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FM AMEMBASSY SANTO DOMINGO
TO SECSTATE WASHDC IMMEDIATE 2721

UNCLAS E F T O SECTION 01 OF 07 SANTO DOMINGO 006661

SENSITIVE

NOFORN

E.O. 12958: N/A
TAGS: PHUM, ELAB, DR
SUBJECT: DOMINICAN REPUBLIC: DRAFT COUNTRY REPORT ON
HUMAN RIGHTS PRACTICES

1. NOFORN -- ENTIRE TEXT
2. FOLLOWING IS THE 1996 COUNTRY HUMAN RIGHTS REPORT FOR THE DOMINICAN REPUBLIC.
3. DOMINICAN REPUBLIC

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THE CONSTITUTION OF THE DOMINICAN REPUBLIC PROVIDES FOR A POPULARLY ELECTED PRESIDENT AND A BICAMERAL CONGRESS. IN PRACTICE, THE DISTRIBUTION OF POWER HAS FAVORED THE EXECUTIVE BRANCH.

FOLLOWING A FREE AND FAIR PRESIDENTIAL ELECTION IN WHICH POLITICAL PARTIES REPRESENTING THE IDEOLOGICAL SPECTRUM PARTICIPATED, LEONEL FERNANDEZ OF THE DOMINICAN LIBERATION PARTY ASSUMED THE PRESIDENCY AUGUST 16.

HISTORICALLY, ALL JUDGES HAVE BEEN CHOSEN BY THE SENATE. CONSTITUTIONAL REFORMS IN 1994, HOWEVER, CREATED A NATIONAL JUDICIAL COUNCIL WHICH IS TO APPOINT JUSTICES OF THE SUPREME COURT. THE SUPREME COURT APPOINTS JUDGES TO THE LOWER COURTS. THE SEVEN-MEMBER COUNCIL, INCLUDING THE PRESIDENT AND LEGISLATORS FROM BOTH HOUSES OF CONGRESS, THE PRESIDENT OF THE SUPREME COURT AND A SECOND SUPREME COURT JUSTICE WAS FORMALLY CONSTITUTED IN AUGUST 1996.

THE SECURITY FORCES ARE: THE NATIONAL POLICE (PN), THE NATIONAL DEPARTMENT OF INVESTIGATIONS (DNI), THE NATIONAL DRUG CONTROL DIRECTORATE (DNCD) AND THE MILITARY (ARMY, AIR FORCE AND NAVY). THE PN IS UNDER THE SECRETARY OF THE INTERIOR AND POLICE, THE MILITARY IS UNDER THE SECRETARY OF THE ARMED FORCES AND THE DNI AND DNCD, WHICH HAVE PERSONNEL FROM BOTH THE POLICE AND MILITARY, REPORT DIRECTLY TO THE PRESIDENT. THE SECURITY FORCES ARE GENERALLY RESPONSIVE TO CIVILIAN EXECUTIVE BRANCH AUTHORITY. HOWEVER, SOME MEMBERS OF THE SECURITY FORCES CONTINUED TO COMMIT HUMAN RIGHTS ABUSES, SOMETIMES WITH

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THE TACIT ACQUIESCENCE OF THE CIVIL AUTHORITIES.

THE ECONOMY, ONCE HEAVILY DEPENDENT ON SUGAR AND OTHER AGRICULTURAL EXPORTS, HAS DIVERSIFIED; TOURISM AND FREE TRADE ZONES (FTZS) ARE NOW MAJOR SOURCES OF INCOME AND EMPLOYMENT. AN ESTIMATED TEN PER CENT OF THE GROSS DOMESTIC PRODUCT (GDP) IS REMITTANCES FROM ABROAD. STATE-OWNED FIRMS SUCH AS THE STATE SUGAR COUNCIL (CEA), THE CORPORATION FOR STATE ENTERPRISES (CORDE) AND THE

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DOMINICAN ELECTRICITY CORPORATION (CDE) HAVE IMPEDED ECONOMIC GROWTH BECAUSE OF FINANCIAL AND ADMINISTRATIVE INEPTITUDE. LEGISLATION TO PERMIT PRIVATE SECTOR PARTICIPATION IN STATE ENTERPRISES IS PENDING.

