

# **DOMINICAN REPUBLIC 2013 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. In May 2012 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. Authorities failed at times to maintain effective control over the security forces. In some instances elements of the security forces committed human rights abuses.

The most serious human rights problems were discrimination against Haitian migrants and their descendants, including the Constitutional Tribunal's September ruling that stated that descendants of individuals considered to be illegally in the country, most of whom are of Haitian descent, are not entitled to Dominican nationality, as well as violence against women, including domestic abuse, rape, and femicide.

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, impunity for corruption, trafficking in persons, discrimination against persons based on sexual orientation or gender identity, and inadequate enforcement of labor laws.

Although the government took steps to punish officials who committed abuses, there was a widespread perception of official impunity, especially concerning officials 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; there were reports, however, that security forces were involved in killings that were unlawful, unwarranted, or involved excessive use of force.

Statistics on police killings varied, but the reported information demonstrated a persistent problem. The National Police reported its officers killed 117 persons from January through September. According to the latest figures available, the National Human Rights Commission (NHRC), a nongovernmental organization (NGO), estimated there were more than 200 police killings in 2012. The methodology used to arrive at this figure was unclear. Human rights NGOs asserted that, as in previous years, police employed unwarranted deadly force against criminal suspects. Amnesty International also documented numerous cases of unlawful killings.

Police operated in a dangerous environment: gun ownership was widespread, and the homicide rate was high, especially in urban areas. The attorney general reported 809 killings between January and May. Police continued to justify the use of deadly force as an appropriate response to an exchange of gunfire with criminal suspects. According to the National Police's Department of Information and Statistics, 35 police officers were killed in the line of duty between January and September. Although police defended their conduct, Amnesty International and NGO reports indicated police officers used force disproportionate to the threat they faced. Members of congress and many citizens, however, publicly supported extrajudicial killings as a means of curbing the rising level of crime.

On March 12, civil society groups testified against the high rate of police killings before the Inter-American Commission on Human Rights (IACHR). The groups claimed police investigations of such killings lacked transparency. During their presentation the groups showed a video of a police officer shooting a civilian. Dominican authorities reported that the judiciary was reviewing the case in question.

On May 14, General Directorate of Migration (DGM) agents and National Police officers forcefully entered the home of 31-year-old Haitian immigrant Jean Robert Lors during a mass repatriation round-up in the town of Juan Dolio. Lors reportedly worked as a carpenter and had a work visa. Authorities prevented Lors from showing his work documents or getting dressed before they removed him from his home. DGM agents reportedly beat Lors with the butts of their weapons and kicked him. After repeated requests from the victim's brother, authorities took Lors to the hospital, where he died on May 23 of cardiorespiratory failure reportedly caused by injuries sustained during the beating. On June 12, the IACHR condemned the death and urged the government to investigate whether excessive use of force by DGM agents and police had caused the death.

During the year the courts released on bail Rafael Baez Severino, a police lieutenant accused of involvement in the October 2012 shooting death of Victor Alfonso Brito Vaquez. Baez Severino's trial remained pending, and the other officers allegedly involved in the incident remained under investigation.

On March 19, the trial began against Corporal Jairon Ramon Medrano Germosen for his alleged killing of medical student William Florian Ramirez in November 2012. The hearing scheduled for October 18 was postponed until January 2014.

### **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 IACHR 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 severe injury to unarmed civilians. Amnesty International reported the use of electroshocks during interrogation of suspects. 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. Security forces handled some abuse cases internally, and, according to NGOs, many cases of human rights violations remained unpunished.

The trial against police officers John Gilbert Valenzuela Valera and Eddyson Javier Sufron remained pending; authorities reopened the case on November 11 but did not assign it to a particular court. In March 2012 the two officers allegedly detained a young couple, sent the 17-year-old male to find bribe money, and kept the 18-year-old woman in their custody and sexually assaulted her.

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 covering prisoners' heads with plastic bags, hitting prisoners with broom handles, forcing prisoners to stand overnight without sitting, and hitting prisoners in the ears with gloves or cloths so as not to leave marks. Former detainees told Amnesty International they were handcuffed, hung from bars or nails by their handcuffs, and beaten when they attempted to put their feet on the floor. 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 involved undocumented Haitian migrants in poor urban areas as well as along the country's border with Haiti.

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. The NHRC reported 400 police officers attended their human rights training through September.

### **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, difficulty staffing 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 25,500 prisoners held in 37 prisons with an overall intended capacity of 14,656. The inmate population continued to increase, nearly doubling since 2006. Of the 37 prisons, 19 were traditional facilities, 17 were newer “model prisons” known as Correctional and Rehabilitation Centers (CRCs), and one prison held minors. In addition there were five Palaces of Justice to house temporary detainees. The CRCs held 9,546 prisoners with an intended capacity of 8,827. Virtually all prisons and detention centers were overcrowded; the CRCs operated slightly over maximum capacity. La Victoria prison, for example, which is the largest and most overcrowded prison in the country, held 7,666 prisoners in a facility designed for less than 2,011 prisoners. Najayo men’s prison, the second largest in the country, was built for 950 prisoners and held more than 2,500 prisoners.

Traditional prisons were all segregated, except for La Romana prison. Prisoners in the CRCs were all divided by gender, and there were separate standing structures at the prisons of Najayo, Bani, and Rafey for female prisoners. As of November there were approximately 667 female prisoners. Of the inmate population in the CRCs, 9,081 were male and 465 were female. Police officers and former military members convicted of criminal activity were held in special sections of the prisons or the Palaces of Justice. Pretrial and sick inmates, however, were not separated from other inmates. Only two prisons housed on-site hospitals.

Overcrowding and communicable disease were serious problems. Most reported deaths were related to illnesses, including tuberculosis and HIV/AIDS. According to the Directorate of Prisons, as of October, 49 prisoners died in correctional facilities.

Health and sanitary conditions were generally poor, and prisons generally did not provide adequate medical care to inmates. The frequency of illness amongst prisoners continued to rise due to overcrowding. Common illnesses included cold, flu, bronchitis, upper respiratory infections, intestinal illnesses, gastroenteritis, skin infections, parasites, tuberculosis, hepatitis, diabetes, hypertension, 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 were a problem. Many inmates could not attend their monthly appointments.

