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E.O. 12356: N/A
TAGS: PHUM ELAB KSPR DR
SUBJECT: DOMINICAN REPUBLIC: INITIAL EDIT OF 1994 COUNTRY REPORT
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1. LOU-NOFORN ENTIRE TEXT.
2. THE INITIAL EDITED VERSION (VERSION 1) OF THE 1994 DRAFT REPORT ON HUMAN RIGHTS PRACTICES FOR THE DOMINICAN REPUBLIC IS TRANSMITTED HERewith. PLEASE PROVIDE RESPONSES TO ALL QUESTIONS AS WELL AS YOUR OWN COMMENTS WITHIN TWO WEEKS OR INFORM THE DEPARTMENT IF UNABLE TO DO SO. RESPONSES SHOULD BE KEYED TO THE NUMBERED PARAGRAPHS OF THIS MESSAGE. POSTS SHOULD PROVIDE SPECIFIC LANGUAGE FOR ANY PROPOSED CHANGES; DO NOT RETRANSMIT A REVISED REPORT IN ITS ENTIRETY.
3. AS YEAR'S END APPROACHES, AS APPROPRIATE POST SHOULD UPDATE ANY SIGNIFICANT ISSUES AND STATISTICS.
4. TEXT OF REPORT:
5. THE CONSTITUTION OF THE DOMINICAN REPUBLIC PROVIDES FOR A POPULARLY ELECTED PRESIDENT AND A BICAMERAL CONGRESS. IN PRACTICE, THE SYSTEM HEAVILY FAVORS THE EXECUTIVE BRANCH, HEADED BY SEVEN-TERM PRESIDENT JOAQUIN BALAGUER. THE SENATE APPOINTS JUSTICES TO THE SUPREME COURT, WHICH HEADS AN ONLY NOMINALLY INDEPENDENT JUDICIARY. INTERNATIONAL OBSERVERS FOUND SIGNIFICANT FRAUD IN THE MAY ELECTIONS, INCLUDING THE LIKELY DISFRANCHISEMENT OF TENS OF THOUSANDS OF VOTERS. DESPITE THE IRREGULARITIES, THE CENTRAL ELECTORAL BOARD DECLARED INCUMBENT PRESIDENT BALAGUER THE WINNER. AFTER LENGTHY LIMITED OFFICIAL USE

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NEGOTIATIONS BETWEEN THE PARTIES AND THE CANDIDATES, IT WAS AGREED THAT PRESIDENT BALAGUER WOULD SERVE A REDUCED TERM OF 18 MONTHS; HOWEVER, HE RENEGED AND THE CONGRESS--CONTROLLED BY HIS PARTY--SET THE NEXT ELECTIONS FOR NOVEMBER 1996, PROVIDING THE PRESIDENT A 2-YEAR TERM INSTEAD OF THE NORMAL 4 YEARS.

6. THE NATIONAL POLICE (PN), THE NATIONAL DEPARTMENT OF INVESTIGATIONS (DNI), THE NATIONAL DRUG CONTROL

DIRECTORATE (DNCD), AND THE MILITARY (ARMY, AIR FORCE, AND NAVY) FORM THE SECURITY SERVICES. THE GOVERNMENT CONTROLS ALL THE SECURITY SERVICES, WHICH ARE GENERALLY RESPONSIVE TO CIVILIAN EXECUTIVE BRANCH AUTHORITY. HOWEVER, SOME MEMBERS OF THE SECURITY FORCES CONTINUED TO COMMIT HUMAN RIGHTS ABUSES, WITH THE TACIT ACQUIESCENCE OF THE CIVIL AUTHORITIES.

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7. ONCE HEAVILY DEPENDENT ON SUGAR, THE ECONOMY HAS GROWN MORE DIVERSE; TOURISM AND EXPORT PROCESSING ZONES ARE NOW MAJOR SOURCES OF INCOME AND EMPLOYMENT. STATE-OWNED FIRMS SUCH AS THE STATE SUGAR COUNCIL, THE CONSORTIUM OF STATE ENTERPRISES, AND THE DOMINICAN ELECTRICITY CORPORATION CONTINUE TO BE HEAVILY INVOLVED IN THE ECONOMY, AND THE FINANCIAL AND ADMINISTRATIVE DIFFICULTIES OF THESE FIRMS STILL IMPEDE ECONOMIC GROWTH.

8. ELECTORAL MANIPULATION PREVENTED CITIZENS FROM EXERCISING THEIR RIGHT TO CHANGE THEIR GOVERNMENT IN FREE AND FAIR ELECTIONS. THE OTHER PRINCIPAL HUMAN RIGHTS PROBLEMS INCLUDED CONTINUING INSTANCES OF POLICE KILLINGS OF CIVILIANS, ARBITRARY DETENTIONS (PARTICULARLY DURING LIMITED OFFICIAL USE

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THE TENSE POST-ELECTION PERIOD), BEATINGS OF SUSPECTS, SECURITY SERVICES' REFUSAL TO OBEY JUDICIAL ORDERS, JUDICIAL CORRUPTION, COURT BACKLOGS AND MALADMINISTRATION, AND ABUSES AGAINST HAITIAN MIGRANT WORKERS. DESPITE SOME IMPROVEMENTS, HAITIAN WORKERS IN THE SUGAR INDUSTRY CONTINUED TO LABOR UNDER POOR CONDITIONS. VIOLENCE AGAINST WOMEN AND COERCED PROSTITUTION ARE SERIOUS PROBLEMS.

9. (NOTE: EMBASSY: WHEN DRAFTING THE HUMAN RIGHTS REPORT FOR 1994, POST PROBABLY DID NOT HAVE ACCESS TO THE VIEWS OF THE LAWYERS COMMITTEE ON HUMAN RIGHTS (LCHR) WHICH WERE CRITICAL OF OUR 1993 REPORT. OUR EDITING HAS TRIED TO TAKE LCHR'S VIEWS INTO ACCOUNT BECAUSE THE CRITIQUES CAN BE A USEFUL SOURCE OF BOTH FACTS AND JUDGMENTS. WHILE WE DO NOT ALWAYS AGREE WITH THE LCHR'S JUDGMENTS, WE NEED TO CONSIDER THEM CAREFULLY, AND, WHERE THEY HAVE IDENTIFIED A PROBLEM, FIX IT. EMBASSY SHOULD

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REVIEW THIS DRAFT, CONFIRMING OR CLARIFYING BOTH THE TONE AND INFORMATION, AND KEEPING IN MIND THE LCHR CRITIQUE, WHICH YOU SHOULD NOW HAVE.)

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RESPECT FOR HUMAN RIGHTS

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

A. POLITICAL AND OTHER EXTRAJUDICIAL KILLING

10. THERE WERE NO REPORTS OF POLITICAL KILLINGS.

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11. POLICE AND MILITARY PERSONNEL CARRIED OUT EXTRAJUDICIAL KILLINGS WHICH RESULTED IN THE DEATH OF AT LEAST HALF A DOZEN CIVILIANS. SOME KILLINGS OCCURRED AS A RESULT OF PERSONAL DISPUTES BUT OTHERS CLEARLY WERE THE RESULT OF EXCESSIVE FORCE WHILE IN CUSTODY. IN JULY THE AUTHORITIES CHARGED A POLICE LIEUTENANT COLONEL AND THREE LIEUTENANTS IN THE KILLING OF FOUR PERSONS ARRESTED FOR ROBBERY. IN SEPTEMBER THE COLONEL GAINED HIS FREEDOM ALLEGEDLY BY BRIBING THE CIVILIAN JUDGE AND FLED THE COUNTRY. AT LEAST TWO PERSONS DIED WHILE INCARCERATED, REPORTEDLY BECAUSE OF ABUSE BY THE AUTHORITIES.

(EMBASSY: ANY ACTION OR INVESTIGATION UNDER WAY?)

