

## TABLE OF CONTENTS

1. Introduction .....	2
2. Background .....	3
2.1. Tradition of impunity for human rights violations .....	3
2.1.1. Legal structures perpetuating impunity: police and military courts .....	4
2.1.2. The practical impact of impunity: frequent allegations of serious human rights violations .....	5
2.2. The Dominican economic crisis of 2003.....	6
3. Human rights violations in the context of protests at the economic crisis.....	8
3.1. The social and economic fallout .....	8
3.2. Violations by the security forces in response to rising protest.....	8
3.2.1. Reported illegal killings by security officers.....	9
3.2.2. Reported excessive use of force by security officials .....	11
3.2.3. Reported arbitrary arrests of human rights defenders .....	13
4. Journalists and freedom of expression.....	14
5. Conclusions and recommendations .....	16
With regard to alleged violations of the right to life and physical integrity .....	16
With regard to alleged arbitrary detention .....	17
With regard to alleged violations of the right to freedom of speech .....	17
With regard to human rights defenders.....	18
With regard to economic and social rights.....	18

# **Dominican Republic**

## **Human rights violations in the context of the economic crisis**

### **1. Introduction**

In spite of a range of government commitments with respect to international standards, serious human rights violations by the security forces continue to be reported in the Dominican Republic.

In recent years, concern has focused on frequent reports of unlawful killings by members of the security forces, including extrajudicial executions. The security forces, which include the *Policía Nacional*, National Police, and the *Fuerzas Armadas de la República Dominicana*, Armed Forces of the Dominican Republic,<sup>1</sup> have consistently defended their agents' conduct, maintaining that most of the deaths occurred in exchanges of gunfire with armed criminal suspects. However, in numerous cases their account was contradicted by witness testimony or other evidence.

Such killings are still reported, and continue to elicit great concern. However, in 2003 Amnesty International has noted another emerging trend: serious human rights violations by security forces in the context of escalating public protest against government economic policy. This report documents cases of alleged unlawful killings of demonstrators and bystanders by law enforcement officials; reported excessive use of force; alleged arbitrary arrest of activists and protest organisers; and unlawful curbs on freedom of expression in the context of the crisis.

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<sup>1</sup> The national police force was formed in 1936, and is currently administered under the Secretary of State for the Interior and the Police. The National Police have primary responsibility for maintaining public order; duties of the military include border control activities and supervision of some prisons, while a specialised prison guard service is being trained. However, during the widespread demonstrations against government economic policy in 2003 described in this document, the military took on a more frequent law enforcement role.

## **2. Background**

### **2.1. Tradition of impunity for human rights violations**

According to international standards, law enforcement officials may only use intentional lethal force when it is “strictly unavoidable in order to protect life.”<sup>2</sup> Dominican law explicitly refers to the UN Code of Conduct for Law Enforcement Officials<sup>3</sup>; like the Code, it restricts the use of force by law enforcement officials to instances in which it is “strictly necessary,” and requires that it be in proportion to the needs required to carry out their duties.<sup>4</sup> It also prohibits the use of torture or cruel, inhuman or degrading punishment or treatment.<sup>5</sup>

International and domestic law dictates that when allegations of violations, such as unlawful use of force, are received, these must be promptly and fully investigated and those implicated brought to justice. In practice in the Dominican Republic, however, although reports of serious human rights violations are widespread, those accused of committing them are only rarely brought to justice.

There are a number of factors that contribute to this situation. Though recent political transitions have occurred peacefully following democratic elections, one legacy of decades of dictatorship in the Dominican Republic is an ‘iron fist’ approach to maintaining public order. Public tolerance of the use of force by law enforcement officials is heightened by a widespread perception of growing criminality in the country, linked to issues such as the regional drug trade, the presence of ‘criminal deportees’ from the USA and the perceived threat to Dominican stability posed by Haitian immigration.

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<sup>2</sup> *Inter alia*, Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (adopted by the Eighth Congress of the United Nations on the Prevention of Crime and Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990), para. 9.

<sup>3</sup> Adopted by General Assembly resolution 34/169, U.N. Doc. A/34/46 (1979); referenced in Dominican domestic law No. 672 of 19 July 1982.

<sup>4</sup> Law No. 672 of 19 July 1982, article 3: “law enforcement officials may only use force when it is strictly necessary and to the extent required to carry out their duties.” Unofficial translation.

<sup>5</sup> *Ibid.*, article 5.

