charges. District attorneys were instructed to provide assistance and protection to the victims of violence by referring them to the appropriate institutions for legal, medical, and psychological counseling. Furthermore, the Attorney General's Office instructed its officers that all

investigations as well as the presentation of charges must be concluded in a period no longer than 35 days unless the case was considered complex.

The National Police launched the Office for the Attention of Women and Interfamily Violence which integrated tens of newly graduated police officers trained by the NGO Profamilia as well as the Attorney General's Office. The office, headed by Colonel Teresa Martinez, was linked in to the emergency call lines to facilitate quick response services. In cases involving violence, officers were authorized to enter the victim's domicile without a court order to provide victim protection.

The Ministry for Women actively promoted equality and the prevention of violence against women through implementing education and awareness programs and providing training to other government ministries and offices. The ministry also promoted higher levels of participation of women in politics.

The government and various NGOs conducted outreach and training programs on domestic violence and legal rights. The government operated two shelters for domestic violence survivors in undisclosed locations, where abused persons could make reports to the police and receive counseling. The shelters provided women with short-term and mid-term assistance to escape violent situations.

Sexual Harassment: 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 (\$260); however, union leaders reported that the law was not enforced, and sexual harassment remained a problem.

Reproductive Rights: Couples and individuals had the right to decide the number, spacing, and timing of children and generally had the information to do so free from discrimination, coercion, and violence. When available, contraceptives were provided without charge; however, many low-income women used them inconsistently due to an irregular supply from public agencies as well as social and religious biases against modern methods of family planning. Despite this, UN research from 2011 indicated that 70 percent of women ages 15 to 49 used a modern method of contraception. In 2011 the maternal mortality decreased from 159 to 109.4 deaths per 100,000 live births, a decline of nearly 22 percent. The Ministry of Public Health attributed the improvement to increased access to reproductive and pre- and postnatal health services, good health practices, and successful education and prevention programs. Although the UN estimated that 94

percent of births were attended by skilled health personnel, there were groups of women with limited access to adequate care, especially women of Haitian descent.

Most maternal and neonatal deaths were due to poor quality of care and failure to adhere to standard 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. Access to diagnostic services and treatment of sexually transmitted infections was limited by technical, financial, and management issues, which equally affected both men and women. According to estimates by UNAIDS, the majority of the 60,000 persons with HIV/AIDS were women.

Discrimination: Although the law provides women and men with the same legal rights, in practice women did not enjoy social and economic status or opportunity equal to that of men. Men held approximately 70 percent of leadership positions in all sectors. On average women received 44 percent 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**

Birth Registration: Citizenship is acquired by birth in the country, except by children born to diplomats, to those who are in transit, or to parents who are illegally in the country (see section 2.d.). It may also be acquired by a child born abroad to a Dominican mother or father. 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, from 2009, by the NGO Profamilia and UNESCO, indicated that 13 percent of children under age 15 were not registered.

Education: According to law, education is free and universal up through the eighth grade. However, the law was not always adhered to, and many children were denied access to primary education because of lack of documentation or due to discrimination against children of Haitian descent. Once children reach secondary school, legal documentation is required to be formally enrolled in schools. Children who lacked documentation, mostly Haitians or Dominicans of Haitian

descent, were restricted from attending secondary school (past the eighth grade) and faced problems in accessing other public services.

Child Abuse: Abuse of children, including physical, sexual, and psychological abuse, was a serious problem. The Attorney General's Office has a special Children and Adolescents Unit, which maintained a hotline where persons may call to report cases of child abuse. 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 reported 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 government's National Directorate for Assistance to Victims coordinated efforts of official entities and NGOs to assist children who were victims of violence and abuse.

Child Marriage: The legal minimum age for marriage with parental consent is 16 for men and 15 for women. In 2007 (latest data available), approximately 40 percent of women between the ages of 20 and 24 were married before they were 18. More than a third of them married before the age of 15. A much smaller percentage of boys, only 9 percent, married before they were 18. Girls often married much older men. Child marriage occurred more frequently among girls who were uneducated, poor, and living in rural areas.