According to the director of the CRCs, most of the 17 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 to change penalties to house arrest.

According to the director general of prisons, inmates received three meals per day, but 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. No deaths were attributed to abuses by prison guards.

Some prisons were effectively out of the control of authorities, and there were 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 civilian prison guards maintained control of prison areas.

On June 30, Wady Encarnacion, an inmate in La Fortaleza prison in El Seibo, violently raped a 16-year-old girl who visited the prison with a minister to distribute religious material. The victim suffered severe vaginal tearing and bruising and loss of blood. District Attorney Henry Estevez began an investigation into the case.

On September 30, the press reported that police fired weapons to restore order at the San Pedro de Macoris prison, injuring five persons. Two of the injured inmates were admitted to the local hospital. On the same day, a security officer shot and killed an inmate as he attempted to escape La Victoria prison.

Although the law states that prisoners must be separated according to the severity of the criminal offense, authorities did not have the capability to do so. According to estimates from the Directorate of Prisons, 47 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 juvenile facilities, although the press reported that some juveniles were being held in regular prisons.

In the case of the CRCs, some prisoners with mental disabilities were separated and received treatment, including therapy, for their illnesses. There were no efforts to provide services to prisoners with mental disabilities in traditional prisons.

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

Although there was 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 assisted with certain complaints. Some complaints were referred to the Directorate of Prisons.

Prisoners could observe their religious practices and had access to visitors, but visitors often had to bribe prison guards to visit prisoners. Inmates were allowed conjugal visits, and female prisoners who gave birth while incarcerated were permitted to keep their babies with them for up to a year. Some CRCs provided a recreational area for inmates' babies. 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.

The CRC program served as a rehabilitation center to prepare detainees for an eventual return to their communities. The CRCs provided educational, labor, and artistic opportunities to rehabilitate detainees in a setting of respect and discipline. In the Najayo CRC, the administration partnered with a local technical university to provide inmates with morning classes five days a week. These classes ranged from primary to high school level.

In contrast to traditional prisons, model prisons were run entirely by trained civilian guards, were not overcrowded, and generally met the basic nutritional needs of inmates. In traditional prisons, although a warden who reported to the attorney general was technically responsible for running each prison, 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.

Independent Monitoring: The government permitted visits and monitoring 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. With the transfer of inmates from traditional to model prisons, the number of prisoners in the CRCs rose by more than 4,000. The government expanded its September 2012 survey at La Romana prison to include all prisons, with the goal of obtaining statistics to separate inmates by severity of crime and sentence.

#### **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 charge for up to 48 hours. 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. According to the NHRC, more than 100 persons were detained arbitrarily from January through September.

#### **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 police and military, report directly to the president.

President Medina developed a citizen security plan to create and execute policy initiatives, regulations, and administrative reform. As part of this plan, in October 2012, President Medina created a commission to reform the National Police, with the goal of salary increases for police officers, the provision of better equipment, and increased level of education for members of the police force. In May the president created a National Council for Citizen Security and established that the function of the Citizenship Observatory created in July 2012 was to collect, consolidate, process, and analyze the country's crime information. President Medina also redefined the members of the Observatory's Operational Technical Unit to include the Attorney General's Office, National Police, Institute of Foreign Sciences, Prosecutor's Office, Metropolitan Transportation Authority, National Directorate for Drug Control, National Statistics Office, Ministry of Women, National Council for Children and Adolescents, and Santo Domingo's City Hall.

As part of this initiative, President Medina introduced mixed military-police street patrols, appointed new senior police officials and a new police chief, and approved a new penal code. The president also ordered 4,000 members of the army to deploy in an attempt to reduce crime and improve overall citizen security.

Authorities fired or prosecuted police officers found to have acted outside of established police procedures. For example, on July 24, Ricardo Antonio Sanchez Caraballo was sentenced to one year of pretrial detention while authorities investigated his involvement in the July 22 killing of Hairo Parra Reynoso during a police patrol in Puerto Plata. The Department of Information and Statistics at the National Police reported 533 police officers were fired for misconduct from January through September.

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 1,192 investigations from January to October. Of these, 391 were for excessive use of force, 175 for aggression, 171 for death threats, and 222 for police corruption. The investigations resulted in 149 dismissals and 420 sanctions, although the statistics office could only provide the names of 139 officers dismissed and 40 sanctioned. 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. According to the National Police's Department of Statistics and Information, 1,411 police officers underwent human rights training at the Police Institute of Higher Learning from January through September, and an additional 3,302 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 their 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 2,636 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.

### **Arrest Procedures and Treatment of Detainees**

The 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 caught in the act of committing a crime or who could be reasonably linked to a crime, such as in cases involving hot pursuit or escaped prisoners. Police sometimes 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 constitution gives public defenders constitutional recognition, and the law requires provision of counsel to indigent defendants. 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 167 public defenders, 25 criminal court defense lawyers, 34 investigators, and 28 coordinators, 22 of whom managed the defense offices and six of whom handled administrative functions. The government continued its program to train public defenders on relevant changes caused by implementation of the CPC and to expand training for prosecutors.

The law prohibits interrogation of juveniles by police or in the presence of police. Prosecutors and judges handled juvenile interrogations. On June 20, the Senate decreased the maximum penalty for minors who commit infractions of the law from 15 years to eight years in prison.

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 allegedly 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, 47 percent of prisoners were in pretrial custody, and the average pretrial detention time was typically between three and six months; it took one to three years to receive a sentence. 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 being detained due to a 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 judicial independence, 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 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).

#### **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 who 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 modifications to the CPC. The District Attorney's Office must notify the defendant and attorney about criminal charges as well as evidence the office will present in court. Defendants and attorneys have access to government-held evidence and can confront adverse witnesses, but only after the preliminary hearing, when the judge has approved the indictment. Defendants have the right to present their own witnesses and evidence.

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.

Cases involving violations of an individual's human rights may be submitted through petitions by individuals or organizations to the IACHR, which in turn may submit the case to the Inter-American Court of Human Rights. The court can order civil remedies including fair compensation to the individual injured.

