UNCLASSIFIED
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SUBJECT: FIRST DRAFT SUBMISSION OF DOMINICAN REPUBLIC HUMAN RIGHTS REPORT

E.O. 12958: N/A
TAGS: PGOV, PREL, UNGA, DR, PHUM, CU

1. SENSITIVE BUT UNCLASSIFIED -- NOFORN -- ENTIRE TEXT.

2. FOLLOWING IS THE 1997 COUNTRY HUMAN RIGHTS REPORT FOR THE DOMINICAN REPUBLIC.

3. THE CONSTITUTION PROVIDES FOR A POPULARLY ELECTED UNCLASSIFIED
PRESIDENT AND A BICAMERAL CONGRESS. PRESIDENT LEONEL FERNANDEZ OF THE DOMINICAN LIBERATION PARTY CAME TO OFFICE IN AUGUST 1996 AFTER A FREE AND FAIR ELECTION. THE SOCIAL CHRISTIAN REFORMIST AND DOMINICAN REVOLUTIONARY PARTIES DOMINATE THE TWO LEGISLATIVE CAMERAS. THE GOVERNMENT CONTINUED AN OVERHAUL OF THE JUDICIARY, WHICH HAS BEEN HIGHLY POLITICIZED, BY OVERSEEING THE SELECTION OF A NEW SIXTEEN MEMBER SUPREME COURT THROUGH A TRANSPARENT AND HIGHLY PARTICIPATORY PROCESS.


THE ECONOMY, ONCE HEAVILY DEPENDENT ON SUGAR AND OTHER AGRICULTURAL EXPORTS, HAS DIVERSIFIED; TOURISM AND FREE TRADE ZONES (FTZ'S) ARE NOW MAJOR SOURCES OF INCOME AND EMPLOYMENT. REMITTANCES FROM ABROAD PROVIDE AN ESTIMATED 10 PERCENT OF THE $1,600 PER CAPITA GROSS DOMESTIC PRODUCT. STATE-OWNED FIRMS SUCH AS THE STATE SUGAR COUNCIL (CEA), THE CORPORATION FOR STATE ENTERPRISES, AND THE DOMINICAN ELECTRICITY CORPORATION HAVE IMPEDED ECONOMIC GROWTH BECAUSE OF POOR FINANCIAL AND ADMINISTRATIVE PRACTICES.
THE GOVERNMENT'S HUMAN RIGHTS RECORD IMPROVED DURING 1997, ALTHOUGH SERIOUS ABUSES REMAIN. PRINCIPAL HUMAN RIGHTS PROBLEMS INCLUDE CONTINUING INSTANCES OF EXTRAJUDICIAL KILLINGS BY POLICE, ARBITRARY DETENTION AND BEATINGS OF SUSPECTS, SECURITY SERVICES' REFUSAL TO OBEY JUDICIAL ORDERS, INTERFERENCE WITH THE JUDICIARY, JUDICIAL CORRUPTION, MALADMINISTRATION OF THE COURTS, POOR PRISON CONDITIONS, DETENTION OF SUSPECTS' RELATIVES, ABUSES OF HAITIAN MIGRANTS AND THEIR DESCENDANTS, COMPULSORY AND CHILD LABOR, AND IMPEDIMENTS TO FREE ASSOCIATION. WORKERS IN THE STATE-OWNED SUGAR PLANTATIONS AND MILLS CONTINUED TO WORK UNDER DEPLORABLE CONDITIONS. DISCRIMINATION, VIOLENCE AGAINST WOMEN, AND PROSTITUTION ARE ALSO SERIOUS PROBLEMS.

RESPECT FOR HUMAN RIGHTS

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

A. POLITICAL AND OTHER EXTRAJUDICIAL KILLINGS

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THERE WERE NO REPORTS OF POLITICAL KILLINGS, BUT THERE WERE ABOUT 50 REPORTS OF EXTRAJUDICIAL KILLINGS BY THE SECURITY FORCES. HUMAN RIGHTS OBSERVERS AGREE THAT SUCH ABUSES OCCURRED LESS FREQUENTLY IN 1997 THAN IN 1996, BUT THAT SERIOUS PROBLEMS REMAIN. IN JANUARY, THE POLICE BEAT A MAN TO DEATH WHILE HE WAS PAINTING HIS HOUSE NEARBY A POLITICAL DEMONSTRATION IN THE CAPITAL; THE POLICE TOOK THE CORPSE TO THE HOSPITAL AND STATE PHYSICIANS REMOVED THE CORNEAS FROM ITS EYES WITH NO LEGAL CONSENT. IN FEBRUARY IN SANTO DOMINGO, POLICE FATALLY SHOT A HAITIAN WOODWORKER IN HIS WORKSHOP AFTER HE DECLINED TO PAY A WEEKLY BRIBE DEMANDED BY THE OFFICERS. WHEN THE POLICE CAME TO REMOVE SQUATTERS FROM A PLOT OF LAND IN HERRERA, SANTO DOMINGO IN APRIL, THEY SLAPPED, KICKED AND BEAT ONE SQUATTER WHILE FORCING HIM TO PICK UP TRASH, WITH MANY WITNESSES AND REPORTERS PRESENT. HE LATER DIED OF THE BEATINGS. IN MAY, THE PRESS AND HUMAN RIGHTS GROUPS REPORTED THAT DNCD OFFICERS
IN NAGUA SHOT TO DEATH A SUSPECT WHILE TRYING TO EXTRACT TESTIMONY FROM HIM ABOUT ALLEGED DRUG OFFENSES. NO OFFICIALS WERE PUNISHED FOR THESE ACTS.

THE AUTHORITIES MADE SOME PROGRESS IN AN INVESTIGATION OF THE 1975 MURDER OF JOURNALIST ORLANDO MARTINEZ.
PROSECUTORS INDICTED FIVE INDIVIDUALS -- INCLUDING THREE FORMER GENERALS -- WHO WAIT TRIAL.