Sexual Exploitation of Children: The law defines statutory rape as sexual relations with anyone under the age of 18. Penalties for statutory rape are 10 to 20 years in prison and a fine of 100,000 to 200,000 pesos (\$2,620 to \$5,240). 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 100,000 to 200,000 pesos (\$2,620 to \$5,240).

According to reliable media, National Assembly Deputy Ramon (Papo) Antonio Fernandez had a sexual relationship with a child younger than 14 years of age. On

September 6, the Supreme Court convicted the legislator of statutory rape and sentenced him to one year in prison, with six months of that period to be served under house arrest.

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 such exploitation 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.

Displaced Children: There was a large population of children living on the streets comprised primarily of Haitians or Dominicans of Haitian descent (see section 2.d).

International Child Abductions: The government is a party to the 1980 Hague Convention on International Child Abduction. For information see the Department of State's annual report on compliance at [http://travel.state.gov/abduction/resources/congressreport/congressreport\\_4308.html](http://travel.state.gov/abduction/resources/congressreport/congressreport_4308.html).

### **Anti-Semitism**

The Jewish community comprised approximately 300-350 persons. There were no reports of anti-Semitic acts.

### **Trafficking in Persons**

See the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip](http://www.state.gov/j/tip).

### **Persons with Disabilities**

Although the law prohibits discrimination against persons with physical, sensory, intellectual, and mental 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 authorities did not enforce this provision. The Dominican Association for Rehabilitation

received support 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 as well as cultural, recreational, and religious activities. Persons with disabilities attended school at all levels; however, resources to meet their special needs were often not sufficient.

The National Council on Disability also promoted the rights of persons living with disabilities. For example, the council signed an agreement with the National Botanic Gardens to ensure access to the park for disabled visitors.

Discrimination against persons with mental illness was common across all public and private sectors. Few resources were 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 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. Officials continued to deny basic education, health, and documentation services to persons of Haitian ancestry. Few government officials acknowledged the existence of this discrimination; others regularly and publicly denied that it existed.

Local NGOs reported incidents in which 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.

Haitians continued to immigrate to the country in search of economic opportunity and relief. However, the DGM continued to carry out “returns” of undocumented persons 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.

According to local NGOs, migration officials and security forces sometimes confiscated and destroyed deportees' 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. There were also reports that employers used repatriations prior to paydays to avoid paying laborers for their work.

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 not always 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.

### **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. No specific law protects individuals against discrimination based on sexual orientation or gender identity, and NGOs reported widespread social discrimination in areas of society including health care, education, and the workplace. LGBT individuals often faced intimidation and harassment. Transgender individuals were particularly at risk of discrimination. NGOs reported that LGBT persons were reluctant to file official charges or complaints due to fear of reprisals or humiliation.

According to various reports, LGBT individuals were arrested without reason, not hired, denied access to rent/own homes, and denied access to health services. During the first half of the year, NGOs reported that two LGBT persons were detained by police in Villa Mella without charges. They were subsequently released after 24 hours. Members of the LGBT community reported at least six cases in which individuals were denied health services in both private and public hospitals.

The transgender community reported widespread discrimination and violence against transgender persons. In a news article appearing in *El Caribe* in December,

the transgender community demanded protection of their rights. The article reported that 18 transgender persons were killed during the year.

On November 20, an unknown assailant stabbed and killed a transgender individual named Joseph William Mendoza Arriaga (known as Kiara Villanueva). Kiara worked as a stylist in a salon on the weekdays and as a performance artist on the weekends. The attack took place in the early hours of the morning as the victim arrived home from a late-night shift. The assailant took the victim's wallet, which was later found a few blocks from the scene. The National Police investigated the case, but at year's end there was no additional information.

Although official permits were granted for LGBT individuals to carry out activities in public spaces, these permits often included special conditions that prevented LGBT organizations from holding their events. Members of the LGBT community often gathered informally in public spaces, especially in Duarte Park of the colonial zone in Santo Domingo. However, formal activities of LGBT organizations were generally subjected to approval by the Community Board of Neighbors, an institution influenced by the Catholic Church and its conservative views on LGBT issues.