## 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 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 October 8, the Inter-American Court of Human Rights held the final hearing for the case of Benito Tide Mendez v. the Dominican Republic. The IACHR had previously filed an application with the court in which it argued Benito Tide Mendez and 26 other individuals were arbitrarily detained and expelled to Haiti. The IACHR affirmed the government did not follow its repatriation procedures in effect at the time and that the individuals were subject to de facto expulsions without any legal support or subsequent administrative or judicial review. Some of the expelled persons were Dominican nationals who had the relevant documentation but did not have the opportunity to show them. In some cases Dominican officials destroyed documents that were presented. The IACHR also reported a pattern of discrimination, noting in a press release that, “Phenotypical characteristics and a darker skin color were decisive factors when individuals were selected for detention and subsequent expulsion, indicating a pattern of discrimination.” The court’s ruling remained pending at year’s end.

The government reopened the case of journalist Narciso Gonzalez Medina following the February 2012 unanimous ruling by the Inter-American Court that the Dominican Republic was responsible for his forced disappearance in 1994 after he criticized the government.

At year’s end the government had yet to comply with the Inter-American Court’s May 2012 unanimous judgment that the army applied unnecessary use of deadly force during the Guayubin Massacre. In June 2000, members of the Dominican army along the border with Haiti opened fire on a vehicle transporting a group of Haitians, killing seven persons and wounding several others. The acts were prosecuted in military courts, but after several years of proceedings, the military courts acquitted the soldiers involved. The court 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 that have been taken to this end.

#### **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; however, 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.

Press Freedoms: 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: Journalists and other persons who worked in media were often harassed and physically attacked.

On April 11, National Police and military authorities threatened journalist Marcelo Contreras with a pistol while he filmed local police officers evicting squatters who settled in Los Limones farmlands near the northern coastal city of Nagua. The principal officer responsible for the eviction approached Contreras, demanded that he stop recording, confiscated his camera, and arrested him. The head of the police station reportedly advised Contreras not to discuss what had happened. Police began an investigation, but no results were reported.

In August an EFE news agency source reported that two police generals allegedly planned to kidnap and kill Fausto Rosario Adames, director of online news media site *acento.com*. During the same month, journalists from the Dominican College of Journalists and the National Union of Journalists sent a letter to President Medina to request an investigation into the case. President Medina subsequently ordered the Attorney General's Office to conduct an investigation.

On September 2, local police verbally threatened journalist Ramon Benzan from the online media site *digital Ciudadoriental.org* and an *Hoy* newspaper photographer while they attempted to photograph a Dominican citizen being arrested.

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

On October 9, two journalists from *La Lupa* magazine, Nicanor Leyba and Mercedes Gonzalez, were called to an audience in the Senate to be questioned about two articles alleging corruption by Senator Felix Bautista. The article published by Gonzalez accused the Office of Supervisory Engineers of Public Works of inflating the cost of constructing public jails; Senator Bautista was in charge of the office when the jails were built. The Senate questioned the journalists about their sources and investigative methods.

Libel Laws/National Security: In 2012 a Nagua court sentenced journalist Johnny Alberto Salazar to six months in jail and an indemnification fine of one million pesos (approximately \$23,600) 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 received

threats from the government for his criticism of officials. In June 2012 an appeals court threw out the decision, which would have been the first time the country's criminal defamation laws led to the jailing of a journalist for professional activities. The prosecution asked for a one-year sentence and a fine of 4.675 million pesos (\$110,300), but the case remained pending.

### **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 appropriate legal authority. According to the International Telecommunication Union, 12 percent of households had internet access in 2011, while 45 percent of citizens used the internet in 2012.

### **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.

On October 9, the press reported on a violent clash between police and demonstrators during a 24-hour strike in Santiago. The protesters in Navarrete province called for improvements in infrastructure, electricity supply, and drinking water for their community. Two people were injured during the clash.

The preliminary hearing regarding Captain Santo Leon Genao's alleged involvement in the 2012 shooting of Johan Jose Medina during a Cotui protest was delayed from its initial date of January 8. The district attorney in Cotui reported the victim's family settled the case out of court and dropped the charges against the officer. In September 2012 police fired on a group protesting the activities of

Barrick Gold mining company, injuring 37 civilians and four journalists covering the event. 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.

### **Freedom of Association**

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

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

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

### **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, with some exceptions.

The government cooperated 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 DGM did not 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 1999 bilateral agreement with Haiti regarding repatriation of undocumented Haitians, which stipulates that the Dominican Republic would conduct deportations during the day, permit deportees to take their belongings with them, and retain their identity documents.

In 2011 then president Fernandez promulgated regulations that partially implement the 2004 Migration Law. The 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 the 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 and/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.

According to the human rights NGO Centro Bono, on September 9, police officials in the eastern tourist area of Bavaro detained and deported a presumed Dominican of Haitian descent who was unable to provide a national identification card--which he claimed to possess--while searching for employment. The individual reported that authorities held him at Haina Detention Center for three days before transporting him to Elias Pina along the Haitian-Dominican border, where he was deported. The individual later returned to the Dominican Republic through the border city of Jimani, although it was unclear whether he returned legally or illegally.

According to local media, the Center for Attention to Immigrants was the country's only detention center for immigrants subject to deportation proceedings. NGOs reported that the conditions and treatment of detainees in the center were deplorable and claimed 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, 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 2012 for the first time since 2005, fulfilling a pledge made by the government at the UNHCR ministerial meeting in 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 2012 President Medina met with CONARE members and requested the commission to meet regularly, clear all pending claims in collaboration with the UN, and submit a report to him within six months. CONARE did not evaluate further asylum claims nor did it submit a report to President Medina.

According to the most recent available data collected during the UNHCR's 2012 census, there were 203 pending asylum cases, corresponding to 822 individual claimants and their families, while CONARE reported 381 cases and 800 family members for the same time. According to the UNHCR, more than 95 percent of these asylum applicants were Haitian, and some of these cases had been awaiting decision since 2001. Other asylum seekers were from Sri Lanka, Cuba, Colombia, and Iran. At the time of the application for asylum, applicants were not allowed to work.