MILITARY COURTS TRY MILITARY PERSONNEL CHARGED WITH EXTRAJUDICIAL KILLINGS. POLICE TRIBUNALS HAVE ON OCCASION TRIED, CONVICTED, AND SENTENCED PERSONNEL CHARGED WITH EXTRAJUDICIAL KILLINGS. POLICE OFFICERS MAY BE TRIED BY POLICE COURTS OR REMANDED TO CIVILIAN COURT UNCLASSIFIED

B. DISAPPEARANCE

THERE WERE NO REPORTS OF POLITICALLY MOTIVATED DISAPPEARANCES.


C. TORTURE AND OTHER CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT
TORTURE AND OTHER FORMS OF PHYSICAL ABUSE ARE ILLEGAL, BUT INSTANCES OF SECURITY SERVICE PERSONNEL PHYSICALLY ABUSING DETAINES CONTINUED. LACK OF SUPERVISION, TRAINING, AND ACCOUNTABILITY THROUGHOUT THE LAW ENFORCEMENT AND CORRECTIONS SYSTEMS EXACERBATE THE PROBLEM OF PHYSICAL ABUSE. HUMAN RIGHTS GROUPS AND THE PRESS REPORTED NUMEROUS INCIDENTS OF PHYSICAL ABUSE OF DETAINES WHILE IN CUSTODY. EXAMPLES OF SUCH INCIDENTS INCLUDED THE BRUTALIZING OF AN INMATE AND HIS WIFE AT MODEL DE NAJAYO PRISON WHILE THE POLICE TRIED TO LEARN OF AN ALLEGED PLAN TO HELP ANOTHER PRISONER ESCAPE, AND THE EIGHT-DAY DETENTION AND TORTURING OF A TRUCKDRIVER, NEVER FORMALLY ACCUSED OF A CRIME, BY POLICE IN SANTO DOMINGO. THEREWERE MULTIPLE PRESS REPORTS AND ALLEGATIONS FROM EVERAL HUMAN RIGHTS GROUPS THAT THE DNCD LEADERSHIP WAS PRESENT DURING THE TORTURE OF PRISONERS. THE GOVERNMENT DID NOT PUNISH THE PERPETRATORS OF THESE ABUSES.

DNCD AND SOME MID- AND LOWER-LEVEL POLICE AUTHORITIES RESISITED EFFORTS OF CIVILIAN AUTHORITIES TO PROVIDE ADEQUATE SUPERVISION OF THE INVESTIGATION PROCESS AS REQUIRED BY DOMINICAN LAW. THE PROSECUTOR'S OFFICE PLACED LAWYERS IN TWELVE HIGH-VOLUME POLICE STATIONS AND SEVERAL DNCD OFFICES TO MONITOR THE INVESTIGATIVE PROCESS. IN SEPTEMBER, HOWEVER, THE PROSECUTOR'S OFFICE OF SANTO DOMINGO WITHDREW FIVE OF THESE LAWYERS FROM THE DNCD. THE CHIEF PROSECUTOR CLAIMED THESE LAWYERS HAD NOT BEEN PERMITTED BY DNCD OFFICIALS TO OBSERVE CRIMINAL INTERROGATIONS. THE DNCD ADDED NEW HUMAN RIGHTS TRAINING COURSES FOR THEIR OFFICERS IN SEPTEMBER.

CIVILIAN PROSECUTORS SOMETIMES FILE FELONY CHARGES AGAINST POLICE AND MILITARY OFFICIALS RELATED TO PHYSICAL ABUSE, TORTURE AND RELATED CRIMES. IN THE PAST YEAR XX

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CASES HAVE BEEN REFERRED BY THE POLICE TO THE PROSECUTOR’S OFFICE, AND THE PROSECUTOR HAS UNILATERALLY FILED CHARGES AGAINST XX POLICE OFFICIALS AND XX MILITARY OFFICIALS. ALTHOUGH PUNISHMENT MAY RANGE UP TO 5 YEARS' INCARCERATION FOR SERIOUS CASES OF ABUSE, AS A RULE JUDGES HAVE SENTENCED CONVICTED OFFICIALS TO SENTENCES RANGING FROM A 1-MONTH SUSPENSION TO 6 MONTHS' INCARCERATION.

PRISON CONDITIONS SHOWED IMPROVEMENT OVER THE PREVIOUS YEAR, BUT REMAINED SUBSTANDARD. PRISONS ARE GROSSLY OVERCROWDED, AND HEALTH AND SANITARY CONDITIONS ARE POOR. CONDITIONS AT LA VICTORIA PRISON POSE A SERIOUS THREAT TO LIFE AND HEALTH; AS MANY AS 3,500 INMATES WERE HELD THERE AT ONE POINT DURING THE YEAR, ALTHOUGH IT WAS ORIGINALLY DESIGNED FOR 800. NAJAYO PRISON WAS BUILT FOR 700, YET CONTAINED 2,400 PRISONERS FOR MOST OF THE YEAR. MEDICAL CARE SUFFERS FROM A LACK OF SUPPLIES AND AVAILABLE PHYSICIANS. PRISONERS IMMOBILIZED BY AND DYING OF AIDS ARE NOT TRANSFERRED TO A HOSPITAL.

