

**Discussion Paper:**  
**Trafficking in Persons, the Dominican Republic, and the Government's Anti-Trafficking  
Commitment and Efforts**

The Government of the Dominican Republic (GODR) is combating the trafficking of persons from, through and to the Dominican Republic as well as smuggling and undocumented migration. The recent earthquake in Haiti brought into stark focus the context within which the DR confronts these issues.

Efforts continue to prosecute offenders, protect trafficking victims and witnesses, and prevent trafficking. The GODR's efforts encompass trafficking causes, challenges and solutions, and are reflected in the DR's laws, official actions and policies, international commitments and cooperation, and public positions. The new Constitution, approved in 2009 and in effect in 2010, specifically prohibits "slavery, servitude, and human trafficking" in all forms (Article 41) and reiterates the government's obligation to protect minors against sexual abuse and sexual, commercial, labor or economic exploitation (Article 56). The DR's comprehensive anti-trafficking law, Law 137-03, includes the elements of prosecution, protection, and prevention. Other laws, regulations, decrees, and initiatives further strengthen the DR's anti-trafficking tools and continue to mainstream anti-trafficking efforts into broader policies and plans.

The National Commission Against Trafficking in Persons (CITIM) that President Fernandez formed to develop and coordinate the national strategy to combat trafficking, collaborate in international activities, and propose appropriate legislative initiatives, has drafted a National Action Plan Against Trafficking in Persons and Illegal Trafficking in Migrants (2009-2014), which is being vetted internally.<sup>1</sup> The National Action Plan will build upon ongoing activities and provide the roadmap, concrete actions, and benchmarks for strengthening efforts to combat trafficking. First Lady Margarita Cendeno de Fernandez frequently and publicly addresses issues of smuggling and human trafficking. She is a member of the 27-member "Women's Leader Council" of UN.GIFT, a group of business, political and other leaders that seeks to "positively influence action in the fight against Human Trafficking by providing a high-level of professional outreach, with a wealth of knowledge and experience in the areas of women's issues and human rights."<sup>2</sup> Government Ministries regularly coordinate and interact with each other on these efforts (e.g., Ministries of Trade and of Labor to strengthen labor institutions and enhance implementation and enforcement of labor standards) and with NGO communities (many of which receive GODR financial assistance) and the private sector. The GODR actively participates in regional and multilateral efforts, such as DR-CAFTA's efforts to improve and better enforce labor laws and regulations.

The DR is a signatory to international anti-trafficking agreements, which under Dominican law are incorporated into the country's legal framework. In February 2008, it ratified, without reservations, the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention Against Transnational Organized Crime. In December 2007, it signed, without reservations, the UN Protocol Against the Smuggling of Migrants by Land, Sea and Air, supplementing that UN Convention. It has ratified key International Labor Organization (ILO) Conventions.<sup>3</sup>

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<sup>1</sup> As with other national strategies and plans, this National Action Plan will not create a new legal entity, thus under law cannot be assigned specific resources from the national budget.

<sup>2</sup> [www.ungift.org/ungift/en/wlc/index.html](http://www.ungift.org/ungift/en/wlc/index.html).

<sup>3</sup> E.g., Convention 29-Forced or Compulsory Labor; 87-Freedom of Association and Protection of the Right to Organise; 98-Right to Organize and Collective Bargaining; 100-Equal Remuneration; 105-Abolition of Forced Labor; 11-Discrimination; 138-Minimum Age for Admission to Employment; and 182-Worst Forms of Child Labor.

The GODR's actions address the “three Ps” of combating trafficking: prosecution, investigation and punishment of offenders; protection and assistance to victims; and prevention. This Discussion Paper focuses on key efforts that illustrate the commitment and progress of the Dominican Republic, as well as the continuing challenges, in its efforts to combat trafficking in persons.<sup>4</sup> It highlights new and ongoing efforts, but does not report every law, reform, or effort.

The DR's efforts to combat trafficking, and any subsequent sexual or labor exploitation, must accommodate some unique factors; most relevant are the shared island and land border with Haiti, a country with a recent history of political and social strife, a dearth of economic opportunities, violence, and insecurity. The January 12 earthquake and its aftermath again demonstrate the ongoing challenges. The earthquake heightened concerns that the “trafficking” of persons would increase, and in particular the trafficking of children. The GODR, NGOs (such as UNICEF) and the Government of Haiti (GOH) responded quickly to counter these risks. GODR and GOH counterparts agreed upon protocols for movement of persons across the border and protocols that would minimize immediate and potential long term harm to children, yet confront trafficking risks. The most highly publicized situation, of course, was the 10 U.S. citizens arrested at the border as they attempted to take 33 Haitian children from Haiti without required permission or documentation into the Dominican Republic, even after being advised of the legal requirements. Only one individual remains in custody and the charge of “organization of irregular trips” recently was added to suspicion of kidnapping; the other nine U.S. citizens have returned to the U.S. But GODR officials are alert to and have detained other suspects who have not garnered such media attention. Even in ordinary circumstances, the cross-border movement of people – via smuggling, trafficking, or merely undocumented crossings – cannot be evaluated in isolation of the context.

#### Shared Border with Haiti – Distinguishing Trafficking from Smuggling and Magnifying Differences Between Countries

##### *Trafficking Is Not Smuggling or Undocumented Entry*

The shared land border with Haiti illustrates the essential distinction between trafficking and smuggling and between documented and undocumented status.<sup>5</sup> Imprecise analysis often fails to draw the necessary distinctions. Individuals most frequently enter the DR to seek employment. They sometimes use smugglers to gain entry into the DR.<sup>6</sup> They sometimes obtain false documents. They sometimes enter without any documents. That is not “trafficking” for labor purposes or otherwise.

While various definitions of trafficking exist, trafficking at its core is exploitation-based. The USG defines it as: (a) sex trafficking, in which a commercial sex act is induced by force, fraud or coercion, or in which the person induced to perform such act is not yet 18 years of age; or (b) the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery. The common element is “force, fraud or coercion” (except for minors and commercial sexual exploitation) into a situation of unlawful exploitation.

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<sup>4</sup>Trafficking in persons may be part of broader challenges that governments are attempting to address. The U.S. Human Rights Report, the U.S. International Narcotics Strategy Report, the U.S. Department of Labor's Findings on the Worst Forms of Child Labor, or various UN reports, for example, all discuss aspects of trafficking in persons, each with a different focus and context. Those specific issues are beyond the scope of Discussion Paper.

<sup>5</sup> Both concepts are included in Law 137-30, though each has distinct legal elements.

<sup>6</sup> In 2009, the Migration Directorate reported almost 8,800 repatriations. Of these, the majority were of Haitian nationality (8,692), with others from around the world (e.g., Venezuela – 11; Germans – 8; Netherlands – 7; Colombia – 6; Spain – 6; Chinese – 2; Albanians – 3; Canadians – 3; Turks – 3; Pakistanis – 1; Bulgarians – 1).

“Smuggling” of migrants at its core is transportation-based. While also not legal, it generally involves the procurement, “to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a country of which the person is not a national or a permanent resident.”<sup>7</sup> Migrants cooperate with their smugglers, even seeking them out and paying them. Of course, smuggling may become “trafficking” if the elements of force, fraud, or coercion later arise, but only then. But logically if large numbers of individuals can be smuggled into a country, less need or ability exists to exert force, fraud, or coercion on those who previously entered via smuggling to remain.

The individual who seeks out the smuggler and pays to be brought into another country will be residing in an undocumented (and not legal) status. Most undocumented persons in the DR chose to leave their countries of nationality to reside and/or work in the DR without legal documents or other authorization.<sup>8</sup> Undocumented residents in the DR may encounter those legal, political, economic and social challenges common to undocumented populations around the world.<sup>9</sup> However, they are free to leave the country.

And of course, not all border crossings are illegal or improper. Daily interactions between communities for commercial or personal relationships represent the vast majority of border crossings.<sup>10</sup>

*Differences Between Haiti and the Dominican Republic Create Incentives for Cross-Border Movement of People*

Trafficking must be viewed in the context of the countries from which victims come and to which they go. Haiti has been embroiled in economic, social, security, political, and environmental crises for decades. The recent earthquake has illustrated and exacerbated these differences. But internal conditions as well as some institutional constraints (e.g., absence of strong government institutions, an army, well-trained and equipped national police) historically have limited Haiti’s ability to effectively participate in border control.<sup>11</sup> Haiti’s situation is described by UN Security Council Resolution 1542 (2004) that

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<sup>7</sup> See e.g., UN Protocol Against the Smuggling of Migrants By Land, Sea And Air, Supplementing The United Nations Convention Against Transnational Organized Crime (2000).

<sup>8</sup> See e.g., Santo Domingo: UNICEF: “Trafficking of Boys, Girls and Young People from Haiti to the Dominican Republic” (2004), that most of the children and young people interviewed were illegal immigrants who had not been trafficked and the main motivation for migrating was a decision by a parent to reunite the family in the DR or because they made arrangements with someone who would take them out of Haiti.  
[www.unicef.org/republicadominicana/english/protection\\_12467](http://www.unicef.org/republicadominicana/english/protection_12467).

<sup>9</sup> See e.g., Aizenman, N.C., “An undesirable inheritance; U.S.-born kids of illegal immigrants twice as likely as others to face poverty,” Washington Post, Section B, December 9, 2009 (University of Washington Professor Roberto Gonzalez: “The fact that so many in this population [children of U.S. illegal immigrants] face these initial disadvantages has huge implications in terms of their education, their future labor market experience, their integration in the broader society, and their political participation.”); “Arizona Law Takes a Toll on Nonresident Students,” New York Times, January 27, 2008 (“A lot of people I’ve grown up with have gone through that whole thing. They’re raised in the American educational system, and now they have no future. These are people who have basically lived in America their whole lives, know nothing else, and now their shot at the American dream is gone.”).

<sup>10</sup> E.g., on Monday and Friday market days, some 15,000 Haitians cross the border at Dajabón.  
[www.elnuevodiario.com.do/app/article.aspx?id=150889](http://www.elnuevodiario.com.do/app/article.aspx?id=150889).

<sup>11</sup> See Report of the UN Security Council Mission to Haiti, April 3, 2009, S/2009/175 (“The visit by the mission to Ouanaminthe, on the north-eastern border with the Dominican Republic, provided a stark illustration of the daunting challenges facing the Haitian authorities in the area of border management. The members of the Council noted the permeability of, and free movement in, the border area and noted that little progress has been made on infrastructure. In that regard, the local authorities drew the mission’s attention to the fact that despite the support received from MINUSTAH, they lacked the infrastructure and equipment to effectively manage the border with the Dominican

explains the basis for a Stabilization Mission: the “existence of challenges to the political, social and economic stability of Haiti and determining that the situation in Haiti continues to constitute a threat to international peace and security in the region.”