Since the first gay pride celebration in 2001, authorities have rejected or delayed subsequent parade requests by LGBT organizations. However, in July the LGBT community successfully held a gay pride parade, but participants encountered some resistance from the police, who allegedly argued that using public spaces for such activities brought shame upon the nation.

In November the LGBT community celebrated Santo Domingo Outfest, which was the country's third annual LGBT international film festival. Outfest was an initiative created to generate debate about the realities of LGBT issues in society today through medium of film. The festival, which sought to promote human rights and social coexistence, was organized by the Volunteer Network of Friends Forever Friends with the support of various other local and international organizations.

### **Other Societal Violence or Discrimination**

On a number of occasions, citizens attacked and in some cases killed alleged criminals in vigilante-style reprisals for theft, robbery, or burglary. These incidents were attributed to an increase in crime and the perceived inability of security forces to stem or combat incidents of crime.

Persons with HIV/AIDS faced discrimination, especially in the workplace. According to UNAIDS, there were approximately 60,000 persons with HIV/AIDS in the country. A 2008 study by the Network of Persons Living with HIV, Profamilia, and Alianza Solidaria revealed that, among the sample of persons with HIV who were interviewed, 62 percent reported being the subject of gossip, 30 percent the victims of verbal aggression, 27 percent the victims of verbal threats, and 14 percent the victims of attacks or physical threats.

Although the law prohibits the use of HIV testing to screen employees, Human Rights Watch and Amnesty International reported that workers in various industries faced obligatory HIV testing in the workplace. Many workers or patients found to have the disease were not hired, were fired from their jobs, or were denied adequate health care.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

The law, including related regulations and statutes, protects the right of workers to form and join independent unions, conduct legal strikes, and bargain collectively; however, it places several restrictions on these rights. Trade union rights, however, are restricted by requirements such as a union having to represent 50 percent plus one of the workers in an enterprise to bargain collectively, a requirement considered excessive by the International Labor Organization (ILO). In addition, the law stipulates that strikes cannot be called until mandatory mediation requirements have been met. Members of the military and police are prohibited from forming and joining unions.

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. Public sector workers are allowed to form associations registered through the Office of Public Administration. The law requires that 40 percent of civil servant employees agree to join the union in a given government entity for it to be formed. According to the Ministry of Labor, the law applies to all workers in the territory including foreign workers, those working as domestic workers, workers without legal documentation, and workers in the free trade zones.

Formal requirements for a strike to be considered legal include the support of an absolute majority of all company workers, a prior attempt to resolve the conflict through mediation, written notification to the Ministry of Labor, and a 10-day waiting period following notification before proceeding with the strike. Government workers and essential public service personnel are not permitted to strike.

The law prohibits antiunion discrimination and forbids employers from dismissing an employee for participating in union activities, including participation in a committee seeking to form a union.

The government inconsistently enforced laws related to freedom of association and collective bargaining, and penalties were insufficient to deter employers from violating worker rights. The process for dealing with disputes through labor courts was often long, with cases pending for several years. 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.

Freedom of association and the right to collective bargaining were not consistently respected in practice. Worker organizations were generally independent of the government and political parties. During the year there were reports of intimidation, threats, and blackmail by employers to prevent union activity. Some unions required members to provide legal documentation despite the fact that all workers within the territory are covered by law regardless of legal status.

Companies purportedly fired workers for union activity and blacklisted trade unionists. According to union leaders, companies including Universal Aloe, Grupo Ramos (La Sirena), and Laurus fired employees for participating in union activities. Workers were commonly asked to sign documents pledging to abstain from participating in union activities. Companies also created and supported “yellow” or company-backed unions to counter free and democratic unions. In practice formal strikes were not common.

Enterprises increasingly used short-term contracts and subcontracting, which made union organizing and collective bargaining more difficult. Few companies had collective bargaining pacts, partly because companies created obstacles to union formation and could afford lengthy judicial processes that nascent unions could not afford.

The Dominican Federation of Free Trade Zone Workers (FEDOTRAZONAS) reported that the management of several companies or their subcontractors conducted antiunion campaigns within their enterprises, 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. The Ministry of Labor intervened in some cases to provide mediation.