### **2.1.1. Legal structures perpetuating impunity: police and military courts**

Civilian oversight of the security forces has been limited by law: under the Dominican judicial system police officers and members of the military, if tried at all, are under the jurisdiction of separate police or military courts. This practice contravenes the growing body of international law and jurisprudence specifying that, in the interest of ensuring independence and impartiality, alleged perpetrators of human rights violations must face trial before ordinary, civilian, rather than police or military, courts.<sup>6</sup>

The Dominican authorities are aware of this element of international human rights law and the need to reform the Dominican practice accordingly. In 2002 they told the UN Human Rights Committee

there has been a sharp decrease in the number of extrajudicial deaths for which the National Police have been responsible, and all complaints are being investigated and all accused persons tried by ordinary courts. It may therefore be stated that the authorities' emphasis on the right to life, with all its legal consequences, is a sign of their genuine commitment to the promotion and respect for human rights in the Dominican Republic.<sup>7</sup>

The authorities have taken concrete steps to reform the Dominican legal system in this regard. For example, the Code of Criminal Procedure approved in 2002, and scheduled to come into force in mid-2004, places all crimes under civilian jurisdiction, including those committed by security forces:

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<sup>6</sup> For example, the Declaration on the Protection of all Persons from Enforced Disappearance, adopted unanimously by the UN General Assembly in a 1992 resolution, states expressly that perpetrators “shall be tried only by the competent ordinary courts in each State, and not by any other special tribunal, in particular military courts” (Declaration on the Protection of all Persons from Enforced Disappearance, General Assembly resolution 47/133 of 18 December 1992, A/RES/47/133, art. 16.2. This principle is reflected in Article 9 of the Inter-American Convention on Forced Disappearance of Persons, to which the Dominican Republic has yet to become a party. For its part, the Human Rights Committee, in reviewing the periodic reports submitted by states parties to the Committee, has repeatedly said that cases involving human rights violations must be tried in ordinary courts. The Special Rapporteur of the UN Commission on Human Rights on extrajudicial, summary or arbitrary executions has also expressed concern about the fulfilment of international standards for fair trial by military tribunals (Report of the Special Rapporteur of the Commission on Human Rights on extrajudicial, summary or arbitrary executions, in UN document A/51/457 of 7 October 1996; para. 125).

<sup>7</sup> Comments by the Government of the Dominican Republic on the Concluding Observations of the Human Rights Committee (CCPR/CO/71/DOM/Add.1), 28 May 2002, para. 33.

the procedural norms established in this code are applicable to the investigation, recognition and ruling of any punishable act, regardless of its nature or the person accused, including the members of the Armed Forces and the National Police, even if the punishable acts attributed to them have been committed in the exercise of their duties.<sup>8</sup>

However, some police and military authorities have reportedly disputed the validity of this provision of the new Code, and it has yet to be implemented in practice. Moreover, its application is not retroactive. Through the period covered by this report police officers and soldiers accused of human rights violations, if tried at all, were still likely to be tried under the jurisdiction of specialised police or military tribunals rather than ordinary courts.

### **2.1.2. The practical impact of impunity: frequent allegations of serious human rights violations**

International and local press reported roughly 200 killings of Dominican citizens by members of the security forces in 1999, and set a similar or higher figure for 2000 and 2001.<sup>9</sup> While acknowledging that precise numbers may be disputed, Amnesty International has drawn attention to a pattern across numerous cases in which official accounts of killings differed significantly from witness accounts, forensic evidence or other indicators. As mentioned above, at times the circumstances of the killings indicated extrajudicial execution.

In the past, these serious violations by members of the security forces have been largely concentrated in poor urban neighbourhoods, and most victims have been young men from these areas. In a November 2002 report, the non-governmental human rights organization (NGO) the Washington Office on Latin America drew a link between violations by the Dominican security forces and poverty:

it is in poor neighborhoods that many - though not all - of the killings by security forces are concentrated ... Police violence is best understood as a social control mechanism used to maintain 'order.' Order maintenance is necessary because the government is not meeting the population's basic needs or responding to legitimate social demands. Tacit state 'policy' permits the police and other security

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<sup>8</sup> *Código de Procedimiento Penal*, or Code of Criminal Procedure, 2 July 2002; article 57.