Not surprisingly, facing poverty, insecurity, and a lack of rudimentary basic services and employment, many Haitians enter the Dominican Republic over the land border. Most sources estimate the number of Haitians residing in the Dominican Republic to be between 800,000 and 1,000,000, or up to 11% of the DR’s total population.

Haiti is a destination country for trafficking for the purposes of commercial sexual exploitation and forced labor. As a destination country, the U.S. government has reported the trafficking of Dominican women into Haitian brothels serving UN peacekeepers.<sup>12</sup> Internal movement of children, or *restaveks*, also is a significant issue in Haiti. Media reporting since the earthquake illuminated how poor rural families give custody of their children to affluent families, with the hope of improving their children’s education and economic opportunities.

Various proposals to better understand the magnitude of the undocumented population in the DR have been discussed, but often face roadblocks because of concern that identifying those individuals may lead to their expulsion or may be seen to legitimize a status that is not legal. In the current process of providing a secure, digitized credential (*cedula*) to Dominicans, the Junta Central Electoral (JCE), an autonomous government agency, has uncovered many situations of undocumented (or fraudulent) credentials of persons of a variety of nationalities.

#### Defining the Magnitude of “Trafficking”

Trafficking estimates vary widely. While a verifiable number for trafficking situations or victims is impossible, as is true for many criminal activities, intellectual rigor in applying definitions of trafficking and smuggling (or other undocumented entry) is required to confer legitimacy on any number. An estimate does not gain legitimacy by repetition alone.

Estimates may be over-inclusive, and it is well-recognized that a significant gap exists between estimated and identified cases.<sup>13</sup> Trafficking data may be mixed with data on other forms of illegal migration.<sup>14</sup>

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Republic and emphasized the need to increase the Haitian National Police presence in the area, which currently stands at only 22 officers, bearing in mind the constraints posed by the lack of infrastructure.”)

<sup>12</sup> Dominican women also are trafficked for commercial sexual exploitation to other countries (discussed *infra*).

<sup>13</sup> *See, e.g.*, UNDP Human Development Report 2009, p.26; *see also* As originally released in February 2009, the 2008 Haiti Human Rights report stated: “Several NGOs reported a sharp increase during the year of child trafficking for sexual and labor purposes, especially to the Dominican Republic and the Bahamas. UNICEF estimated that approximately 30,000 children were trafficked into the Dominican Republic.” UNICEF’s web site estimates 2,000 children a year (which also is an estimate used since 2004). Subsequent to that public release and after inquiries by the GODR regarding the cited source report, the Haiti report posted on the State Department website stated: “Several NGOs reported a sharp increase during the year of child trafficking for sexual and labor purposes, especially to the Dominican Republic and the Bahamas.”

<sup>14</sup> The International Organization for Migration (IOM) engages with the GODR and NGOs on a variety of projects, including some focused on trafficking victims. Yet, even its efforts can be obscured when further reported. The Department of State’s 2009 Dominican Republic Country Report on Human Rights states that “As of October the IOM had assisted 28 victims of trafficking.” This assistance was provided under a pilot voluntary departure program with Haiti. Persons were given \$50 for their return to Haiti on the condition that they agreed not to return to the DR. None claimed to be a current or recent trafficking victim, and many had been in the DR for many years; however, some reported that they originally had been trafficked to the DR.

Refusal of entry into another country because of failure to prove tourism intent is not equivalent to trafficking. An assumption (explicit or implicit) that undocumented migration thus indicates a propensity for “trafficking” skews estimates, particularly when economic, political, security or other factors drive undocumented migration.

Estimates may be affected by motivations or perceptions about trafficking volumes. A NGO that relies on donor contributions may estimate the prevalence on the high end of a range, and responses, efforts, and protections on the low end. Donors might not question estimates that reaffirm existing beliefs that motivate their support. Entities that obtain external government funding might estimate numbers on the high end to ensure continuation of or additions to program funding. When such perceptions form the baseline for analysis of statistics on prosecutions, numbers of victims, responses will always be deemed insufficient, unsatisfactory, or “underreporting” the problem.

Extrapolation of trafficking estimates is inherently imprecise. Basic definitions of the crime differ, sociological factors inhibit data collection, and other legal and structural factors may impede reporting. A common source of information is various NGOs active in the DR and Latin America. However, if work often focuses on a population within a country, that subset cannot provide a trustworthy basis for extrapolation to a country.

Of course trafficking occurs, and estimates will be produced. But “estimates” need to be recognized as such and as not repeated as verified statistics. They must be continually re-examined to reflect current situation and conditions.

### The Government of the Dominican Republic’s Efforts to Combat Trafficking of Persons

The GODR’s comprehensive efforts to address trafficking of persons includes movement from the Dominican Republic to other destinations and into the Dominican Republic. A strong legal and policy framework provides the baseline for enforcement, punishment for trafficking of persons, internal cooperation, and coordination among the GODR and with others to provide assistance to victims and in prevention efforts. When finalized, the National Action Plan will be complemented by existing initiatives such as the National Strategic Plan to Eliminate the Worst Forms of Child Labor in the Dominican Republic (2006-2016), Action Plan for the Eradication of Abuse and Commercial Sexual Exploitation, and Comprehensive Program for the Protection of Street Children and Adolescents in the Dominican Republic (2007-2012). None of these strategies is an isolated effort.<sup>15</sup> Every new, reorganized, expanded or better coordinated approach to address issues cross-agency requires each contributing agency and entity to dedicate its resources. As “plans” or “strategies” do not create new legal entities, under law cannot be assigned resources *per se* from the national budget. The GODR continues to coordinate and complement the efforts being implemented, and to build on those efforts, to address issues such as trafficking.<sup>16</sup>

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<sup>15</sup> *E.g.*, Work of Inter-Institutional Commission Against Child Abuse and Commercial Sexual Exploitation (2001) co-chaired by CONANI and Ministry of Labor.

<sup>16</sup> Such criticism is not that different from another (until recently) perennial criticism -- the DR does not allocate 2% of its national budget to CONANI, a decentralized public agency, and municipal government budgets fall short of 5% to projects that “benefit” children. However, the government did not meet the law’s stipulation that [CONANI] receive at least 2 percent of the national budget and that a minimum of 5 percent of municipal government budgets be devoted to projects to benefit children.” One agency’s national budget allocation cannot reflect a government’s commitment to “children’s rights and welfare.” The GODR also does not meet similar budget stipulations for the Ministry of Education, Congress, Municipal Governments, UASD (public university of Santo Domingo), Judiciary Branch, Attorney General’s Office, Junta Central Electoral, political parties, Ministry of Youth, and others. If it

### *Anti-Trafficking Framework*

The Dominican Republic targets traffickers with criminal, financial, and other sanctions. Law 137-03, the Law Against Trafficking in Persons and Migrants, broadly defines and prohibits all forms of trafficking,<sup>17</sup> punishes trafficking with significant criminal penalties, and enhances sanctions for various aggravating circumstances. Penalties include up to 20 years' imprisonment and fines of up to 175 times the monthly minimum wage. Enhanced penalties are authorized: when the victim is a child; when a victim suffers physical or mental injury, psychological disability, mental illness, or serious harm as a result; or when a perpetrator takes advantage of a vulnerable victim, is an organized group, or is a public person. Law 137-03 imposes criminal liability for organizations and corporations involved in trafficking of persons, authorizing fines, revocation of a business license, closure of a business, and prohibition of any activities by a legal entity. Law 137-03 also prohibits the separate and distinct crime of smuggling of persons.<sup>18</sup> Among other laws and legal authorities specific to frequent manifestations of, and activities related to, trafficking and that provide additional legal tools are:

- Law 53-07 (Technology Crime Law) (2007), criminalizing the electronic distribution of child pornography, and prescribing penalties of 2 to 4 years imprisonment for the purchase or possession of child pornography
- Code of Minors, Articles 410 and 411, criminalizing child prostitution and pornography, prescribing penalties for sexual abuse of children of 20 to 30 years imprisonment and fines from 100 to 150 times the minimum wage<sup>19</sup>
- Code of Minors, Title IV criminal penalties, augmenting penalties if a relationship of trust exists, an official is involved, or the intent is for trafficking, when the action involves restrictions on liberty and abuse of a child;<sup>20</sup> trafficking, with enhanced penalties for recidivism;<sup>21</sup> media actions,

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were to do so, the federal government would be faced with the option of not investing in health care, building and repairing roads and bridges, funding national security projects, and honoring foreign debt payments – to name a few examples.

<sup>17</sup> Artículo 1)a): Trata de Personas: La captación, el transporte, el traslado, la acogida o la recepción de personas, recurriendo a la amenaza, a la fuerza, a la coacción, al rapto, al fraude, al engaño, al abuso de poder, o situaciones de vulnerabilidad o a la concesión o recepción de pagos o beneficios para obtener el consentimiento de una persona que tenga autoridad sobre otra, con fines de explotación, para que ejerza cualquier forma de explotación sexual, pornografía, servidumbre por deudas, trabajos o servicios forzados, matrimonio servil, adopción irregular, esclavitud y/o prácticas análogas a ésta, o a la extracción de órganos.

Courtesy Translation: Trafficking: The recruitment, transportation, transfer, harboring or receipt of persons, by threat, force, coercion, abduction, fraud, deception, abuse of power, or situations of vulnerability or giving or receiving of payments or benefits to obtain the consent of a person having control over another, with the purpose of exploitation, to exercise any form of sexual exploitation, pornography, debt bondage, forced labor or services, servile marriage, irregular adoption, slavery and/or similar practices, or the removal of organs.

Artículo 1)f): Tráfico ilícito de migrantes: La facilitación de la entrada, salida, tránsito o paso ilegal de una persona en el país o al extranjero, sin el cumplimiento de los requisitos legales, con el fin de obtener, directa o indirectamente, un beneficio financiero u otro beneficio.

Courtesy Translation: Smuggling of migrants: The facilitation of entry, exit, transit or illegal passage of a person in the country or abroad, without complying with the legal requirements, with the purpose to obtain, directly or indirectly, a financial benefit or other benefit.

<sup>18</sup> An interagency group, with technical and financial support from the Organization for Migration (IOM), is finalizing draft implementing regulations for Law 137-03, which should soon be presented to key actors before being sent to the Congress.

<sup>19</sup> Civil Code, Article 144, establishes 18 years as age of majority.