In 2011 the National Council of Labor Unions reported that unions were active in only 20 businesses out of approximately 200 companies in the free trade zones (FTZs), and only six unions had established collective bargaining rights. The government, on the other hand, reported that 253 unions were active within the FTZs in 2011. Unions in the FTZs reported that their members hesitated to discuss union activity at work for fear of losing their jobs. Unions accused some FTZ companies of discharging workers who attempted to organize unions. Atlantic Manufacturing, a company operating in an FTZ, allegedly fired all employees on its union board. After long negotiations, the company agreed to reinstate two of the former union members, but all employees were subsequently forced to sign pledges to abstain from union activities. In July Atlantic Manufacturing, the company's labor union, FEDOTRAZONAS, and the Ministry of Labor's Directorate of Mediation signed a memorandum of agreement to resolve the labor dispute.

In 2011, following the filing of an ILO complaint, the Ministry of Labor approved the Workers Union of the Barrick Gold Corporation and other unions whose registrations had previously been rejected by the Ministry of Labor. However, at year's end the union's status remained unclear due to continuing labor and mining contract negotiations.

Frito Lay contested its trade union's request to use collective bargaining. The company allegedly took steps to undermine the union by selectively firing union members as well as using sub-contracted workers to prevent the union from obtaining the absolute majority required to compel collective bargaining. The Ministry of Labor acted as a mediator in the dispute between Frito Lay and the company's trade union as they attempted to negotiate a collective agreement. At year's end the parties had not reached an agreement. However, at the request of the workers and the Confederation of Trade Union Unity, the Ministry of Labor remained engaged in mediation activities.

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 due to fear of being fired or deported. Multiple labor unions represented Haitians working in the formal section. However, the unions were not influential.

### **b. Prohibition of Forced or Compulsory Labor**

The law prohibits all forms of forced or compulsory labor, but the government did not effectively enforce such laws. There were reports of forced labor of adults in the service, construction, and agricultural sectors as well as reports of forced labor of children in the domestic service, street vendor/beggar, agriculture, and construction sectors.

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, Haitian nationals were reportedly subjected to forced labor in the service, construction, and agricultural sectors.

In September the NGO Verite released a report which noted that several indicators of forced labor were present in the sugar sector, including physical confinement in the work location, induced indebtedness, deception or false promises about terms of work, withholding and nonpayment of wages, and retention of identity documents.

Also see the Department of State's *Trafficking in Persons* Report at [www.state.gov/j/tip](http://www.state.gov/j/tip).

### **c. Prohibition of Child Labor and Minimum Age for Employment**

The law prohibits employment of children younger than age 14 and places restrictions on the employment of children under the age of 16, limiting their working hours to six hours per day. For those under age 18, the law limits night work and prohibits employment in dangerous work, such as work involving hazardous substances, heavy or dangerous machinery, and heavy loads. Minors are also prohibited from selling alcohol, certain work in the hotel industry, handling cadavers, and various tasks involved in the production of sugarcane. Fines and legal sanctions may be applied to firms employing underage children.

The Ministry of Labor in coordination with the National Council for Children and Adolescents (CONANI) is responsible for enforcing child labor laws. While the ministry and CONANI effectively enforced regulations in the formal sector, child labor in the informal sector was a problem largely beyond regulatory reach.

The National Steering Committee against Child Labor's plan to eliminate the worst forms of child labor set objectives, identified priorities, and assigned responsibilities to combat exploitive child labor. Several government programs focused on preventing child labor in coffee, tomato, and rice production; street vending; domestic labor; and commercial sexual exploitation. In the most recent information available, the Ministry of Labor reported that such programs 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.

In November the Ministry of Labor signed an agreement with the ILO to implement a project to remove 100,000 children and adolescents from exploitive labor over the course of four years. The agreement was part of the "Road Map of the ILO" goals for the region that aimed to reduce hazardous child labor by 2016 and eliminate it by 2020 through a series of policy recommendations including interagency collaboration, strengthening the education and health sectors, and the establishment of a robust regulatory framework.

