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Events of 1994

Human Rights Developments

Popular dissatisfaction with the Castro regime deepened in 1994 in the face of continuing political repression and an ever-worsening economic crisis. Increasing numbers of people fled the island by raft and boat, and a spontaneous demonstration by the Havana harbor on August 5 was the largest expression of anti-government sentiment since the 1959 revolution brought Castro to power. During the ensuing weeks more than 30,000 people left the country, taking advantage of Castro's decision to temporarily allow departures. This move was calculated to bring the U.S. to the negotiating table and was partially successful in that regard. On September 9, the United States and Cuba reached an agreement on

emigration whereby 20,000 Cubans would be allowed into the U.S. each year. In exchange for this concession, Castro once again clamped down on those attempting to leave the island through informal channels. Meanwhile, more than 32,000 Cubans, picked up at sea by the U.S. Coast Guard and prohibited from entering the United States, continued to be held under U.S. authority at Guantánamo Bay naval base and in Panama.

With the exception of this month-long exodus, Cuba continued to violate its citizens' right to freedom of movement through application of its "illegal exit" laws, which forbid Cubans from leaving the country without government permission. In the past three decades, thousands of Cubans have been arrested and imprisoned on this charge. In 1994, the maximum punishment was three years. Related crimes included the use of violence, intimidation or force while attempting to leave the country (punishable by three to eight years in prison); organizing, promoting or inciting illegal exit (two to five years in prison); and lending material aid or information facilitating illegal exit (one to three years in prison). Exact numbers were unavailable, but illegal exit prisoners were thought to constitute the largest category of political prisoners in Cuba.

Enforcement of the illegal exit law had eased somewhat in recent years, with the trend increasingly to fine first-time offenders and incarcerate only repeat offenders. Despite this overall softening of enforcement, cases of shootings or prosecution for illegal exit were not uncommon. In June 1994, coastal authorities from the port of La Fe, in the municipality of Guane, shot dead José Inesio Pedraza Izquierdo when he tried to set to sea for the United States. This was followed one month later by the most prominent case in 1994, the sinking of the hijacked state-owned tugboat, the 13 de Marzo. The boat, carrying seventy-two passengers, was intercepted by three government boats a few miles out from the Havana harbor early on the morning of July 13. The Cuban authorities sprayed the 13 de Marzo with high-pressure water cannons, reportedly sweeping several passengers off its deck and into the ocean. According to survivors, the boat's path was then cut off, and one of the pursuing tugs deliberately rammed the 13 de Marzo, causing it to sink. At least thirty-seven people died, including many children who had sought refuge from the water cannons in the hold of the vessel.

Despite these restrictions, the long-standing political repression and deepening economic crisis prompted more and more people to abandon the island. The numbers leaving by boat and small raft have steadily grown and, with increasing frequency, Cubans have fled in stolen or hijacked vessels, despite the serious penalties these crimes carry. Word of successful escapes during the summer of 1994 encouraged a surge of attempts. Eventually, rumors spread in Havana that emigration by boat was to be officially permitted, and it was those rumors that led to the unprecedented clash on August 5 between thousands of would-be emigrants and Cuban authorities near the mouth of the Havana harbor. When police officers attempted to prevent a group of Cubans from launching a raft, hostile crowds turned on them, seizing their weapons. Two officers were killed and a third seriously injured. Thousands of people joined in the fracas, and a spontaneous riot ensued in the downtown commercial area of the Cuban capital.

The next day Fidel Castro made a public speech in which he criticized the U.S. for encouraging illegal emigration while simultaneously refusing to admit substantial numbers of Cubans through legal channels. Castro declared that the government would no longer detain those who sought to leave on their own rafts.

At the same time, Cuban authorities embarked on a crackdown on dissidents and opposition groups, despite the fact that there was no indication that the August 5 riot was an organized or premeditated event. Several hundred people, including dozens of human rights and pro-democracy activists, were detained in subsequent days. Some were released after a few days of interrogation and detention in crowded and dilapidated jails. Others were held for longer periods of time, and at least two of these – Gloria Bravo of the Association of Mothers for Dignity (AMAD) and Carlos Ríos of Cambio 2000 – were severely beaten while in detention. Still others remained incarcerated as of October, including 162

people who were transferred on September 17 to the maximum security prison Kilo-7 in Camagüey.

Most of the dissidents released after one or two days of detention reported ongoing harassment after their release, including random assaults and beatings on the street. In some cases activists were picked up for yet another period of detention without charge.