CONARE met regularly throughout the year and issued decisions on 231 pending asylum cases, approving four applications and rejecting 227 cases. Of the asylum cases approved, three families were Haitian and one was Colombian. According to the UNHCR, these individuals were able to obtain identity documents and permits to work. The UNHCR attributed the high rejection rate to increasingly harsh criteria employed by CONARE. CONARE explained the 227 applications were rejected because the families lacked credibility, did not meet one of the six criteria established in the 1951 UN Convention Relating to the Status Refugees, or lacked sufficient proof.

According to the latest information available, the UNHCR 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.

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, political opinion, or caste, 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, not all officials who might apprehend such a person may recognize these documents.

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. In 2005 the Supreme Court of Justice upheld the 2004 General Law on Migration, which redefined the term "in transit" from a foreigner who entered the country to reach another destination to all temporary workers, and then later to irregular migrants. Under the 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, but instead it considered all nonresidents as having an "in transit" status. The law broadly defines nonresidents to include tourists, students, temporary foreign workers, and any undocumented migrants. The Civil Registry, managed by the Central Electoral Board (JCE), retroactively applied the migration law and refused to issue new identity documentation or renew expired documentation for those suspected to be children of foreign parents who had not proven their residency or legal status in the Dominican Republic, maintaining they were improperly issued birth certificates.

Even prior to implementation of the 2010 constitution, authorities denied Dominican nationality to children of undocumented migrants. Prior to 2004, 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.” In 2007 the JCE put a registration system in place 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 that 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 foreigners’ book.

Civil registry authorities simultaneously began to review 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 actions targeted persons whose parents were Haitian or whose names sounded Haitian and constituted acts of denationalization.

As a result of these policies, 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 2012, 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 second- or even third-generation persons born in the Dominican Republic.

On September 23, the Constitutional Tribunal (CT) ruled that children born in the country to foreigners “in transit” are not considered Dominican nationals. The CT’s decision was reflected in a nationality case brought by Juliana Deguis Pierre, a 29-year-old Dominican-born daughter of Haitian nationals and mother of four children. The CT decided that, although Deguis Pierre was registered as a Dominican citizen at birth, she did not in fact meet the criteria for the acquisition of the Dominican nationality because Deguis Pierre’s parents resided in the country illegally at the time of her birth. The CT ordered the JCE to audit its birth registry since 1929 to identify foreigners who might be registered improperly and transfer them to a separate foreign-birth registration list. The CT ruling also called on the executive branch to implement a National Regularization Plan originally proposed in the 2004 Migration Law. The CT noted that foreigners in transit may modify their immigration status to obtain legal permanent residency.

Leading civil society organizations called the decision a violation of Article 110 of the 2010 constitution, which states a promulgated law cannot be applied retroactively, and international organizations criticized the ruling. Dominican-Haitian human rights organizations protested in front of the CT, and civil society watchdogs expressed concern for those individuals whose births are re-registered on the foreign birth registration list, noting that placement on this list could erode civil and legal rights among an already vulnerable population. The IACHR, UNHCR, and CARICOM expressed deep concern over the judgment. In its statement, the UNHCR noted that the ruling “could render as stateless countless Dominican-born persons of Haitian descent, many of whom have lived in the Dominican Republic for decades. Due to its retroactive effect, this ruling has the potential to affect tens of thousands of people born in the Dominican Republic.” The Caribbean Community (CARICOM) called on the country to adopt measures to protect human rights and concerns of individuals who would be affected by the ruling.

The JCE’s Civil Registry scrub estimated 24,392 persons were irregularly registered on the civil registry, 13,672 of whom were of Haitian descent. A 2012 National Statistics Office and UN Fund for Population (UNFPA) study estimated the total Haitian population in the country at 668,145, of which 458,233 were identified as Haitian immigrants and 209,912 were categorized as persons of Haitian descent. The exact number of undocumented persons remains unclear.

On November 29, President Medina decreed a Regularization Plan for Foreigners. The plan stated a “special path to naturalization” would benefit foreigners who entered the country irregularly; foreigners who entered regularly, but exceeded time in country or violated the conditions of their stay; and minors registered on the civil registry who were born in the country to nonresident mothers. Civil society groups criticized elements of the plan and argued that the government did not take into consideration comments made by civil society or UN bodies.

The IACHR conducted a site visit to the Dominican Republic December 2-5 to observe the situation related to the rights to nationality, identity, and equal protection without discrimination, along with other related rights and issues. In its preliminary findings, the IACHR considered that the ruling implied an arbitrary deprivation of nationality and that the ruling had a discriminatory effect, strips nationality retroactively, and leads to statelessness for individuals not considered Dominican citizens.

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 economic services such as banks and loans, access to courts and judicial procedures, and ownership of land or property.

The Movement of Dominican-Haitian Women (MUDHA), an NGO formed in 1983 to defend Haitian immigrants and their descendants living in the bateyes, with particular emphasis on women and children’s rights, continued to compile personal accounts from 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, and certain types of employment, as well as to enter their children into the national registry. MUDHA identified more than 350 cases during the year, and in each of the cases, the JCE rejected their efforts.

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).

### **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 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: In May 2012 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 electoral votes of any single party, but the PLD won the popular vote with the support of coalition parties. The Organization of American States, which had an electoral observation mission present throughout the electoral process, noted several shortcomings in the legal framework governing the electoral process, including 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 2012 elections.

Observers witnessed various political party supporters purchasing identity cards and votes 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 Chamber of Deputies and city councils for women. There were four women in the 32-member Senate, 39 women in the 190-member Chamber of Deputies, three women in the cabinet, four women on the 17-seat Supreme Court of Justice, and three women on the 13-member CT. 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 limited steps to reduce opportunities for corruption, including requiring officials to sign a government code of ethics. The attorney general investigated other allegedly corrupt officials, but government corruption remained a serious problem and a key public grievance.

**Corruption:** The Office of the Special Attorney for the Prosecution of Administrative Corruption (PEPCA) reported 31 investigations from August 2012 through July 2013 for cases against lower-level and mid-level officials. This statistic includes four cases at the preliminary hearing stage, 15 concluded cases, and three cases which were appealed. Government officials were reluctant to investigate seriously and prepare for trial cases involving current and former senior officials.

The Public Ministry, led by the attorney general, was responsible for investigating and prosecuting corruption cases through PEPCA, formerly known as the Department for the Prevention of Administrative Corruption. The Chamber of Accounts contributed to government accountability through audits and investigations, which formed the basis of PEPCA corruption cases.