PRINCIPAL HUMAN RIGHTS PROBLEMS INCLUDE CONTINUING INSTANCES OF ARBITRARY DETENTION AND BEATINGS OF SUSPECTS, SECURITY TO OBEY JUDICIAL ORDERS, JUDICIAL CORRUPTION, MALADMINISTRATION OF THE COURTS, POOR PRISON CONDITIONS, ABUSES OF HAITIAN MIGRANTS, COMPULSORY 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 55 REPORTS OF EXTRAJUDICIAL KILLINGS BY THE POLICE (BEFORE SEPTEMBER 25). THESE WERE USUALLY COMMITTED BY POLICE PURSUING SUSPECTS. IN FEBRUARY, AN ARMY PATROL KILLED A CHILD AND WOUNDED FOUR OTHERS IN THE CITY OF SANTIAGO WHEN IT FIRED UPON A VEHICLE WHICH DID NOT OBEY ORDERS TO STOP. THE OFFICIALS WERE DISMISSED. IN ANOTHER INCIDENT, A PREGNANT NINETEEN-YEAR-OLD WOMAN DIED IN POLICE CUSTODY, ALLEGEDLY DURING INTERROGATION.

B. DISAPPEARANCE

THERE WERE NO REPORTS OF POLITICALLY MOTIVATED DISAPPEARANCES.

THE CASE OF NARCISO GONZALEZ, A UNIVERSITY PROFESSOR AND CRITIC OF THE BALAGUER GOVERNMENT, WHO DISAPPEARED IN MAY

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1994, CONTINUED TO LANGUISH IN THE COURT SYSTEM.
PRESIDENT FERNANDEZ PROMISED THE CASE WILL BE SERIOUSLY
PURSUED. THE CASE CAME BEFORE THE COMMISSION ON INTER-
AMERICAN HUMAN RIGHTS OF THE ORGANIZATION OF AMERICAN

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UNCLAS E F T O SECTION 02 OF 07 SANTO DOMINGO 006661

SENSITIVE

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TAGS: PHUM, ELAB, DR

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

STATES (OAS) IN OCTOBER.

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
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ABUSING DETAINEES 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 WHILE IN CUSTODY. SUCH
INCIDENTS INCLUDED THE REPORTED BEATING OF FOUR MEN,
ACCUSED OF STEALING CARS, WHILE THEY HUNG BY THEIR WRISTS
FOR SEVERAL HOURS.

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 JUDGES HAVE SENTENCED CONVICTED
OFFICIALS TO SENTENCES RANGING FROM A 1-MONTH SUSPENSION
TO 6 MONTHS' INCARCERATION.

PRISONS ARE GROSSLY OVERCROWDED, AND HEALTH AND SANITARY
CONDITIONS ARE SUBSTANDARD. CONDITIONS AT THE LARGEST
PRISON, LA VICTORIA, POSE A SERIOUS THREAT TO LIFE AND
HEALTH. SUSPECTS AWAITING TRIAL ARE KEPT WITH CONVICTS
SERVING THEIR SENTENCES. THE GOVERNMENT ESTIMATES THERE
ARE FIVE HUNDRED PRISONERS AWAITING TRIAL AT LA VICTORIA
WHO HAVE BEEN INCARCERATED LONGER THAN THE MAXIMUM
SENTENCE FOR THEIR CRIME. THE NEW GOVERNMENT TOOK A
CENSUS OF THE PRISON TO ADDRESS THIS PROBLEM. AS PART OF
THE CENSUS, THE ATTORNEY GENERAL'S OFFICE REVIEWED CASES

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TO DETERMINE WHICH PRISONERS SHOULD BE RELEASED, FOR
EXAMPLE, BECAUSE THEY HAVE BEEN HELD LONGER THAN THE
SENTENCE PRESCRIBED FOR THE OFFENSE WITH WHICH THEY ARE
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CHARGED.

