



Esta obra forma parte del acervo de la Biblioteca Jurídica Virtual del Instituto de Investigaciones Jurídicas de la UNAM

www.juridicas.unam.mx

**THE INTER-AMERICAN COMMISSION
ON HUMAN RIGHTS:
THE DOMINICAN REPUBLIC AND SURINAME**

DAVID J. PADILLA*

* Assistant Executive Secretary of the Inter-American Commission on Human Rights.

**THE INTER-AMERICAN COMMISSION
ON HUMAN RIGHTS:
THE DOMINICAN REPUBLIC AND SURINAME**

DAVID J. PADILLA

During its forty year history the Inter-American Commission on Human Rights¹ has been very active in the Caribbean sub-region of the Americas including a number of Central American countries such as Nicaragua, El Salvador, Honduras, Guatemala and Mexico as well as the northern tier South American countries of Venezuela, Colombia and Panama.²

Among the Caribbean island states of the Organization of American States, the Commission has conducted on site visits in Haiti and prison visits in Jamaica and the Bahamas.³

The focus of this paper, however, is limited to the Commission's work with respect to the Dominican Republic and Suriname. In reviewing in a summary way the efforts on behalf of the human rights in these two countries, I intend to illustrate the utility and flexibility of an intergovernmental *quasi-judicial* body, the Inter-American Commission on Human Rights, in addressing situations in which gross and massive human rights have occurred including violations of the political rights of their peoples during or following the forced overthrow of constitutional, democratic regimes.

Let us take them, then, in chronological order in terms of the Commission's involvement in each country.

The Dominican Republic, of course, was a founding member of the OAS.⁴ For more than thirty years it was governed by the authoritarian regime ruled by the dictator, Rafael Leonidas Trujillo. Following Trujillo's assassination in 1958, the Dominican Republic carried out a series of failed efforts to achieve representative, democratic and stable government.

1 Basic Documents.

2 Nicaragua, El Salvador, Guatemala, Mexico, Colombia, Panama A.R.s Venezuela, Honduras.

3 ARs Jamaica and Bahamas.

4 Charter.

Trujillo's plan before his death to assassinate the President of Venezuela, Rómulo Betancourt, and his increasingly harsh repression of any opposition along with the revolution and subsequent mass exodus of thousands of political refugees from the neighboring island of Cuba, in great measure, inspired the creation the IACHR at Santiago, Chile in 1959.⁵

During the 1960s the Inter-American Commission conducted three on site visits to the Dominican Republic. The first took place in October of 1961, just a year after the election of the first Commission.⁶ The proximate cause was the *coup d'état* carried out by the Dominican armed forces and the subsequent arrest of many supporters of ousted President Juan Bosch. The second visit took place in May, 1963 in connection with OAS efforts to reestablish constitutional government in the country.⁷ The third *in situ* mission to the Dominican Republic can hardly be called a classical on site visit. In the wake of the invasion carried by United States armed forces, the Commission had a presence in country from June 1965 until June of the following year.⁸

During all of these efforts, particularly the last one, the Commission played a quiet but extremely important role. In addition to its traditional fact finding and reporting role (its reports focused primarily on descriptions of its activities and unlike the Commission's contemporary reports were not widely disseminated and by and large refrained from drawing conclusions and formulating recommendations) the IACHR carried out a number of what might be termed humanitarian tasks. These included visiting prisoners of war camps after the 1965 civil war and invasion, assuring, in so far as possible humane treatment of prisoners, the obtaining of safe conducts by persons loyal to the Bosch forces who had sought asylum at friendly embassies, family reunification, witnessing efforts at disarmament of the contending forces and eventually, observing free elections. The last activity is presently carried by the Organization's Unit for Democracy.

Indeed, we see in the Dominican context the precursors of what are known under the American Convention on human Rights as friendly settlements. The Commission's good offices and efforts to mediate disputes seemed to ameliorate a bitter and chaotic situation and undoubtedly helped avert even greater suffering and, in some instances, saved lives. During its third presence in the Dominican Republic, the Commissioners and secretariat staff practiced a kind of shuttle diplomacy, rotating members and officials from the general secretariat who worked closely with then OAS Secretary General, Jose Mora.