PEPCA, the Chamber of Accounts, and comptroller general operated independently and appeared free from political influence, although the lack of any successful prosecutions of high-profile public officials for corruption suggested a very low government commitment to fighting corruption. Civil society actively engaged in anticorruption campaigns through NGOs and the media. In August six leading civil society organizations protested against impunity and corruption in front of the National Palace for three weeks to demand corrupt officials be brought to justice. Government agencies had limited and often adversarial relationships with civil society members, and government officials continued to characterize corruption allegations as purely politically motivated. While government agencies complained of insufficient resources, the greatest hindrance to effective investigations was a lack of political will to apply the law and prosecute criminals, particularly high-level politicians.

In 2012 the attorney general asked the Supreme Court of Justice to vacate decisions under the previous administration to suspend the investigation of Senator Felix Bautista, accused of bribing Haitian President Michel Martelly and other officials to obtain lucrative Haitian post-earthquake construction contracts valued at 15 billion pesos (\$354 million), and Senator Amable Aristy Castro, accused of embezzling up to 250 million pesos (\$5.9 million) when he was secretary general of the Dominican Municipal League. Both senators vehemently denied the allegations. In September the president of the Chamber of Accounts announced that an audit of 19 accounts involving Senator Bautista revealed no indications of wrongdoing, although the bicameral commission continued to investigate allegations of embezzlement and secret contributions of 19.5 million pesos (\$460,000) to the failed presidential campaign of former Peruvian president Alejandro Toledo. In October the Supreme Court dismissed a lawsuit against former president Leonel Fernandez, alleging he diverted public funds and laundered money for the Global Foundation for Democracy and Development, which he heads.

Civil society organizations criticized the widespread practice of awarding government positions as political patronage and alleged that many civil servants, known as “empty bottles,” did not have to perform any job functions for their salary. A former diplomat publicly criticized the Foreign Ministry for having more than 1,500 officers abroad while only 25 percent of them were accredited and carried out official functions in their assigned country.

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 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.

Whistleblower Protection: The law provides protection to public and private employees for making internal disclosures or lawful public disclosures of evidence of illegality, such as the solicitation of bribes or other corrupt acts, gross waste or

fraud, gross mismanagement, abuse of power, or substantial and specific dangers to public health and safety. Authorities implemented the law effectively to protect whistleblowers from retaliation. The government maintained a hotline, accessible by phone or online, to denounce public corruption, crimes, or inappropriate behavior by government employees. According to the Office of Technology and Communications, which reports to the Office of the Presidency, through November 30, citizens made 1,455 complaints.

Financial Disclosure: 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, and there was no indication that any reports were verified for accuracy. The Public Ministry reported that, for the September 20, 2012-December 20, 2013 time period, it received 590 declarations. The General Directorate of Internal Revenue collected public revenue into a “single account,” a key transparency initiative to centralize the collection and disbursement of public resources. As part of this initiative, the government eliminated 2,832 of an estimated 6,000 public accounts, although government agencies with other sources of revenue kept the remaining 4,000 or more separate accounts, with little or no government oversight.

The General Directorate of Ethics and Governmental Integrity (DIGEIG) continued to operate with a strong political mandate but minimal results. In July investigative journalists publicly accused DIGEIG’s head, Marino Vinicio “Vincho” Castillo, of falsifying his financial disclosure forms and launching a “reign of terror” against his political enemies. Castillo was a prominent lawyer, president of the nationalist National Progressive Force party, and host of a weekly television program, in which he denounced the allegation and one of the journalists, who sued for libel.

In 2012 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. A UN Development Program

study, conducted at the request of the Chamber of Accounts and using their information, revealed systematic weaknesses and lack of transparency in local governments, with only 53 of 155 city halls and 36 of 230 municipal districts reporting their handling of public funds as required by law.

Public Access to Information: 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 is either free or the fee is 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. The Supreme Court of Justice 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. Although much information was easily available online, it was often inaccurate or inconsistent with other government reports. There was little consistency in determining what was public information and what was not, due to the lack of a single oversight agency, which also made it impossible to gather statistics on the number of requests for information received or the outcome of these requests. Under the Anticorruption Participatory Initiative, civil society organizations and government institutions conducted public outreach activities and public official training to encourage effective use of the law.

### **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 exception and faced occasional government harassment.

Government Human Rights Bodies: The constitution establishes the position of human rights ombudsman, and on May 13, the Senate appointed Zoila Martinez, former Santo Domingo district attorney, for a six-year term. 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. A human rights NGO described Martinez's appointment as a triumph

for the organizations involved in the human rights movement but noted she had not assumed an active role in her new position.

## **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 that discrimination occurred or made efforts to address the problem.

### **Women**

Rape and Domestic Violence: 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 (\$16.50 to \$5,780). The penalties for rape, including spousal rape, range from 10 to 15 years in prison and a fine of 100,000 to 200,000 pesos (\$2,360 to \$4,718). For cases that involve a vulnerable person or a child, or if rape occurred under other egregious circumstances, the penalty is 10 to 20 years in prison. The amended penal code punishes domestic violence with four to 10 years' imprisonment and a significant fine. When domestic violence causes the victim's incapacitation for more than 90 days, the offender faces a prison sentence of 10 to 20 years, while those causing permanent injury or damage face a maximum 30 years of imprisonment.

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, fear of retribution, and the perception that 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 survivors 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. The Gender Violence Unit at the National Police received 417 reports from victims of violence through September. The attorney general reported that from January through November, more than 60,000 gender-violence complaints were reported to authorities nationwide, compared with

70,000 complaints filed in 2011. Included in this figure were more than 9,000 complaints of sex crimes.

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 1,117 women lost their lives due to gender-based violence from January 2008 to October 2013. The Gender Violence Unit at the National Police reported 117 cases of femicide through September. In 2012 the National Police reported 162 cases for the year. The vast majority of survivors of violence never filed a complaint with the prosecutor general. The attorney general reported that from January to October, 140 women died as victims of domestic violence, compared with 160 deaths during this same period in 2012. Some examples of successful prosecution existed: On August 3, a court sentenced Freddy Antonio Sosa Vargas to 20 years in prison for killing his girlfriend, Belkys Collado, after a one-year investigation conducted by the Valverde district attorney in the Valverde province of Mao. Sosa Vargas shot and killed Collado in July 2012.