JUVENILES ARE AT TIMES HELD WITH ADULT OFFENDERS. THE
ATTORNEY GENERAL IN SEPTEMBER ESTIMATED THAT AS MANY AS
300 MINORS WERE IN CUSTODY IN LA VICTORIA PRISON. THE
NEW GOVERNMENT HAS ACKNOWLEDGED THE PROBLEM AND HAS
PROMISED TO TAKE CORRECTIVE MEASURES. SOME PRISON
PERSONNEL REPORTEDLY ENGAGE IN EXTORTION AND OTHER
CORRUPT ACTIVITIES, AND MOST PRISONERS FIND IT NECESSARY
TO RELY ON RELATIVES OR THEIR OWN FINANCES TO BE FED
ADEQUATELY. MEDICAL CARE SUFFERS FROM A LACK OF SUPPLIES
AND AVAILABLE PHYSICIANS.

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 APPROVAL OF THE PROSECUTOR'S OFFICE.
SECURITY FORCES CONTINUED ROUTINELY 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. CIVIL AUTHORITIES HAVE NOT TAKEN
SUFFICIENT STEPS TO ADDRESS THESE WIDE-SPREAD ABUSES.

THE DNCD AND NATIONAL POLICE CONTINUED TO ENGAGE IN
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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. CIVIL
AUTHORITIES HAVE NOT ACTED TO CURB THESE ABUSES.

WHILE THE LAW DOES NOT PROHIBIT EXILE, THERE ARE NO KNOWN
CASES OF CITIZENS IN FORCED EXILE. BEFORE THE JUNE 30
PRESIDENTIAL ELECTION, A FORMER PROSECUTOR, WHO WHILE IN
THE UNITED STATES CHARGED THAT HIGH DOMINICAN OFFICIALS
WERE INVOLVED IN CORRUPTION AND DRUG TRAFFICKING, WAS NOT
ALLOWED TO RETURN. THE ORGANIZATION OF AMERICAN STATES
(OAS) COMMISSION ON INTER-AMERICAN HUMAN RIGHTS HEARD THE
CASE. AFTER THE ELECTION, SHE ENTERED THE COUNTRY
WITHOUT INCIDENT.

E. DENIAL OF FAIR PUBLIC TRIAL

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

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UNCLAS E F T O SECTION 03 OF 07 SANTO DOMINGO 006661

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

THE JUDICIAL SYSTEM WAS IN FLUX DURING THE SECOND HALF OF
THE YEAR. IN AUGUST, THE NATIONAL JUDICIAL COUNCIL WAS
FINALLY NAMED AFTER BEING MANDATED BY THE CONSTITUTIONAL
REFORMS OF 1994. IN SEPTEMBER, THE COUNCIL HELD ITS
FIRST MEETING WHICH DEALT WITH PROCEDURAL MATTERS. WHEN
FULLY IMPLEMENTED, THE REFORMS OF 1994 WOULD END THE
SENATE'S EXCLUSIVE ROLE IN APPOINTING JUDGES AND
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ESTABLISH A PROFESSIONAL CAREER SERVICE FOR JUDGES,
INCLUDING POTENTIAL LIFE-TERM APPOINTMENTS. UNTIL THESE
REFORMS ARE IN PLACE, THE OVERALL AUTONOMY OF THE
JUDICIARY IS IN QUESTION.

THE CONSTITUTION PROVIDES FOR PUBLIC TRIAL. THE COURTS

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NORMALLY APPOINT LAWYERS AT PUBLIC EXPENSE FOR INDIGENT DEFENDANTS IN FELONY CASES BUT RARELY IN CRIMINAL MISDEMEANOR CASES. THE JUDICIAL SYSTEM IS PLAGUED BY CHRONIC DELAYS. MANY SUSPECTS SUFFER LONG PRETRIAL DETENTION; NEARLY 86 PER CENT OF THE PRISON POPULATION IS AWAITING TRIAL. THERE ARE ALSO PERENNIAL ACCUSATIONS OF CORRUPTION.