<sup>20</sup> Art. 395- 6 months to 1 year imprisonment and fine of 3 to 5 minimum salaries from date of infraction; Art. 396- 2 to 5 years imprisonment and fine of 3 to 10 minimum salaries from date of infraction; if person has authority,

including taking and misuse of child images;<sup>22</sup> child sexual exploitation;<sup>23</sup> and hotel and billiard hall owners and minors.<sup>24</sup>

- Criminal Code Article 334, prohibiting prostitution, procurement for prostitution, keeping or hiring a person for prostitution, receiving benefits from prostitution, and acting as an intermediary between persons engaged in prostitution
- Law 24-97, Intra-Family Violence, penalizing domestic physical or psychological violence against women or children in a family (or family-like) relationship with imprisonment of 1 to 5 years, fines of up to 5,000 pesos, and restitution for any property damages.
- Law 285-04, Migration Law<sup>25</sup>

Law 137-03 requires information sharing between government and non-government organizations.<sup>26</sup> The GODR has established various task forces that include representatives of the Ministry of Women; the Ministry of Foreign Affairs; the Office of the Attorney General (and its Department for Combating Trafficking in Women, Boys, Girls and Adolescents); and the Migration Directorate. It has longstanding cross-agency efforts such as the Inter-Institutional Committee Against Abuse and Commercial Sexual Exploitation of Children and Adolescents and the Interdepartmental Committee for Protecting Migrant Women (CIPROM).<sup>27</sup> These efforts foster ongoing interaction among government and non-government entities.

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guardianship or trust position and severe injuries were incurred, maximum penalties imposed. Foreigners or nationals that commit act of negotiation, trafficking or a tie to trafficking or commercialization of children, maximum penalties doubled; Art. 397-Abuso Por Sus Responsables - 2 to five years imprisonment and fine of 1 to 5 minimum salaries; in all cases counseling required; Art. 398- No Supervisión De Adultos – 2 to 6 months imprisonment, counseling and social assistance referral required; Art. 399-No Comunicación de Apresamiento - 6 months to 2 years imprisonment and loss of position; Art. 400-Por Vejámenes y Otros - 6 months to 2 years imprisonment and loss of position; Art. 401-Falta de Ejecución de Orden de Libertad - 6 months to 2 years imprisonment; Art. 402-Incumplimiento de Plazo - 6 months to 2 years imprisonment and loss of position; Art. 403-Sanción por Sustracción - 2 to 6 years imprisonment and fine of 3 to 10 minimum salaries from date of infraction.

<sup>21</sup> Art. 404-Entrega de Niño, Niña o Adolescente a Cambio de Recompensa - 3 to 10 years imprisonment and fine of 10 to 30 minimum salaries from date of infraction; Art. 405-Retencion y Traslado Ilícito (by responsible adult) - 2 months to 1 year imprisonment and fine of 1 to 10 minimum salaries from date of infraction; if repeat, 1 to 2 years imprisonment and fine 10 minimum salaries from date of infraction; Art. 406-Traslado Ilícito de Niño, Niña o Adolescente al Extranjero – 4 to 6 years imprisonment and fine of 10 to 30 minimum salaries from date of infraction; Art. 411-Fotografiar, Filmar o Publicar - 2 to 4 years imprisonment and fine of 10 minimum salaries from date of infraction.

<sup>22</sup> Art. 407-Al Propietario o Director de Medios de Comunicación- 1 month to 1 year imprisonment and fine of 10 to 30 minimum salaries from date of infraction; Art. 408- Sanción por Utilizar un Niño, Niña o Adolescente o Difundir Imágenes - 1 to 5 years imprisonment and fine of 3 to 10 minimum salaries from date of infraction.

<sup>23</sup> Art. 409-Comercialización de Niños, Niñas y Adolescentes - 20 to 30 years imprisonment and fine of 100 to 150 minimum salaries from date of infraction; intent to commit penalized the same; Art. 410-Explotación Sexual Comercial de Niño, Niña o Adolescente - 3 to 10 years imprisonment and fine of 10 to 30 minimum salaries from date of infraction.

<sup>24</sup> Art. 414-Hospedaje y Visita - 1 to 3 years imprisonment and fine of 30 to 50 minimum salaries from date of infraction; if repeat, juvenile judge closes establishment for 15 days; Art. 415-Permitir a Niños, Niñas o Adolescentes en Salas de Billar - 1 to 2 months imprisonment and fine of 1 to 3 minimum salaries from date of infraction.

<sup>25</sup> In 2009, the Migration Department has been working with the IOM and other GODR agencies to draft proposed regulations and draft various protocols that implement its legal obligations, e.g., protocol with Navy concerning changing crew; implementation of Andean Convenio para Facilitar el Tráfico Marítimo Internacional (FAL-65); protocol for departure of persons presenting document irregularities; documents and deported persons with airlines.

<sup>26</sup> See, e.g., Articles 12, 15.

<sup>27</sup> The Ministry of Women coordinates the CIPROM efforts. CIPROM met 5 times in 2009 as a committee.

To further coordinate and support anti-trafficking through a national plan, the GODR issued Decree 575-07 (October 2007) established a National Commission Against Trafficking in Persons (CITIM). It is comprised of 14 government entities involved with trafficking issues, each with their own mandate but also with their own voice and vote.<sup>28</sup> It integrates international organizations, such as the International Organization for Migration (IOM), and NGOs.<sup>29</sup> The draft Plan Nacional de Acción Contra La Trata de Personas y el Trafico Illicito de Migrantes (2009-2014) (National Action Plan Against Trafficking in Persons and Illegal Trafficking in Migrants) (“National Action Plan”) is currently being vetted by internal government institutions.<sup>30</sup> It reflects the input of government agencies, NGOs, civil society, and international organizations. The CITIM also relied on information from the United Nations, the IOM, and the Global Alliance Against Trafficking in Women (GAATW), among others. Its three strategic components to combat trafficking mirror the “3 Ps” of Law 137-03: prevention; prosecution; and protection of victims and witnesses. For each component, it identifies strategic alliances, activities, timeframes, indicators, responsibilities, budgetary requirements, and monitoring, public reporting and evaluation mechanisms.

### Significant Achievements in the “Three Ps:” Prosecution, Protection, Prevention

#### *Investigation and Prosecution of Traffickers*

Using the robust framework of Law 137-03, the Law on Illegal Smuggling of Migrants and Trafficking of Persons, and other legal tools, the GODR continues to investigate and prosecute trafficking of persons and related offenses. Recognizing the complexity of cross-border illicit activities, a new National Directorate of Anti-Narcotics and Complex Crimes, which includes the Department Against Smuggling of Migrants and Trafficking in Persons, the Anti-Asset Laundering Unit, and the Victim and Witness Protection Program Unit, has three Special Prosecutors for Illicit Traffic in Persons and other crimes and five Special Prosecutors for Money Laundering. The purpose of this new Directorate is to “intervene directly in the conduct of the investigation of drug crimes and those crimes which, because of the multiplicity of facts, the large number of defendants or victims, as well as means for their commission, are classified as complex cases such reasons necessitating a specialized body of research, among which are financial crimes and trafficking in persons ...”. It already has broken new prosecutorial ground. In the prosecution of a Puerto Rican pilot, *infra*, the trial judge admitted a judicially-authorized videotaped interview from Santo Domingo with a Cuban national in Miami, Florida. The admission of the videoconference as evidence was the first time such technology has been used in a proceeding.

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<sup>28</sup> Secretary of Foreign Relations; Secretary of Interior and Police; Secretary of Education; Secretary of Labor; Secretary of Tourism; Secretary of Public Health & Social Assistance; Secretary of Women; Attorney General; National Police; Migration Directorate; Tourism Police; Navy; National Children’s Council; and Office of First Lady.

<sup>29</sup> Its functions include: (a) develop a National Action Plan to Combat Trafficking in Persons, which establishes priority areas to direct efforts to combat, prevent, protect and provide attention to trafficking victims in the DR; (b) integrate and coordinate efforts related to the investigation, prevention and assistance of these crimes with national and international organizations; (c) develop training and education programs that cover the variety of manifestations of trafficking; (d) publicize these efforts among the population; (e) propose necessary and recommended legislative initiatives; (f) recommend projects and actions to appropriate government entities; and (g) collaborate in international reports about trafficking in persons. The various agencies of the GODR will have their own responsibilities as are germane to their overall functions, with some Ministries and agencies have greater responsibilities and others more ancillary ones (e.g., Health Ministry, to provide training to better identify potential trafficking victims).

<sup>30</sup> After internal verification, it will be presented to the National Congress and other GODR institutions, additional NGOs, international organizations, and labor and diplomatic personnel of destination countries.

Of course, prosecution statistics under the criminal trafficking law alone do not reflect the impact of Law 137-03. Increasing referrals and reporting to enforcement officials reflect the growing understanding among GODR officials about potential trafficking;<sup>31</sup> prosecution statistics must further reflect the legal burdens of criminal cases. Criminal laws impose the highest burdens of proof, involve lengthy court proceedings, require victims to remain in the DR until a trial (and perhaps appeals) rather than returning home, and other challenges. The Attorney General notes that other criminal prosecutions may be preferable when a risk of re-victimization exists. Moreover, when the activity involves individuals who operate as small groups or individuals (which NGOs and others report characterize the situation in the DR), each criminal prosecution demands significant resources.

The federal Attorney General's office reports at least 51 active investigations opened under Law 137-03. Completed investigations supporting prosecution are referred to the judicial system.

GODR investigative agencies often work with other countries' law enforcement officials as, by definition, trafficking investigations involve law enforcement officials in the other countries of origin or destination.<sup>32</sup> An investigation opened in 2009 for trafficking involves a Dominican national currently thought to be in Chile (via Peru) in route to Spain; Chilean officials now are investigating. The National Directorate of Anti-Narcotics and Complex Crimes worked with Brazilian officials to apprehend a U.S. national wanted for trafficking in persons to and commercial sexual exploitation in Las Vegas, Nevada. The DR identified, located, and captured the suspect in 2008, and in 2009 transferred him to Brazil for prosecution.<sup>33</sup> Working with the Government of Peru, two Peruvian citizens and one minor were being illegally transported to the DR (allegedly en route to Canada). Those involved were detained and deported to Peru for further legal proceedings. Most recently, GODR officials arrested the dual U.S.-Dominican citizen Jorge Puello (with U.S. Marshals and ICE agents present), who gained notoriety as the legal advisor to the U.S. citizens detained when attempting to take 33 children from Haiti after the earthquake; he is wanted in Vermont on charges for human trafficking and alien smuggling (as well as in El Salvador).<sup>34</sup>

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<sup>31</sup> In 2009, the National Police received 166 complaints under Law 137-03; it investigated and closed 163 of them. It worked four cases in which it helped identify victims and perpetrators based on victim information and other investigative tools. In 2009, the Ministry of Women referred 8 cases to the PGR for investigation and to the Centro de Orientación e Investigación Integral (COIN) for legal, medical, psychological to support their reintegration. CONANI identifies potential cases through its "700" hotline and other programs. See [www.conani.gov.do/b2.html](http://www.conani.gov.do/b2.html). In 2009, it estimates it received at least 200 more calls than in 2008. In 2008, it received 67 contacts (11 direct and 56 through hotline) regarding potential abusive situations involving minors. COIN has a network of volunteers throughout the country who may gather information about potential trafficking activities. Llama y Vive is in 6 countries in Latin America & the Caribbean and, in April 2008, the Washington DC metro area. Since 2007, in the DR it has been providing free confidential 24/7 hotlines staffed by a team of trained NGO professionals who channel questions and cases to assistance and law enforcement organizations, as appropriate. Specialized NGOs and experts distribute materials and information to target populations in high risk areas lead local awareness. Media outlets disseminate news and other hotline promotion materials; radio, print, TV and AV materials feature Ricky Martin. See [llamayvive.org](http://llamayvive.org).