The Commission's work also dealt with the fair settlement of property claims and encouraged the reinstitution of democratic processes.

5 Basic Documents.

6 DR Report.

7 DR Report.

8 DR Report.

Incidentally, the Commission would play a similar role a few years later after the brief but bitter conflict known as the “Futbol War” between El Salvador and Honduras.⁹

Since 1976 the Dominican Republic has been governed in an unbroken line by a series of democratically elected administrations. And in the main, the human rights situation in the country has vastly improved.

In 1978 the Dominican Republic ratified the American Convention on Human Rights, the same year the treaty came into force and last year it accepted the compulsory jurisdiction of the Inter-American Court of Human Rights.¹⁰ In doing so the Dominican Republic became the twenty first OAS member to do so. The Court was established in 1980, and along with the Commission constitute the supervisory organs of the Organization in the field of human rights.

During the 1970s and 80s the Commission concentrated its efforts particularly in terms of its on site visits on other countries in the Americas. However, in 1991 the Commission, by invitation of the Government conducted its fourth *in loco* visit to the Dominican Republic.¹¹ Two principal areas of concern on that visit were prison conditions and the functioning of the judiciary.

The fifth and last general visit to date was carried out in June, 1997. The Commission examined with special care the issue of due process and the administration of justice and allegations of abusive treatment of documented and undocumented Haitians as well as Dominicans of Haitian descent. The visit was followed by the publications of a country report and sets forth the Commission’s findings and recommendations.¹²

Of course, the IACHR’s work over the years aimed at improving respect for human rights in the Dominican Republic has not been limited to its on site visits. The Commission has also processed and ruled on a number of individual petitions, and most recently, has petitioned the Inter-American Court of Human Rights to order provisional measures, akin to injunctions, to protect the rights of Haitians and Dominicans of Haitian ancestry who have been the object of massive and arbitrary expulsions from the national territory.¹³

Besides these activities the IACHR, as it does with virtually all member states of the OAS, cultivates close communication with national and international non-governmental human rights matters, issues precautionary measures where it believes that there exist imminent threats

9 Futbol War.

10 Basic Documents.

11 AR re D.R. 91.

12 DR Report.

13 AR cases.

of irreparable harm to a Convention protected right¹⁴, and routinely holds hearings at OAS headquarters in Washington in which government representatives and claimants air their positions with respect to concrete cases and general situations affecting human rights.¹⁵

The Commission's involvement in Suriname dates from the 1980s. This former Dutch Crown colony gained its independence in 1975 and joined the OAS in 1977. Three years later the democratic government of Suriname was overthrown in a bloodless coup. Two years later, however, on December 7, 1982, military dictator, former sergeant Desi Bouterse, ordered the arrest of a number of leading figures among the opposition to his regime. Fifteen trade union, academic, political and business leaders were detained and, after torture, were brutally murdered at the military headquarters of Fort Zeelandia in the capital, Paramaribo.

Thus, in June, 1983 the Inter-American Commission on Human Rights carried out its first on site visit to Suriname. During the visit it inspected the facilities at Fort Zeelandia and interviewed relatives of the victims as well as the top military authorities including Lt. Col. Bouterse. The Commission thereafter issued its first report on the situation on human rights in Suriname, clearly assigning responsibility to the military government for the political assassinations.¹⁶

In the ensuing years, political repression increased and impunity remained the norm in matter of human rights violations. So in 1984, the Commission returned to Suriname. The expanded scope of this visit included the interior of the country. The investigation confirmed the IACHR's earlier findings and in country report on the human rights situations in Suriname it verified a large number of additional abuses.¹⁷

In 1986 the situation in Suriname grew even more grave. A war between the countries of Maroon peoples and the army led to large scale bloodshed. The most notorious case was the massacre of some 230 bush negroes, mostly women and children at a village called Moiwana.¹⁸

This outrage prompted a third visit by the Commission, conducted in 1987. The Commission's very first action on that occasion was to visit Stanley Rensch, a Maroon and Suriname's leading human rights advocate. Mr. Rensch was released unharmed shortly thereafter.¹⁹

14 Regs Prec. Measures Art. 29.

15 Regs - hearings.

16 1st Suriname Report.

17 2nd Suriname Report.