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

MILITARY OR POLICE COURTS HAVE JURISDICTION OVER MEMBERS OF THE SECURITY FORCES, BUT A MILITARY OR POLICE BOARD FREQUENTLY REMANDS CASES INVOLVING CAPITAL CRIMES (MURDER, RAPE, ETC.) TO CIVILIAN COURTS FOR REVIEW AFTER DISHONORABLE DISCHARGE.

THERE WERE NO REPORTS OF POLITICAL PRISONERS.

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

GENERALLY, THE GOVERNMENT DOES NOT ARBITRARILY USE WIRETAPPING OR OTHER SURREPTITIOUS METHODS TO INTERFERE
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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.

SECTION 2 RESPECT FOR CIVIL LIBERTIES, INCLUDING:

A. FREEDOM OF SPEECH AND PRESS

THE LAW PROVIDES FOR THESE FREEDOMS AND THE GOVERNMENT USUALLY RESPECTS THEM IN PRACTICE. DURING THE PRESIDENTIAL CAMPAIGN, A JOURNALIST, JUAN BOLIVAR DIAZ, WAS TRIED IN ABSENTIA AND SENTENCED TO 6 MONTHS FOR LIBEL

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FOR A BOOK WHICH LAID OUT THE CASE FOR FRAUD IN THE 1994 ELECTIONS. THE INCIDENT LED TO VIGOROUS PROTEST FROM CIVIL SOCIETY. THE SENTENCE IS BEING APPEALED AND DIAZ REMAINS FREE.

DOMINICANS 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 FROM LOSS OF INFLUENCE TO LOSS OF ONE'S JOB.

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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 NON-INTERVENTION (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.

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UNCLAS E F T O SECTION 04 OF 07 SANTO DOMINGO 006661

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

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C. -FREEDOM OF RELIGION DECONTROLLED/UNCLASSIFIED

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

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

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

HAITIANS CONTINUE TO COME TO THE DOMINICAN REPUBLIC, SOME LEGALLY BUT MOST UNDOCUMENTED, IN SEARCH OF ECONOMIC OPPORTUNITY. THROUGHOUT THE YEAR, SECURITY FORCES, PARTICULARLY THE ARMY, REPATRIATED UNDOCUMENTED HAITIAN NATIONALS BELIEVED TO BE IN THE COUNTRY ILLEGALLY. THE EXPULSIONS OCCURRED IN VARIOUS REGIONS OF THE COUNTRY. THOUSANDS WERE EXPELLED IMMEDIATELY PRIOR TO THE MAY 15 PRESIDENTIAL ELECTION, BUT THERE WAS NO NOTICEABLE UPSURGE IN EXPULSIONS PRIOR TO THE JUNE 30 RUN-OFF ELECTION OR SINCE. ACCORDING TO INTERNATIONAL AND DOMINICAN HUMAN RIGHTS GROUPS AND UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES (UNHCR), DURING THE FIRST FEW MONTHS OF THE YEAR, HAITIAN DEPORTEES WERE HUMILIATED BY HAVING THEIR HEADS SHAVED AND PAINTED AND BEING LEFT WITHOUT THEIR BELONGINGS FAR FROM WHERE THEY ENTERED THE DOMINICAN REPUBLIC.

UNHCR ESTIMATES THERE ARE 430 HAITIAN REFUGEES IN THE DOMINICAN REPUBLIC. ITS RELATIONS WITH THE GOVERNMENT ARE COOPERATIVE. HOWEVER, THE GOVERNMENT HAS NOT MADE ANY DETERMINATION OF STATUS OR DOCUMENTED ANY REFUGEES BECAUSE THE NATIONAL COMMITTEE FOR REFUGEES REQUIRES APPLICANTS BE REFERRED TO IT BY THE NATIONAL OFFICE OF REFUGEE AFFAIRS WHICH HAS NOT BEEN ESTABLISHED.