In addition, the Castro regime used the chaos of the August exodus to attempt to force many dissidents and activists out of the country via boats or rafts. At least twenty people were reported to have been forced to leave because of their political activities. In these cases, government agents approached the dissidents, either directly or via an intermediary or family member, and told them that the government had information regarding their "illegal activities" and that, consequently, it would be in their "best interests" to take advantage of the opportunity to leave the country.

The Right to Monitor

Human rights monitoring was illegal in Cuba and the government refused to grant legal status to opposition or pro-democracy groups. Free expression and association continued to be severely restricted, and state security forces maintained close surveillance of activists and dissidents. Persecution took a variety of forms, including frequent harassment, intimidation, and arrests. Pro-democracy and human rights workers were imprisoned on vague and malleable political charges that violated basic political and civil rights. Typical charges included "illicit association," "clandestine printing," and "disrespect to the head of state." After completing their sentences, dissidents might be kept in prison under the commonly used provision of "high dangerousness," which could add as much as four years to the original period of incarceration. "Spreading enemy propaganda," one of the most common political charges, carried prison sentences that frequently reached ten years.

In addition to lengthy prison terms, the government relied increasingly on other patterns of intimidation, including seemingly random acts of violence by anonymous assailants and short-term interrogations and detentions in municipal jail cells that were often crowded, airless and overflowing with excrement.

Human rights activists detained or harassed in 1994 included René del Pozo Pozo, a prominent member of the Cuban Commission for Human Rights and National Reconciliation (CCDHRN), who was detained four times in the chaotic weeks of the exodus and its aftermath. Early on the morning of August 6, five uniformed and two plainclothes police officers came to his house with a search warrant authorizing seizure of "illicit materials." They searched the house and removed personal items, including all of del Pozo's working papers and materials. His telephones were ripped from the walls, and he and his family were insulted and verbally assaulted. After several hours of this treatment, the police arrested del Pozo, his aunt, and his cousin, and took them to a local police station. Del Pozo's aunt and cousin were released later that night. Del Pozo was charged with illegal possession of goods (receptación), for having in his possession three cases of beer left over from his May 1994 wedding party. The following day authorities transferred him to another police station and charged him with spreading enemy propaganda; three days later he was released. His beer was returned to him, but his papers and other working materials were not.

Del Pozo was picked up and detained again on August 23, together with CCDHRN member Vladimiro Roca. Taken to a local police station, Del Pozo was threatened with a lengthy imprisonment if he refused to sign a statement denouncing the pro-democracy Democratic Socialist Current group and his own prior statements, critical of the Cuban government, that had been broadcast on Radio Martí. He signed the statement under duress.

On August 26, del Pozo was picked up a third time and taken in for a "chat." He was told not to talk to foreigners or to go to the U.S. Interest Section (the only U.S. diplomatic presence in Cuba). He was told

that if he wished to leave Cuba by boat the government would not stand in the way.

On October 12, del Pozo was detained yet again and held by the National Police in Havana. He was released after several days.

In addition to these short-term detentions and harassment, del Pozo received a threatening telephone call on August 30, and was assaulted on the street by a lone assailant, who beat him with brass knuckles. The blows were strategically placed and caused ongoing neurological damage.

The harassment directed against del Pozo was representative of the experience of dozens of activists. Elizardo Sánchez, one of Cuba's best-known dissidents, was under virtual house arrest from July to December, the result of a questionable conviction for "illegal possession of goods" (he had a key to a house where gasoline was stored). Labor activist Lázaro Corp, president of the National Commission of Independent Unions (CONSI), was arrested on June 22, 1994 after paying visits to the Belgium and German embassies and interrogated repeatedly before his release the next day. He estimated this to be his eighth detention by state security forces in the past three years. On August 2, Corp and his son were attacked by three unknown assailants near their home and beaten with fists and sticks on their heads and shoulders. Three days later a group of men attacked their house with rocks and bottles. In addition, twice in 1994 cars deliberately knocked Corp off of his bicycle. Other activists reported similar attacks and beatings.

Francisco Chaviano González, president of the National Council for Civil Rights in Cuba (CNDCC) and signatory to an April 1994 petition seeking amnesty for and official recognition of human rights groups in Cuba, was arrested on May 7. Prior to this arrest, Chaviano had been subjected to steadily mounting harassment, including frequent surveillance and acts of vandalism and graffiti against his house. His arrest on May 7 was preceded by an odd early morning visit from a stranger, who gave Chaviano an envelope containing mysterious documents. As Chaviano was looking through these papers, state security agents rushed in, arrested Chaviano and ransacked his house and belongings. The initial charge against him, "illegal possession of goods," was later increased to "possession of state secrets," a reference to the documents planted on him shortly before the police raid.