18 AR 1987 (88).

19 AR Rensch.

In a further effort to examine the slayings of 1982 the Commission twice sent delegations to the Netherlands to interview exiled family members of the mass murdered who had received asylum in that country.²⁰ On another occasion, the Commission sent a representative to French Guiana, Suriname's neighbor to the east, to interview asylees at St. Laurent in that French Department. With the cooperation of the French authorities, the investigator was able to take testimonies from many of the thousands of Maroons who had been forced to flee across the Maroni River to French territory to escape annihilation at the hands of their country's army.²¹

Under great pressure from the Inter-American community and Europe, plans evolved to restore, albeit slowly, constitutional government in Suriname. In 1987, Suriname deposited its instrument of ratification to the Inter-American Convention on Human Rights and accepted the Court's mandatory jurisdiction.²² For its part, a Commission representative visited Suriname in 1988 and took eye witness testimony from a victim of another massacre of eight maroon boatmen, an incident that led to the case of *Aloeboetoe, et al v. Suriname*, before the Inter-American Court of Human Rights.²³ The case, in which the newly and freely elected government of Suriname accepted state responsibility and complied with the Court's decision on reparations for the relatives of the murdered boatmen, ushered in a new period of dynamic litigation of contentious cases before that body -a tribunal that had been previously less employed in the struggle for human rights in the Americas.

As was the case of the Dominican Republic, the Commission also used its other tools to effect human rights matters in Suriname including the holding of hearings, the processing of important individual cases and the publication of reports, both specific and general, in its annual reports regarding the human rights situation in the country. Finally, it is interesting to note that when the first democratically elected president of Suriname took his oath of office, a representative of the Commission was invited to witness the ceremony in a place of honor.

CONCLUSION

The history of the involvement of the Inter-American Commission on Human Rights graphically illustrates the effective contribution a versatile, committed inter-governmental organ of the OAS can make towards the improvement of human rights in demanding and difficult situations of brutality and instability in a hemisphere in which the value of human rights are still, in some places, threatened by civil strife, ideological conflict and the struggle for political power.

20 AR Netherlands.

21 AR F. Guiana.

22 Basic Documents.

23 Aloeboetoe.

In recent years there has been a healthy and welcome debate about the possibility of merging the Inter-American Commission on Human Rights into its sister institution, the Inter-American Court, along the lines of the new European Court of Human Rights at Strasbourg, France.²⁴ It is my view, and I can say without exception, the opinion of the current members of the Commission, and most if not all, of the NGOs that plead before the IACR that this would be a tragic mistake.

The political realities of our hemisphere (not unlike those in the expanded Council of Europe) are such that the Organization needs and will continue to need a *quasi-judicial* institution such as the Commission to respond to the likely challenges it is apt to face in one member country or another for the foreseeable future.

No other organ of the OAS is capable of the flexible response demonstrated time and again by the Commission in action. In the OAS, only the Commission has the institutional experience of reaching remote areas in the Americas and conducting through on site investigations of complex events and situations. Only the Commission has set rules governing its mobility in the field. The independence of its operations and the confidentiality of its communications with governments, victims and witnesses alike are codified in its regulations. Moreover, the Commission is the only OAS body capable of reacting rapidly and effectively to situations involving massive, gross and on-going human rights violations involving large numbers of victims, particularly those of a social nature involving issues of race, ethnic friction or socio-economic class conflict. The Commission's capacity for expeditiously responding to emergency situations, calming fears, promoting dialogue, creating space for the exercise of free speech by civil society and dispassionately conducting its fact finding has been demonstrated time and again in the past.

The truth is that if the IACR didn't exist in the Organization of American States, the member countries would have to invent its equivalent.

In summary, the Commission is uniquely equipped, both legally and by virtue of its experience -it has conducted some 78 on site visits to date- to respond to the types of challenges it addressed in the countries discussed in this paper. While we fervently trust that neither the Dominican Republic nor Suriname will ever again be afflicted by the troubles they experienced in the past, common prudence and an understanding of our region's history instruct us to keep alive an instrument that has proven its worth time and again on the ground in the ongoing effort to strengthen democratic rule and enhance respect for human rights in the Americas.

The views expressed in this article are those of the author alone.

24 Protocol 11 E: Convention on Human Rights.