<sup>9</sup> In January 2002 the president replaced police chief Pedro Jesús Candelier with General Jaime Marte Martínez; the number of reported killings dropped, but began increasing again later in the year.

forces to take action to intimidate its own citizens, particularly those who are poor.<sup>10</sup>

Similarly, the trend noted in 2003, of violations by security forces in the context of public protest at the economic crisis, has also disproportionately affected poor and marginalised communities.

## **2.2. The Dominican economic crisis of 2003**

Particularly in the second half of the 1990s, international financial institutions cited the Dominican Republic as one of the fastest growing and stable countries of the region.<sup>11</sup> Its Gross Domestic Product (GDP) grew steadily during this period,<sup>12</sup> helping to place it within the middle tier of countries, categorised as having 'medium human development' according to the United Nations Development Programme (UNDP).<sup>13</sup>

External factors such as a rise in international oil prices and a decline, following the attacks in the USA on 11 September 2001, in international travel and tourism, which is one of the primary sources of revenue in the country, contributed to a weakening of the Dominican economy. The most significant factor, however, was the May 2003 collapse of the country's third largest bank, the private *Banco Intercontinental* (BANINTER), or Intercontinental Bank, following accusations of accounting malpractice, mismanagement and fraud.

The collapse cost the Dominican government a reported US\$ 2.2 billion, said to be equivalent to 66% of its annual budget or 11% of the country's annual Gross Domestic Product.<sup>14</sup> Its repercussions included increases in the annual inflation rate, from an estimated 8.9% in 2001<sup>15</sup> to 35% in late 2003;<sup>16</sup> a general economic slowdown, with a

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10 Washington Office on Latin America, "Crisis and reform: the police in the Dominican Republic," *WOLA Citizen Security Monitor*, November 2002.

11 IMF Public Information Notice No. 03/123, October 14, 2003.

12 The Economist Intelligence Unit Limited, *Country Report 2002: Dominican Republic / Haiti*, October 2002, p. 6.

13 United Nations Development Programme, *Human Development Report 2003*. UNDP's ranking takes into account indicators such as life expectancy and literacy rates.

14 EFE, "Gobierno pide resignacion ante crisis y espera concluir acuerdo," 21 July; and EFE, "Gobierno confia acuerdo logrado con FMI estabilizara economia," 30 August.

15 The Economist Intelligence Unit Limited, *Country Report 2002: Dominican Republic / Haiti*, October 2002, p. 6.

16 IMF Public Information Notice No. 03/123, October 14, 2003.

reported withdrawal of foreign investment; and a greater than 50% depreciation of the Dominican peso with regard to the US dollar.

**2003-04: Timeline of an economic crisis**

13 May: The Central Bank revealed news of the BANINTER banking fraud, which it said had generated losses of US\$ 2.2 billion. The social impact began to be felt immediately, as the government reduced spending and subsidies. Public outcry at the crisis and its impact began.

6 August: The government established by decree a 5% export tax as a condition for agreements with the IMF. Social and business groups brought claims against the decree, on the grounds that such a measure must have legislative approval. The Supreme Court of Justice agreed and declared the measure unconstitutional. The National Congress later suspended the tax. Meanwhile, public protests at the crisis and the accord gained momentum.

29 August: The government and the IMF signed a two-year standby arrangement. The arrangement opened the door to further loans from the World Bank and the Inter-American Development Bank (IDB). The IMF approved a loan of US\$ 600 million, with US\$ 120 million disbursed within days.

End September: Review of the standby arrangement, and further disbursements, were delayed after the IMF took issue with the government's purchase of shares in two power distribution companies in the country. The IMF argued that the purchase conflicted with the Government's Letter of Intent to the IMF pledging fiscal equilibrium, tariff reforms and privatisation. Also under discussion was government failure to implement the export tax.

3 January 2004: Further increases in electricity and petrol prices were announced for the new year; the latter were immediately passed on to the public as increased bus fares.

10 January: The Central Bank announced that the exchange rate, which had been 17.56 Dominican pesos per US dollar in January 2003, had shifted to 44.06 pesos per dollar.

16 January: The IMF warned that the Dominican authorities were failing to comply with its requirements, preventing further agreements and disbursements.

3 February: The Chamber of Deputies approved a loan of US\$ 200 million from the Inter-American Development Bank. Discussions with the World Bank continued.

In response to the crisis, the Dominican authorities announced that they had begun negotiating emergency credits with the International Monetary Fund (IMF). The government and the IMF signed a two-year standby agreement on 29 August 2003. The IMF approved a loan of US\$ 600 million to the Dominican Republic, of which \$120 million had been disbursed at the time this report was published.