Chaviano was jailed in Villa Marista, a state security prison outside of Havana. As of this writing he had not been tried, and his lawyer had not been permitted to see him or the indictment sheet listing the charges against him. In addition to Chaviano, four other members of the CNDCC had been arrested and imprisoned since May 1994.

While Cuba maintained its refusal to recognize internal dissident groups, Foreign Minister Roberto Robaina met with three leaders of the Cuban exile opposition in September and announced an intention to hold subsequent meetings. In addition, the Cuban government invited the recently appointed United Nations high commissioner for human rights, Ambassador José Ayala Lasso, to visit the country and conduct a human rights investigation. This was a marked departure from Cuba's ongoing refusal to admit the U.N. Human Rights Commission's designated special rapporteur on Cuba, Ambassador Carl-Johan Groth.

U.S. Policy

The U.S. government's response to the Cuban exodus was two-fold: alarm at the prospect of high numbers of refugees and dismay with Castro for permitting them to leave. Hoping to discourage would-be rafters, on August 19 the Clinton administration announced that it was reversing U.S. policy on Cubans picked up at sea. From that day forward, Cubans rescued or apprehended in international or U.S. territorial waters would not gain automatic entry into the United States, but would instead be detained at

the Guantánamo naval base, together with the 14,000 Haitian boat people already being held there. In addition, the new policy declared that Cubans picked up at sea would not be eligible to enter the United States without first returning to Cuba for in-country processing, whether as refugees or immigrants.

On August 26, the Clinton administration announced additional policy changes, intended to punish Castro for the exodus by further tightening the already stringent economic embargo against Cuba. The administration revoked the general licenses for family visits to Cuba by Cuban-Americans, for professional research in Cuba, and for news-gathering on the island, requiring people seeking to travel under one of these three categories to apply for a specific license from the Treasury Department. The new policy required Cuban-Americans wishing to visit family members in Cuba to demonstrate a compelling humanitarian need, such as the grave illness of a family member. The class of journalists permitted to travel to Cuba on a general license was reduced to professional, full-time journalists; freelance journalists were required to obtain special permission. These restrictions reduced the number of U.S. travelers to Cuba by approximately 90 percent. In addition, the administration prohibited Cuban-Americans from giving money to any Cuban national, regardless of the reason – reversing existing policy which had permitted Cuban-Americans to make annual cash gifts of up to \$1200 to their families on the island. This draconian new policy was criticized on humanitarian grounds.

In addition to humanitarian concerns, U.S. policy toward Cuba raised several human rights concerns. Primary among these was the detention of Cubans by U.S. authorities in "safe haven" camps, a practice that violated Article 9 of the International Covenant on Civil and Political Rights (ICCPR), which prohibits arbitrary detention. As of November 1994, Cuban detainees had a "choice" of either returning to Cuba or remaining indefinitely detained. They were categorically denied the possibility of entering the United States and no third country had agreed to admit them, nor were they provided an opportunity to demonstrate the legitimacy of their fear of persecution and thus qualify as legally-recognized refugees.

Another area of serious concern was the U.S. insistence that Cuba prevent its citizens from leaving the country outside of official channels, which by themselves offered very limited opportunities for exit. Article 12 of the ICCPR protects the right "to be free to leave any country, including [one's] own." The September 9 agreement between the two countries, in which Cuba agreed to clamp down on extralegal exits in exchange for increased flows of legal immigration, rendered the U.S. complicit in Cuba's ongoing violation of this right to free movement.

Finally, the tighter restrictions on travel curbed the flow of people and information between Cuba and the U.S., in violation of both the First Amendment of the United States Constitution and Article 19 of the ICCPR, which protects the right to freedom of expression, defined as including the "freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers."

The Work of Human Rights Watch/Americas

Human Rights Watch/Americas has long worked to focus international attention on Cuba's persecution of those who attempt to flee the island. After the sinking of the *13 de Marzo* in July, Human Rights Watch/Americas wrote to President Castro expressing concern over the sinking of the ship and resultant loss of life and requesting permission for a Human Rights Watch representative to visit the island to investigate the incident. As of mid-November, we had received no reply. (Despite repeated requests over the years, Cuban authorities have never granted Human Rights Watch permission to visit Cuba and monitor human rights conditions.)

On August 31, Human Rights Watch wrote to President Clinton, criticizing the administration for urging President Castro to prevent flight from Cuba and calling on the U.S. president to publicly recognize the right to free movement. Our letter and the media coverage it engendered prompted debate over this

aspect of the policy, which had previously been ignored.

In October, Human Rights Watch/Americas released a report focused on Cuba's response to "illegal exit," the human rights implications of U.S. policy regarding Cuba and Cuban detainees in Guantánamo and Panama, and Cuba's continuing violation of its citizens' basic civil and political rights.

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