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

PRESIDENTIAL ELECTIONS WERE HELD ON MAY 16 WITH A RUNOFF
ELECTION BETWEEN THE 2 TOP VOTE GETTERS ON JUNE 30. A
NEW SYSTEM OF VOTING WAS USED TO COUNTER OPPORTUNITIES
FOR FRAUD. THERE WERE ACCUSATIONS FROM BOTH SIDES OF
ATTEMPTED FRAUD AND OTHER IRREGULARITIES, INCLUDING VOTE
SUPPRESSION THROUGH BUYING OR CONFISCATING VOTER
IDENTIFICATION CARDS. IN SPITE OF THESE ACCUSATIONS,
INTERNATIONAL AND DOMINICAN OBSERVERS HAILED THE PROCESS
AS THE CLEANEST ELECTIONS IN THE COUNTRY'S HISTORY; THE
LOSING CANDIDATES ACCEPTED THE RESULTS; AND POWER WAS
TRANSFERRED PEACEFULLY AND SMOOTHLY.

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
FOUR YEARS BY SECRET BALLOT AND UNIVERSAL ADULT SUFFRAGE.
ACTIVE DUTY POLICE AND MILITARY MAY NOT VOTE. THE
PRESIDENT APPOINTS THE GOVERNORS OF THE 29 PROVINCES.
OPPOSITION GROUPS OF THE LEFT, RIGHT AND CENTER OPERATE
OPENLY.

ALTHOUGH THE NATION HAS A FUNCTIONING MULTIPARTY SYSTEM,
IN PRACTICE THE PRESIDENT DOMINATES PUBLIC POLICY
FORMULATION AND IMPLEMENTATION. HE EXERCISES 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
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GOVERNMENT, EFFECTIVELY MAKING MANY IMPORTANT DECISIONS
BY DECREE.

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CONGRESS HAD LIMITED POWER UNDER THE PREVIOUS GOVERNMENT. THE TWO MAIN OPPOSITION PARTIES AND THEIR ALLIES COMBINED HOLD 88 AND 96 PER CENT OF THE LOWER AND UPPER HOUSES, RESPECTIVELY, LEAVING PRESIDENT FERNANDEZ'S PARTY WITH SCANT CONGRESSIONAL PRESENCE. THE CONGRESS ALSO PROVIDES AN OPEN FORUM FOR THE FREE EXCHANGE OF VIEWS AND DEBATE.

WOMEN AND MINORITIES CONFRONT NO SERIOUS LEGAL IMPEDIMENTS TO POLITICAL PARTICIPATION. WOMEN HOLD FOURTEEN SEATS IN THE ONE HUNDRED AND TWENTY-MEMBER HOUSE OF DEPUTIES AND ONE SEAT IN THE THIRTY-MEMBER SENATE. WOMEN CONTINUE TO HAVE REPRESENTATION IN APPOINTED POSITIONS, ALBEIT LIMITED, SUCH AS IN THE CABINET AND PROVINCIAL GOVERNORSHIPS.

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

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ACTION ARA-01

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SSO-00	SS-00	STR-00	TRSE-00	USIE-00	PRM-10	PRME-01
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TAGS: PHUM, ELAB, DR
SUBJECT: DOMINICAN REPUBLIC: DRAFT COUNTRY REPORT ON
HUMAN RIGHTS PRACTICES

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

SECTION 5 DISCRIMINATION BASED ON RACE, SEX, RELIGION,
DISABILITY, LANGUAGE, OR SOCIAL STATUS
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THE LAW PROHIBITS DISCRIMINATION BASED ON RACE AND SEX.
SUCH DISCRIMINATION EXISTS IN SOCIETY, BUT THE GOVERNMENT
HAS NOT ACKNOWLEDGED ITS EXISTENCE OR MADE EFFORTS TO
COMBAT IT.

WOMEN

DOMESTIC VIOLENCE AND SEXUAL HARASSMENT ARE WIDESPREAD.
THERE ARE NO LAWS PROTECTING CITIZENS FROM ABUSE BY THEIR
SPOUSES AND VICTIMS RARELY REPORT SUCH ABUSE.