<sup>32</sup> The National Police report working with officials in Spain, France, El Salvador and Italy on cases in 2009.

<sup>33</sup> Others include with Swiss authorities on a joint trafficking investigation involving German nationals. See also, "Prostitution: This Brazilian Madam Won't Take Any Girls Over 15," [www.brazilmag.com/content/view/11060/1](http://www.brazilmag.com/content/view/11060/1) (coordinated law enforcement effort involving officials from the U.S., Brazil, DR and Interpol); October 2009 – DR captured in Puerto Plata and extradited to Canada Joao Jose Correira Duarte, missionary working an administrator of an orphanage for boys in Haiti, accused of sexual relations with minors in Port au Prince and Cap Haitien; captured and extradited to the Netherlands Anne Krottje, residing in DR as retired "merchant" (fled after being sentenced for sexual exploitation of minors and drug trafficking).

<sup>34</sup> See [www.usmarshals.gov/news/chron/2010/031910a.htm](http://www.usmarshals.gov/news/chron/2010/031910a.htm) ("ICE and the USMS International Investigations Branch spearheaded the two-month long joint investigation along with law enforcement officials in Haiti, the

The Attorney General of the Republic reports thirty-six individuals currently in preventative detention under Law 137-03 and 29 solicitations for the start of judicial procedures against suspected offenders. One of the open investigations involves potential smuggling of five people (including the minors) by a pilot with Puerto Rican nationality. The Navy reported that in 2009 it sent 122 individuals to the judicial process for violations of Law 137-03, of which 34 were captains of the voyages, 81 were travel organizers, and 7 were narcotraffickers. Of these, 77 were placed under preventative measures and 37 were released on bail, and 10 were paroled with the condition of 6 month visits. It also detained almost 750 individuals intending to travel in yolas and intercepted over 120 illegal voyages. By nationality, the non-Dominicans the Navy detained included 44 Cubans, 12 Haitians, 2 Sri Lankans, and one Chinese.

Examples of successful prosecutions under Law 137-03 include:

- In 2009, Trial Court in San Juan de la Maguana sentenced Angel Alexander Sano Ortiz and Hector Bienvenido Alcantara to 10 years imprisonment for violations of Articles 1, 2 and 3.
- In 2009, Trial Court in Elias Piña sentenced Samuel De Jesus Fortuna Peña to 10 years imprisonment for smuggling 8 undocumented Haitian nationals in violation of Article 2.
- December 2008: Judge in Bani sentenced Orin Clinton Gomez to one year in preventive custody on charges of suspected violation of Law 137-03, involving his efforts in bringing three of seven Colombians who were murdered in Paya, by boat to Bani and then taking the cash for the smuggled drugs.
- October 2008: The Trial Court Panel of the Court of the First Instance of the Judicial Department of Montecristi sentenced Mariolis Julian Fortuna Peña to 15 years imprisonment for violating Articles 1 subsection f), 7 subsections a), d), and f).
- October 2008: The Trial Court Panel of the Court of the First Instance of the Judicial Department of Montecristi sentenced Benito Antonio Reyes to 10 years imprisonment for violating Articles 1 subsection f), 7 subsections a), d), and f) of Law 137-03.
- June 2008: The Trial Court Panel of the Court of the First Instance of the Judicial Department of Montecristi sentenced Eladio Simon Valdez Jimenez to three years imprisonment for violating Articles 1 subsection f) and 2 of Law 137-03.
- March 2008: The Trial Court Panel of the Court on First Instance of the Judicial Department of Montecristi sentenced Pedro Julio Diaz Molina to three years imprisonment for violating Articles 1 subsection f) and 2 of Law 137-03.
- A court in Altigracia has issued an arrest warrant for Yeyto Toledo for trafficking of minors to Istanbul.
- August 2007: The National District prosecutor charged a foreign national with trafficking in persons and deported two other foreigners for forcing 14 Haitian women in Santo Domingo to perform before a video camera lewd and sexual acts that were later uploaded and sold via an Internet pornography site.
- January 2007: The Montecristi court convicted Dominican organizers of an illegal trip, during which several Haitians died, under Law 137-03 and other criminal statutes, imposing the maximum sanction of 20 years in Reclusión Mayor and a fine of 250 minimum salaries on two defendants under Law 137-03 and homicide laws, and 10 years imprisonment and a fine of 150 minimum salaries on two other defendants.

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Dominican Republic, Canada and El Salvador. Continued efforts and participation from the Direccion Nacional de Control de Drogas in the Dominican Republic along with the assistance of INTERPOL Santo Domingo, D.R., proved to be essential assets in the investigation.”)

In addition to federal prosecutions, provincial (state) prosecutors also may bring cases under Law 137-03. The Attorney General of the Santo Domingo District reports:<sup>35</sup>

- Nidia A. Montero De Los Santos, sentenced to 3 years imprisonment (case filed October 2, 2008)
- Jenny Sugeidy Fernandez Guzman, sentenced to 5 years imprisonment (case filed April 21, 2009)

And recent cases that in prosecution:

- Miladys Jimenez Garcia, November 24, 2009
- Ruby Camacho Rosario and Juana Evaristo Rosario Camacho, January 20, 2010
- Yesenia Altigracia Martinez Soriano, February 13, 2009
- Guillermo Paniagua, November 23, 2009
- Ismael Herteen, December 7, 2009
- Julio José Guzmán Solano, January 19, 2010
- Nieves García, October 23, 2010 (decision expected by April)

Complementing prosecutions under Law 137-03, which is only one indicator of punitive actions against potential traffickers, are other legal tools to punish activities related to, or arising from, such activities:

- Campaña Internet Sano in 2009: received 400 calls to their assistance and complaints hot-line; opened an investigation for sexual abuse of a minor for Child Grooming; opened an investigation on cyber-bullying; and closed 7 web pages for child pornography content.
- April 2008: A National Police Technology Crimes Department investigation led to the detention of two men, one a minor, for violating Law 53-07 (cyber crimes) after they published doctored nude photographs of the daughters of local officials and other lewd photographs on an Internet site.
- The Migration Department routinely identifies fraudulent documents (foreign or Dominican) that may implicate trafficking, smuggling or related issues and refers cases to investigative agencies (e.g., in 2009, 16 cases at Punta Cana airport of document fraud and potential smuggling; 11 cases at Cibao airport, including one individual with an outstanding arrest warrant)
- Spanning several years, at least 70 cases of fraud by persons promising visas usually around Embassies (e.g., U.S., Italy, Mexico); with at least 22 defendants were put on probation, 2 imprisoned for 6 months, 8 imprisoned for 3 months, and 26 released on bond.<sup>36</sup>

Dominican authorities act against persons who bring undocumented persons across the Haitian border (trafficking or smuggling),<sup>37</sup> e.g.,

- February 2010: CESFRONT rescued 12 girls and 10 boys between ages 7 and 16 as Haitians illegally crossing border in ATVs attempted to bring them into the DR.<sup>38</sup>

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<sup>35</sup> In the Santo Domingo District, 166 complaints were made under Law 137-03 in 2009, of which 60 cases resulted in smuggling prosecutions (mostly people attempting to cross to Puerto Rico in yolas). However, prosecutions are discontinued if victims refuse to participate; in many cases, the accused smuggler reimburses the “victim” and the victims then decline to further participate in the criminal proceedings.

<sup>36</sup> In addition, the Passport Office, in the headquarters and local offices, continued to work on identifying fraudulent documents with the National Police, and its Department of Trafficking in Persons and Smuggling.

<sup>37</sup> See UNDOC Global Report on Trafficking in Persons, p. 41 (Feb. 2009) (Central America and Caribbean statistics through 2007 are scarce, convictions for trafficking were reported only in 2005 onwards “with the Dominican Republic accounting for the largest number.”).

- July 2009: the Dominican border police, CESFRONT, arrested 6 Haitians smuggling children from Haiti to the DR; those with pending legal actions in Haiti were released to Haitian authorities. One of these, Martha Jean Guise, was identified as a repeat offender using new biometric screening system recently installed on the Dajabón border.
- In October 2009, the Embassy of Haiti in the DR worked with GODR officials to arrange the voluntary return of eight Haitian trafficking victims.
- December 2008: Army intelligence unit patrolling the border targeted and detained suspected repeat trafficker Expedito Rodríguez, who was driving a vehicle with 12 men, 4 women and 2 children from Haiti. The undocumented Haitians were released to the Migration Department and returned to Haiti.

The GODR undertakes aggressive efforts to root out official complicity with human trafficking, including among senior level officials.<sup>39</sup> It has a “Zero Tolerance” policy for any officials.<sup>40</sup> It investigates public officials who allegedly facilitate, allow, or are complicit in trafficking activities or migrant smuggling (or related activities), and has brought actions against members of the national police, Navy, prosecutors and officials of local governments for violations of Law 137-03. Specific examples of actions include:

- Since the beginning of the second Fernandez Administration through June 2009, according to the former General Director of Immigration José Aníbal Sanz, at least 125 immigration inspectors were removed from their positions;<sup>41</sup> with 42 officials referred to the legal system under Law 137-03 and other officials (at least 60) suspended or disciplined. In two cases referred for prosecution under Law 137-03, the court found no tie to a trafficking activity; however, after a subsequent administrative review both were terminated. Current policy is to replace removed officials with an officer who recently completed a stringent training course.
- From August 2008 to February 2009, the Director of General Migration fired 50 supervisors and inspectors from 5 international airports for allowing persons to leave with false documents, extortion, bribery, and other offenses.
- In December 2008, Rafael Guillermo Guzmán Fermín of the National Police dishonorably discharged, stripped the uniforms, and led from Police headquarters before a full assembly, two members of a police patrol, former sergeant Obispo Contreras Familia and former corporal Sandro Familia Paniagua, who detained a Haitian national, beat him and stole EUR37,000 and two passports from him; they also are being referred to the justice system on kidnapping and robbery charges.<sup>42</sup>
- June 2007, the National District prosecuting attorney filed charges against Doris Altagracia Vasquez, a high-level official in the Ministry of Labor, for involvement in a trafficking scheme that lured citizens with false offers of employment in Spain and Canada.
- In 2007, the Court of First Instance of the Judicial District of Santo Domingo sentenced a former major of the National Police Rafael Elpidio Fernandez Garcia to five years imprisonment for attempting to sell visas to eight Dominican nationals.