THE GOVERNMENT HAS BEGUN A PRISON RENOVATION PROGRAM. IN APRIL, THE GOVERNMENT OPENED THE "ALASKA" WING AT LA VICTORIA PRISON WITH IMPROVED SANITATION AND MORE
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DODE-00 SRPP-00 DS-00 EB-00 FBIE-00 UTED-00 H-01
SSA-01 TEDE-00 INR-00 LAB-01 L-01 ADS-00 M-00
NSAE-00 NSCE-00 OIC-02 OMB-01 OPIC-01 PA-00 PC-05
PM-00 PRS-00 P-00 CIO-00 SP-00 STR-00 TRSE-00
T-00 USIE-00 PMB-00 DSCC-00 PRM-10 PRME-01 DRL-04
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COMFORTABLE FACILITIES. THE GOVERNMENT BEGAN TO DEPLOY
A NEW PRISON POLICE FORCE IN SEPTEMBER, WHICH, THROUGH AN
INTEGRATION OF SOLDIERS, LAWYERS, SOCIAL WORKERS AND
PSYCHOLOGISTS, OFFERED INCREASED OPPORTUNITIES FOR
REHABILITATION. THE FIRST EVER PRISON SCHOOL WAS ALSO
OPENED AT NAJAYO PRISON IN SEPTEMBER, WHERE 200 PRISONERS
SIGNED UP FOR CLASSES IN SEVEN SUBJECTS.

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THE GOVERNMENT MADE SOME PROGRESS SEPARATING JUVENILE
FROM ADULT OFFENDERS, AND REMOVED ALL MINORS FROM LA
VICTORIA. IN AUGUST, TEN JUVENILE PRISONERS SUCCESSFULLY
PROTESTED A TRANSFER TO THE MONTE PLATA FACILITY, WHERE
MANY VIOLENT OFFENDERS ARE HOUSED AND SEVERAL PRISON
RIOTS OCCURRED DURING 1997. IN OTHER PRISONS, AUTHORITIES

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THE GOVERNMENT PERMITS PRISON VISITS BY INDEPENDENT HUMAN RIGHTS MONITORS.

D. ARBITRARY ARREST, DETENTION, OR EXILE

THE CONSTITUTION STIPULATES THAT AUTHORITIES MAY DETAIN SUSPECTS FOR A MAXIMUM OF 48 HOURS BEFORE ARRAIGNMENT, AFTER WHICH THEY MUST CHARGE OR RELEASE THEM. HOWEVER, IN SPECIAL CIRCUMSTANCES, SUSPECTS MAY BE DETAINED FOR LONGER PERIODS WITH THE APPROVAL OF THE PROSECUTOR’S OFFICE. SECURITY FORCES CONTINUED TO VIOLATE CONSTITUTIONAL PROVISIONS BY DETAINING SUSPECTS FOR "INVESTIGATION" OR "INTERROGATION" BEYOND THE PRESCRIBED 48-HOUR LIMIT. SECURITY FORCES TRADITIONALLY DETAIN ALL SUSPECTS AND WITNESSES IN A CRIME AND USE THE INVESTIGATIVE PROCESS TO DETERMINE WHICH ONES ARE INNOCENT AND MERIT RELEASE AND WHICH ONES THEY SHOULD CONTINUE TO HOLD. AFTER THE PROSECUTOR’S OFFICE PLACED ITS LAWYERS IN SEVERAL POLICE STATIONS, THIS PRACTICE OF ARBITRARY DETENTION WAS CURTAILED IN THOSE PRECINCTS.

THE DNCD AND NATIONAL POLICE CONTINUED TO ENGAGE IN INDISCRIMINATE ROUNDUPS OF PEOPLE IN POORER NEIGHBORHOODS. THE SECURITY FORCES ALSO CONTINUED TO DETAIN RELATIVES AND FRIENDS OF SUSPECTED CRIMINALS WITH THE AIM OF FORCING THE SURRENDER OF SUSPECTS. THE PROSECUTOR’S OFFICE CHALLENGED THE DNCD AND NATIONAL POLICE TO CURB THESE ABUSES, BUT HUMAN RIGHTS GROUPS CONTENT THAT MINIMAL PROGRESS WAS ACHIEVED.

E. DENIAL OF FAIR PUBLIC TRIAL

ALTHOUGH THE CONSTITUTION STIPULATES AN INDEPENDENT JUDICIARY, IN PRACTICE, INTERFERENCE FROM OTHER PUBLIC AND PRIVATE ENTITIES, INCLUDING THE EXECUTIVE BRANCH, HAS SUBSTANTIALLY UNDERMINED JUDICIAL INDEPENDENCE. FOR THE FIRST TIME, MEMBERS OF THE SUPREME COURT WERE CHOSEN IN AUGUST BY THE NATIONAL COUNCIL OF THE JUDICIARY,
UNDERSCORING A NEW INDEPENDENCE FROM THE EXECUTIVE AND LEGISLATIVE BRANCHES. UNDER THE 1994 CONSTITUTIONAL AMENDMENTS, THE SUPREME COURT IS RESPONSIBLE FOR NAMING ALL LOWER-COURT JUDGES IN ACCORDANCE WITH A JUDICIAL CAREER LAW, PENDING IN CONGRESS.

THE NEW SUPREME COURT BEGAN TO COMBAT JUDICIAL CORRUPTION BY ORGANIZING AN INSPECTIONS AND INVESTIGATIONS UNIT. THE HIGH COURT DISMISSED 18 JUDGES FOR CORRUPTION AND REFERRED XX JUDGES FOR CRIMINAL PROSECUTION ON CORRUPTION CHARGES.

THE CONSTITUTION PROVIDES FOR PUBLIC TRIAL. HOWEVER, DURING THE CLOSED PRE-TRIAL INSTRUCTIONAL OR INVESTIGATIVE PHASE OF THE CRIMINAL JUSTICE PROCESS, THE STATE TRADITIONALLY PROVIDED NO COUNSEL TO IMPRISONED UNCLASSIFIED

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INDIGENTS. FOR THE FIRST TIME, THE NEW SUPREME COURT INITIATED A FULL-TIME PUBLIC DEFENDER PROGRAM IN DECEMBER. PREVIOUSLY, THE STATE CONTRACTED OUT TO PRIVATE PRACTICE LAWYERS FOR PUBLIC DEFENDER SERVICES IN FELONY CASES. THE COURTS RARELY APPOINT DEFENSE LAWYERS IN MISDEMEANOR CASES.