### **3. Human rights violations in the context of protests at the economic crisis**

#### **3.1. The social and economic fallout**

The impact of the crisis has been devastating: as a result of growing inflation, the decline in the value of the peso and the general economic slowdown, prices rose dramatically over 2003 while consumer buying power, including for basic necessities, shrunk. These changes were felt sharply among poor families; in response, public protests, particularly in marginalised areas, became increasingly frequent.

Government measures, such as cuts in subsidies and increases in import tariffs, led to increased fuel prices; these were passed on in turn to consumers as higher transport fares. Electricity prices also rose; at the same time, power blackouts of up to 20 hours at a time became increasingly frequent across the country, as the government found itself unable to pay subsidies to electricity distributors. The power cuts led to a heightened sense of insecurity among the population, further exacerbating social tensions.

Demonstrators began marching to show their frustration and anger at rising prices and electricity blackouts. They also expressed fears that government steps to comply with international financial institutions' requirements for an agreement would increase the hardship they faced.

#### **3.2. Violations by the security forces in response to rising protest**

Military and police sources repeatedly called for public calm and order in the run-up to the signing of the IMF accord in August 2003. Nonetheless, protests spread. Many protests were uniformly peaceful; however in some instances protestors were accused of throwing rocks or, less frequently, of firing on security forces. There were sporadic reports of homemade bombs set off near official buildings. Several police officers were reportedly killed in confrontations with demonstrators, and others wounded.



In some instances the information received indicated that protestors were injured or killed, not by members of the security forces, but by panicked drivers of cars who opened fire after they were inadvertently caught up in the protests. A number of bystanders, who were not taking part in the protests, were injured or killed, most frequently as security forces used force to disperse demonstrators.

Amnesty International recognises that international standards allow law enforcement officials to use a proportionate degree of force to protect themselves and others from harm. At the same time, however, Amnesty International is deeply concerned at numerous reports of excessive and disproportionate use of force and, at times, of unlawful use of lethal force by members of the security forces during demonstrations. Some of these cases are described below. In very few cases has an investigation been announced; nor, to Amnesty International's knowledge, has any member of the security forces been brought to trial for the incidents described below.

### **3.2.1. Reported illegal killings by security officers**

The Basic Principles on the Use of Force and Firearms by Law Enforcement Officials stipulate that

Law enforcement officials shall not use firearms against persons except in self-defence or defence of others against the imminent threat of death or serious injury, to prevent the perpetration of a particularly serious crime involving grave threat to life, to arrest a person presenting such a danger and resisting their authority, or to prevent his or her escape, and only when less extreme means are insufficient to achieve these objectives. In any event, intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life.<sup>17</sup>

In light of the above restrictions on the use of lethal force, the cases below describe apparently unlawful killings.

- In Capotillo, a poor neighbourhood of Santo Domingo, on 8 July, shopkeeper **Juan Lin**, aged 33, was reportedly shot in the head and killed by police officers as they began indiscriminately firing their weapons to disperse demonstrators marching against the impact of government economic policies. According to the reports received, Juan Lin was not taking part in the protest; he was closing his business at the

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17. Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (adopted by the Eighth Congress of the United Nations on the Prevention of Crime and Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990), para. 9.

time of the shooting, apparently to avoid any damages during the disturbances between police and protestors.

- During a 20 August demonstration in the Tamarindo sector of Santo Domingo, **Carlos Eusebio Reyes Estevez**, 23, was reportedly killed after being shot in the chest and leg by a transit officer of the *Autoridad Metropolitana del Transporte*, Metropolitan Transport Authority. The transit officer was armed, but was not operating under the orders of the National Police, according to a police spokesman. Residents of the area and family members present at the scene reported that Carlos Eusebio Reyes had not been involved in the protest, in which rioters were said to have thrown stones and set fire to vehicles, but was standing outside his house when he was shot. When asked about the death, head of police Jaime Marte Martínez said that several people had been arrested; however no further information was made public, to Amnesty International's knowledge.

- During a 24-hour general strike on 11 November 2003, called by a grassroots coalition of women, student, community and trade union organisations in protest at skyrocketing prices and severe energy cuts, at least seven people were reported killed and over 30 wounded as protestors clashed with police in Santo Domingo, Santiago, Bonao, San Francisco de Macoris, Moca and other towns. In an attempt to discourage strikes police had previously arrested several hundred activists.