The press regularly published articles on domestic violence and femicide cases. On August 28, one newspaper reported on three cases that occurred August 26 in Boca Chica, Jarabacoa, and San Pedro de Macoris. In Boca Chica, Rafael Ramon Villar Bonilla stabbed his wife, Tapia Cepeda, 11 times and subsequently hanged himself from a tree. In Jarabacoa, Luis Tiburcio set his wife Yokati Cepeda on fire after she attempted to seize his motorcycle keys to prevent him from driving drunk. Cepeda suffered first- and second-degree burns. In San Pedro de Macoris, Victor del Carmen Rivera committed suicide after he shot and seriously injured his 17-year-old girlfriend Iliana Perez and her mother Fahana Perez. Both survivors received hospitalization, but police did not release additional information on the case. The families of all three victims asked authorities to intensify actions taken against aggressors to prevent future cases of domestic violence.

The Attorney General's Office oversees the specialized Violence Prevention and Attention Unit, which has 17 satellite offices in the 32 provinces in the country. At these offices survivors of violence can file criminal complaints, obtain free legal counsel, and receive psychological and medical attention. Police had instructions 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 to prevent contact between

the victim and the abuser. Despite these developments, women's organizations remained expressed concerned that the number of offices was insufficient.

In an additional step toward addressing the problem, the Attorney General's Office instructed all its officers throughout the country not to conciliate cases of violence against women and to continue judicial processes--even in cases in which victims withdraw charges. District attorneys were instructed to provide assistance and protection to victims of violence by referring them to appropriate institutions for legal, medical, and psychological counseling. Furthermore, the Attorney General's Office instructed all its officers that investigations and 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, which had limited resources, actively promoted equality and the prevention of violence against women through implementing education and awareness programs and the provision of training to other government ministries and offices. The ministry also promoted higher levels of female participation in the political life of the country.

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

Sexual Harassment: Sexual harassment in the workplace is a misdemeanor and carries a penalty of one year in prison and a fine of 5,000 to 10,000 pesos (\$116 to \$232); however, union leaders reported that the law was not enforced, and sexual harassment remained a problem. The Attorney General's Office reported sexual harassment was particularly prevalent in free trade zones (FTZs).

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. Social biases against and religious prohibitions on the use of modern methods of family planning existed. UNFPA research indicated that 73 percent of women ages 15-49 used a modern method of contraception. The Ministry of Health's Department of Epidemiology reported 149 maternal mortalities per 100,000 live births for the period January through November. A 2012 World Health Organization/UN Children's Fund/UNFPA/World Bank study estimated the maternal mortality ratio at 150 per 100,000 live births in 2012, a decrease of nine maternal mortalities since 2011. The slight improvement was attributed to increased access to reproductive and prenatal and postnatal health services, good health practices, and successful education and prevention programs. Although the UN estimated that skilled health personnel attended 95 percent of births 2012, there were women with limited access to adequate care, especially women of Haitian descent.

A high rate of pregnancies among adolescent girls remained a concern. In July the UNFPA estimated 22 percent of adolescent girls had been pregnant. The elevated pregnancy rates contributed to a high level of maternal mortality; the UNFPA found that 19 percent of maternal deaths occurred among adolescents. Other significant contributing factors to maternal and neonatal deaths were poor quality of care and lack of access to health services, as well as complications during pregnancy and delivery. 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 problems, which equally affected both men and women.

Discrimination: Although the law provides women and men the same legal rights, 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.). A child born abroad to a Dominican mother or father may also acquire citizenship. A child not registered at birth is undocumented until a late declaration is made, and there were limitations on late declarations. A 2009 report by the NGO Profamilia and UNESCO indicated that 13 percent of children under age 15 were not registered.

Education: The constitution guarantees free, compulsory public education through age 18. This provision, however, 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 register for high school, which discouraged some children from attending or completing school. Many 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. According to the most recent statistics available by the Ministry of Education, 84 percent of school-age children were enrolled in primary schools in 2008.

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 Attorney General’s Office reported that through November, it received more than 2,000 complaints of cases of statutory rape and 44 cases of incest. The law provides for removal of a mistreated child to a protective environment.

Local observers reported instances of child abuse being 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 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.

Forced and Early Marriage: The legal minimum age for marriage with parental consent is 16 for men and 15 for women. According to the latest available UN data, approximately 40 percent of women ages 20-24 were married before age 18; more than one-third married before age 15. A much smaller percentage of boys, only 9 percent, married before age 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 age 18. Penalties for statutory rape are 10 to 20 years in prison and a fine of 100,000 to 200,000 pesos (\$2,360 to \$4,720). 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 (\$2,360 to \$4,720). The press often reported on pedophilia cases. On June 24, authorities arrested Francisco Javier Occis Reyes, a Catholic priest, and placed him in preventive custody for sexual abuse of a minor.

The commercial sexual exploitation of children generally occurred in tourist locations and major urban areas. 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 composed primarily of Haitians or Dominicans of Haitian descent (see section 2.d.). A continuing problem was child trafficking of Haitian children in the Dominican Republic. In May authorities rescued a group of 58 Haitian child-trafficking victims in Santo Domingo. The authorities also arrested more than 20 persons suspected of being members of a ring dedicated to the trafficking of Haitian children.

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

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 report on compliance at [http://travel.state.gov/abduction/resources/congressreport/congressreport\\_4308.html](http://travel.state.gov/abduction/resources/congressreport/congressreport_4308.html), as well as country-specific information at [http://travel.state.gov/abduction/country/country\\_3781.html](http://travel.state.gov/abduction/country/country_3781.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 and access to basic services. It also specifies that each ministry should collaborate with the National Disability Council to implement these provisions. Authorities worked to enforce these provisions, but a gap in implementation persisted. On September 18, the Central Electoral Board president Roberto Rosario announced a plan to ensure that ramps and related infrastructure were completed at all voting polls by the May 2016 national elections.