12. MILITARY COURTS TRY MILITARY PERSONNEL CHARGED WITH EXTRAJUDICIAL KILLINGS. POLICE PERSONNEL ACCUSED OF SUCH KILLINGS ARE SUBJECT TO DISMISSAL FROM THE POLICE FORCE, THEN CIVILIAN COURTS TRY THEIR CASES. POLICE TRIBUNALS HAVE ON OCCASION TRIED, CONVICTED, AND SENTENCED PERSONNEL CHARGED WITH EXTRAJUDICIAL KILLINGS.

(EMBASSY: WERE THERE ANY SUCH CASES IN 1994? IF SO, PLEASE PROVIDE AN EXAMPLE WE CAN CITE, INCLUDING THE ABUSE AND THE SENTENCE HANDED DOWN. ARE POLICE ABUSERS USUALLY, OFTEN, OR RARELY TRIED? PLEASE CLARIFY THE ROLE OF POLICE TRIBUNALS--ARE POLICE TRIED THERE, OR IN CIVILIAN COURTS, OR ARE BOTH VENUES POSSIBLE?)

B. DISAPPEARANCE

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13. IN MAY A PROFESSOR FROM THE AUTONOMOUS UNIVERSITY OF SANTO DOMINGO, NARCISO GONZALEZ, DISAPPEARED. POLICE INVESTIGATORS VERIFIED THE PROFESSOR'S LAST KNOWN LIMITED OFFICIAL USE

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WHEREABOUTS ON MAY 26, AND PURSUED NUMEROUS UNFRUITFUL LEADS BUT NEVER DETERMINED WHAT HAPPENED TO HIM. MANY OF THE PROFESSOR'S ASSOCIATES BELIEVE THAT THE GOVERNMENT ORDERED THE PROFESSOR'S DISAPPEARANCE BECAUSE OF HIS ACCUSATIONS AGAINST MEMBERS OF THE GOVERNMENT, INCLUDING PRESIDENT BALAGUER, IN LECTURES AND IN A MAGAZINE ARTICLE PUBLISHED NEAR THE TIME OF HIS DISAPPEARANCE. THE CASE REMAINED UNRESOLVED AT YEAR'S END. (EMBASSY: ANY UPDATE? ANY INDICATIONS OF GOVERNMENT INVOLVEMENT? WE NEED YOUR JUDGMENT HERE; IS THE GOVERNMENT ACTIVELY INVESTIGATING OR LETTING IT DROP?)

C. TORTURE AND OTHER CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT

14. ALTHOUGH TORTURE AND OTHER FORMS OF PHYSICAL ABUSE ARE ILLEGAL, SECURITY SERVICE PERSONNEL CONTINUED TO ABUSE DETAINEES. THE AUTHORITIES USUALLY ORDER LITTLE OR NO PUNISHMENT FOR PERPETRATORS OF SUCH ABUSE. ALTHOUGH PUNISHMENT MAY RANGE UP TO 5 YEARS' INCARCERATION FOR SERIOUS CASES OF ABUSE, AS A RULE THE COURTS HAVE GIVEN CONVICTED OFFICIALS SENTENCES RANGING FROM A 1-MONTH SUSPENSION TO 6 MONTHS IN JAIL. IN SEPTEMBER A POLICE APPEALS TRIBUNAL UPHELD THE CONVICTION OF A LIEUTENANT COLONEL FOUND GUILTY OF HEADING A TORTURE RING IN POLICE HEADQUARTERS. HOWEVER, THE COURT SENTENCED THE OFFICER TO ONLY 2 YEARS' IMPRISONMENT.

15. PRISONS ARE OVERCROWDED, AND HEALTH AND SANITARY CONDITIONS ARE SUBSTANDARD. SOME PRISON PERSONNEL REPORTEDLY ENGAGE IN EXTORTION AND OTHER CORRUPT LIMITED OFFICIAL USE

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ACTIVITIES, AND MOST PRISONERS FIND IT NECESSARY TO RELY
ON RELATIVES OR THEIR OWN FINANCES IN ORDER TO OBTAIN AN
ADEQUATE AMOUNT OF FOOD. MEDICAL CARE SUFFERS FROM A
LACK OF SUPPLIES. IN SOME INSTANCES, MINORS HAVE BEEN
INCARCERATED IN ADULT PRISONS (SEE SECTION 5).

D. ARBITRARY ARREST, DETENTION, OR EXILE

16. THE CONSTITUTION STIPULATES THAT THE AUTHORITIES MAY
DETAIN SUSPECTS FOR A MAXIMUM OF 48 HOURS FOR
INVESTIGATION BEFORE ARRAIGNMENT, AFTER WHICH THEY MUST
CHARGE OR RELEASE THEM. HOWEVER, IN SPECIAL
CIRCUMSTANCES, THE AUTHORITIES MAY DETAIN SUSPECTS FOR
LONGER PERIODS WITH THE APPROVAL OF THE PROSECUTOR'S
OFFICE (EMBASSY: WHAT IS AN EXAMPLE OF SUCH "SPECIAL
CIRCUMSTANCES?"). SECURITY SERVICES ROUTINELY VIOLATED
CONSTITUTIONAL PROVISIONS BY DETAINING WITNESSES AS WELL
AS SUSPECTS FOR "INVESTIGATION" OR "INTERROGATION" BEYOND
THE PRESCRIBED 48-HOUR LIMIT. CIVIL AUTHORITIES HAVE
TAKEN NO ACTION TO CURB THESE WIDESPREAD ABUSES.

17. MILITARY OFFICERS OCCASIONALLY VIOLATED LEGAL
PROVISIONS AGAINST MILITARY DETENTION OF CIVILIANS. THE
DNCN AND NATIONAL POLICE CONTINUED TO ENGAGE IN
INDISCRIMINATE ROUNDUPS OF PEOPLE IN POORER
NEIGHBORHOODS. IN SEPTEMBER, FOR EXAMPLE, POLICE
DETAINED MORE THAN 200 PERSONS IN ONE ROUNDUP IN THE
COUNTRY'S CAPITAL. THEY RELEASED MOST DETAINEES AFTER
SEVERAL HOURS IN CUSTODY. THE SECURITY SERVICES ALSO
OCCASIONALLY DETAIN RELATIVES OF SUSPECTED CRIMINALS WITH
THE AIM OF FORCING THE SURRENDER OF SUSPECTS. CIVIL
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AUTHORITIES HAVE TAKEN NO ACTION TO CURB THESE WIDESPREAD
ABUSES.

18. THE AUTHORITIES DETAINED HUNDREDS OF PERSONS, AMONG

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THEM SUPPORTERS OF THE LEADING OPPOSITION PARTY, MEMBERS OF OTHER ANTIGOVERNMENT GROUPS, AND JOURNALISTS, IN THE PERIOD FOLLOWING THE MAY ELECTIONS AND AGAIN IN JULY. IN SOME CASES, THEY CARRIED OUT THESE DETENTIONS OSTENSIBLY TO FOIL POSSIBLE VIOLENT DEMONSTRATIONS. VARIOUS ORGANIZATIONS HAD CALLED FOR STRIKES AND DEMONSTRATIONS TO DEMAND ANNULMENT OF THE MAY ELECTIONS AND TO CALL FOR NEW ELECTIONS. THEY ALSO ASKED THAT THE AUTHORITIES PRODUCE MISSING UNIVERSITY PROFESSOR GONZALEZ (SEE SECTION L.B.). AT YEAR'S END, MORE THAN 100 PERSONS REMAINED IN ILLEGAL DETENTION IN DIFFERENT PARTS OF THE COUNTRY, ACCORDING TO AN OPPOSITION POLITICAL PARTY ACTIVIST. (EMBASSY: ANY UPDATE?)