President Hipólito Mejía had warned in an interview broadcast on state television several days before the strike, "there is a firm decision to act without leniency against those who disturb public order and social peace. In that I am intransigent."<sup>18</sup>

One of the dead was a police officer, **Nelson Sólis Arias Henríquez**, killed by unidentified gunmen in Capotillo. Others included **Alberto Aquino Marte**, of Santo Domingo, who reportedly died after being shot in the neck by police while demonstrating. According to press reports, **Humberto Antonio Rosario Reyes** died after being hit by stray shotgun pellets allegedly fired by police; he had been playing football outdoors in Bonao when he was shot. The family of **David Pérez Vásquez** of Cristo Rey, Santiago, reportedly claimed that he was deliberately shot in his home by soldiers; Amnesty International is seeking further information on these and other cases. The organisation called on the authorities to launch a full and impartial enquiry into all of the reported deaths, but has not yet received a response.<sup>19</sup>

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18 EFE, "Presidente advierte actuara sin contemplaciones en huelga general," 10 November.

19 Amnesty International, "Dominican Republic: Strikers' deaths must be investigated" (AI Index: AMR 27/006/2003, news service no. 258), 13 November 2003).

### 3.2.2. Reported excessive use of force by security officials

According to the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials

law enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force and firearms. They may use force and firearms only if other means remain ineffective or without any promise of achieving the intended result. Whenever the lawful use of force and firearms is unavoidable, law enforcement officials shall (a) exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate objective to be achieved; [and] (b) minimize damage and injury, and respect and preserve human life.<sup>20</sup>

Throughout 2003 there were numerous reported incidents in which, according to the information received, security forces used excessive force during demonstrations.

- On 8 July, protests against electricity blackouts broke out in San Francisco de Macoris, where residents of certain areas were reportedly without electricity for up to 20 hours at a stretch. **Francisco Alberto García Martínez**, 27, was reportedly shot in the leg by police when they, in apparent disproportionate and excessive use of force, opened fire on demonstrators who they accused of throwing rocks.

- Dominican authorities were committed to ensuring that no protests should mar the celebration of the **XIV Panamerican Games** in Santo Domingo in August. At times, their public statements in this regard raised concerns about the level of official respect for the right of peaceful assembly, guaranteed under Dominican and international law. For instance, on 29 July Mayor General Gustavo Jorge García, head of security for the Games, reportedly threatened potential protestors during a television appearance that '*les arrancaría el cocote como se mata a una gallina,*' 'I'd wring their necks, like you'd kill a hen'.<sup>21</sup>

Similarly, two days later the Ministry of the Interior and the Police published a press release informing citizens that during the games, '*queda prohibido toda manifestación, desfile, marcha, piquete, que no haya sido previamente participada,*' 'any demonstration, parade, march, picket, that has not been previously arranged, is

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<sup>20</sup> Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (adopted by the Eighth Congress of the United Nations on the Prevention of Crime and Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990), paras. 4 and 5.

<sup>21</sup> 'Amenazas alto jefe militar no amedrentan comunitarios,' Hoy 30 July 2003.

prohibited.<sup>22</sup> On 2 August, President Mejía told the press that he had instructed the security forces to 'den leña,' or 'thrash' protestors who threatened to disrupt the games.<sup>23</sup>

Nonetheless, in a parody of the official proceedings, protestors carrying a flaming saucepan on a dustbin as a mock 'torch', took part in a '*Antorcha contra el hambre*,' or 'Torch against hunger' march in Santo Domingo.<sup>24</sup> The aim was to express their anger at government expenditure on the Games in spite of the economic crisis, as well as their ongoing concerns at blackouts, price increases and the IMF accord. Their peaceful march, held on 1 August, was violently dispersed with tear gas and pellets by security forces soon after it began; several demonstrators were reportedly injured.

- On 6 August, police raided the office of a local trade union, the *Central Nacional de Transportistas Unificados (CNTU)*, National Union of Unified Transport Workers, and opened fire on those inside in order to prevent them from carrying out a protest scheduled for later that afternoon in Santo Domingo.<sup>25</sup> At least three trade unionists were said to have been injured, and up to six others arbitrarily detained by police, during the afternoon raid. One activist, **Ramón Pérez Figuero**, was treated in hospital for multiple shotgun pellet wounds in the hips and legs, as well as trauma in the chest and abdomen, reportedly after having been beaten by police as he tried to flee. Officers also fired tear gas.