In July the Ministry of Public Works and Communications constructed a curb and sidewalk along a major street, which received negative press coverage. The 10-inch-high, three-mile-long curb made it difficult for people with mobility disabilities to navigate and included only five wheelchair-accessible ramps, primarily intended for vehicle use. The ministry explained the curb's significant height was designed to prevent vehicles from parking on the sidewalk, with little

consideration given to the individuals the project would affect. The National Disability Council demanded the construction of additional ramps accessible by all persons, but the ministry had not responded by October.

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, but it was not consistently enforced. Persons with disabilities attended school at all levels; however, resources to meet their specific needs were often not sufficient. First Lady Candida Montilla de Medina began the construction of several Centers for Integrated Care for Children with Disabilities and opened the first center in Santo Domingo on November 29.

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

Discrimination against persons with mental disabilities was common across all public and private sectors. Few resources were dedicated to those with mental disabilities.

### **National/Racial/Ethnic Minorities**

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

There were also strong prejudices against Haitians, which disadvantaged many Haitians and Dominicans of Haitian descent, as well as other foreigners of dark complexion. Officials continued to deny basic education, health, and documentation services to persons of Haitian descent. Few government officials acknowledged the existence of this discrimination; others regularly and publicly denied that it existed.

Local NGOs reported incidents where darker-skinned persons were denied access or services in banks, service in restaurants and stores, entry into nightclubs, enrollment in private schools, and birth registration in hospitals.

On May 1, two Dominican doctors alleged “La Chismosa” bar located in a trendy area in Santo Domingo denied them entry because of the color of their skin. This case was the second accusation brought against the bar, after another man who was refused entry because of his complexion filed a lawsuit against the owners. The bar’s owners denied allegations that they discriminated against darker-skinned persons and delivered documents and photos to the Attorney General’s Human Rights Unit to dispute the allegations.

Haitians continued to immigrate to the country in search of economic opportunity and relief. The DGM, however, 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 Keder Lafortune, spokesperson for Haitian Immigrants in the Dominican Republic, raids on Haitians living in the country occurred in a systematic way and outside parameters afforded by the 2010 constitution. According to Lafortune, authorities mistreated pregnant women and children and targeted them for deportation.

According to local NGOs, migration officials and security forces sometimes confiscated and destroyed expellees’ residency documents and passports despite standing government orders to respect the human rights of the expellees. In some cases expellees with appropriate legal documents received permission to return. 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 discrimination in such areas as health care, education, and employment. LGBT individuals often faced intimidation and harassment. Transgender individuals and lesbians were particularly at risk of being victims of discrimination. NGOs reported that LGBT persons were reluctant to file official charges or complaints due to fear of reprisals or humiliation. In situations in which LGBT persons filed complaints, many chose to drop the charges.

The transgender community reported widespread discrimination and violence. According to NGOs, in the 18 transgender death cases reported and publicized in the previous four years, the judicial system prosecuted one perpetrator.

On August 13, six LGBT persons were targeted during a street party organized by the LGBT community in Laguna Gri Gri, on the northern coast. Several reports indicated victims might have been targeted for involvement in criminal activities, rather than merely their sexual orientation. One was killed and six were injured. The aggressors identified the victims by name, but public response to the incident indicated similar incidents were common.

According to various reports, LGBT individuals were arrested without reason, not hired, denied access to rent/own homes, and denied access to health services. LGBT NGOs reported discrimination and attacks were more prevalent outside of Santo Domingo. On August 18, NGOs and the press reported that two LGBT persons were targeted in a public space, detained without charges, and verbally abused by police in Santo Domingo's colonial zone. They were released after a 14-hour detention. NGOs reported several cases of LGBT students expelled from school for no legitimate reason. Members of the LGBT community reported that individuals continued to be denied health services in both private and public hospitals.

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. Formal activities of LGBT organizations, however, 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. In June, however, the LGBT community successfully held a gay pride parade and solidarity concert, during which civil society and LGBT organizations demanded respect for their human rights and requested that authorities discontinue discriminatory practices. Participants encountered some resistance from police during the parade.

From November 29 to December 8, the LGBT community celebrated Santo Domingo Outfest, the country's fourth annual LGBT international film festival. Outfest was an initiative created to generate debate about the realities of LGBT issues in society through the medium of film. The festival, which sought to promote human rights and social coexistence, was organized by a volunteer network with the support of various other local and international organizations.

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

On a number of occasions, citizens attacked and sometimes killed alleged criminals in vigilante-style reprisals for theft, robbery, or burglary. Observers attributed these incidents 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 41,000 persons with HIV/AIDS in the country.

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 provides for the right of workers, with the exception of military and police, to form and join independent unions, conduct legal strikes, and bargain collectively; however, it places several restrictions on these rights. For example, trade union rights are restricted by the requirement that a union must 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.

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 FTZs.

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 being part of a committee seeking to form a union.

The government inconsistently enforced laws related to freedom of association and collective bargaining. Penalties under law for unfair labor practices that are contrary to freedom of association range from seven to 12 times the minimum wage, which can increase by 50 percent if the employer repeats the act. Noncompliance with a collective bargaining agreement is punishable with a fine equaling three to six times the minimum wage. Such fines were insufficient to deter employers from violating worker rights and were rarely enforced. Labor

inspectors did not consistently investigate allegations of violations of freedom of association and collective bargaining rights. In the sugar sector, for example, labor inspection reports provided by the government, which covered inspections from 2007 through February 2012, reflected no evidence of inspectors asking workers or supervisors about any issues related to freedom of association, the right to organize, union membership or activity, or collective bargaining though workers separately reported some instances of employers threatening them with firing or loss of housing if they were to meet with fellow co-workers.

The process for dealing with disputes through labor courts was often long, with cases remaining pending for several years. NGOs and labor federations 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. 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 their legal status.

Companies reportedly fired workers for union activity and blacklisted trade unionists. According to union leaders, companies including ACS-XERO and El Primero SJ 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. Formal strikes were not common.

Enterprises continued to use 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 to go through 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.