THE JUDICIAL SYSTEM IS PLAGUED BY CHRONIC DELAYS. MANY SUSpects SUFFER LONG PRETRIAL DETENTION; ACCORDING TO THE GOVERNMENT, APPROXIMATELY 88 PERCENT OF THE PRISON POPULATION IS AWAITING TRIAL. PRE-TRIAL DETENTION AVERAGES 29 MONTHS IN THE INSTRUCTIONAL PHASE AND ANOTHER 9 MONTHS IN THE TRIAL PHASE. IN SEPTEMBER, THE GOVERNMENT BEGAN A FIVE-YEAR PROGRAM TO MODERNIZE COURTS IN THE NATIONAL DISTRICT, BUT THE PROGRAM DID NOT YET MAKE AN IMPACT ON THE JUDICIAL BACKLOG.

DUE TO THE INEFFICIENCY OF THE COURTS, THE GRANTING OF BAIL HAS BECOME THE DE FACTO CRIMINAL JUSTICE SYSTEM. AS A RULE, DEFENDANTS AWARDED BAIL RARELY FACE AN ACTUAL TRIAL; THOSE DENIED BAIL MAY SERVE THEIR ENTIRE SENTENCES WHILE AWAITING TRIAL. THE DOMINICAN ASSOCIATION OF LAWYERS ESTIMATED IN AUGUST THAT SIXTY PERCENT OF UNTRIED INMATES HAD ALREADY SERVED MORE TIME IN PRISON THAN THEY
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WOULD HAVE IF TRIED AND CONVICTED. AFTER BEING ACQUITTED OF CRIMES, PERSONS SOMETIMES REMAIN INCARCERATED FOR
SEVERAL MONTHS. DECONTROLLED/UNCLASSIFIED

IN JANUARY, THE GOVERNMENT PASSED A LAW PARDONING THE FINES OF INSOLVENT PRISONERS. MANY PRISONERS WERE RELEASED WHO HAD SERVED MORE TIME IN PRISON THAN REQUIRED, BUT LACKED THE FUNDS TO PAY THE MONETARY UNCLASSIFIED

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PORTION OF THEIR SENTENCE. ACCORDING TO GOVERNMENT STATISTICS, ANOTHER 600 PRISONERS COULD BE IMMEDIATELY RELEASED IF A DECREE WERE ISSUED PARDONING INMATES WHO HAD NOT BEEN TRIED BUT HAD ALREADY SERVED THE MAXIMUM POSSIBLE SENTENCE FOR THE ACCUSED CRIME.

MILITARY OR POLICE COURTS HAVE JURISDICTION OVER MEMBERS OF THE SECURITY FORCES. WITH INCREASING FREQUENCY DURING 1997, MILITARY OR POLICE BOARDS REMANDED CASES INVOLVING CAPITAL CRIMES (MURDER, RAPE, ETC.) TO CIVILIAN COURTS FOR REVIEW AFTER DISHONORABLE DISCHARGE.

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

GENERALLY, THE GOVERNMENT DOES NOT ARBITRARILY USE WIRETAPPING OR OTHER SURREPTITIOUS METHODS TO INTERFERE WITH THE PRIVATE LIVES OF PERSONS OR FAMILIES AND OBSERVES CONSTITUTIONAL PROVISIONS AGAINST INVASION OF THE HOME. THE AUTHORITIES MAY ONLY SEARCH A RESIDENCE IN THE PRESENCE OF A PROSECUTOR OR AN ASSISTANT PROSECUTOR, OR IN CASES OF "HOT PURSUIT," OR WHERE THERE IS REASON TO BELIEVE THAT A CRIME IS IN PROGRESS.

THE SECURITY FORCES CONTINUED TO DETAIN RELATIVES AND FRIENDS OF SUSPECTS TO TRY TO COMPEL SUSPECTS TO SURRENDER (SEE SECTION 1.D.).

SECTION 2 RESPECT FOR CIVIL LIBERTIES, INCLUDING:

A. FREEDOM OF SPEECH AND PRESS UNCLASSIFIED

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THE LAW PROVIDES FOR THESE FREEDOMS, AND THE GOVERNMENT RESPECTS THEM IN PRACTICE.

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

THE GOVERNMENT CONTROLS ONE TELEVISION STATION BUT NO MAJOR NEWSPAPERS. NEWSPAPERS FREELY REFLECT INDEPENDENT AND OPPOSITION POINTS OF VIEW. ALTHOUGH JOURNALISTS OPERATE IN A RELATIVELY TOLERANT ENVIRONMENT, SOME SELF-CENSORSHIP EXISTS FOR FEAR OF RETALIATION, RANGING FROM LOSS OF INFLUENCE TO LOSS OF EMPLOYMENT.

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

B. FREEDOM OF PEACEFUL ASSEMBLY AND ASSOCIATION

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

C. FREEDOM OF RELIGION

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

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

CITIZENS FACE NO UNUSUAL LEGAL RESTRICTIONS ON TRAVEL WITHIN OR OUTSIDE THE COUNTRY.

HAITIANS CONTINUE TO COME IN GREAT NUMBERS TO THE DOMINICAN REPUBLIC, SOME LEGALLY BUT MOST UNDOCUMENTED, IN SEARCH OF ECONOMIC OPPORTUNITY. THROUGHOUT THE YEAR, SECURITY FORCES, PARTICULARLY THE ARMY, DEPORTED
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UNCLASSIFIED HAITIAN NATIONALS BELIEVED TO BE IN THE COUNTRY ILLEGALLY. IN JANUARY AND FEBRUARY, INTERNATIONAL OBSERVERS ESTIMATED THAT THE GOVERNMENT DEPORTED BETWEEN 15,000 AND 25,000 HAITIANS. DEPORTATIONS CONTINUED ON A DAILY BASIS THROUGH THE REST OF THE YEAR, BUT IN MORE MODEST NUMBERS. IN MANY CASES, THE GOVERNMENT DENIED THOSE DEPORTED THE OPPORTUNITY TO DEMONSTRATE WHETHER THAT THEY LEGALLY RESIDED IN THE UNCLASSIFIED DOMINICAN REPUBLIC.