The CNTU filed a judicial complaint against President Hipólito Mejía and head of the police Mayor General Jaime Marte Martínez for the raid and the injuries sustained by trade union members. No progress has been reported, to Amnesty International's knowledge. Ramón Pérez Figuero was briefly detained on 28 August, before being released.

- Trade unions and other social groups staged a strike on 28 and 29 January 2004 to protest against the government's economic policy; strikers' demands included

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22 EFE, 'Gobierno prohíbe protestas mientras grupos advierten continuarán,' 31 July 2003.

23 EFE, 'Grupos rechazan amenazas Mejía y advierten continuarán protestas,' 4 August 2003.

24 One of the leaders of this and other protests was **Padre Rogelio Cruz**, a 45-year-old parish priest in Cristo Rey, Santo Domingo. He was extremely vocal in his opposition to government policy; following publicly-reported disputes with highranking officials, he was directed by his religious order, the Salesians, to leave the country and return to Spain by 10 January 2004. He refused to leave the country in that manner and indicated that the order had been the result of political pressures. Numerous priests, public figures, trade unions and human rights organisations had signed a petition urging that he be allowed to stay. The matter remains pending.

25 Amnesty International press release, "Dominican Republic: police fire on trade unionists" (AI Index: AMR 25/005/2003), 7 August 2003.

measures to provide relief from inflation and a moratorium on debt repayments. Police and demonstrators reportedly clashed in a number of areas around the country. The National Police reported 258 arrests, 165 people wounded and at least six deaths.<sup>26</sup> The dead reportedly included **José Vásquez Castro**, a strike organiser. Accounts of the circumstances surrounding the deaths and injuries varied, and Amnesty International is still gathering information. Strike organisers accused members of the security forces of responding to their protest with excessive and disproportionate force.

### **3.2.3. Reported arbitrary arrests of human rights defenders**

According to the International Covenant on Civil and Political Rights,

everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.<sup>27</sup>

Amnesty International received several allegations of arbitrary arrest in 2003, most notably affecting leaders of community organisations and trade unions.<sup>28</sup>

- On 10 July, police reportedly arrested **Víctor Gerónimo**, spokesperson of *Colectivo de Organizaciones Populares*, Collective of Popular Organisations, and facilitator of the *Coordinación Continental de la Convergencia de los Movimientos de los Pueblos de América (COMPA)*, Convergence of Movements of the Peoples of the Americas, after he had taken part in demonstrations in the course of which several people were allegedly wounded.

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26 EFE, "Denuncian represión en huelga 48 horas que causó siete muertos," 30 January 2004.

27 International Covenant on Civil and Political Rights (adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966), article 9.1. Acceded to by the Dominican Republic on 3 January 1978.

28 The detention, with or without an authorised arrest warrant, of members of human rights organizations or social activists can be considered arbitrary when such measures are intended to prevent human rights defenders from carrying out their legitimate work or are used as a form of punishment. Harassment of this type by the state contradicts guidelines laid down by the UN Working Group on Arbitrary Detention (WGAD). WGAD criteria for recognising detention as arbitrary include when there is no legal grounds for detention; when the deprivation of freedom relates to the exercise of certain freedoms or rights protected by international law; or when the right to fair trial has not been respected. (See, *inter alia*, Report of the Working Group on Arbitrary Detention to the United Nations Commission on Human Rights, E/CN.4/1992/20, Annex I, 21 January 1992.)

Víctor Gerónimo's house was searched by police and an *ayudante fiscal*, or assistant prosecutor. They reportedly told his wife they were searching the house for weapons. They reportedly confiscated literature published by the *Colectivo* and his cell phone, and then held him in police headquarters in Santo Domingo. He was released without charge 24 hours later: police spokesperson Ramón Francisco Rodríguez reportedly told journalists, '*hasta ahora no hemos podido encontrar nada de peso para someterle a la acción de la justicia,*' 'so far we have not been able to find anything significant enough to bring a judicial case against him.'<sup>29</sup>

Amnesty International wrote to the Dominican authorities on several occasions in 2001 to express concern at alleged ill-treatment inflicted on Víctor Gerónimo and two other activists by police officers in the context of community protests in June 2001.