19. THE AUTHORITIES EXILED NO CITIZENS IN 1994.
(EMBASSY: IS EXILE LEGAL?)

E. DENIAL OF FAIR PUBLIC TRIAL

20. ALTHOUGH THE CONSTITUTION STIPULATES AN INDEPENDENT JUDICIARY, IN PRACTICE INTERFERENCE FROM PUBLIC AND PRIVATE ENTITIES, INCLUDING THE EXECUTIVE BRANCH, COMPLETELY UNDERMINES JUDICIAL INDEPENDENCE. THE COURT SYSTEM INCLUDES A SUPREME COURT, AN APPELLATE COURT, AND COURTS OF THE FIRST INSTANCE. THE SENATE APPOINTS JUDGES AT ALL LEVELS. THEIR TERMS OF OFFICE CORRESPOND ROUGHLY TO THOSE OF THE PRESIDENT AND OTHER ELECTED OFFICIALS. A
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NEWLY ELECTED SENATE CAN EITHER REPLACE THE JUDGES OR RECONFIRM THEM, AND MAY REMOVE OR TRANSFER THEM BY A MAJORITY VOTE. SENATORS CUSTOMARILY NOMINATE JUDGES ON POLITICAL GROUNDS RATHER THAN FOR THEIR COMPETENCE AS JURISTS. A NUMBER OF CORRUPT, INCOMPETENT, AND LACKADAISICAL PROSECUTORS AND JUDGES ALSO UNDERMINE THE SYSTEM. THE AUTHORITIES IN CHARGE OF THESE BODIES ARE INEFFECTUAL IN THE ADMINISTRATIVE SUPERVISION OF JUDGES AND PROSECUTORS. A 1994 CONSTITUTIONAL REFORM FREED THE JUDICIARY'S BUDGET FROM LEGISLATIVE CONTROL AND CREATED A NATIONAL JUDICIAL COUNCIL WHICH IS TO BEGIN NAMING JUDGES IN 1996, BUT ITS COMPOSITION HAS NOT YET BEEN DETERMINED. (EMBASSY: WHO IS IN CHARGE OF DETERMINING

21. THE CONSTITUTION PROVIDES FOR PUBLIC TRIAL. THE COURTS NORMALLY APPOINT LAWYERS OR LAW STUDENTS AT PUBLIC EXPENSE TO DEFEND INDIGENTS IN FELONY CRIMINAL CASES, BUT RARELY IN MISDEMEANOR CASES. (EMBASSY: DO THE CONSTITUTION OR THE LAWS REQUIRE PROVISION OF PUBLIC DEFENDERS?) THE JUDICIAL PROCESS IS PLAGUED BY CHRONIC DELAYS; OF THE PENAL SYSTEM'S APPROXIMATELY 11,000 DETAINEES, THE COURTS HAVE TRIED AND CONVICTED ONLY ABOUT 10 PERCENT. ALTHOUGH THE RIGHT TO JUDICIAL DETERMINATION OF THE LEGALITY OF DETENTION EXISTS, PRETRIAL DETENTION IS LEGAL AND COMMONLY EMPLOYED. THIS CUSTOM, COUPLED WITH A LACK OF ADMINISTRATIVE AND FINANCIAL SUPPORT FOR THE SYSTEM, CREATES A MAJOR BACKLOG OF CASES, WHICH IN TURN CAUSES SUSPECTS TO SUFFER LONG PERIODS OF PRETRIAL DETENTION THAT SOMETIMES EXCEED POSSIBLE CRIMINAL PENALTIES.

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22. THE NATIONAL POLICE AND THE DNCD PERSISTED IN THEIR REFUSALS TO RELEASE SOME PRISONERS AND DETAINEES WHO HAD BEEN GRANTED JUDICIAL RELEASE ORDERS, ALLEGING JUDICIAL CORRUPTION AS THE JUSTIFICATION FOR THIS NONCOMPLIANCE. CIVIL AUTHORITIES HAVE TAKEN NO ACTION EITHER TO EFFECT THE RELEASE OF THOSE DETAINED ILLEGALLY OR TO ADDRESS THE STATED CONCERNS OF THE OFFICIALS WHO VIOLATE THE RELEASE ORDERS. MORE THAN 250 PERSONS, AMONG THEM MORE THAN 50 PERSONS WITHOUT OFFICIAL CHARGES AGAINST THEM, REMAINED INCARCERATED IN SANTO DOMINGO'S LA VICTORIA PRISON DESPITE HAVING JUDICIAL ORDERS FOR THEIR RELEASE, ACCORDING TO A GROUP OF HUMAN RIGHTS MONITORS. THESE PRISONERS HAVE BEEN IN CUSTODY FOR PERIODS RANGING FROM 1 MONTH TO MORE THAN 5 YEARS. THE AUTHORITIES ATTEMPT TO JUSTIFY THESE ILLEGAL DETENTIONS BY CONTENDING THAT THE DETAINEES ARE SUSPECTS IN SERIOUS CRIMES SUCH AS MURDER, DRUG TRAFFICKING, GRAND LARCENY, AND EMBEZZLEMENT. MINORS CONSTITUTE MORE THAN HALF THE GROUP.

23. THE JUDICIAL SYSTEMS PROVIDES FOR BAIL, BUT RELEASE ON BAIL USUALLY SIGNIFIES DISMISSAL OF A CASE AS THE

JUDICIARY RARELY, IF EVER, CONTINUES PROCEEDINGS IN SUCH INSTANCES. (EMBASSY: DOES THIS MEAN THAT BAIL CONSTITUTES A PAYOFF TO BUY DISMISSAL?) DECONTROLLED/UNCLASSIFIED

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

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25. THERE IS NO EVIDENCE THAT THE GOVERNMENT HOLDS POLITICAL PRISONERS.

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

26. THE GOVERNMENT DOES NOT ARBITRARILY INTERFERE WITH THE PRIVATE LIVES OF PERSONS OR FAMILIES AND GENERALLY OBSERVES CONSTITUTIONAL PROVISIONS AGAINST INVASION OF THE HOME. THE AUTHORITIES MAY NOT SEARCH A RESIDENCE EXCEPT IN THE PRESENCE OF A PROSECUTOR OR AN ASSISTANT PROSECUTOR, OR IN INSTANCES OF "HOT PURSUIT," OR WHEN THERE IS PROBABLE CAUSE TO BELIEVE THAT A CRIME IS IN PROGRESS. DURING THE 1994 ELECTORAL CAMPAIGN AND THE POST-ELECTORAL CRISIS, THERE WERE ALLEGATIONS OF WIDESCALE INTERCEPTION OF TELEPHONE CONVERSATIONS AND SURVEILLANCE OF INDIVIDUALS WHICH MAY HAVE INVOLVED THE GOVERNMENT AS WELL AS POLITICAL PARTIES. (EMBASSY: WHO MADE THESE ALLEGATIONS? DO YOU THINK THEY ARE VALID?) IN ADDITION, OPPOSITION POLITICIANS CHARGED THAT GOVERNMENT RAIDS ON THEIR HOMES, OSTENSIBLY TO SEARCH FOR FIREARMS, WERE POLITICALLY MOTIVATED. THEY ALSO CHARGED THAT THE SECURITY SERVICE OFFICIALS WHO ROUNDED UP MANY OF THE DETAINEES MENTIONED IN SECTION 1.D. EMPLOYED ILLEGAL RAIDS ON THEIR HOMES TO CAPTURE THEM.

SECTION 2 RESPECT FOR CIVIL LIBERTIES, INCLUDING:

A. FREEDOM OF SPEECH AND PRESS

27. THE LAW PROVIDES FOR THESE FREEDOMS AND THE

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GOVERNMENT GENERALLY RESPECTED THEM IN PRACTICE.
HOWEVER, THERE WERE INSTANCES IN WHICH THE AUTHORITIES
ABUSED THESE RIGHTS.