Child labor, however, remained a problem. Child labor occurred primarily in the informal economy, small businesses, private households, and the agriculture sector. In particular, there were reports that children worked in the production of garlic, potatoes, coffee, sugarcane, tomatoes, and rice. Children often accompanied their parents to work in agricultural fields. NGOs and the Ministry of Labor also reported that many children worked in the service sector in a number of jobs including domestic servants in households, street vendors, shoe shiners, and car window washers. The commercial sexual exploitation of children remained a problem, especially in popular tourist destinations and urban areas (see section 6, children).

Many children who worked as domestic servants were 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 Labor's *Findings on the Worst Forms of Child Labor* at [www.dol.gov/ilab/programs/ocft/tda.htm](http://www.dol.gov/ilab/programs/ocft/tda.htm).

#### **d. Acceptable Conditions of Work**

There were 14 different minimum wages, depending on the industry. The minimum wage for workers in FTZs was 6,376 pesos (\$162) per month. The minimum wage for workers outside the zones ranged from 6,035 pesos (\$153) to 9,905 pesos (\$251) per month. The minimum wage for the public sector was 5,117 pesos (\$130) per month. The daily minimum wage for agricultural workers was 175 pesos (\$4.43) based on a 10-hour day, with the exception of sugarcane workers who received 129 pesos (\$3.19) based on an eight-hour workday. All workers, including migrants, are covered by minimum wage provisions. Although no official estimate of the poverty income level was available, the Worker Rights Consortium estimated the living wage was over 18,000 pesos (\$456) per month.

The law establishes a standard work period of 44 hours per week, and while agricultural workers are exempted from this limit, in no case may the work day exceed 10 hours. The law stipulates that all workers are entitled to 36 hours of uninterrupted rest each week. The law includes paid annual holidays and requires premium pay for overtime, although enforcement was ineffective. The law prohibits excessive or compulsory overtime. The labor code covers domestic workers, but does not provide for them payment of notice, severance, or bonuses. They are guaranteed only the payment of two weeks' vacation after one year of continuous work as well as a Christmas bonus. Workers in the FTZs are also covered by the labor code, but are not entitled to the payment of bonuses.

The Ministry of Labor sets workplace safety and health regulations. In practice the ministry did not always enforce the minimum wage. Both the Social Security Institute and the ministry had a small corps of inspectors charged with enforcing standards. The ministry employed 183 labor inspectors. Workers complained that inspectors were not well trained, did not respond to their complaints, and responded to requests from employers more quickly than requests from workers.

Mandatory overtime continued to be a common practice in factories and was sometimes enforced through loss of pay or employment for those who refused. FEDOTRAZONAS reported that some companies set up "4x4" work schedules, in which employees work 12-hour shifts for four days. In some cases employees working the 4x4 schedules were not paid overtime for hours worked in excess of maximum work hours allowed under labor laws. Some companies also started a practice to pay every eight days instead of every seven days. These practices resulted in a loss of wages for workers.

According to the Central Bank, about 56 percent of the workforce worked in the informal sector, often outside the reach of government enforcement efforts.

Vulnerable persons often did not receive full access to certain benefits. Sugar cane workers, for example, often did not receive pensions despite paying wage deductions. On some sugar plantations, cane cutters were paid by the weight of cane cut. Cane cutters continued to suspect fraud by weigh station operators, although company officials denied it. 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 approximately 160-300 pesos (\$4.05-\$7.64). Less able-bodied workers, who were often older, were paid only for the amount of the cane they cut, even if the amount was less than the minimum wage. On other sugar plantations, namely in Barahona, cane cutters were paid by the hour. During the six-month off-season, some workers in sugar plantations remained in their communities and worked part-time jobs clearing land or cleaning sugarcane. Such workers reported that they were not paid the legally mandated minimum wage.

Conditions for agricultural workers were poor. Many workers worked long hours and were exposed to hazardous working conditions including exposure to pesticides, exposure to the sun for long periods of time, and the use of sharp and heavy tools. Sugarcane workers often did not receive medical services due to their lack of documentation even though deductions were taken from their pay.

During the year there were accidents that caused injury and death to workers. According to the Construction Worker's Federation, there were 939 reported accidents in 2011. Although comprehensive data were not available, there were some reports of specific injuries of workers due to lack of sufficient safety controls.