ACCORDING TO A 1984 LAW, AN APPLICANT FOR REFUGEE STATUS MUST BE REFERRED TO THE NATIONAL COMMITTEE FOR REFUGEES BY THE NATIONAL OFFICE OF REFUGEE AFFAIRS, WHICH HAS NOT BEEN ESTABLISHED. INSTEAD, THE DEPARTMENT OF IMMIGRATION ISSUES DOCUMENTATION TO UNHCR-CERTIFIED REFUGEES. WHILE THESE DOCUMENTS ARE ACCEPTED BY THE POLICE AND IMMIGRATION OFFICIALS, THE PROCESS BY WHICH THEY ARE
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ISSUED DOES NOT COMPLY WITH THE LAW. THERE WERE 637 REFUGEES LIVING IN THE DOMINICAN REPUBLIC IN SEPTEMBER.

THE GOVERNMENT COOPERATES WITH THE UNHCR AND OTHER HUMANITARIAN ORGANIZATIONS IN ASSISTING REFUGEES. THE GOVERNMENT PROVIDES FIRST ASYLUM AND RESETTLEMENT. ONE PERSON WAS GRANTED ASYLUM IN 1997. THERE WERE NO REPORTS OF THE FORCED RETURN OF PERSONS TO A COUNTRY WHERE THEY FEARED PERSECUTION.

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

THE DOMINICAN REPUBLIC IS A CONSTITUTIONAL DEMOCRACY. THE PRESIDENT, ALL 150 MEMBERS OF THE SENATE AND CHAMBER OF DEPUTIES, AND THE MAYORS AND CITY COUNCIL MEMBERS OF MORE THAN 100 MUNICIPALITIES ARE FREELY ELECTED EVERY 4 YEARS BY SECRET BALLOT AND UNIVERSAL ADULT SUFFRAGE. ACTIVE DUTY POLICE AND MILITARY PERSONNEL MAY NOT VOTE.

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THE NATION HAS A FUNCTIONING MULTIPARTY SYSTEM. IN PRACTICE THE PRESIDENT CAN DOMINATE PUBLIC POLICY FORMULATION AND IMPLEMENTATION. HE CAN EXERCISE HIS AUTHORITY THROUGH THE USE OF THE VETO, DISCRETION TO ACT BY DECREE, AND INFLUENCE AS THE LEADER OF HIS PARTY. TRADITIONALLY, THE PRESIDENT HAS PREDOMINANT POWER IN THE GOVERNMENT, EFFECTIVELY MAKING MANY IMPORTANT DECISIONS BY DECREE.

CONGRESS PROVIDES AN OPEN FORUM FOR THE FREE EXCHANGE OF VIEWS AND DEBATE. THE TWO MAIN OPPOSITION PARTIES AND THEIR ALLIES COMBINED HOLD 88 AND 96 PERCENT OF THE LOWER AND UPPER HOUSES, RESPECTIVELY, LEAVING PRESIDENT FERNANDEZ’S PARTY WITH SCANT CONGRESSIONAL PRESENCE.
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WOMEN AND MINORITIES CONFRONT NO SERIOUS LEGAL
IMPEDIMENTS TO POLITICAL PARTICIPATION. WOMEN HOLD 14
SEATS IN THE 120-MEMBER HOUSE OF DEPUTIES AND 1 SEAT IN
THE 30-MEMBER SENATE. WOMEN CONTINUE TO HAVE
REPRESENTATION IN APPOINTED POSITIONS, ALbeit LIMITED.
TWO OF THE 15 CABINET SECRETARIES ARE WOMEN, AND FEMALES
HOLD 3 OF 29 PROVINCIAL GOVERNORSHIPS. FIVE OF SIXTEEN
JUSTICES CHOSEN FOR THE NEW SUPREME COURT ARE WOMEN, THE
FIRST FEMALES EVER TO SERVE ON THE HIGH COURT.

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

NONGOVERNMENTAL HUMAN RIGHTS ORGANIZATIONS OPERATE FREELY
WITHOUT GOVERNMENTAL INTERFERENCE. IN ADDITION TO THE
DOMINICAN HUMAN RIGHTS COMMITTEE, SEVERAL OTHER HAITIAN,
CHURCH, AND LABOR GROUPS EXIST.

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

THE LAW PROHIBITS DISCRIMINATION BASED ON RACE AND SEX.
SUCH DISCRIMINATION EXISTS IN SOCIETY, BUT THE
GOVERNMENT HAS Seldom ACKNOWLEDGED ITS EXISTENCE OR
MADE EFFORTS TO COMBAT IT.

WOMEN

DOMESTIC VIOLENCE AND SEXUAL HARASSMENT ARE WIDESPREAD.
IN JANUARY PRESIDENT FERNANDEZ SIGNED A LAW WHICH, FOR
THE FIRST TIME, PROTECTS WOMEN AGAINST DOMESTIC AND
WORKPLACE ABUSE. THE GOVERNMENT UNDERTOOK A PUBLIC
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INFO LOG-00  ACDA-08  ACDE-00  AID-00  ARA-01  CIAE-00  OASY-00
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SSA-01  TEDE-00  INR-00  LAB-01  L-01  ADS-00  M-00
NSAE-00  NSCE-00  OIC-02  OMB-01  OPIC-01  PA-00  PC-05
PM-00  PRS-00  P-00  CIO-00  SP-00  STR-00  TRSE-00
T-00  USIE-00  PMB-00  DSCC-00  PRM-10  PRME-01  DRL-04
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INFORMATION CAMPAIGN, INFORMING THE POPULATION OF THE LAW
THROUGH TELEVISION ADVERTISING, DISTRIBUTION OF FLYERS
AND ORIENTATION IN SCHOOLS. SEVERAL MEN WERE
INCARCERATED DURING 1997 FOR VIOLATION OF THIS LAW, AND
IN A HIGHLY PUBLICIZED CASE, A JUDGE WAS INDICTED FOR THE
SEXUAL ABUSE OF ONE OF HIS EMPLOYEES.