28. DOMINICANS OF MOST POLITICAL PERSUASIONS EXERCISE
FREEDOM OF SPEECH, BUT THERE IS CLEAR DISCRIMINATION
AGAINST THE LARGE HAITIAN COMMUNITY, EMBODIED IN THE BAN
ON CREOLE-LANGUAGE BROADCASTS. THE NUMEROUS PRIVATELY
OWNED RADIO AND TELEVISION STATIONS BROADCAST ALL
POLITICAL POINTS OF VIEW, EXCEPT THOSE OF CREOLE SPEAKERS.

29. 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,
THEY PRACTICE A CERTAIN AMOUNT OF SELF-CENSORSHIP FOR
FEAR OF OFFENDING PROMINENT PERSONS. (EMBASSY: WHAT IS
MEANT BY "PROMINENT PERSONS"--GOVERNMENT OFFICIALS? WHAT
WOULD BE THE CONSEQUENCES; IS THERE AN EXPLICIT OR
IMPLICIT THREAT? DOES THE GOVERNMENT EMPLOY SUCH
TACTICS? WERE THERE ANY REPORTS OF THREATS AGAINST
JOURNALISTS FROM ANY SOURCES?) ECONOMIC CONSIDERATIONS
ALSO INHIBIT FREE EXPRESSION, AS POWERFUL ECONOMIC
CONSORTIUMS OR WEALTHY, INFLUENTIAL FAMILIES OWN ALL THE
PRINCIPAL MEDIA OUTLETS. SOME JOURNALISTS SOLICIT, OR
ARE RESPONSIVE TO, BRIBES IN ORDER TO GENERATE REPORTS.

30. IN JULY, THE EXECUTIVE COMMITTEE OF THE COLLEGE OF
DOMINICAN JOURNALISTS DENOUNCED POLICE INFRINGEMENT OF
ACTIVITIES BY JOURNALISTS DURING THE POST-ELECTORAL
PERIOD. DURING THE ENSUING MONTHS, THE AUTHORITIES

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TEMPORARILY JAILED A NUMBER OF JOURNALISTS, BEAT SOME,
AND DAMAGED THEIR EQUIPMENT.

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31. PUBLIC AND PRIVATE UNIVERSITIES ENJOY BROAD ACADEMIC FREEDOM. THE GOVERNMENT EXERTS NO CONTROL OVER PRIVATE UNIVERSITIES EXCEPT FOR THE PRESERVATION OF STANDARDS, AND WITH THE EXCEPTION OF THE GONZALEZ CASE (SEE SECTION 1.B.) TEACHERS APPEAR TO BE FREE TO ESPOUSE THEIR OWN THEORIES WITHOUT GOVERNMENT OVERSIGHT.

B. FREEDOM OF PEACEFUL ASSEMBLY AND ASSOCIATION

32. THE CONSTITUTION PROVIDES FOR THESE FREEDOMS, WHICH THE GOVERNMENT GENERALLY RESPECTS IN PRACTICE. THE GOVERNMENT REQUIRES PERMITS FOR OUTDOOR PUBLIC MARCHES AND MEETINGS, AND THE AUTHORITIES USUALLY GRANTED THESE ROUTINELY. HOWEVER, IN THE POST-ELECTORAL PERIOD, THE AUTHORITIES PRE-EMPTED ANTIGOVERNMENT DEMONSTRATIONS BY ILLEGALLY DETAINING ORGANIZERS.

33. POLITICAL PARTIES FREELY AFFILIATE WITH THEIR INTERNATIONAL PARENT 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

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

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

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

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36. IN 1994 THE AUTHORITIES FORCIBLY REPATRIATED BETWEEN SEVERAL HUNDRED TO A FEW THOUSAND HAITIANS BELIEVED TO BE IN THE COUNTRY ILLEGALLY, ACCORDING TO VARIOUS SOURCES. SOME OF THESE WERE LEGAL RESIDENT HAITIANS AND PERSONS OF HAITIAN ANCESTRY WHO MAY HAVE CLAIMS TO DOMINICAN CITIZENSHIP. THE AUTHORITIES DID NOT ALLOW THE HAITIANS OPPORTUNITY TO ESTABLISH THEIR POSSIBLE CLAIMS TO LEGAL RESIDENCE. ALTHOUGH SOMEWHAT DIMINISHED IN COMPARISON WITH EARLIER YEARS (SEE SECTION 6.C.), CONTINUED FORCED RECRUITMENT AND DETENTION OF HAITIANS TO WORK ON SUGAR PLANTATIONS ILLUSTRATED THE GOVERNMENT'S DISREGARD FOR THE HUMAN RIGHTS OF THE COUNTRY'S LARGE HAITIAN MINORITY.

37. SINCE THE 1991 COUP IN HAITI, THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES (UNHCR) ACCORDED REFUGEE STATUS TO 1,341 HAITIANS WHO FLED TO THE DOMINICAN REPUBLIC. ALTHOUGH THE GOVERNMENT BEGAN PROCESSING PETITIONS FOR DOMINICAN RECOGNITION OF THE REFUGEE STATUS OF THE HAITIAN UNHCR WARDS IN 1991, ONLY 10 PERCENT HAVE BEEN GRANTED SUCH STATUS THUS FAR. (EMBASSY: THE LCHR CRITIQUE SAYS THE AUTHORITIES TRY TO RETURN HAITIANS BEFORE THEY REACH THE UNHCR--PLEASE ASSESS.)

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

38. CITIZENS HAVE THE CONSTITUTIONAL RIGHT TO CHANGE THEIR GOVERNMENT IN FREE AND FAIR ELECTIONS, BUT THE EXTENT OF FRAUD IN THE NATIONAL ELECTIONS DENIED THEM THE ABILITY TO EXERCISE THIS RIGHT. ALTHOUGH PEOPLE VOTED IN RECORD NUMBERS IN THE MAY 16 ELECTIONS, INTERNATIONAL OBSERVERS IDENTIFIED SIGNIFICANT IRREGULARITIES, INCLUDING THE DISFRANCHISEMENT OF TENS OF THOUSANDS OF VOTERS (PRIMARILY SUPPORTERS OF THE LEADING OPPOSITION PARTY), INSTANCES OF DOUBLE VOTING, AND VOTING BY INELIGIBLE PERSONS. AN INVESTIGATION COMMISSION APPOINTED BY THE CENTRAL ELECTORAL BOARD LARGELY CONFIRMED THE IRREGULARITIES, NOTING THAT THEY PLACED IN DISPUTE A NUMBER OF VOTES POTENTIALLY LARGER THAN THE MARGIN OF VICTORY. (EMBASSY: WHO APPOINTED THE BOARD?)

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WHO CONTROLS IT?) DESPITE THE IRREGULARITIES, THE
CENTRAL ELECTORAL BOARD DECLARED INCUMBENT PRESIDENT
JOAQUIN BALAGUER THE WINNER BY 22,000 VOTES. DECONTROLLED/UNCLASSIFIED

39. THE DOMINICAN REVOLUTIONARY PARTY (PRD), LED BY
PRESIDENTIAL CANDIDATE JOSE FRANCISCO PENA GOMEZ,
STRONGLY RESISTED THIS DECISION, CONSIDERING IT AN
ATTEMPT TO STEAL THE ELECTION. FACED WITH AN EXPLOSIVE
POLITICAL CRISIS, PRESIDENT BALAGUER NEGOTIATED A
POLITICAL AGREEMENT WITH PENA GOMEZ INVOLVING SEVERAL
CONSTITUTIONAL REFORMS, MOST NOTABLY SHORTENING
BALAGUER'S NEW TERM TO 18 MONTHS WITH ELECTIONS TO BE
HELD IN NOVEMBER 1995. IN ACCORDANCE WITH THIS PACT,
CONGRESS RATIFIED THE CENTRAL ELECTORAL BOARD'S DECISION;
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HOWEVER, PRESIDENT BALAGUER RENEGED ON THE AGREEMENT AND
THE CONGRESS (WHICH HIS PARTY CONTROLLED) TOOK ADVANTAGE
OF A PERIOD WHEN PENA GOMEZ WAS HOSPITALIZED OVERSEAS TO
EXTEND THE NEW PRESIDENTIAL TERM TO 2 YEARS AND TO
SCHEDULE ELECTIONS FOR MAY 1996.