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<sup>38</sup> [www.nytimes.com/aponline/2010/02/23/world/AP-CB-Haiti-Americans-Detained.html?\\_r=1&pagewanted=print](http://www.nytimes.com/aponline/2010/02/23/world/AP-CB-Haiti-Americans-Detained.html?_r=1&pagewanted=print).

<sup>39</sup> Rooting out official corruption remains a priority of the Fernandez Administration. *See* Discurso del Honorable Señor Presidente Leonel Fernandez ante la Asamblea Nacional en el 166 Aniversario de la Independencia Nacional.

<sup>40</sup> The National Action Plan recommends regular statistical reports on numbers of detected cases of corruption of public officials with anti-trafficking responsibilities and strengthening disincentives to corrupt activities.

<sup>41</sup> Dismissal is a significant penalty in a country with high unemployment.

<sup>42</sup> [www2.elnuevodiario.com.do/app/article.aspx?id=131766](http://www2.elnuevodiario.com.do/app/article.aspx?id=131766).

Claims of “Chinese” smuggling operations or victims periodically arise.<sup>43</sup> On October 15, 2009, the Migration Department announced that, working with U.S. ICE, it dismantled a network that smuggled Chinese through Haiti to the DR to eventually reach the U.S., arresting 30 people.<sup>44</sup> Andres Soto Flores (a) Paco was detained, and while on bail fled to the U.S. where he was captured. He is being prosecuted in New York, though the process against him in the DR remains open. Other such cases the DR include:

- Renato Bregu, Albanian citizen, for Trafficking in Persons. In May 2007, two victims lodged charges against Bregu for violation of Law 137-03 for the organization of illegal trips. Through Resolution No. 613-07-00184, dated May 2007, the Magistrate Judge of the Dajabon Judicial District imposed an order of custody.
- March 2, 2005, the Supreme Court of Justice found Radhames Ramos Garcia guilty in a case of smuggling involving Chinese citizens and sentenced him to one year and six months imprisonment.
- Santo Valdez Cuello, Farcoleni Rivera Santana and joint-parties, were sentenced to 20, five and three years imprisonment, respectively, by the Court of First Instance of the Judicial District of Santo Domingo.

In 2007, the Haitian government investigated allegations that its consulate in Barahona was linked to a network smuggling Chinese nationals. Consulate supervisor Pierre Laud Lagrenade was suspended from his duties, convicted in Haiti on charges of trafficking, and sentenced to 15 months in prison.

The GODR uses additional means to identify potential trafficking, including deploying resources in sectors that often are expected to offer greater opportunities for trafficking. GODR officials who are not dedicated “anti-trafficking” officials receive anti-trafficking training. The General Directorate of Migration’s regular training sessions for new immigration officials includes trafficking in its course as does the Technical Migration School in its course for aspiring Migration Control officials. The OAS’s “Training Program for Consular Officials on the Prevention and Protection of Victims of Human Trafficking” in the Dominican Republic October 29 - 30, 2008 involved 35 to 40 consular and diplomatic officials, and governmental personnel in charge of combating human trafficking. The GODR is participating in the project “Strengthening of the National and Regional Training for the Prevention and Combating of Trafficking of Persons in Latin America” of the UN Office On Drugs and Crimes. Its “Promoting the Rule of Law and Human Security in Central America” (2009-2012) has a human trafficking component. Government sponsored anti-trafficking training for communities also occurs.

Labor inspections are a tool to identify potential trafficking situations, though most undocumented entry to the DR to seek employment is via smugglers or undocumented – not trafficking. The number of inspections throughout the national territory continues to increase, and the Ministry of Labor’s 203

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<sup>43</sup> A 2007 press report that “high-level officials were directly involved in the smuggling and trafficking of Chinese nationals.” The U.S. recognizes that this issue is not unique to any country and often originates in other countries. *See e.g.*, Remarks at the First Diplomacy Briefing Series Meeting, Focused on the Issues and Challenges of U.S. Relations With Latin America, Hillary Rodham Clinton, December 11, 2009 (“QUESTION: I have a concern because in the trafficking of passports from – especially from China, buying basically different – I don’t know if the State Department is doing any investigation or not – from different nations.... SECRETARY CLINTON: I thank you for raising this. We’re concerned too. In speaking to a number of the Central American countries, they have reported to us large numbers of people being trafficked into their countries, particularly Chinese, but not exclusively Chinese. And we do need to redouble our efforts to try to help our friends in Central America deal with this. I was told in one of the countries that there is a large detention area – detention center which has hundreds and hundreds of people who are there illegally from China. So this is a problem that is affecting a number of our friends, and we are working with them to try to provide more resources and support to help them deal with it.).

<sup>44</sup> [www.migracion.gov.do/noticias.php?nid=18](http://www.migracion.gov.do/noticias.php?nid=18).

inspectors are trained to identify potential trafficking situations.<sup>45</sup> When a situation involving suspected trafficking is identified, the procedure is to immediately notify the Attorney General's Office. Inspections regularly cover agriculture as well as manufacturing and other workplaces, but inspections have not identified trafficked workers. The Labor Ministry's statistical information gathering continues to improve. Yet in the past three years since trafficking has been a specific category in child labor inspection reports, no instances of trafficked child labor were identified.

Certain sectors more frequently have been alleged to use "trafficked" labor: construction and agriculture, and within agriculture, sugar. Anecdotal evidence confirms that most undocumented workers are already in the DR seeking work; the GODR knows of no statistical data to the contrary. In any event, Dominican labor laws protect both documented and undocumented workers.<sup>46</sup> Labor Courts frequently rule in favor of workers who take legal actions to protect their labor rights.<sup>47</sup> Legal protections and hiring programs for undocumented workers provide disincentives to employ "trafficked" workers. Dominican law contemplates issuance of identification carnets of temporary workers in sectors of the country that face a shortage of that type of worker, with some exceptions, minimizing the likelihood of a trafficked workforce.<sup>48</sup> The Migration Directorate reports that in 2009 over 4,400 carnets were issued to workers (Haitian) for work in the agriculture and sugar sectors in various parts of the national territory. Employers must comply with legal obligations on labor rights and conditions, provision of employee information, transportation, and repatriation upon expiration of the permit.

The construction sector illustrates the essential distinctions between persons trafficked to the DR for work and those already in the DR in an undocumented status, having entered either by hiring a smuggler or on their own.<sup>49</sup> When construction employment is available, applicants often are friends or family of other workers. A study by the Dominican Central Bank explains the financial incentives to seek employment in construction. While actual numbers and earnings of undocumented persons are difficult to confirm, the study concluded that the construction sector in total generates about 256,000 jobs, with an average daily salary of RD\$325-350, which by law will be 5% higher than the legally established minimum salary.

The agricultural sector has been cited as one that uses "trafficked" workers. Again, many undocumented persons already in the DR seek work. Wages in agriculture are generally less than in the construction industry; however, the differences between agricultural wages in the DR and elsewhere reveal why people seek such employment. The 2009 State Department Human Rights reports released in March 2010 discuss average wages for the DR and Haiti. In the Dominican Republic "The daily minimum wage for farm workers covered by minimum wage regulations was 175 pesos (\$4.86), based on a 10-hour day, which includes all agricultural products except sugarcane. Cane workers were subject to a special, lower minimum wage for the sugar industry of 95 pesos (\$2.64) per day... All workers, including migrants, are covered by minimum wage provisions." In Haiti, "[m]ost citizens worked in the informal sector and

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<sup>45</sup> In 2009, over 86,000 labor inspections were conducted. Inspectors did not identify any instances of trafficked labor; however, they identified 12 situations of child labor in the course of regular (not special) inspections.

<sup>46</sup> In 1997, the Supreme Court determined that a foreign worker without legal papers has the right to take legal action to make a claim for unpaid wages. A worker who cannot afford an attorney can request legal representation of a lawyer from the Ministry of Labor; documented or undocumented status is not a factor.

<sup>47</sup> *E.g.*, Labor Court of San Pedro de Macoris Judicial District ruled for 500 Haitian agricultural day laborers who filed a lawsuit against a private sugar consortium seeking formalization of their labor contracts. Claimants are appealing the reversal of that opinion to the Supreme Court, but the lower court opinion was based on the lack of proof of employment and not an inability of undocumented workers to bring such cases.

<sup>48</sup> Law 285-04, Chapter III, Section XI (not in tourism or in most free zones).

<sup>49</sup> An April 2009 Pew Hispanic Center study "A Portrait of Unauthorized Immigrants in the United States" found that 14% of unauthorized immigrants in the U.S. are working in the construction sector, the highest of any sector, followed by 13% in agriculture, and 10% in leisure and hospitality.

subsistence agriculture, where minimum wage legislation does not apply, and daily wages of HTG 15 (\$0.37) were common.” As noted, the Migration Law contemplates issuance of identification carnets of temporary workers in the agricultural sector. In a recent resolution of a labor disagreement with a sugar company, the workers and employer agreed to use the identification carnet system until the workers could otherwise regularize their status and work authorizations.<sup>50</sup>

Within agriculture, allegations have long been repeated that “trafficked” labor is used in sugar harvests. Such allegations are further undermined by specific industry characteristics, practice, and analytical consistency. Regular and special (request driven) labor inspections occurred throughout the country, and the Ministry of Labor conducts repeat inspections during peak production seasons. Such inspections occurred on the three main private sugar companies in 2009, as in prior years.<sup>51</sup> Trafficking conditions were not discovered by the inspectors.<sup>52</sup> Moreover, the number of workers in this sector continues to decrease with less than 10,000 workers required for the most recent harvest. Mechanization of sugar production, the large population already residing in the DR, and cessation of government-owned plantations have reduced the need for workers. The three major sugar companies all enforce their workforce policies that prohibit trafficked workers.

Allegations of “trafficked” labor and the communities (“bateyes”) where some sugar workers live often present analytical inconsistency. On the one hand, trafficked laborers allegedly are forced to live in the bateyes. Yet, anyone can enter a bateye property and bateye residents are free to leave the property. In response, it is explained that people “fear” to leave because of possible deportation. But the USG and others have recognized that the GODR does not penalize trafficking victims. Similarly, families live in bateyes and trafficking of families has not been cited (though persons have hired smugglers to unite their families in the DR). And many of the bateyes have become communities (with some incorporating into municipalities). In others, improvements are being made, such as new schools, health services, and other services.<sup>53</sup> These are indicia of communities, not coercion or fear.