THE GOVERNMENT DOES NOT VIGOROUSLY ENFORCE PROSTITUTION
Laws. Sex tourism is a growing industry throughout the country as international visitors continue to increase. Non-governmental organizations have ongoing HIV/AIDS and sexually transmitted disease prevention programs for male and female prostitutes, as well as hotel and industrial zone workers. One NGO counsels pre-departure women planning to accept job offers in Europe and the Eastern Caribbean about immigration, health and other issues. The program also provides services to returning women. The new law against domestic violence prohibits acting as an intermediary in a transaction of prostitution, but the government has not used the law to prosecute third parties who derive profit from prostitution.

Divorce is easily obtainable by either spouse, and women can hold property in their own names apart from their husbands. Traditionally, women have not shared equal social and economic status or opportunity with men, and men hold the overwhelming majority of leadership positions in all sectors. In many instances women are paid less than men in jobs of equal content and equal skill level. Some employers in industry reportedly give pregnancy tests to women before hiring them, as part of a medical examination. Some employers have stated, and workers confirm, that pregnant women are not hired.

Children

Despite the existence of government institutions dedicated to child welfare, private social and religious organizations carry the principal burden. The private

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INSTITUTIONS RECEIVE NO GOVERNMENT FINANCING. THE 1994 MINOR'S CODE REQUIRES ONLY 6 YEARS OF FORMAL EDUCATION.

THE MOST SERIOUS ABUSE INVOLVING CHILDREN IS THE FAILURE OF THE JUDICIAL SYSTEM TO PROTECT THE STATUS OF MINORS IN CRIMINAL CASES. THE AUTHORITIES SOMETIMES TREATED MINORS AS ADULTS AND INCARCERATED THEM IN PRISON RATHER THAN JUVENILE DETENTION CENTERS. COURTS FOR MINORS, MANDATED BY THE CODE, HAVE NOT BEEN ESTABLISHED.

THE UNIMPLEMENTED MINOR'S CODE CONTAINS PROVISIONS AGAINST CHILD ABUSE, INCLUDING PHYSICAL AND EMOTIONAL MISTREATMENT, SEXUAL EXPLOITATION, AND CHILD LABOR. IT ALSO PROVIDES FOR REMOVAL OF A MISTREATED OR DELINQUENT CHILD TO A PROTECTIVE ENVIRONMENT. HOWEVER, ACCORDING TO LOCAL MONITORS, INSTANCES OF CHILD ABUSE WERE UNDERREPORTED OF TRADITIONAL BELIEFS THAT FAMILY PROBLEMS SHOULD BE DEALT WITH INSIDE THE FAMILY. SOME IN THE TOURIST INDUSTRY HAVE PROVIDED OR FACILITATED SEXUAL EXPLOITATION OF CHILDREN. TOURS ARE MARKETED OVERSEAS WITH THE UNDERSTANDING THAT BOYS AND GIRLS CAN BE FOUND FOR SEX PARTNERS. THERE ARE NO SHELTERS PROVIDING REFUGE TO CHILDREN WHO BREAK FREE FROM THE PROSTITUTION TRADE.

PEOPLE WITH DISABILITIES

DISABLED PERSONS ENCOUNTER DISCRIMINATION IN EMPLOYMENT AND PROVISION OF OTHER SERVICES. ALTHOUGH THE LAW CONTAINS PROVISIONS FOR PHYSICAL ACCESS FOR THE DISABLED TO ALL NEW PUBLIC AND PRIVATE BUILDINGS, THE AUTHORITIES HAVE NOT UNIFORMLY ENFORCED THIS LAW.

NATIONAL/RACIAL/ETHNIC MINORITIES

A STRONG CURRENT OF ANTI-HAITIANISM RUNS THROUGH DOMINICAN SOCIETY, DISADVANTAGING MANY HAITIANS AND DOMINICANS OF HAITIAN ANCESTRY. THE GOVERNMENT HAS NOT ACKNOWLEDGED THE EXISTENCE OF THIS DISCRIMINATION NOR
MADE ANY EFFORTS TO COMBAT IT. DARKER-SKINNED DOMINICANS ALSO FACE INFORMAL BARRIERS TO SOCIAL AND ECONOMIC ADVANCEMENT.

CREDIBLE SOURCES CHARGE THAT THE GOVERNMENT AT TIMES REFUSES TO RECOGNIZE INDIVIDUALS OF HAITIAN ANCESTRY BORN IN THE COUNTRY AS DOMINICAN CITIZENS, IN VIOLATION OF ARTICLE 11 OF THE CONSTITUTION. CHILDREN BORN TO HAITIAN PARENTS ARE CAUGHT IN A BUREAUCRATIC BIND: SINCE MANY HAITIAN PARENTS HAVE NEVER PROCESSED DOCUMENTATION FOR THEIR OWN BIRTH, THEY ARE UNABLE TO DECLARE THEIR CHILDREN'S BIRTHS AT THE CIVIL REGISTRY -- AND HENCE ESTABLISH DOMINICAN CITIZENSHIP FOR THEIR OFFSPRING. SOME CIVIL REGISTRY OFFICES DO NOT ACCEPT LATE DECLARATIONS OF BIRTH FOR CHILDREN OF HAITIAN IMMIGRANTS, ALTHOUGH THEY ROUTINELY ACCEPT LATE DECLARATIONS FOR
CHILDREN OF DOMINICAN PARENTS. LACK OF DOCUMENTATION ALSO SOMETIMES HINDERS THE ABILITY OF CHILDREN OF HAITIAN DESCENT TO ATTEND SCHOOL WHERE THERE IS ONE AVAILABLE. SOME PARENTS FAIL TO SEEK DOCUMENTATION FOR FEAR OF BEING DEPORTED.