- On 4 September, **Juan Hubieres**, president of the transport union *Federación Nacional de Transporte La Nueva Opción* (FENETRANO), 'New Option' National Transport Federation, was himself arrested while investigating the situation of a number of detained transport workers. He was reportedly wanted for questioning regarding recent transport strikes. After several days of public criticism of the arrest by human rights activists and others, he was released.

#### **4. Journalists and freedom of expression**

Freedom of speech is protected under article 8.6 of the Dominican Constitution. The Dominican authorities have reiterated their commitment to this right in recent communications with the UN Human Rights Committee:

Freedom of thought and expression is a right that is not only guaranteed by Dominican laws but is also fully enjoyed by all the inhabitants of Dominican territory ... Dominicans today may express and publicly profess their ideas and thoughts with complete freedom, a right that was inconceivable until just a few years ago.<sup>30</sup>

Issues around freedom of expression have come under heightened scrutiny since the economic crisis began. On 15 May, the *Listín Diario* media group, the country's largest, was taken over by the Public Ministry when the government seized the assets of one of its owners, who was also executive officer of the BANINTER bank. The

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29 Various sources, including EFE, 'Policía libera a dirigente popular detenido tras protestas,' 11 July 2003.

30 Comments by the Government of the Dominican Republic on the Concluding Observations of the Human Rights Committee (CCPR/CO/71/DOM/Add.1), 28 May 2002, para. 73.



owner had been arrested on corruption charges related to the banking scandal. Directors and some journalists of media outlets *Listín Diario*, *El Financiero*, *Ultima Hora*, *El Expreso* and *Telecentro Canal 13* resigned, fearing that the authorities would restrict their freedom of expression, particularly with regard to reporting on government policy, the banking scandal and its repercussions.

On 29 July a judge ruled that the takeover had been unconstitutional on procedural grounds and as a violation of the right to freedom of expression, and ordered that the *Listín Diario* media group be immediately returned to its owners. The authorities did not comply and execution of the decision was suspended pending appeal. *Ultima Hora*, *El Financiero* and *El Expreso* have closed.

In the months following the *Listín Diario* takeover, a number of worrying incidents were reported, in which journalists from other outlets were briefly detained and several programs were temporarily taken off the air after publishing material critical of President Mejía's policies.

- On 10 June, the '*Frente al Pueblo*,' 'Face the People' programme presented on regional television Channel 10 by journalist **Jose Manuel Adames Sánchez** was ordered closed by government officials in San Juan de la Maguana province because they claimed it damaged the image of President Mejía. A judge subsequently ordered that the programme be allowed back on air.

- On 11 June, independent journalist **Marino Zapete Corniel** was reportedly briefly detained and interrogated by agents of the *Departamento Nacional de Investigaciones* (DNI), National Department of Investigations, after publishing criticisms of alleged government mishandling of the BANINTER case as well as alleged misuse of government funds to buy a country house for President Mejía.

Marino Zapete, who works for the Miami-based online newspaper *Los Nuevos Tiempos Digital* and Dominican weekly *Primicias*, was released after several hours, but the press reported that the president had indicated he might file a lawsuit against him.

- On 28 July, local radio broadcasters in Montecristi province, **Horacio Emilio Lemoine and Carlos Martínez**, were released after several days in detention during which they were taken to National Police headquarters in Santo Domingo and interrogated. They had staged an informal poll to see who listeners would vote for in the next presidential race; several callers had said they would prefer the devil to President Mejía as a candidate.

- The '*El Poder de la Tarde*,' 'Afternoon Power' programme, broadcast on Radio Cielo FM, was closed, allegedly on order of an official from the presidential press office, on 12 January 2004. The presenter, **Cesar Medina**, claimed that the government had ordered the closure in a further move to crack down on its critics. Radio Cielo FM is part of the Listín Diario media group placed in official receivership by the government following the arrest of its owner in the context of the BANINTER scandal.

## **5. Conclusions and recommendations**

The economic crisis which followed disclosure of the BANINTER banking scandal in May 2003 has placed enormous pressure on the already less than robust respect for human rights in Dominican Republic.

The crisis has sparked widespread demonstrations, particularly among poorer communities, as the government has cut programmes and subsidies while prices and inflation have increased across the board.