Various informal sectors have been suggested as prone to trafficking. Domestic service is one such activity.<sup>54</sup> As such work generally involves an individual in a private home, little statistical data exists.<sup>55</sup>

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<sup>50</sup> [www.hoy.com.do/el-pais/2009/1/28/264443/Carnet-para-trabajadores-agricolas-haitianos](http://www.hoy.com.do/el-pais/2009/1/28/264443/Carnet-para-trabajadores-agricolas-haitianos).

<sup>51</sup> E.g., Jan - June 2008 (San Pedro de Macorís (8), La Romana (1), Barahona (2)); 2007 (Independencia (8), San Cristobal (4), La Romana (3), and San Pedro de Macorís (18)); Dec 2007 Health & Sanitary Division inspections (San Pedro de Macorís and La Romana).

<sup>52</sup> One sugar consortium recently requested and received a BSR evaluation of the human rights situation on its plantations and bateyes; BSR reported it was granted “unencumbered” access to workers. While BSR made suggestions on how to improve working conditions, it identified no instances of trafficked workers.

<sup>53</sup> Inaugurated in its first phase in September 2009, the Nuevo Cayacoa community provides for 132 Haitian and Dominican families and involves an investment of more than US\$ 6.3 million. Grupo Vicini works with NGOs to offer programs on its properties such as Espacios para Crecer and preschool programs that provide opportunities to children and options for parents. It has 14 medical centers and enrolls its employees with ARS Universal coverage, regardless of nationality. Central Romana has built 6,000 houses, of which 1,000 were given to Haitian employees and Dominicans of Haitian descent. In 2008 alone, it provided medical services to over 32,000 people at its 82-bed hospital (in 2008 provided almost 70,000 medical interventions), 2 health centers, 3 mobile medical units that provide both medical attention and preventative care, and a mobile unit that provides dental care primarily to children (about 6,000 annually); annually works with foundations such as Healing the Children to bring physicians to perform surgeries, many of them corrective; has dedicated 1,200 hectares for crops and provides other foodstuffs at below market prices; and has built 57 schools, operated by the GODR, that benefit over 8,000 children of its workers. It is building a new hospital annex that will expand the available resources and provide heliport access. Consorcio Azucarero Central does not have company-sponsored bateyes and workers live in various municipalities.

<sup>54</sup> See e.g., Labor Code Article 258 “Trabajadores domésticos,” Ley 103-99.

But research indicates the increasing “feminization” of migration, which in the DR includes women in domestic service who enter the country alone.<sup>56</sup> They may work in homes replacing Dominican women who have left the country to work in Europe and may be more likely to have some basic documentation to enter the DR. Women who accompany their husbands or other family members to work in other sectors may seek their own employment in domestic service.

Related is the topic of Haitian *restaveks*. The practice of domestic work by Haitian children (usually girls) has been widely discussed in the aftermath of the January earthquake. UNICEF estimated as many as 100,000 girl domestic workers in Haiti in 2007 are sent to other homes in Haiti by their parents in hopes of better socioeconomic prospects. Others may be sent by their families to the DR, often to relatives. PADF Deputy Director Coughenour observes that extremely poor Haitian parents often give up their children thinking that they will have a better life in another family’s home. “Unfortunately, sometimes unscrupulous adults force children to work, become prostitutes or get involved in gangs.”<sup>57</sup> A 2004 fieldwork-based study uncovered no evidence that children are kept in Dominican homes as slaves, no evidence of trafficking such children, or involvement by ethnically Dominican brokers or traffickers in intra-Haitian arrangements.<sup>58</sup>

Other allegations focus on children “trafficked” to beg on the streets in cities in the Dominican Republic.

- In 2004 the Catholic Institute for International Relations (CIIR) reported: “Haitian children begging on street corners in Santo Domingo and other major cities such as Santiago, and the smuggling of Haitian minors into the county, has been a new cause for concern. There are no known cases of sexual exploitation.”
- In Santiago, the Special Prosecutor and Dirección de Migración (Migration) are working together to crack down on persons who bring children of Haitian descent into the city to beg for money, and at the end of each day collect the children and take all or a portion of the money they collected.

The Anti-Narcotics and Complex Crimes unit has investigated allegations that children were trafficked specifically for this purpose or smuggled into the DR and then abandoned with no alternative than to beg in the streets. In investigations that included surveillance and monitoring of activities for 24-hour periods and documented by photographs, filming, and follow-up interviews, children engaged in these activities were determined to be living with their parents in the DR. An individual (another parent, neighbor, friend, etc.) may, with parental consent, take a group of children to beg in the streets, returning them to their homes in the evenings. While not a practice to be condoned, such children are not trafficked (or even smuggled) into the DR specifically for such purposes.

Sex tourism is an activity generally supported by foreign tourists, often from Western Europe (i.e., Spain, Italy, and Germany), though some from Canada and U.S. Working with U.S. Immigration and Customs

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<sup>55</sup> Minors working in domestic service are entitled to the same protections as all other child laborers. Minors Code, Article 41.

<sup>56</sup>FLACSO, “Una cuestión de entendimiento. La presencia de las mujeres migrantes haitianas en el servicio domestico en la República Dominicana,” September 2008 (Haitian female migrants in domestic service in the DR, including interviews that disclose a range and combination of motivations: family reunification, looking for work, studying, and social-political violence in Haiti).

<sup>57</sup> See “Congress Told of Exploitation, Trafficking of Impoverished Haitian Children,” news.yahoo.com/s/usnw/20090519.

<sup>58</sup> The 2004 fieldwork-based study concluded placement of young Haitians in Dominican homes is more likely in the poorer, border region and reflect the greater sense of familiarity between Dominicans and Haitians, be a response to fewer Dominican women willing to work as domestics, and/or reflect a conscious choice by Haitian parents seeking better economic conditions and decreased vulnerability to sexual abuse for their children.

Enforcement, the Anti-Narcotics and Complex Crimes unit maintains a presence in Boca Chica to prevent cases of commercial sexual exploitation and to identify possible perpetrators.

NGOs provide additional checks on investigations of trafficking allegations. Many NGOs are active in the DR. Some focus on monitoring to ensure protection of rights, such as activities under the agreement between the Consejo Nacional para la Niñez y la Adolescencia (CONANI)<sup>59</sup> and the Inter-American Children's Institute to monitor enforcement of children's rights that include (among others) commercial sexual exploitation and trafficking.

Consistent with vigorous investigation and prosecution of trafficking, the Dominican Republic provides the appropriate legal protections for trafficking victims. As noted by the U.S. Department of State and others, victims are not jailed or penalized for crimes committed as a result of being trafficked.<sup>60</sup> Of course, in a law enforcement action a trafficking victim could be swept up and temporarily detained with other suspects. But, it is not the law, policy, or regular procedure of the GODR to not appropriately treat a trafficking victim as such once identified. The GODR has released some foreign trafficking victims into IOM custody after a brief processing detention, instead of keeping them in jail or immigration detention centers prior to deportation. As one example, in May 2008 the IOM assisted 17 Ecuadorian citizens, who remained under protection for 15 days. Sixteen returned to Ecuador, and in 2009 one remained in the DR to collaborate with the Attorney General's office in the prosecution of the traffickers. Victims may prefer to return to their homes, however, rather than remain in the DR while legal proceedings are undertaken (including appeals).

#### *Protection and Assistance*<sup>61</sup>

To respond to the immediate needs of Haiti, President Fernandez temporarily suspended the process of repatriation of Haitians after the January 12 earthquake. GODR officials, NGOs and the GOH quickly took actions to protect individuals from potential traffickers. Under agreed upon protocols to prevent the improper movement of children across the border, in the days following the earthquake and working with UNICEF, CONANI accepted approximately 600 Haitian children, the majority of whom have families, and provided them psychological protection, food and medicine. Fending off allegations of "trafficking," CONANI, UNICEF and the Ambassador of Haiti to the Dominican Republic explained that they had agreed that the Haitian Ambassador would be the one who granted permission for a child to leave the country.

Apart from situations involving urgent responses, the GODR has created inter-institutional structures to focus on trafficking (discussed above) as well as specialized units within Ministries. These include, for example, the Attorney General's Unit of Investigation, Unit of Commercial Sexual Exploitation via Internet, Unit of Education and Prevention, and National Direction of Attention to Victims; the General Direction of Migration's Department of Illicit Smuggling of Migrants and Trafficked Persons; and the Foreign Ministry's Section on Trafficking in Persons and Illicit Smuggling of Migrants.

The GODR continues to strengthen the capacity and abilities of persons involved in providing protection and assistance to victims. This includes law enforcement and judicial personnel as well as Labor Ministry

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<sup>59</sup> CONANI is an autonomous government entity with responsibility to oversee compliance with the obligations of the Minors Law (Ley 136-03) and related functions. [www.conani.gov.do](http://www.conani.gov.do)

<sup>60</sup> Law 137-03 excludes prosecution of a trafficking victim from for crimes s/he may have committed while being trafficked (e.g., illegal entry, prostitution, illegal presence, and unauthorized work) when the victim collaborates with authorities or identification of the person(s) responsible for the trafficking.

<sup>61</sup> See generally Law 137-03, articles 9 – 11.

officials who may be conducting inspections. It includes the Ministry of Women, through its Legal and Adoptions Department that monitors adoption processes and imposes documentation requirements to prevent children from being abandoned or taken from their families, situations that could involve trafficking.<sup>62</sup> The National Action Plan identifies other tools that can strengthen protection and assistance, such as creating an English and Creole translation service for foreign trafficking victims and a “single window” system in which victims can access a full range of basic assistance, emotional support, and reintegration services.

Although the DR has been criticized for relying on international support and assistance in protecting victims of trafficking once identified, coordination is required by law and, in any event, will most effectively leverage available assets of the GODR, various NGOs, and international organizations to protect victims.<sup>63</sup> The GODR, on its own and through strategic relationships with NGOs and other organizations, has created a network that provides shelter and social services to trafficking victims. It is not *ad hoc* or uncoordinated, but a system that reflects existing missions, expertise, and resources. The network includes temporary shelters, legal assistance, legal protection, medical care and services, and job skills training.<sup>64</sup>

Shelter is provided by the “Red de Religiosas contra la Trata” of the Adoratrices sisters. They operate two shelters, and receive some financial support from the GODR through the Office of the First Lady and the Ministry of Women. The Office of the First Lady continues to work on establishing a dedicated shelter for trafficking victims. The GODR along with the IOM has sponsored shelters for at risk youth. The program of Integral Atención provides shelter in temporary homes for persons under age 18 who are in situations of risk or danger (without limiting the reason for the danger). CONANI’s Hogares de Paso program also provides children and adolescents with temporary safe houses as well as assessments on potential abuse situations and referrals for additional services and follow-up. It currently operates 6 safe houses in Santo Domingo and one in the interior, and plans to open 9 more around the country. In 2009, it implemented programs against commercial sexual exploitation and abuse in its Safe Houses, based on recommendations from the GODR’s Inter-Institutional Committee Against Abuse and Commercial Sexual Exploitation of Children and Adolescents. Its work included a focus on street children or children who may have been smuggling or trafficking victims to evaluate options for family reintegration.