40. THE CONSTITUTION CALLS FOR THE PRESIDENT AND ALL 150
MEMBERS OF THE SENATE AND CHAMBER OF DEPUTIES TO BE
ELECTED EVERY 4 YEARS. ELECTIONS ARE BY SECRET BALLOT
WITH UNIVERSAL SUFFRAGE FOR CITIZENS AGE XX AND ABOVE
(EMBASSY: PLEASE PROVIDE) (EXCEPT FOR ACTIVE DUTY
MILITARY AND POLICE, WHO MAY NOT VOTE). THE PRESIDENT
APPOINTS THE GOVERNORS OF THE 29 PROVINCES.

41. ALTHOUGH THE NATION HAS A FUNCTIONING MULTIPARTY
SYSTEM, IN PRACTICE THE PRESIDENT DOMINATES PUBLIC POLICY
FORMULATION AND IMPLEMENTATION. HE EXERCISES HIS
AUTHORITY THROUGH USE OF THE VETO, DISCRETION TO ACT BY
DECREE, AND INFLUENCE AS THE LEADER OF HIS PARTY. THE
CONGRESS TRADITIONALLY HAS HAD LIMITED POWERS AND SELDOM
DISAPPROVES ACTIONS BY THE EXECUTIVE BRANCH. THE
GOVERNING REFORMED CHRISTIAN SOCIALIST PARTY (PRSC) HAS A
TINY WORKING MAJORITY IN THE 30-SEAT SENATE WHEN IT
COMBINES ITS 14 VOTES WITH ONE VOTE FROM THE DOMINICAN
LIBERATION PARTY (PLD) AND ONE VOTE FROM THE DEMOCRATIC
UNION. SIMILARLY, IN COALITION WITH THE PLD, IT HAS A

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WORKING PLURALITY IN THE CHAMBER OF DEPUTIES. (EMBASSY:
CAN YOU BRIEFLY DESCRIBE HOW THE ELECTORAL IRREGULARITIES
AFFECTED THE MAKE-UP OF CONGRESS?)

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42. WOMEN AND MINORITIES CONFRONT NO LEGAL OR PRACTICAL
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IMPEDIMENTS TO POLITICAL PARTICIPATION. WOMEN HOLD 8 OF
THE COUNTRY'S 29 APPOINTED GOVERNORSHIPS, 5 CABINET-LEVEL
EXECUTIVE BRANCH POSITIONS, 14 SEATS IN THE 120-MEMBER
HOUSE OF DEPUTIES, AND 1 SEAT IN THE SENATE.

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

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

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

44. THE LAW PROHIBITS DISCRIMINATION BASED ON RACE AND
SEX, AND THE GOVERNMENT GENERALLY RESPECTS THESE
PROHIBITIONS.

WOMEN

45. WOMEN TRADITIONALLY HAVE NOT SHARED EQUAL SOCIAL AND
ECONOMIC STATUS OR OPPORTUNITY WITH MEN, AND MEN HOLD THE
OVERWHELMING MAJORITY OF LEADERSHIP POSITIONS IN ALL
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SECTORS. IN MANY INSTANCES, WOMEN ARE PAID LESS THAN MEN
IN JOBS OF EQUAL CONTENT AND EQUAL SKILL LEVEL.
ACCORDING TO ONE STUDY, WOMEN ARE THE HEAD OF THE
HOUSEHOLD IN 37 PERCENT OF THE FAMILIES IN THE CAPITAL.
EITHER SPOUSE CAN EASILY OBTAIN A DIVORCE, AND WOMEN CAN
HOLD PROPERTY IN THEIR OWN NAMES APART FROM THEIR
HUSBANDS. CONGRESS DID NOT ACT ON LEGISLATIVE PROPOSALS
INTRODUCED IN 1993 TO MODIFY WOMEN'S STATUS UNDER THE
CIVIL AND PENAL CODE.

46. DOMESTIC VIOLENCE AND SEXUAL HARASSMENT ARE
WIDESPREAD. A STUDY BY ONE WOMEN'S GROUP REPORTED 280
CASES OF VIOLENCE AGAINST WOMEN FROM NOVEMBER 1990 TO
NOVEMBER 1992, BASED UPON MEDIA REPORTS AND NATIONAL
POLICE STATISTICS. OF THESE, 64 PERCENT WERE HOMICIDES,
INDICATING THAT PHYSICAL ABUSE CASES ARE GREATLY
UNDERREPORTED. (EMBASSY: WE SAID THIS LAST YEAR.
PLEASE ASCERTAIN FROM KNOWLEDGEABLE LOCAL SOURCES THE
CURRENT EXTENT OF VIOLENCE AGAINST WOMEN. IS SPOUSAL
ABUSE A CRIME? IS IT REPORTED? DO POLICE AND THE COURTS
TREAT SUCH REPORTS SERIOUSLY AND TAKE ACTION AGAINST THE
ACCUSED?)

47. THE GOVERNMENT'S FAILURE TO CONTROL PROSTITUTION
DOMESTICALLY CONTRIBUTES TO THE VICTIMIZATION OF WOMEN BY
RINGS WHICH SMUGGLE THIRD WORLD WOMEN TO EUROPE TO WORK
AS PROSTITUTES IN CONDITIONS RIFE WITH EXPLOITATION AND
MISTREATMENT. PROSTITUTION OF DOMINICAN WOMEN IS ALSO
COMMON IN NEIGHBORING HAITI. THE GOVERNMENT PERIODICALLY
PROSECUTES ORGANIZED ALIEN SMUGGLING RINGS (COMMONLY ON
DOCUMENT FALSIFICATION CHARGES), BUT CORRUPTION AND A
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RELUCTANCE TO RESTRICT EMIGRATION HINDER ENFORCEMENT OF
THE LAW. (EMBASSY: WHY ARE THESE PROSECUTIONS ON
DOCUMENTATION CHARGES AND NOT SOMETHING MORE TO THE

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CHILDREN

48. THE GOVERNMENT HAS NOT SUPPORTED ITS PROFESSED COMMITMENT TO CHILD WELFARE WITH FINANCIAL OR HUMAN RESOURCES. DESPITE THE EXISTENCE OF GOVERNMENT INSTITUTIONS DEDICATED TO CHILD WELFARE, PRIVATE SOCIAL AND RELIGIOUS ORGANIZATIONS CARRY THE PRINCIPAL BURDEN. THE MOST SERIOUS ABUSE INVOLVING CHILDREN IS THE FAILURE OF THE JUSTICE SYSTEM TO RESPECT THE STATUS OF MINORS IN CRIMINAL CASES; THERE ARE MORE THAN 150 MINORS IN THE COUNTRY'S MAIN PRISON. ESPECIALLY IN NARCOTICS CASES, THE AUTHORITIES SOMETIMES TREAT MINORS AS ADULTS AND INCARCERATE THEM IN PRISONS RATHER THAN JUVENILE DETENTION CENTERS.

49. ACCORDING TO LOCAL HUMAN RIGHTS MONITORS, THE INCIDENCE OF CHILD ABUSE IS UNDERREPORTED BECAUSE OF TRADITIONAL BELIEFS THAT FAMILY PROBLEMS SHOULD BE DEALT WITH INSIDE THE FAMILY. SPORADIC INSTANCES OF HAITIAN CHILD LABOR ON SUGAR PLANTATIONS CONTINUED TO OCCUR (SEE SECTION 6.D.). THE LOWER CHAMBER OF THE CONGRESS APPROVED A NEW MINOR'S CODE IN 1993 AND THE SENATE PASSED IT IN 1994. (EMBASSY: IS IT NOW LAW? IS IT BEING EFFECTIVELY ENFORCED? DOES IT INCLUDE PROVISIONS AGAINST CHILD ABUSE? DOES ANY MECHANISM EXIST TO EXTRICATE CHILDREN FROM DANGEROUS OR ABUSIVE HOME ENVIRONMENTS?)