During protests, there have been widespread reports of human rights violations by members of the security forces against demonstrators and bystanders, resulting in numerous deaths and injuries. On numerous occasions human rights defenders have reported being arbitrarily detained. In addition, the crisis has contributed to a situation in which reported curbs on freedom of the press have become more frequent, as authorities have tried to prevent critics of their policies from airing their views.

Amnesty International has taken note of, and welcomed, commitments by Dominican authorities to fully respect human rights. However, those expressions of commitment appear to be at odds with the actual situation in the country today. Amnesty International therefore urges the Dominican authorities to take all possible steps to end the human rights violations described in this report and to bring those responsible to justice. It also makes recommendations to the international community.

### **With regard to alleged violations of the right to life and physical integrity:**

1. The authorities must also ensure that police officers and other members of the security forces follow the provisions of the UN Code of Conduct for Law Enforcement Officials and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials at all times. All security force members should be trained in these standards.



2. The Dominican authorities must issue clear and public instructions to the security forces that they should not use force or violence to respond to peaceful protests.
3. The authorities must issue clear and public instructions to the security forces that when protestors threaten or use violence, they should respect strict guidelines on the use of force and only use lethal force as a last resort, in situations where lives are directly threatened, in accordance with international standards.
4. The authorities must ensure that all reports of human rights violations are fully and impartially investigated, and that those suspected of involvement in violations are suspended from active duty and brought to justice through the ordinary, civilian, judicial system.
5. The Dominican authorities must take steps to ensure that the provisions of the new Code of Criminal Procedure regarding trial of perpetrators of human rights violations before ordinary, rather than police or military, courts, are fully implemented, once that Code comes into force later this year.
6. The authorities must provide compensation to those injured by the security forces during the protests and to the families of those killed by members of the security forces.

**With regard to alleged arbitrary detention:**

1. The authorities must release immediately all those detained without charge in the circumstances described in this report, or charge them with a recognizable criminal offence and try them promptly using trial procedures which conform to international standards of fairness.
2. Safeguards to prevent arbitrary detention and to ensure the lawful treatment of persons by members of the security forces should be strengthened, taking into account the relevant provisions of the International Covenant on Civil and Political Rights, the Code of Conduct for Law Enforcement Officials, and the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.<sup>31</sup>

**With regard to alleged violations of the right to freedom of speech:**

1. Amnesty International urges the Dominican authorities to fully comply with their obligations to respect freedom of expression and opinion, and to make protection of these rights a priority in the present context.

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31 Adopted by General Assembly resolution 43/173 of 9 December 1988.

2. The authorities must cease punitive measures against media outlets, broadcasters and journalists whose sole offence is to air criticism of the government and its policies.

**With regard to human rights defenders:**

1. Amnesty International invites all governments to present a plan for the implementation of the principles of the UN Declaration of Human Rights Defenders.<sup>32</sup> Such a plan should consider recommendations by local and national human rights organisations, previous recommendations by Amnesty International and other international human rights groups, recommendations by the UN Special Representative on Human Rights Defenders, and resolutions and recommendations by the Organisation of American States and the Inter-American system of Human Rights. It should include proposals at the political, legal and practical level to improve the environment in which human rights defenders operate, as well as ensure their immediate protection. It should be made operational by allocation of appropriate human and financial resources.

**With regard to economic and social rights:**

1. In taking steps to resolve the economic crisis in the country, the Dominican government must comply with the provisions of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which it acceded to in 1978. Although the Covenant calls on states to work to the maximum of their available resources for the progressive realisation of these rights, it also imposes obligations of immediate effect, including the obligation to ensure economic, social and cultural rights without discrimination of any kind. Amnesty International urges the Dominican government to take into account the recommendations of the United Nations Committee on Economic, Social and Cultural Rights, for example those included in the Committee's Concluding Observations on the Dominican Republic,<sup>33</sup> as well as the Committee's General Comments on the nature and content of state obligations, when implementing measures for the resolution of the crisis.
2. The Dominican authorities must take the necessary measures for an effective dialogue with the population to resolve tensions around the current economic

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32 Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (General Assembly resolution 53/144). Adopted by the UN General Assembly on 9 December 1998.

33 UN Committee on Economic, Social and Cultural Rights (E/C.12/1/Add.16), 1997.

situation, and must place human rights at the center of government decisionmaking in this regard.

3. The international community, and in particular international financial institutions, should ensure that any development, cooperation or financial assistance measures contribute to the promotion of economic, social and cultural rights in the Dominican Republic and further enable the government to comply with its international obligations in this regard.