SECTION 6 WORKER RIGHTS

THE CONSTITUTION PROVIDES FOR THE FREEDOM TO ORGANIZE LABOR UNIONS AND FOR THE RIGHT OF WORKERS TO STRIKE (AND FOR PRIVATE SECTOR EMPLOYERS TO LOCK OUT WORKERS). ALL WORKERS, EXCEPT THE MILITARY AND POLICE, ARE FREE TO ORGANIZE, AND WORKERS IN ALL SECTORS EXERCISE THIS RIGHT. REQUIREMENTS FOR CALLING A STRIKE INCLUDE THE SUPPORT OF AN ABSOLUTE MAJORITY OF ALL COMPANY WORKERS WHETHER UNIONIZED OR NOT, A PRIOR ATTEMPT TO RESOLVE THE CONFLICT THROUGH ARBITRATION, WRITTEN NOTIFICATION TO THE LABOR SECRETARIAT, AND A 10-DAY WAITING PERIOD FOLLOWING NOTIFICATION BEFORE PROCEEDING WITH A STRIKE. THE GOVERNMENT RESPECTS ASSOCIATION RIGHTS AND PLACES NO OBSTACLES TO UNION REGISTRATION, AFFILIATION, OR THE ABILITY TO ENGAGE IN LEGAL STRIKES.

WIDESPREAD DISCREET INTIMIDATION OF UNION ACTIVITY WAS REPORTED. FOR EXAMPLE, UNION MEMBERS IN FREE TRADE ZONES (FTZ'S) REPORT THAT THEY HESITATE TO DISCUSS UNION ACTIVITY AT WORK, EVEN DURING BREAK TIME, FOR FEAR OF LOSING THEIR JOBS.

LABOR UNIONS CAN AND DO FREELY AFFILIATE REGIONALLY AND INTERNATIONALLY.

B. THE RIGHT TO ORGANIZE AND BARGAIN COLLECTIVELY

COLLECTIVE BARGAINING IS LAWFUL AND MAY TAKE PLACE IN FIRMS IN WHICH A UNION HAS GAINED THE SUPPORT OF AN ABSOLUTE MAJORITY OF THE WORKERS. ONLY A MINORITY OF COMPANIES HAS COLLECTIVE BARGAINING PACTS. THE LABOR CODE STIPULATES THAT WORKERS CANNOT BE DISMISSED BECAUSE OF THEIR TRADE UNION MEMBERSHIP OR ACTIVITIES.

THE LABOR CODE ESTABLISHES A SYSTEM OF LABOR COURTS FOR DEALING WITH DISPUTES, BUT THESE COURTS HAVE PROVEN INEFFECTUAL AT ENFORCING THE LAW. THERE ARE COUNTLESS REPORTS OF BRIBES SOLICITED BY LABOR JUDGES FROM COMPANIES DURING THE DELIBERATION PROCESS. THE NEW SUPREME COURT BEGAN AN OVERHAUL OF THE LABOR COURTS, DISMISSING THE PRESIDENT OF THE LABOR COURT OF SANTO DOMINGO.
THE LABOR CODE APPLIES IN THE 36 ESTABLISHED FTZ'S, WHICH EMPLOY APPROXIMATELY 172,000 WORKERS, MOSTLY WOMEN. WORKPLACE REGULATIONS AND THEIR ENFORCEMENT IN THE FTZ'S DO NOT DIFFER FROM THOSE IN THE COUNTRY AT LARGE.

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ALTHOUGH WORKING CONDITIONS ARE SOMETIMES BETTER. SOME FTZ COMPANIES HAVE A HISTORY OF DISCHARGING WORKERS WHO ATTEMPT TO ORGANIZE UNIONS. ALTHOUGH THERE ARE APPROXIMATELY 70 UNIONS IN THE FTZ'S, MANY EXIST ONLY ON PAPER. THE MAJORITY ARE AFFILIATED WITH THE NATIONAL FEDERATION OF FREE TRADE ZONE WORKERS.

THE STATE SUGAR COUNCIL (CEA) EMPLOYS WORKERS FROM MORE THAN 100 UNIONS. DOMINICAN WORKERS PREDOMINATE IN MOST OF THE UNIONS, ALTHOUGH TWO UNIONS ARE HAITIAN-DOMINATED. THE CEA HAS LONG MAINTAINED A NEGATIVE ATTITUDE TOWARD ADDITIONAL ORGANIZING EFFORTS.

C. PROHIBITION OF FORCED OR COMPULSORY LABOR

THE LAW PROHIBITS FORCED OR COMPULSORY LABOR.

THERE WERE NUMEROUS CREDIBLE REPORTS OF FORCED OR COERCED OVERTIME IN FACTORIES. THERE HAVE BEEN REPORTS OF WORKERS BEING FIRED FOR REFUSING TO WORK OVERTIME, AND BOTH EMPLOYERS AND WORKERS STATE THAT NEWLY HIRED WORKERS ARE NOT INFORMED THAT OVERTIME IS OPTIONAL.

HAITIAN SUGAR CANE WORKERS CONTINUED TO ENCOUNTER
SUBJECT: FIRST DRAFT SUBMISSION OF DOMINICAN REPUBLIC HUMAN RIGHTS REPORT

RESTRICTIONS ON THEIR FREEDOM OF MOVEMENT. THESE INCLUDE ARMED GUARDS ON THE PLANTATIONS WHO TRY TO FIND DEPARTING WORKERS BEFORE THEY LEAVE COMPANY LANDS. EXPERTS FROM NGO'S AND UNIONISTS AGREE THAT WORKING AND LIVING CONDITIONS AMONG HAITIAN CANE WORKERS HAVE IMPROVED IN THE PAST 5 YEARS.