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NATIONAL/RACIAL/ETHNIC MINORITIES

50. DOMINICANS ARE STRONGLY PREJUDICED AGAINST HAITIANS, WHO CONSTITUTE A SIGNIFICANT PERCENTAGE OF THE UNSKILLED MANUAL LABOR FORCE. THIS OFTEN TRANSLATES INTO DISCRIMINATION AGAINST THOSE WITH DARKER SKIN. IN ELECTION CAMPAIGNING, PRESIDENT BALAGUER'S PRSC SOUGHT TO CASTIGATE PRD CANDIDATE PENA GOMEZ BY CHARACTERIZING THE LATTER'S DARK SKIN AS A HAITIAN ATTRIBUTE. THE GOVERNMENT DOES NOT ACKNOWLEDGE THE EXISTENCE OF THIS DISCRIMINATION NOR MAKE ANY EFFORTS TO COMBAT IT.

DARK-SKINNED DOMINICANS ALSO FACE STRONG INFORMAL
BARRIERS TO SOCIAL AND ECONOMIC ADVANCEMENT.

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51. CREDIBLE SOURCES CHARGE THAT THE GOVERNMENT
CONTINUES TO OBSTRUCT THE RECOGNITION OF INDIVIDUALS OF
HAITIAN ANCESTRY BORN IN THE COUNTRY AS DOMINICAN
CITIZENS, AS IT HAS FOR MANY YEARS. LACK OF
DOCUMENTATION ALSO SOMETIMES HINDERS THE ABILITY OF
CHILDREN OF HAITIAN DESCENT TO ATTEND SCHOOL; SOME
PARENTS FAIL TO SEEK DOCUMENTATION FOR FEAR OF BEING
DEPORTED.

PEOPLE WITH DISABILITIES

52. DISABLED PERSONS ENCOUNTER DISCRIMINATION IN
EMPLOYMENT AND THE PROVISION OF OTHER SERVICES. ALTHOUGH
A SEPTEMBER 1991 LAW MANDATES CERTAIN PROVISIONS FOR
PHYSICAL ACCESS FOR THE DISABLED FOR ALL NEW PUBLIC AND
PRIVATE BUILDINGS, THE AUTHORITIES HAVE NOT ENFORCED IT.
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SECTION 6 WORKER RIGHTS

A. THE RIGHT OF ASSOCIATION

53. THE CONSTITUTION PROVIDES FOR THE FREEDOM TO
ORGANIZE LABOR UNIONS AND ALSO FOR THE RIGHTS OF WORKERS
TO STRIKE (AND FOR PRIVATE SECTOR EMPLOYERS TO LOCK OUT
WORKERS). ALL WORKERS, EXCEPT MILITARY AND POLICE, ARE
FREE TO ORGANIZE AND WORKERS IN ALL SECTORS EXERCISE THIS
RIGHT. REQUIREMENTS FOR CALLING A STRIKE INCLUDE THE
SUPPORT OF AN ABSOLUTE MAJORITY OF THE WORKERS OF THE
COMPANY, A PRIOR ATTEMPT TO RESOLVE THE CONFLICT THROUGH
ARBITRATION, WRITTEN NOTIFICATION TO THE LABOR
SECRETARIAT, AND A 10-DAY WAITING PERIOD FOLLOWING
NOTIFICATION BEFORE PROCEEDING WITH THE STRIKE. THE NEW
1992 LABOR CODE ALSO ELIMINATED PREVIOUS PROHIBITIONS
AGAINST POLITICAL AND SYMPATHY STRIKES. THE GOVERNMENT
RESPECTS ASSOCIATION RIGHTS AND PLACES NO OBSTACLES TO
UNION REGISTRATION, AFFILIATIONS, OR THE ABILITY TO
ENGAGE IN LEGAL STRIKES. (EMBASSY: THE LCHR CRITIQUE

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ASSERTS THAT THE NEW CODE LACKS ENFORCEMENT MECHANISMS AND THAT VIOLATIONS CITED ARE NOT PUNISHED BY LABOR JUDGES -- IS THIS TRUE? HOW SEVERE A PROBLEM?) DECONTROLLED/UNCLASSIFIED

54. A NUMBER OF STRIKES OCCURRED IN 1994, PRINCIPALLY IN THE PUBLIC SECTOR. THE LABOR CODE SPECIFIES IN DETAIL THE STEPS LEGALLY REQUIRED TO ESTABLISH A UNION, FEDERATION, AND CONFEDERATION. THE CODE CALLS FOR AUTOMATIC RECOGNITION OF A UNION IF THE GOVERNMENT HAS NOT ACTED ON ITS APPLICATION WITHIN A SPECIFIC TIME. IN LIMITED OFFICIAL USE

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PRACTICE, THE GOVERNMENT HAS READILY FACILITATED RECOGNITION OF LABOR ORGANIZATIONS. ORGANIZED LABOR REPRESENTS BETWEEN 10 AND 15 PERCENT OF THE WORK FORCE AND IS DIVIDED AMONG THREE LARGE CONFEDERATIONS, THREE MINOR CONFEDERATIONS, AND A NUMBER OF INDEPENDENT UNIONS. THE INTERNATIONAL LABOR ORGANIZATION'S (ILO) COMMITTEE OF EXPERTS (COE) CONSIDERS THAT THE TWO-THIRDS MAJORITY VOTE REQUIRED TO FORM CONFEDERATIONS IS TOO HIGH.

55. UNIONS ARE INDEPENDENT OF THE GOVERNMENT AND POLITICAL PARTIES. LABOR UNIONS CAN AND DO FREELY AFFILIATE REGIONALLY AND INTERNATIONALLY.

B. THE RIGHT TO ORGANIZE AND BARGAIN COLLECTIVELY

56. 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. HOWEVER, ONLY A MINORITY OF COMPANIES HAVE COLLECTIVE BARGAINING PACTS. THE LABOR CODE STIPULATES THAT WORKERS CANNOT BE DISMISSED BECAUSE OF THEIR TRADE UNION MEMBERSHIP OR ACTIVITIES. THE PREVIOUS CODE ALLOWED ARBITRARY TERMINATION OF A WORKER SO LONG AS SEVERANCE PAY WAS PROVIDED; THE 1992 CODE EXEMPTS FROM DISMISSAL SPECIFIC NUMBERS OF UNION ORGANIZERS AND OFFICIALS. THE NUMBER OF UNION ORGANIZERS OR OFFICIALS GIVEN PROTECTION FROM LAYOFFS CAN TOTAL UP TO 20 MEMBERS OF A UNION IN FORMATION, BETWEEN 5 AND 10 MEMBERS OF A UNION EXECUTIVE COUNCIL (DEPENDING ON THE SIZE OF THE WORK FORCE), AND UP TO 3 MEMBERS OF A COLLECTIVE BARGAINING NEGOTIATING

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LABOR COURTS FOR DEALING WITH LABOR DISPUTES; BUT THEIR
EFFECTIVENESS HAS YET TO BE DETERMINED. (EMBASSY: WE
SAID THIS LAST YEAR; WE CANNOT SAY IT AGAIN. PLEASE
PROVIDE SOME ALBEIT MINIMAL EVALUATION OF THE COURTS'
EFFECTIVENESS. HOW MANY ARE THERE? WHERE LOCATED? IS
THERE ANY SPECIAL TRAINING FOR THE JUDGES?)