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THE GOVERNMENT DOES NOT VIGOROUSLY ENFORCE PROSTITUTION LAWS. SEX TOURISM IS A GROWING INDUSTRY, PARTICULARLY IN THE NORTH COAST RESORT CITY OF SOSUA. THE GOVERNMENT HAS NO PROGRAM IN THE AREA TO EDUCATE PROSTITUTES ABOUT THE DANGERS OF SEXUALLY TRANSMITTED DISEASES.

DOMINICAN WOMEN ARE ALSO VICTIMS OF RINGS WHICH SMUGGLE THIRD-WORLD WOMEN TO EUROPE TO WORK AS PROSTITUTES IN CONDITIONS RIFE WITH EXPLOITATION AND MISTREATMENT. CORRUPTION AND A RELUCTANCE TO RESTRICT EMIGRATION HINDER ENFORCEMENT OF THE LAW. THE DOMINICAN REPUBLIC IS NOT A SIGNATORY TO THE CONVENTION FOR THE SUPPRESSION OF THE TRAFFIC IN PERSONS AND OF THE EXPLOITATION OF THE PROSTITUTION OF OTHERS.

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

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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. EMPLOYERS IN INDUSTRY GIVE PREGNANCY TESTS TO WOMEN BEFORE HIRING AS PART OF A MEDICAL EXAMINATION. SOME EMPLOYERS HAVE STATED, AND WORKERS CONFIRM, PREGNANT WOMEN ARE NOT HIRED. CONGRESS HAS YET TO RATIFY THE INTER-AMERICAN CONVENTION ON VIOLENCE AGAINST WOMEN.

CHILDREN

THE FORMER GOVERNMENT DID NOT SUPPORT ITS PROFESSED COMMITMENT TO CHILD WELFARE WITH FINANCIAL AND HUMAN RESOURCES. IN SEPTEMBER, BEFORE A GATHERING OF CHILDREN CELEBRATING NATIONAL CHILDREN'S RIGHTS DAY, PRESIDENT FERNANDEZ PROMISED THE GOVERNMENT'S FULL SUPPORT TO THE ENTITIES CHARGED WITH IMPLEMENTING THE MINOR'S CODE. DESPITE THE EXISTENCE OF GOVERNMENT INSTITUTIONS DEDICATED TO CHILD WELFARE, PRIVATE SOCIAL AND RELIGIOUS ORGANIZATIONS CARRY THE PRINCIPAL BURDEN. THE PRIVATE INSTITUTIONS RECEIVE NO DOMINICAN GOVERNMENT FINANCING.

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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 1994 CODE, HAVE NOT BEEN ESTABLISHED.

THE UNIMPLEMENTED MINOR'S CODE CONTAINS PROVISIONS AGAINST CHILD ABUSE, INCLUDING PHYSICAL AND EMOTIONAL
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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 BECAUSE 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.

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

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	ADS-00	NSAE-00	NSCE-00	OIC-02	PRS-00	P-00	SP-00
	SSO-00	SS-00	STR-00	TRSE-00	USIE-00	PRM-10	PRME-01
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SUBJECT: DOMINICAN REPUBLIC: DRAFT COUNTRY REPORT ON
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DOMINICANS ARE STRONGLY PREJUDICED AGAINST HAITIANS,
MANY OF WHOM ARE ILLEGAL IMMIGRANTS WHO CONSTITUTE A
SIGNIFICANT PERCENTAGE OF THE UNSKILLED MANUAL LABOR
FORCE. THE GOVERNMENT HAS NOT ACKNOWLEDGED THE EXISTENCE
OF THIS DISCRIMINATION NOR MADE ANY EFFORTS TO COMBAT IT.
DARKER-SKINNED DOMINICANS ALSO FACE INFORMAL BARRIERS TO
SOCIAL AND ECONOMIC ADVANCEMENT.

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CREDIBLE SOURCES CHARGE THAT THE GOVERNMENT AT TIMES REFUSES TO RECOGNIZE INDIVIDUALS OF HAITIAN ANCESTRY BORN IN THE COUNTRY AS DOMINICAN CITIZENS. LACK OF DOCUMENTATION ALSO SOMETIMES HINDERS THE ABILITY OF CHILDREN OF HAITIAN DESCENT TO ATTEND SCHOOL WHERE THERE IS ONE AVAILABLE; SOME PARENTS FAIL TO SEEK DOCUMENTATION FOR FEAR OF BEING DEPORTED.