D. STATUS OF CHILD LABOR PRACTICES AND MINIMUM AGE
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FOR EMPLOYMENT

THE LABOR CODE PROHIBITS EMPLOYMENT OF CHILDREN UNDER 14 YEARS OF AGE AND PLACES RESTRICTIONS ON THE EMPLOYMENT OF CHILDREN UNDER THE AGE OF 16. THESE RESTRICTIONS INCLUDE A LIMITATION OF NO MORE THAN 6 HOURS OF DAILY WORK, NO EMPLOYMENT IN DANGEROUS OCCUPATIONS OR ESTABLISHMENTS SERVING ALCOHOL, AND LIMITATIONS ON NIGHTTIME WORK.

THE HIGH LEVEL OF UNEMPLOYMENT AND LACK OF A SOCIAL SAFETY NET CREATE PRESSURES ON FAMILIES TO ALLOW CHILDREN TO EARN SUPPLEMENTAL INCOME. THE INTERNATIONAL LABOR ORGANIZATION ESTIMATED IN AUGUST THAT 169,000 CHILDREN BETWEEN THE AGES OF SEVEN AND FOURTEEN HOLD JOBS. THE PARENTS OF THESE CHILDREN WERE NOT SANCTIONED BY THE GOVERNMENT. WHEN A FIREWORKS FACTORY SUFFERED AN EXPLOSION IN SANTO DOMINGO IN SEPTEMBER, ALL FIVE WORKERS KILLED WERE CHILDREN, FOUR OF THEM TWELVE YEARS OLD OR YOUNGER.

E. ACCEPTABLE CONDITIONS OF WORK

THE CONSTITUTION PROVIDES THE GOVERNMENT WITH LEGAL AUTHORITY TO SET MINIMUM WAGE LEVELS AND THE LABOR CODE ASSIGN THIS TASK TO A NATIONAL SALARY COMMITTEE. CONGRESS MAY ALSO ENACT MINIMUM WAGE LEGISLATION. THE MINIMUM MONTHLY SALARY IS APPROXIMATELY $90 (1,296 PESOS) IN THE PRIVATE SECTOR AND $110 (1,500 PESOS) IN THE PUBLIC SECTOR. THIS COVERS ONLY A FRACTION OF THE LIVING COSTS OF A FAMILY IN SANTO DOMINGO, BUT MANY WORKERS RECEIVE ONLY THE MINIMUM WAGE. FOR EXAMPLE, 60 PERCENT OF GOVERNMENT EMPLOYEES EARN ONLY THE MINIMUM WAGE.

THE LABOR CODE ESTABLISHES A STANDARD WORK PERIOD OF 8 HOURS PER DAY AND 44 HOURS PER WEEK. THE CODE ALSO STIPULATES THAT ALL WORKERS ARE ENTITLED TO 36 HOURS OF
UNINTERRUPTED REST EACH WEEK. IN PRACTICE, A TYPICAL WORK WEEK IS MONDAY THROUGH FRIDAY PLUS A SATURDAY, BUT LONGER HOURS ARE NOT UNUSUAL. THE CODE GRANTS WORKERS A 35 PERCENT DIFFERENTIAL FOR WORK OVER 44 HOURS UP TO 68 HOURS PER WEEK AND DOUBLE TIME FOR ANY HOURS ABOVE 68 HOURS PER WEEK.

THE DOMINICAN SOCIAL SECURITY INSTITUTE (IDSS) SETS WORKPLACE SAFETY AND HEALTH CONDITIONS. THE EXISTING SOCIAL SECURITY SYSTEM DOES NOT APPLY TO ALL WORKERS AND IS UNDERFUNDED. IN SEPTEMBER, THE GOVERNMENT DENOUNCED THE FACT THAT MANY EMPLOYERS WITHHOLD SOCIAL SECURITY PAYMENTS FROM EMPLOYEE PAYCHECKS, BUT DO NOT TRANSFER THE FUNDS TO THE IDSS. THE GOVERNMENT ESTIMATED THAT THE IDSS LOST $11 MILLION EACH MONTH (160 MILLION PESOS) THROUGH SUCH TAX EVASION SCHEMES, PAYING OUT A THIRD LESS TO RETIREMENT FUNDS THAN IT HAD PLANNED.

BOTH THE IDSS AND THE LABOR SECRETARIAT HAVE SMALL CORPS OF INSPECTORS CHARGED WITH ENFORCING STANDARDS. INSPECTOR POSITIONS ARE CUSTOMARILY FILLED THROUGH POLITICAL PATRONAGE. IN PRACTICE, WORKERS CANNOT REMOVE THEMSELVES FROM HAZARDOUS WORKPLACE SITUATIONS WITHOUT JEOPARDY TO CONTINUED EMPLOYMENT. IN MANY COMPANIES, THE RESTROOM FACILITIES ARE UNSANITARY AND EMERGENCY EXITS REMAIN LOCKED AT ALL TIMES.

CONDITIONS FOR AGRICULTURAL WORKERS ARE IN GENERAL MUCH WORSE, ESPECIALLY IN THE SUGAR INDUSTRY. ON MANY SUGAR PLANTATIONS, CANE CUTTERS ARE PAID BY THE WEIGHT OF CANE CUT RATHER THAN HOURS WORKED. SOMETIMES EMPLOYERS DO NOT PROVIDE TRUCKS TO TRANSPORT THE NEWLY CUT CANE AT THE CONCLUSION OF THE WORKDAY, CAUSING WORKERS TO RECEIVE LOWER COMPENSATION AFTER THE CANE HAS DRIED OUT AND BECOME LIGHTER. MANY CANE CUTTERS EARN APPROXIMATELY $4.50 (60 PESOS) PER DAY. MANY WORKER VILLAGES HAVE HIGH RATES OF DISEASE AND LACK SCHOOLS, MEDICAL FACILITIES, RUNNING WATER, AND SEWAGE SYSTEMS. WORKERS ON SUGAR PLANTATIONS SOMETIMES RECEIVE COUPONS AS PART OF THEIR WAGE WHICH CAN ONLY BE REDEEMED AT A COMPANY STORE WITH

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