57. THE STATE SUGAR COUNCIL (CEA) EMPLOYS WORKERS FROM
OVER 100 UNIONS. DOMINICAN WORKERS PREDOMINATE IN THE
UNIONS, ALTHOUGH BETWEEN TWO AND FIVE UNIONS ARE
HAITIAN-DOMINATED. THE CEA CONTINUED TO RESIST
ADDITIONAL EFFORTS BY HAITIANS TO ORGANIZE. (EMBASSY:
PLEASE PROVIDE A SENTENCE OR TWO ON THE SITUATION IN
PRIVATE SUGAR PRODUCTION, E.G. LA ROMANA AND SMALL
HOLDINGS. REGARDING THE CEA, PLEASE ELABORATE ON
OBSTRUCTION OF HAITIAN ORGANIZING EFFORTS. WERE THERE
EXCESSES OR ILLEGALITIES BY THE AUTHORITIES?)

58. THE LABOR CODE APPLIES IN THE 26 ESTABLISHED EXPORT
PROCESSING ZONES (EPZ'S) COMPRISED OF OVER 400, MOSTLY
U.S.-OWNED OR ASSOCIATED, COMPANIES EMPLOYING MORE THAN
170,000 WORKERS, MOSTLY WOMEN. IN 1994 ONLY TWO EPZ
COMPANIES CONCLUDED COLLECTIVE BARGAINING AGREEMENTS WITH
UNIONS. SOME EPZ COMPANIES HAVE A HISTORY OF DISCHARGING
WORKERS WHO ATTEMPT TO ORGANIZE UNIONS. ALTHOUGH THE
GOVERNMENT REGISTERED MORE THAN 50 UNIONS IN THE EPZ'S
SINCE THE NEW LABOR CODE WENT INTO EFFECT IN 1992, FEWER
THAN 10 OF THESE UNIONS STILL HAVE THEIR MEMBERSHIP
INTACT. SOME UNIONS APPARENTLY CEASED TO FUNCTION DUE TO
FIRINGS OF UNION MEMBERS, WHILE OTHERS MAY HAVE DISSOLVED
BECAUSE OF VOLUNTARY RESIGNATIONS OR COMPANY CLOSURE.

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THE SECRETARIAT OF LABOR HAS BROUGHT CRIMINAL CHARGES AGAINST OVER 30 EPZ FIRMS FOR LABOR CODE VIOLATIONS INVOLVING WORKER RIGHTS. THE COURTS CONVICTED THREE FIRMS OF SUCH VIOLATIONS. (EMBASSY: WHAT IS THE STATUS OF THE REMAINING 27 CASES? PLEASE ALSO INCLUDE A MENTION OF THE ACTION THE LABOR MINISTER TOOK AGAINST A KOREAN FIRM TO FORCE IT TO OBEY THE LABOR CODE, WHICH RESULTED IN THE FIRST COLLECTIVE BARGAINING AGREEMENT IN AN EPZ.)

59. (EMBASSY: THE LCHR CRITIQUE NOTED THE AFL-CIO GSP PETITION WHICH CHARGED EXTENSIVE WORKER RIGHTS VIOLATIONS IN THE EPZ'S; WE DO NOT WISH TO DISCUSS THE GSP PETITION PROCESS, BUT PLEASE COMMENT ON THE EXTENT OF SUCH ABUSES.)

C. PROHIBITION OF FORCED OR COMPULSORY LABOR

60. THE LAW PROHIBITS FORCED OR COMPULSORY LABOR. DURING PREVIOUS YEARS, THE GOVERNMENT AND THE CEA FORCIBLY RECRUITED HAITIAN SEASONAL AGRICULTURAL WORKERS AND THEN RESTRICTED THEM TO SPECIFIC SUGAR PLANTATIONS. CEA DENIED THE USE OF PAID RECRUITERS INSIDE HAITI TO OBTAIN WORKERS, AND THERE IS NO CONCLUSIVE EVIDENCE THAT EITHER PRACTICE OCCURRED TO ANY SIGNIFICANT DEGREE IN 1994. (EMBASSY: WE NEED TO COME TO A JUDGMENT ON FORCED RECRUITMENT HERE, AS WELL AS IN REGARD TO THE COFFEE, RICE, AND COCOA SECTORS MENTIONED BELOW. PLEASE CHECK WITH SOURCES SUCH AS THE CATHOLIC AND PROTESTANT PASTORAL ORGANIZATIONS, OTHER ELEMENTS OF THE EMBASSY, E.G. AGATT, PEACE CORPS, USAID, THE CHIEF OF THE SANTO DOMINGO BNC, ETC., TO SEE WHAT THEY SAY ABOUT THE DEGREE OF COMPULSION INVOLVED.)

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61. THERE ARE NO FIRM STATISTICS ON THE NUMBER OF CANE CUTTERS ON CEA PLANTATIONS; MOST ESTIMATES PLACE THE NUMBER AT APPROXIMATELY AS MANY AS 30,000. HUMAN RIGHTS GROUPS ALLEGED SOME INSTANCES OF FORCED RECRUITMENT AND FORCED LABOR OF HAITIANS IN THE HARVESTING OF OTHER CROPS SUCH AS COFFEE AND RICE. (EMBASSY: WE CANNOT REPEAT

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LAST YEAR'S TEXT VERBATIM; THAT SUGGESTS WE HAVE NOT EVEN CARED TO LOOK INTO THE SITUATION. PLEASE CITE SOME EXAMPLES OF WHAT THE GROUPS ARE ALLEGING.) THE EXTENT OF SUCH ABUSES REMAINED UNCLEAR, AS THESE AGRICULTURAL SECTORS WERE NOT TRADITIONALLY SUBJECT TO THE SCRUTINY RECEIVED BY THE SUGAR INDUSTRY.

62. HAITIAN SUGAR CANE WORKERS CONTINUED TO ENCOUNTER RESTRICTIONS ON THEIR FREEDOM OF MOVEMENT, BUT THE RESTRICTIONS WERE LESS ONEROUS THAN IN THE PAST. (EMBASSY: PLEASE EXPLAIN BY WHAT MEASURE THE RESTRICTIONS WERE LESS ONEROUS.) THEY INCLUDED THE PRESENCE OF ARMED GUARDS IN AND AROUND VARIOUS SUGAR PLANTATIONS AND THE SEQUESTERING OF WORKERS' BELONGINGS IN ORDER TO DISCOURAGE THEIR MOVEMENT TO OTHER CEA PLANTATIONS OR OTHER TYPES OF EMPLOYMENT. CEA AND THE DOMINICAN OFFICE OF IMMIGRATION INITIATED A PROGRAM IN LATE 1991 TO ISSUE 1-YEAR TEMPORARY WORK PERMITS TO THE WORKERS TO ALLEVIATE FREEDOM OF MOVEMENT PROBLEMS FACED BY ITINERANT-HAITIAN WORKERS. (EMBASSY: WHAT IS THE POINT OF THESE PERMITS? HOW DO THEY ALLEVIATE FREEDOM OF MOVEMENT PROBLEMS? THE LCHR CRITIQUE ASSERTS THAT THEY ARE SITE-SPECIFIC; WE THOUGHT THE ORIGINAL PERMITS DID PROVIDE WORKERS THE RIGHT TO CHANGE WORKPLACES. IS THIS LIMITED OFFICIAL USE

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 STILL THE CASE? DOES THE PROGRAM RESULT IN GREATER MOBILITY AND LESS ABUSE DUE TO WORKERS BEING UNDOCUMENTED?) ACCORDING TO A 1993 SURVEY BY AN INDEPENDENT POLLING FIRM, 50 PERCENT OF ALL ITINERANT HAITIAN WORKERS POSSESSED PERMITS. THERE ARE NO FIGURES AVAILABLE ON THE NUMBER OF FORCIBLY REPATRIATED HAITIAN CANE AND COFFEE WORKERS, BUT THE AUTHORITIES CONTINUED TO FORCE REPATRIATIONS AT WILL, DEPENDING UPON THE DEMAND FOR LABOR. (EMBASSY: THE LCHR CRITIQUE ASSERTS THAT HAITIAN SUGAR WORKERS ARE SUBJECT TO A MILITARIZED REGIME THAT AMOUNTS TO INDENTURED SERVITUDE, AND THAT AN ICFTU SURVEY FOUND NO IMPROVEMENT IN CONDITIONS FOR HAITIAN WORKERS. PLEASE ASSESS THIS IN LIGHT OF YOUR STATEMENT IN THE INTRODUCTION (PARA 8) THAT CONDITIONS OF HAITIAN WORKERS IN THE SUGAR INDUSTRY "CONTINUED TO SHOW IMPROVEMENT.")

