

# Human Rights Watch

## Discrimination, Detention, and Deportation: Immigration & Refugees

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#### Human Rights Watch World Report 1998

### DOMINICAN REPUBLIC

#### Human Rights Developments

The Dominican government committed serious human rights abuses during President Leonel Fernández Reyna's first year in power. Police and members of the military used excessive force against criminal suspects, prisoners, and individuals participating in peaceful public demonstrations, and routinely violated due process rights. Dominican prisoners, particularly minors, suffered in deplorable conditions, and some 85 percent of detainees were held without trial, many for long periods.

On February 23, police reacting to a disturbance in the Azua prison reportedly killed three unarmed boys in cold blood. Two police lieutenants, one named Mndez and another known as "Gomera," reportedly lined up the seventeen-year-old boys, Roberto Rafael Corporn, Jos Ignacio Payano Nez, and Jos Paredes Gutierrez, against an interior wall of the prison and fired repeatedly at them with shotguns, killing them while other inmates pleaded for the three youths' lives. The government opened an investigation, initially concluding that the three boys had been killed while trying to escape the prison, but have not released final results of its inquiry at this writing.

On November 18, 1996, at least one-hundred heavily-armed Dominican police entered a squatters' settlement known as "El Caf," on the outskirts of Santo Domingo, to evict approximately 600 families. The police fired weapons and tear gas, wounding at least ten residents. One police officer reportedly fired at Alfredo D'Oleo Encarnacin, who was unarmed and standing on his patio, killing him. The government has not concluded its investigation of the El Caf incident at this writing.

Dominican security forces using excessive force killed over thirty other individuals in the past year. The police and military involved in shootings frequently invoked the defense that they had been fired upon before shooting, but witnesses often contradicted their accounts. Among these cases, on March 7, army Sgt. Roberto Reyes Familia was riding his motorcycle in Santo Domingo when a vehicle side-swiped him. Reyes Familia fired at the vehicle, killing Antonio Santos Caraballo. On September 26, police invoked self-defense in the deaths of two suspected criminals in the Capotillo region of Santo Domingo, but onlookers allegedly saw police shoot the suspects after they had laid down their weapons. In May, police conducting a drug raid in Capotillo allegedly saw Jos Ramrez swallow a package of crack cocaine. As the police beat him with their weapons, Ramrez began to foam at the mouth and lost consciousness. The police left Ramrez at the scene. He died three hours later, as neighbors were transporting him to a hospital. While the immediate cause of Ramrez's death remained uncertain, police used excessive force in beating him and were negligent in failing to provide him with medical assistance.

Police reportedly tortured several detainees in the past year. On January 27, police arrested Ramn Vizcaino and his wife Rosie Cuevas in Vicente Noble and transported them to the national police headquarters in Santo Domingo. On three occasions over two days, officers in the robbery department beat Vizcaino, using a baseball bat and grabbing his testicles, while insisting that he admit to assisting with an escape plan for the Monte Plata prison. The police then held him for over one month, without providing him with medical treatment for injuries from the beatings, including a hernia. Police also reportedly tortured several suspects by hanging them by handcuffs or thumb screws for extended periods and denying them food, water, and access to toilets.

Dominican police routinely ignored due process protections, such as providing access to lawyers and observing the forty-eight-hour limit on holding detainees in police lock-ups. They also arbitrarily detained criminal suspects' family members as hostages, to entice the suspects to turn themselves in. Police detained Ramona Pozo, the seventy-year-old mother of Ramn Pozo, for three days in July, until her son surrendered to police in Haina.

Dominican authorities used excessive force at several public demonstrations. On April 24, a peaceful demonstration marking the 1965 U.S. invasion of the Dominican Republic was disrupted by shots fired from a Navy minibus. Sailors shot Joseliu Perdomo through the back of the leg and wounded several other demonstrators. Police opened fire on the nonviolent crowd at a Santo Domingo rally against rising telephone rates in June, leaving Araceli Pensn and Virtudes Alvarez with injuries from shotgun blasts and wounding several others.

Late in the year, police committed serious human rights violations in response to nationwide protests of persistent power outages. On October 22, police reportedly arrested Damian Edis Paredes, who was demonstrating in Santo Domingo, severely beat him and then executed him with several shots, including one in his mouth. The same day, police apparently employed excessive force when they fired numerous tear gas canisters into a demonstration, leading to the death by asphyxiation of thirteen-year-old Marlene Vargas Santana, who was in her nearby home. Hundreds of Dominican activists were arbitrarily detained in apparent government efforts to get protest organizers off the streets prior to a planned November national strike.

A backlog of criminal cases left the prisons extremely overcrowded: during 1997, 85 percent of the Dominican prison population of approximately 12,000 prisoners had never been tried. Prisoners routinely struggled to find sufficient nutrition and a place to sleep, lived in filthy, dangerous conditions, and received insufficient medical care. The police and military authorities charged with running the country's prisons received no specialized training. The difficult conditions led to several prison riots. On June 5, detainees at the Mao prison rioted in protest of poor conditions and corruption, including the reported selling of infirmary cells to healthy prisoners for up to 3,000 pesos (U.S. \$231). After a few days of negotiations, police stormed the prison, injuring dozens of detainees. Police wounded sixteen-year-old Jorge Santiago Contreras, who was confined to an isolation cell and unarmed, with a shotgun blast. Another youth, seventeen-year-old Edward Moses S Pea, was shot in the back.