With the support of the Ministry of Women, the Centro de Orientación e Investigación Integral (COIN) directs the ambulatory El Centro de Acogida para Mujeres Inmigrantes Traficadas y Retornadas (Refuge Center for Trafficked Immigrants and Returnees). Its mission is to promote empowerment and respect of the human rights of migrant, trafficked, and/or returned women through services including information,

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<sup>62</sup> The Conani website also provides information in English and Spanish on the DR adoption law.

<sup>63</sup> See e.g., Law 137-03, Art. 13 cited as example in UN’s “COMBATING TRAFFICKING IN PERSONS: A Handbook for Parliamentarians Handbook,” p. 94 (2009) because “By providing each other with mutual legal assistance, countries of origin, transit and destination enable themselves to take effective action to ensure traffickers are investigated and prosecuted, and the victims protected and assisted, the better to fight trafficking.” (The GODR “can use means of international cooperation and cooperation with civil society to develop policies, programs and other measures to prevent and combat trafficking in persons.”)

<sup>64</sup> See UN’s “COMBATING TRAFFICKING IN PERSONS: A Handbook for Parliamentarians Handbook” p. 107, citing DR as example of the “representational model” to engage civil society, “which is the more inclusive model for the full partnership of civil society organizations in government anti-trafficking efforts, involves including representatives of relevant NGOs on a national inter-agency body tasked with implementing anti-trafficking policies.” (And is required by Law 137-03 “Engaging NGOs by including them in efforts to provide services to victims of trafficking “Victims of trafficking in persons shall receive physical, psychological and social assistance as well as legal representation and information on their rights. Such assistance shall be provided by governmental entities in cooperation with non-governmental organizations and other elements of civil society.”)

medical and psychological attention, and legal and practical support. At no charge to victims, it provides legal advice and follow-up, legal protection when needed (through coordination with the Attorney General's Office), medical care and laboratory services, counseling and psychological services, and social services and training to develop work skills that help prevent return to exploitative situations as the only option. In addition to publication of education messages, it conducts workshops and discussions. The police and Prosecutor's Office refer adult victims of trafficking to COIN.<sup>65</sup> In 2009, COIN managed 59 cases (15 new and 44 ongoing) of trafficking or smuggling victims. Of the 15 new cases, two involved minors (one smuggled for purposes of domestic service and the other trafficked to work in bars in Santo Domingo). The 44 cases were women originally intended to be trafficked to Argentina. Three of those cases are being handled by the Santo Domingo Attorney General, working with the new National Directorate of Anti-Narcotics and Complex Crimes.

The potential risk for and nature of trafficking situations is not uniform throughout the national territory. To most effectively protect and assist victims, the GODR has identified and initiated targeted efforts for sectors potentially more susceptible to trafficking. Fundamentally, trafficked persons often do not want to remain in the DR, and while undocumented persons may face more difficulties in receiving assistance such difficulties are much less likely to be encountered by those who left their home countries against their will as victims of human trafficking.

The GODR is equally concerned with protection of and assistance to its citizens who are trafficked, either into commercial sexual exploitation or other labor situations, from the DR to other countries.<sup>66</sup> Destinations span the world, and include Western Europe, Australia, South and Central America, Haiti, and other Caribbean destinations. As well as providing domestic services to prevent such trafficking (discussed *infra*), the Ministry of Foreign Affairs (SEREX) has trained individuals posted abroad to identify and assist trafficking victims and has established a network to assist them to return to the DR and to reintegrate. Its Consular Service mandate includes assistance to Dominicans who find themselves in situations of vulnerability and/or victims of trafficking. In 2009, the Foreign Ministry's Section on Trafficking of Persons, Migration Affairs, helped return four Dominicans from Argentina. Their return was coordinated with the Attorney General's Office and Migration Directorate, to provide support as victims had personal safety concerns. Consular Missions facilitate lodging, food, return transportation, medical services, and legal support. Food and clothing assistance as well as medical services are covered by the budget of the Consular Office with contributions from government institutions and NGOs. International air transportation is covered by the Foreign Ministry and, in some cases, the IOM through its voluntary return of trafficking victims project.

The Foreign Ministry's protection activities also must accommodate the interests of legitimate commercial and tourism travel with trafficking risks. The DR has reciprocal agreements that eliminate visa requirements with Peru and Argentina. That ease of transit has opened opportunities for movement of persons to Europe and other destinations. For example, 600 people have been returned from Argentina because Argentine immigration authorities doubted their stated tourism purposes from late 2009 and into 2010. To address these emerging situations, the Foreign Ministry's agenda in 2009 and 2010 includes meetings with immigration officials in both countries to review the agreements, mutually assess risks, and identify methods to prevent possible trafficking cases while facilitating legitimate trade, commerce, and tourism.

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<sup>65</sup> UNDOC, Global Reports on Trafficking in Persons, p. 139, February 2009. In 2009, the National Police report they referred 6 trafficking victims for assistance – 4 to GODR resources and 2 to NGO resources.

<sup>66</sup> As in many countries, trafficking often arises from poverty. Many NGOs and others report that “victims” often initially knowingly enter into situations that may become abusive, exploitative, or otherwise transform into ones that involve fraud, coercion, or force.

Other victim assistance centers include Network of Families of Migrants Outside the Country (Red de Familias de Migrantes al Exterior) and Centro de Apoyo Aquelarre (CEAPA). The Migration Directorate is creating a database of foreign businesses that seek to hire Dominican laborers, and require them to comply with international and domestic standards, as well as monitoring and follow-up mechanisms to those hired.

The GODR also participates in regional and plurilateral efforts to identify methods to protect and assist victims. For example, in June 2008 a GODR delegation participated in “Strengthening Regional Cooperation for the Reintegration of Trafficking Victims” workshop in Managua, Nicaragua, which identified minimum standards to produce a regional action project on reintegration of trafficking victims. The Migration Directorate participated in the Third Global Forum on Migration and Development in November 2009 in Athens, Greece; the First Reunion of High Level Experts: Migration and Development in September 2009 in Brussels, Belgium; and the Overview of Investigations at the Regional Conference of Migration of the Caribbean in December 2009 in Antigua and Barbuda.

Protection, however, includes more than protection of victims once trafficking has been identified or suspected. The National Action Plan includes in the concept of “protection” the protection of victims and witnesses in trafficking prosecutions. One National Action Plan activity is to institute the “protected witness” concept and other protection mechanisms identified in international instruments (e.g., new identity, changing residence, relocation to another country). These protections will provide prosecutors with testimony necessary to prosecute organized crime without risking the life or well-being of those who participate in the prosecution of alleged traffickers.

### *Prevention*<sup>67</sup>

To respond to the immediate needs of Haiti, GODR officials, NGOs and the GOH quickly took actions to prevent potential trafficking situations. Along with CESFRONT, the Migration Directorate took steps to normalize the flow of Haitian nationals once the immediate influx of injured persons to Dominican hospitals eased. Immigration increased its presence on key border crossings to avoid inspectors being overwhelmed by persons improperly trying to enter the Dominican Republic. Working with the IOM, the Immigration Directorate coordinated measures for the relocation of Haitians being treated at Dominican hospitals.

Law 137-03 mandates the prevention of trafficking. GODR institutions must undertake, with civil society, activities such as public campaigns, and economic and social initiatives to prevent and combat trafficking in persons. They must develop policies, plans, and programs to prevent future risk of victimization, especially for vulnerable groups. Other laws also impose obligations related to “prevention,” such as Labor Code Article 254 that requires employers to ensure minors continue their schooling. Public education about the causes and consequences of trafficking forms an essential part of the DR’s efforts to combat trafficking.

The National Action Plan will continue the GODR’s strengthening of prevention efforts as well as outreach and training to a host of public and private sector entities. These include regular workshops for: the Diplomatic Missions of the 10 principle destination countries; media and other communications entities; public and private school personnel; churches, alms societies, youth clubs, and professional associations; business and business associations; the cultural sector; labor unions; migrants of all

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<sup>67</sup> See generally Law 137-03, articles 12 – 15.

nationalities; the Dominican diaspora in those principle destination countries; owners and managers of hotels, bars, restaurants, and other such businesses; and health professionals, among others.

GODR officials receive training on trafficking issues to support prevention efforts.<sup>68</sup> The General Directorate of Migration regularly holds training sessions for new immigration officials and trafficking is included in the program and course given by the Technical Migration School for aspiring Migration Control officials. In June 2009, the Undersecretary for Consular and Migratory Affairs of the Foreign Ministry in coordination with the IOM, held the follow-on “Workshop Inspection” for migration and passport officials covered detecting of false and altered documents, enhancing technical abilities for inspection of travel documents and visas, detecting imposters. Also participating was the Migration Directorate, the Passport Office, and the National Police. In June - July 2009, 145 migration officials participated. The first workshop was held in August 2008. Twenty-one migration inspectors at the Las Americas airport and Aeropuerto Cibao participated in a workshop on false documents offered by the US Embassy. Twenty-five Migration officials participated in a training and discussion sponsored by the Servicio de Jesuitas y Migrantes de Latinoamerica y Caribe and the UN High Commission for Refugees. The Ministry of Foreign Relations trains consular officials in trafficking in persons issues within the framework of consular networks; in 2009, five workshop/discussions were held. In 2009, the Passport Office continued working with the U.S. Embassy in Santo Domingo, the Migration Directorate and other GODR agencies to prevent use of false documents under the rubric of Organized Crime. Other partners include the Armed Forces (Secretaria Estado Fuerzas Armadas), the Cuerpo Especializado de Seguridad Aeroportuaria, the Inter-American Committee Against Terrorism (CICTE), and the OAS, and with each training occurred that involved identifying false Dominican passports. The OAS “Training Program for Consular Officials on the Prevention and Protection of Victims of Human Trafficking” (October 2008) for consular and diplomatic officials, and governmental personnel in charge of combating human trafficking provided an opportunity for the Latin American consular staff to participate actively in the prevention of this crime as well as the protection of the victims.<sup>69</sup> The National Action Plan also contemplates new cooperation agreements between CITIM and the Ministry of Education and the Ministry of Higher Education, Science and Technology to include trafficking issues in education curricula and the Armed Forces and the National Police in their training curriculum.

Since its inception in 2003, COIN has handled 301 cases; however, the majority of those women continue living in situations of extreme poverty. Many continue to participate in COIN’s programs to prevent recurrence, including its employment training programs.