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D. MINIMUM AGE FOR EMPLOYMENT OF CHILDREN

63. THE LABOR CODE PROHIBITS EMPLOYMENT OF YOUTH UNDER 14 YEARS OF AGE AND PLACES VARIOUS RESTRICTIONS ON THE EMPLOYMENT OF YOUTH UNDER AGE 16. THESE RESTRICTIONS INCLUDE A LIMITATION OF NO MORE THAN 6 HOURS OF DAILY WORK, NO EMPLOYMENT IN DANGEROUS OCCUPATIONS OR JOBS INVOLVING THE PROVISION OF INTOXICATING BEVERAGES, AND LIMITATIONS ON NIGHTTIME WORK.

64. IN PRACTICE, CHILDREN REMAIN AT RISK OF EXPLOITATION SINCE THE GOVERNMENT DOES NOT ENFORCE MANY OF THE CHILD LABOR RESTRICTIONS. DURING THE PAST FEW YEARS, THE LABOR SECRETARIAT MADE SOME EFFORT TO ENFORCE THE LAW IN CASES
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WHERE COMPANIES EMPLOYED UNDERAGE WORKERS, BUT PENALTIES WERE LARGELY LIMITED TO SMALL FINES. SOME YOUNG WORKERS OBTAINED WORK PERMITS AND CONTINUED THEIR EMPLOYMENT; EMPLOYERS DISMISSED THOSE UNABLE TO OBTAIN PERMITS. NUMEROUS MINORS PERFORM UNREGULATED WORK AS ITINERANT VENDORS SHINING SHOES, SELLING NEWSPAPERS, AND CLEANING CARS.

65. CEA AND THE LABOR SECRETARIAT TOOK STEPS TO DISCOURAGE CHILD LABOR IN CEA SUGAR PLANTATIONS, AND IT OCCURRED IN ONLY ISOLATED INSTANCES, MOST INVOLVING CHILDREN ACCOMPANYING THEIR FATHERS INTO THE FIELDS.

E. ACCEPTABLE CONDITIONS OF WORK

66. THE CONSTITUTION GIVES THE GOVERNMENT LEGAL AUTHORITY TO SET MINIMUM WAGE LEVELS AND THE LABOR CODE ASSIGNS THIS TASK TO A NATIONAL SALARY COMMITTEE. CONGRESS MAY ALSO ENACT MINIMUM WAGE LEGISLATION. MINIMUM WAGE RAISES HAVE NOT COMPENSATED FOR THE LOSS OF PURCHASING POWER, AND SCHEDULED WAGE INCREASES IN 1994 ONLY PROVIDED PARTIAL RELIEF. THE VAST MAJORITY OF WORKERS RECEIVE ONLY THE MINIMUM WAGE, WHICH AVERAGES AROUND 90 PER MONTH DEPENDING ON THE SECTOR AND EMPLOYER SIZE. THE MINIMUM WAGE REPRESENTS ONLY 20 PERCENT OF THE

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ESTIMATED MONTHLY COST OF LIVING FOR AN AVERAGE-SIZE FAMILY IN SANTO DOMINGO. AS A RESULT, MANY PEOPLE HOLD MORE THAN ONE JOB.

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67. THE LABOR CODE ESTABLISHES A STANDARD WORK PERIOD OF 8 HOURS PER DAY AND 44 HOURS PER WEEK. THE CODE ALSO LIMITED OFFICIAL USE

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STIPULATES THAT ALL WORKERS ARE ENTITLED TO 36 HOURS OF UNINTERRUPTED REST EACH WEEK. THE CODE GRANTS WORKERS A 35 PERCENT WAGE DIFFERENTIAL FOR WORK OVER 44 AND UP TO 68 HOURS PER WEEK AND A 100 PERCENT DIFFERENTIAL FOR ANY HOURS ABOVE 68 HOURS PER WEEK.

68. WORKPLACE SAFETY AND HEALTH CONDITIONS FREQUENTLY DO NOT MEET LEGAL STANDARDS, WHICH THE DOMINICAN SOCIAL SECURITY INSTITUTE (IDSS) AND THE LABOR CODE ESTABLISH. BOTH THE IDSS AND THE LABOR SECRETARIAT HAVE SMALL CORPS OF INSPECTORS CHARGED WITH ENFORCING STANDARDS. HOWEVER, THESE POSTS ARE CUSTOMARILY FILLED THROUGH POLITICAL PATRONAGE, AND SOME INSPECTORS HAVE EARNED A REPUTATION FOR CORRUPTION. (EMBASSY: CAN WORKERS REMOVE THEMSELVES FROM DANGEROUS WORKPLACE SITUATIONS WITHOUT JEOPARDY TO CONTINUED EMPLOYMENT?)

69. (EMBASSY: THE FOLLOWING PARAGRAPH IS ALSO WHAT WE SAID LAST YEAR. PLEASE REVIEW CLOSELY TO ENSURE THAT IT IS STILL ACCURATE.) CONDITIONS FOR AGRICULTURAL WORKERS, PARTICULARLY HAITIANS, ARE IN GENERAL MUCH WORSE, ESPECIALLY IN THE SUGAR INDUSTRY. ALTHOUGH CEA READILY COOPERATES WITH NONGOVERNMENTAL ORGANIZATIONS ACTIVE IN EFFORTS TO IMPROVE THE CONDITIONS OF SUGAR CANE WORKERS, IN SOME CASES CEA AND THE GOVERNMENT HAVE FAILED TO TAKE MEASURES TO IMPLEMENT WRITTEN AGREEMENTS DESIGNED TO OVERCOME THE PROBLEMS FACING SUGAR CANE WORKERS. CANE CUTTERS ON CEA PLANTATIONS ARE PAID BY WEIGHT OF CUT CANE RATHER THAN HOURS WORKED AND THUS ARE USUALLY REQUIRED TO WORK SIGNIFICANTLY MORE HOURS THAN THE STANDARD WORKWEEK IN ORDER TO EARN A WAGE APPROACHING THAT OF WORKERS IN LIMITED OFFICIAL USE

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OTHER INDUSTRIES. - CEA CONTINUED TO VIOLATE THE LABOR
CODE'S PROHIBITION OF PAYMENT IN NONCASH FORMS BY PAYING
CANE CUTTERS IN VOUCHERS. CANE CUTTERS ALSO FACED
WIDESPREAD CHEATING DURING THE WEIGHING OF THEIR CUT
CANE. ALTHOUGH CEA AND THE LABOR SECRETARIAT SIGNED AN
AGREEMENT WITH LABOR UNIONS TO ALLOW UNION OFFICIALS TO
ASSIST THE LABOR SECRETARIAT IN THE INSPECTION AND
MONITORING OF CEA WEIGH STATIONS, THEY TOOK NO ACTION TO
IMPLEMENT THIS AGREEMENT. MANY HAITIAN WORKER VILLAGES
CONTINUED TO SUFFER HIGH RATES OF DISEASE AND A LACK OF
EDUCATION AND MEDICAL FACILITIES, RUNNING WATER, AND
SEWAGE SYSTEMS.

70. END TEXT.
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