Stunning travesties of justice resulted from the judicial system's weaknesses, prevalent corruption, and transfers of detainees far from their homes, which prohibited most prisoners from genuine access to lawyers and the courts. Scores of detainees spent months and years in Dominican prisons without being tried or found guilty of any crime. Prisoners who had been confined to Dominican prisons for exceptionally long periods without trial included: Zenn Ramrez Ogando, who was detained in 1987 but never sentenced (his trial for homicide remained in the investigation phase); Rafael Sosa Flix, who was detained without trial since April 1991; Marino de la Rosa Beltrn, who was detained in 1991 without charge; and Valentn Almonte y Almonte, who was arrested in March 1994 but whose case file had been lost. Condemned prisoners faced additional impediments. Although a court ordered liberty for Rafael Orlando Caminero Guerrero on April 26, 1991, when he completed his ninety-day sentence in La Victoria for painting a stolen car, authorities had failed to free him as of August 1997. Ramn de la Rosa Peguero was condemned to six months in La

Victoria and a 1,500 peso (\$115) fine in March 1995. He completed his time in September 1995 and paid his fine but, at this writing, still awaits a judicial order freeing him.

Dominican authorities failed to provide minors, the prison system's most vulnerable population, with appropriate care. In violation of the United Nations Convention on the Rights of the Child, a treaty ratified by the Dominican Republic, the government confined hundreds of minors, both convicts and those in preventive detention, in adult prisons, and neglected to provide them with sufficient protection, education, or rehabilitation. The government's purported evaluation center for minors, Casa Albergue, was the site of serious abuses, including a November 1996 incident that left Juan Pablo Medina and Ricardo Torres dead when police refused to release the boys from their cells despite a mattress fire in the area. In May 1997, police at the center were angered by an argument with seventeen-year-old Carlos de la Cruz Severino. Six officers beat him with baseball bats, including blows to his genitals and neck. The abuses of detained minors highlighted the government's complete failure, since 1994, to enforce a new minors code.

The Law Against Intrafamilial Violence, which was enacted into law in February, resulted in a handful of convictions late in the year. The law increased sanctions for domestic violence and improved procedural protections for victims of family violence.

Haitians continued to suffer discriminatory treatment by the Dominican government. More than 21,000 Haitians were expelled in 1997. The Dominican military carried out a particularly intense campaign in February and March, during which soldiers in some cases failed to respect the Haitians' due process rights, beat detainees, and would not allow detainees to notify family members of their expulsion. Dominican authorities also deported several Dominicans, after disregarding documents demonstrating their citizenship. On September 23, Dominican soldiers arrested Manuel Antonio Estban Fernn, a Dominican citizen, in Santo Domingo and expelled him to Malpasse, Haiti. An Air Force captain leading the operation reportedly destroyed Estban Fernn's national identity document and expelled him because of the dark color of his skin. In dozens of cases, government officials denied the constitutional citizenship rights due to children born of Haitian parents in the Dominican Republic. In March, Telma Reyes, a civil official in Sabana Grande de Boya, justified her denial of citizenship to ten children of Haitian descent by saying that she had received an order to do so from migration authorities. She further explained that she thought that granting the children citizenship would threaten the motherland's purity. At this writing, the Dominican government still has not submitted its report to the U.N. Committee on the Elimination of Racial Discrimination, which was due in March, and the committee considered the report "excessively overdue." The Dominican government, which is obligated to submit reports to the committee every two years, last satisfied this requirement in 1990.

Impunity for human rights violations persisted in the past year. While the Dominican police fired more than one-hundred officers for crimes and human rights abuses in August and September 1997, in an effort to purge the institution, Dominican courts brought few human rights violators to trial. The 1994 "disappearance" case of university professor Dr. Narciso Gonzlez Medina remained open, but the government failed to clarify responsibility for the case and did not detain a single suspect. At this writing, the case is pending before the Inter-American Commission on Human Rights. On a positive note, the government denied a petition to try Gen. (ret.) Salvador Lluberas Monts, also known as "Chinino," in military, rather than civilian, court for the 1975 murder of journalist Orlando Martnez.

A transparent selection process for Supreme Court judges culminated in August, with the swearing-in of a new court amidst hopes that it would set a new, professional tone for the decrepit legal system. But this positive step was countered by the president's September firing of Guillermo Moreno, the well-respected attorney general for Santo Domingo, who had taken a firm stance against human rights violators.

### **The Right to Monitor**

Under the government of President Fernndez, Dominican human rights activists worked with greater freedom than they had under the previous administration, when police intimidation and anonymous telephone threats were the norm. However, several human rights activists complained of close police surveillance in October and November, prior to a planned national strike. In early November, Danilo de la Cruz, a member of the Dominican Committee for Human Rights (Comit Dominicano de Derechos Humanos, CDDH) who police had fired on in 1996, reported that police officers were following him. Virgilio Almnzar, the president of the CDDH, also was under police surveillance. His five and nine-year-old sons were followed to school by two police officers on November 3, 1997. While the government provided some access to its prisons and detention centers for minors, that access was, on occasion, unduly restricted. The Dominican government cooperated fully with the visit of representatives of the Inter-American Commission on Human Rights.

### **The Role of the Organization of American States**

A delegation from the Inter-American Commission on Human Rights (IACHR) of the Organization of American States conducted a four-day human rights investigation in the Dominican Republic in June. The IACHR delegation explored broad human rights concerns and concluded its mission with the issuance of a detailed press release that pointed to human rights deficiencies and proposed concrete steps for improvement. The commission members have not concluded the final report of their visit at this writing.

Following an October hearing, the "disappearance" case of Narciso Gonzlez remained before the IACHR at year's end.

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