GODR trafficking prevention programs across the country have reached over 5,000 students. The Migration Direction’s Alien Smuggling and Trafficking in Persons Prevention Unit, in coordination with Ministries of Labor and Education, offers courses that warn children of the dangers of alien smuggling, commercial sexual exploitation, and trafficking. The Attorney General’s Unit of Education and Prevention offers educational, training and prevention courses in various schools in the Santo Domingo area on trafficking in persons, illegal trafficking in migrants, and commercial sexual exploitation.

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<sup>68</sup> The expenses of activities including the training of officials in seminars, conferences, and courses provided on a national level and attendance at international training events are covered by the institutions that form the National Commission Against the Trafficking in Persons. Part of their budgets is assigned by the GODR.

<sup>69</sup> Similar training was provided in Haiti in 2009. Topics include: Concepts; Definitions, Prevention, Investigation and Prosecution, Smuggling of Migrants, Consent of Victims, Causes and Forms of Trafficking, and Assistance to Trafficking Victims.

The GODR, NGOs, and others have active public information activities on prevention.<sup>70</sup> Some GODR information campaigns about the dangers of and penalties for trafficking are:

- Attorney General La Ley Pega Fuerte (“The Law Hits Hard”), with written fliers and brochures.
- Migration Directorate No Al Comercio Humano (“No to Human Commerce”)
- Navy Campaña Contra Los Viajes Ilegales (“Campaign Against Illegal Travel”)
- Ministry for Women (supported by Fundación Institucionalidad y Justicia (FINJUS) 2<sup>nd</sup> phase) Impresión Popular de la Ley 137-03 (“Understanding Law 137-03”), Mujer Conoce Tus Derechos (“Woman Know Your Rights”) (radio featuring experts, e.g., psychologists, counselors, educators, lawyers)

The Office of the First Lady, through *Progresando*, has created workshops for managers and supervisors so they can reach out to socially vulnerable families about the risks of human trafficking.<sup>71</sup> The project, which also is receiving support from the IOM, is taking place in Santiago, Santo Domingo, Monte Plata, Samana, and El Seibo. The Franklin Center provided financial support for the brochures distributed during these visits. COIN has published various prevention materials: Foreign Travel: Illusions and Lies; Prevention of the Sexual Exploitation of Minors; Center for Refuge for Women Migrants; Foreign Travel: Information for Women Migrants; Triumphs of Maritza; The Advice of Maritza; The Travels of Maritza; Maritza and the Trusted Partner; and, Mario. The NGO “Tú, Mujer,” that receives some financial support from the GODR, has produced “Travel to Spain” and “Travel in a Boat,” educational videos that use the words and testimony of victims to demonstrate the reality of irregular migration and, above all, the treatment of the people at their final destination. They have been shown in the neighborhoods where the NGO has worked with members of the Red de Familias de Migrantes al Exterior (REDMI, formed in 2007) and with public advocacy groups. The videos generate a broad awareness about the treatment of irregular migrants abroad and trafficking, and participants promise to collaborate so that their families, friends, and acquaintances learn about these issues and do not become victims.

COIN works to discourage participation in trafficking and to promote awareness among trafficking victims. Similarly, Tu Mujer volunteer leaders in the months of October - December 2009 alone realized 22,616 orientation visits to families (13,299 to women and 9,317 to men) about irregular trips, and trafficking and smuggling of persons, and the use of the remittances. In 2009, it hosted 261 discussions on the topics with marginalized neighborhoods, with a total of 3,651 participants (2,762 women and 889 men). The main topics discussed include remittances, gender problems in migration, treatment and trafficking of people, risks in irregular travel, and causes of migration. Already mentioned is the Llama y Vive (Call and Live) hotline that also raises awareness about human trafficking among potential victims and the general public through media campaigns.

Trafficking risks often arise from poverty and manifest themselves in bogus overseas employment opportunities. The Ministry of Women has a number of relevant programs and efforts. In 2009, it worked on better informing the population of these risks and their potential for trafficking. As a committee, CIPROM met five times to discuss the implementation of a campaign on prevention of uninformed migration and trafficking. It has created 52 “Puntos de Orientación e Información” (Information and Direction Centers) with Provincial and Municipal Offices of Women (OPM/OMMs) as

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<sup>70</sup> The National Action Plan continues such efforts, and imposes requirements for updating the information and launching additional / new campaigns.

<sup>71</sup> *Mi Primer Progreso*, part of *Progresando*, has assisted victims through efforts such as assisting to establish small businesses, giving COIN resources, which in turn it used to pay for temporary shelter for female victim of workplace violence, and other such referrals and assistance.

a tool to prevent uninformed migration and trafficking. COIN, with IOM support, administers the Center for Health and Migration Information for Migrant Women (CIMS) to counsel women planning to accept job offers in Europe and the eastern Caribbean about immigration, health, and other problems, including the dangers of trafficking, forced prostitution, and forced domestic service.

The GODR and various organizations continue to efforts at prevention of sex tourism. Efforts focus on higher tourism areas such as Las Terrenas, Sosua, and Boca Chica. The Ministry of Tourism in 2009 again held discussions in communities on topics such as commercial sexual exploitation of adults and minors, HIV/AIDs, and other topics relevant to the industry. NGOs conducted programs on prostitution and child sexual exploitation for hotel and industrial zone workers, male and female prostitutes, and other high-risk groups. Signs in the international airport in Santo Domingo warn of trafficking crimes and punishments.

Many prevention initiatives and projects target vulnerable or at-risk persons, and do not draw distinctions on the definition of the type of risk, e.g.,

- December 9, 2009, COPRESIDA and INFOTEP (Instituto Nacional de Formación Técnico Profesional) announced a technical and vocational skills training program for 150 former sex workers and transsexuals to provide alternative job skills.
- In 2009, Tu Mujer, working with INFOTEP, provided technical skills training to over 250 people in marginalized neighborhoods who might not otherwise satisfy student entry requirements in barbering/stylists, electricians, ceramics, and other skills to reduce the likelihood of becoming trafficking victims.
- Tu Mujer has given microcredit loans to 308 individuals who might otherwise emigrate at risk that allows the purchase of equipment, access to a credit fund for purchases at wholesale, reduced sales and cash-only markets, and provides small business training (e.g., beauty salons/barbershops, purchase/sale small household goods, buying/selling used clothing, small restaurants, cooking/baking for sale, independent vendors of beauty products). While many of the businesses operate in their neighborhoods, some women entrepreneurs now offer their products in other areas of the city, and at high traffic areas (e.g., university area).
- November 4 -5, 2009, Conani “Seminario-Taller: Retos y Desafíos para la Creación de un Modelo de Intervención Integral a Niños, Niñas y Adolescentes en Situación de Calle y/o en Riesgo con Consumo de Drogas,” (Seminar-Workshop on Challenges for the Creation of a Comprehensive Intervention Model for Children and Adolescents in the Streets and / or Drug Abuse Risk), brought together various GODR to analyze the protection systems of other countries in the hemisphere and the risks faced by street children in the DR, and to improve the DR’s approaches to and effective coordination in these situations.
- March 2008, INFOTEP and the Dominican NGO EDUCA (Acción para la Educación Básica) agreed to implement a program that will provide technical training to 2,500 young people in vulnerable circumstances, without requiring the vulnerability specifically be for trafficking.
- January 2008, GODR and U.S. Department of Labor announced their support for “Educando para combatir la explotación laboral infantil,” administered by EDUC that will target education services through the existing and well-regarded “Espacios para Crecer” and vocational and micro business programs to 10,000 children involved in, or at risk of involvement in, the worst forms of child labor, which includes commercial sexual exploitation and other work situations.<sup>72</sup>

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<sup>72</sup> The project will have distinct efforts in: the border zone; Cibao; agriculture and tourism sectors in the eastern region and Boca Chica, Samaná, and Puerto Plata; and urban areas of Santo Domingo, Santiago, San Francisco de Macorís, San Pedro de Macorís, and Puerto Plata. Participating entities include: UCNE, Catholic Relief Services,

- The Labor Ministry’s “Action On Child Labor” for bateyes in Barahona, Bahoruco and Independencia established through Visión Mundial República Dominicana focuses on trafficking, health conditions and work accidents, providing options through school and recreational programs, and medical and legal assistance.

The GODR, as a government and in coordination and cooperation with others, thus manifests its commitment to anti-trafficking efforts through numerous activities that address the depth and breath of relevant concerns and potential solutions.

### Conclusion

The Dominican Republic has been used as a destination, transit and source country for smuggling and undocumented migration. It is a country facing other transnational challenges, from narcotics trafficking<sup>73</sup> into and through its territory to the economic reverberations of the current global situation. The Discussion Paper does not focus on these much broader issues and context presented by undocumented migration<sup>74</sup> or the other economic, societal, and transnational challenges that the GODR is confronting.

This Discussion Paper focuses on trafficking in persons. It provides information about trafficking risks in, through, and from the DR. It describes the GODR’s challenges in confronting trafficking in persons. It explains the GODR’s comprehensive approach to respond to trafficking risks and situations. Those responses reflect vigorous investigation and prosecution employing the full gamut of legal tools; the strong protection of and assistance for persons at risk for both outbound and inbound trafficking; and comprehensive and coordinated prevention programs and efforts.

Any analysis of the situation in the DR or involving the DR that fails to identify clearly what exists – trafficking, smuggling, or undocumented movement of people – will fail to be a useful tool to assess current efforts and progress as well as fail to support the overall objectives of combating trafficking in persons. The information provided in this Discussion Paper reflects the GODR’s thoughtful, steadfast, realistic, and continuing commitments to prosecution of trafficking offenses and offenders, to protection of trafficking victims, and to prevention of trafficking in persons.

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FUDECO-Save the Children, Plan Internacional, Vision Mundial, Instituto Dominicano de Desarrollo (IDDI), Fundaprin, Samanenses and Fundazucar.

<sup>73</sup> See e.g., [www.dominicantoday.com/dr/local/2009/4/2/31585/Pilots-in-Barahona-refinery-drug-case-get-10-years-in-prison](http://www.dominicantoday.com/dr/local/2009/4/2/31585/Pilots-in-Barahona-refinery-drug-case-get-10-years-in-prison) (A Neyba court on April 1, 2009 sentenced two pilots to 10 years in prison, fined each RD\$50,000 for drug trafficking, and ordered confiscation of their assets. The cocaine was in a small plane from Colombia that landed on a makeshift runway of a sugar cane field at Batey 4 of the Barahona (southwest) sugar mill).

<sup>74</sup> E.g., April 2, 2009, press report that the Dominican Navy arrested 8 people suspected of traveling with a group of 32 undocumented aliens headed to Puerto Rico from eastern DR based on reports received by Naval Intelligence Division (M-2) about a planned illegal trip.