SECTION 6 WORKER RIGHTS

A. THE RIGHT OF ASSOCIATION

THE CONSTITUTION PROVIDES FOR THE FREEDOM TO ORGANIZE LABOR UNIONS AND ALSO FOR THE RIGHT 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 TEN-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.

THE LABOR CODE SPECIFIES IN DETAIL THE STEPS LEGALLY REQUIRED TO ESTABLISH A UNION, FEDERATION AND

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CONFEDERATION. THE CODE CALLS FOR AUTOMATIC RECOGNITION
OF A UNION IF THE GOVERNMENT HAS NOT ACTED ON ITS
APPLICATION WITHIN A SPECIFIC TIME. IN PRACTICE, THE
GOVERNMENT HAS READILY FACILITATED RECOGNITION OF LABOR
ORGANIZATIONS. ORGANIZED LABOR REPRESENTS LITTLE MORE
THAN 10 PER CENT OF THE WORK FORCE AND IS DIVIDED AMONG
THREE MAJOR CONFEDERATIONS, FOUR MINOR CONFEDERATIONS AND
A NUMBER OF INDEPENDENT UNIONS.

THERE WERE TWO INSTANCES OF UNION MEMBERS BEING FIRED
WITHOUT CAUSE. THE UNIONS HAVE BROUGHT THESE CASES TO
COURT AND THE CASES ARE STILL UNDER CONSIDERATION.
WIDESPREAD DISCREET INTIMIDATION OF UNION ACTIVITY WAS
REPORTED. FOR EXAMPLE, UNION MEMBERS IN THE FTZS REPORT
THEY HESITATE TO DISCUSS UNION ACTIVITY AT WORK, EVEN
DURING BREAK TIME, FOR FEAR OF LOSING THEIR JOBS.

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

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
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DEALING WITH DISPUTES, BUT THEIR EFFECTIVENESS IS LIMITED
BY LACK OF RESOURCES AND POLITICAL JUDGES. SOME LABOR
COURTS ENJOY REPUTATIONS FOR HONESTY, DEPENDING ON THE
PRESIDING JUDGE. LABOR COURTS EXIST IN FIVE
JURISDICTIONS, BUT THE PROBLEMS WHICH THE COURTS WERE
ESTABLISHED TO ADDRESS STILL PREVAIL IN THE REST OF THE
COUNTRY.

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THE LABOR CODE APPLIES IN THE 32 ESTABLISHED FTZS WHICH INCLUDE 288 U.S.-OWNED OR ASSOCIATED COMPANIES AND EMPLOY APPROXIMATELY 170,000 WORKERS, MOSTLY WOMEN. SOME FTZ COMPANIES HAVE A HISTORY OF DISCHARGING WORKERS WHO ATTEMPT TO ORGANIZE UNIONS. THERE ARE APPROXIMATELY 70 UNIONS IN THE FTZS, MANY ON PAPER ONLY. THE MAJORITY ARE AFFILIATED TO THE NATIONAL FEDERATION OF FREE TRADE ZONE WORKERS (FENATRAZONAS).

THE STATE SUGAR COUNCIL (CEA) EMPLOYS WORKERS FROM MORE THAN 100 UNIONS. DOMINICAN WORKERS PREDOMINATE IN MOST OF THE UNIONS, ALTHOUGH 2 UNIONS ARE HAITIAN-DOMINATED. THE CEA HAS LONG MAINTAINED A NEGATIVE ATTITUDE TO

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ADDITIONAL ORGANIZING EFFORTS.

C. PROHIBITION OF FORCED OR COMPULSORY LABOR

THE LAW PROHIBITS FORCED OR COMPULSORY LABOR.

HAITIAN CANE WORKERS CONTINUED TO ENCOUNTER RESTRICTIONS
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ON THEIR FREEDOM OF MOVEMENT. THESE INCLUDE ARMED GUARDS
ON THE PLANTATION WHO WILL TRY TO FIND DEPARTING WORKERS
BEFORE THEY LEAVE COMPANY LANDS.