FEDOTRAZONAS reported that unions were active in only 35 businesses out of approximately 550 companies in the FTZs, and only six unions had established collective bargaining rights. 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. For example, FEDOTRAZONAS reported that the company Business Process Solutions discharged union leader Lixon Perez and subsequently fired two other union leaders as well as eight union members. The company's initial request that the court approve Perez's dismissal for alleged misconduct was dismissed, but it was later granted after the company won its appeal in November. The National Confederation of Trade Unity's legal team alleged judicial corruption in the appeals case.

In 2012 Frito Lay contested its trade union's request for collective bargaining. The company allegedly took steps to undermine the union by selectively firing union members as well as using subcontracted 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 continued to negotiate a collective agreement. During the year Frito Lay's general manager reportedly engaged with workers at union activities and allowed the union to use company bulletin boards, with prior approval, to post information. Allegations continued, however, of selective firings as well as reports of health and safety concerns and 60-hour workweeks without overtime pay for company subcontractors.

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. The Public Report of Review of a submission (2011-03) under the Dominican Republic-Central America-U.S. Free Trade Agreement (CAFTA-DR) identified similar concerns among sugar sector workers. Multiple labor unions represented Haitians working in the formal sector; however, these unions were not influential.

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

The law prohibits all forms of forced or compulsory labor. The law prescribes penalties for forced labor of up to 20 years' imprisonment with fines; such penalties were sufficiently stringent. 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.

The CAFTA-DR Public Submission Report released in September noted findings of apparent and potential violations of labor law in the sugar sector, including with respect to a prohibition on the use of any form of forced or compulsory labor. The report also identified numerous indicators of forced labor in the sugar sector, including forced overtime, induced indebtedness, deception, false promises about terms of work, and withholding and nonpayment of wages.

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 14 years of age and places restrictions on the employment of children under age 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 work selling alcohol, certain work in the hotel industry, the handling of cadavers, and various tasks involved in the production of sugarcane such as planting, cutting, carrying, lifting sugarcane, or handling the bagasse. Firms employing underage children are subject to fines and legal sanctions.

The Ministry of Labor in coordination with the National Council for Children and Adolescents (CONANI) is responsible for enforcing child labor laws. The law provides for penalties for child labor violations, including fines and jail sentences. While the ministry and CONANI generally 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 2012 the government 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 that aimed to eliminate the worst forms of child labor in the country by 2015 and all other types of child labor 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 windows 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 <http://www.dol.gov/ilab/programs/ocft/tda.htm>.

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

In July the tripartite National Salary Commission raised the minimum wage by 14 percent for workers outside the FTZs. Through November, the commission continued to debate whether to raise the minimum wage in the FTZs. There were 14 different minimum wages, depending on the industry. The minimum wage for workers in FTZs was 7,220 pesos (\$170) per month. The minimum wage for workers outside the zones ranged from 6,880 pesos (\$162) to 11,292 pesos (\$265)

per month. The minimum wage for the public sector was 5,117 pesos (\$120) per month. The daily minimum wage for agricultural workers was 234 pesos (\$5.50) based on a 10-hour day, with the exception of sugarcane field workers who received 129 pesos (\$3.05) based on an 8-hour workday. Minimum wage provisions cover all workers, including migrants. Although no official estimate of the poverty income level was available, the Worker Rights Consortium estimated the living wage was more than 18,000 pesos (\$456) per month, while a group of labor confederations calculated a “reasonable” total for a family of four at 27,000 pesos (\$635) monthly.

The law establishes a standard work period of 44 hours per week, and while agricultural workers are exempt from this limit, in no case may the workday 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 states employees can work a maximum of 80 hours of overtime over three months. The labor code covers domestic workers but does not provide for them payment of notice, severance, or bonuses. Domestic workers are entitled to two weeks’ paid vacation after one year of continuous work as well as a Christmas bonus equal to one month’s wage. 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. By regulation, employers are obligated to protect employees from risks at work, and should ensure the safety and health of employees in all aspects related to the job.

Both the Social Security Institute and the ministry had a small corps of inspectors charged with enforcing standards. The Ministry of Labor employed 200 labor inspectors and reported 4,282 labor violations from January through October. Penalties for nonpayment of wages and safety and health violations ranged between three and six times the minimum wage, but were insufficient to deter violations and rarely enforced, and the ministry did not always enforce the minimum wage. 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. In addition the CAFTA-DR Public Submission Report identified procedural and methodological shortcomings in the inspection process with respect to the sugar sector that include: interviewing few or no workers; failing to discuss topics related to labor law compliance with workers; conducting worker interviews with employer representatives present;

lacking inspectors with language skills, particularly Creole, necessary to communicate effectively with workers; failing to follow up on allegations of labor law violations made by workers during the inspection process; and failing to conduct follow-up inspections to verify remediation of violations identified.

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 continued the practice of paying every eight days, a biweekly salary with the 4x4 schedules, instead of every seven days, a weekly salary with a standard 44-hour schedule. These practices resulted in a loss of wages for workers, as they were not compensated for the extra hours worked.

According to the Central Bank, approximately 57 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. Sugarcane 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 (\$3.76-\$7.05). Less able-bodied workers, who were often older, were paid only for the amount of cane they cut, even if the amount was less than the minimum wage. During the six-month off-season, many workers in sugar plantations remained in their communities and worked part-time jobs clearing land or cleaning sugarcane. Such workers reported that they often were not paid the legally mandated minimum wage.

Conditions for agricultural workers were poor. Many workers worked long hours, often 12 hours per day and seven days per week, 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. In addition, many sugarcane workers reported that their employers did not provide them with basic safety equipment, including gloves and boots. Sugarcane workers often did not receive

medical services due to the lack of documentation, even though deductions were taken from their pay.

Companies did not regularly implement workplace safety and health regulations. For example, in a study on the local branch of Frito Lay company, the National Confederation of Trade Unions Unity reported unsafe and inadequate health and safety conditions, including lack of appropriate work attire and safety gear; vehicles without airbags, first aid kits, properly functioning windows, or air conditioning; inadequate ventilation in work spaces; an insufficient number of bathrooms; and unsafe eating areas.

During the year there were accidents that caused injury and death to workers. According to the Construction Worker's Federation there were more than 1,000 reported accidents during the year, although they noted that most accidents went unreported. Although comprehensive data were not available, the Ministry of Labor closed one construction site due to lack of compliance with safety regulations after a migrant worker fell to his death on September 16.