THERE WERE NUMEROUS CREDIBLE REPORTS OF FORCED OR COERCED
OVERTIME IN FACTORIES. EMPLOYERS, PARTICULARLY IN THE
FTZS, SOMETIME LOCKED THE EXIT DOORS OF FACTORIES AFTER
NORMAL CLOSING TIME SO THAT WORKERS COULD NOT LEAVE.
THERE HAVE BEEN REPORTS OF WORKERS BEING FIRED FOR
REFUSING TO WORK OVERTIME AND BOTH EMPLOYERS AND WORKERS
STATE THAT NEW HIRES ARE NOT INFORMED THAT OVERTIME IS
OPTIONAL.

D. MINIMUM AGE FOR EMPLOYMENT OF CHILDREN

THE LABOR CODE PROHIBITS EMPLOYMENT OF YOUTH UNDER 14
YEARS OF AGE AND PLACES RESTRICTIONS ON THE EMPLOYMENT OF
YOUTH UNDER THE AGE OF 16. THESE RESTRICTIONS INCLUDE A

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LIMITATION OF NO MORE THAN SIX HOURS OF DAILY WORK, NO EMPLOYMENT IN DANGEROUS OCCUPATIONS OR ESTABLISHMENTS SERVING ALCOHOL AND LIMITATIONS ON NIGHTTIME WORK.

DOMINICAN LAW REQUIRES SIX YEARS OF FORMAL EDUCATION.

THE HIGH LEVEL OF UNEMPLOYMENT AND LACK OF SOCIAL SAFETY NET CREATE PRESSURES ON FAMILIES TO ALLOW CHILDREN TO EARN SUPPLEMENTAL INCOME. TENS OF THOUSANDS OF CHILDREN WORK SELLING NEWSPAPERS, SHINING SHOES OR CLEANING CARS, OFTEN DURING SCHOOL HOURS. THE GOVERNMENT HAS PROPOSED A FINE FOR THE PARENTS OF TRUANT CHILDREN.

THERE WERE NO REPORTS OF CHILD LABOR AMONG CANE CUTTERS.

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E. ACCEPTABLE CONDITIONS OF WORK

THE CONSTITUTION PROVIDES THE GOVERNMENT WITH 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. THE MINIMUM WAGE IS APPROXIMATELY \$75 PER MONTH (1,014 PESOS). THIS COVERS ONLY A FRACTION OF LIVING COSTS FOR A FAMILY IN SANTO DOMINGO. MANY WORKERS RECEIVE ONLY THE MINIMUM WAGE. FOR EXAMPLE, SIXTY PER CENT OF GOVERNMENT EMPLOYEES EARN ONLY 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 WORKWEEK IS MONDAY THROUGH FRIDAY PLUS A HALF A DAY ON SATURDAY, BUT LONGER HOURS ARE NOT UNUSUAL. THE CODE GRANTS WORKERS A 35 PER CENT DIFFERENTIAL FOR WORK OVER 44 HOURS AND 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.

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WORKPLACE REGULATIONS AND THEIR ENFORCEMENT IN THE FTZS
DO NOT DIFFER FROM THOSE IN THE COUNTRY AT LARGE,
ALTHOUGH WORKING CONDITIONS ARE SOMETIMES BETTER. BOTH
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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.

CONDITIONS FOR AGRICULTURAL WORKERS ARE IN GENERAL MUCH
WORSE, ESPECIALLY IN THE SUGAR INDUSTRY. ON MANY SUGAR
PLANTATIONS, CANE CUTTERS ARE PAID BY WEIGHT OF CANE CUT
RATHER THAN HOURS WORKED. MANY CANE CUTTERS EARN
APPROXIMATELY \$3.70 (50 PESOS) PER DAY. MANY BATEYES
HAVE HIGH RATES OF DISEASE AND LACK SCHOOLS, MEDICAL
FACILITIES, RUNNING WATER AND SEWAGE SYSTEMS.
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