

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF FLORIDA

CASE NO. 03-20946-CIV-SEITZ/BANDSTRA

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YORDANIS MONTOYA ISAAC,  
individually and as personal representative  
of the Estate of JORGE LUIS MARTINEZ  
ISAAC, deceased,

Plaintiff,

v.

THE REPUBLIC OF CUBA, *et al.*,

Defendants.

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**MOTION FOR FINAL DEFAULT JUDGMENT**

Pursuant to this Court's Order of January 31, 2005, Plaintiff Yordanis Montoya Isaac, individually and as personal representative of the Estate of Jorge Luis Martinez Isaac, by counsel and in accordance with the requirements of 28 U.S.C. § 1608(e), submits this Motion for Final Default Judgment. In this action, Plaintiff seeks damages from the Republic of Cuba and the Cuban Armed Forces for the summary execution of her brother Jorge Luis Martinez Isaac.

**I. FACTUAL BACKGROUND**

**A. Plaintiff Yordanis Montoya Isaac**

Plaintiff Yordanis Montoya Isaac is the sister of the decedent Jorge Luis Martinez Isaac ("Martinez Isaac"). Complaint ¶ 4. Plaintiff is a citizen of Cuba and has been a legal resident in the United States, living in Miami, Florida, since March 31, 2000. *Id.*; Exh. A (Declaration of Yordanis Montoya Isaac ("Pl.'s Decl.)) ¶ 2. Plaintiff is the only close relative of the decedent living outside of Cuba. Exh. A (Pl.'s Decl.) ¶ 3. Plaintiff is bringing this action on her own

behalf and as personal representative of the estate of the decedent.

**B. Defendants Republic of Cuba and the Cuban Armed Forces**

Defendant Republic of Cuba has been a totalitarian state since Fidel Castro and his army seized power in 1959. Complaint ¶¶ 5,14; Exh. B (Declaration of Jamie Suchlicki) ¶ 8; Exh. C (U.S. Department of State, Country Reports on Human Rights Practices – 2003: Cuba (released February 25, 2004) (“Dep’t of State Report”).<sup>1</sup> Cuba has been internationally condemned for its abysmal human rights policies, including persecuting those who attempt to flee the country, express dissenting opinions, or exercise other basic human rights. Exh. B (Suchlicki Decl.) ¶¶ 8, 10. Castro maintains the titles of president, head of government, first secretary of the Communist Party, and commander in chief of the Cuban Armed Forces. *Id.* ¶ 8. Castro exercises control over all aspects of life – including the judiciary – through the Communist Party and its affiliated mass organizations, the government bureaucracy headed by the Council of State, and the state security apparatus. *Id.*

The Communist Party is the only legal political entity, and Castro personally chooses the membership of the Politburo, the select group that heads the party. *Id.* ¶ 9. There are no contested elections for the National Assembly of People's Power, which meets twice a year for a few days to rubber stamp decisions and policies previously decided by the governing Council of State, which Castro heads. *Id.* The Communist Party controls all government positions, including judicial offices. The judiciary is completely subordinate to the Government and to the Communist Party. *Id.*

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<sup>1</sup> The U.S. Department of State’s annual human rights reports have been deemed by courts as “trustworthy” and admissible as evidence. *See Bridgeway Corp. v. Citibank*, 201 F.3d 134, 143-44 (2d Cir. 2000).

The Cuban Armed Forces are led by Fidel Castro's brother, General Raul Castro. Officers of the Armed Forces are assigned to and control key positions throughout the Government. *Id.* ¶ 10. Members of the Armed Forces have been recognized and internationally condemned for numerous, serious human rights abuses. *Id.*

Since Castro came to power, many thousands of Cubans have attempted to escape the regime, often fleeing in small boats or makeshift rafts. *Id.* ¶ 11. Those who attempt to escape are generally considered traitors to the revolution and subjected to criminal prosecution. *Id.*

In March 2003, Castro launched a violent crackdown on political dissidents in Cuba. *Id.* ¶ 12. The Government arrested 75 human rights activists, independent journalists, and opposition political figures on various charges, including aiding a foreign power and violating national security laws. *Id.* Authorities subjected the detainees to summary trials and sentenced them to prison terms ranging from 6 to 28 years. *Id.* This crackdown was most likely motivated by Castro's desire to eliminate dissent and establish a clear line of succession for assumption of power by Castro's brother Raul, currently in charge of the Cuban Armed Forces and second secretary of Cuba's Communist Party. *Id.*

**C. Jorge Luis Martinez Isaac's Attempt to Escape.**

On April 2, 2003, eleven young men, seeking freedom, took control of a Cuban ferry named Baragua in Havana Bay and attempted to sail to the United States. Exh. A (Pl.'s Decl.) ¶ 5; Exh. B (Suchlicki Decl.) ¶ 13. Approximately 50 passengers were on board at the time. One of the hijackers was the decedent, Jorge Luis Martinez Isaac. *Id.*

Later that day, the ferry ran out of fuel in the Florida Straits, approximately 30 miles from the Cuban port of Mariel. Exh. A (Pl.'s Decl.) ¶ 5; Exh. B (Suchlicki Decl.) ¶¶ 14-15. The ferry had been chased by two Cuban Guard Patrol Boats. *Id.* After the boat ran out of fuel, the

hijackers agreed to allow it to be towed back to port in exchange for fuel to complete their voyage to the United States. *Id.* After it had been returned to port, Cuban authorities reneged on their promise, took control of the ferry and arrested Martinez Isaac and the other hijackers. *Id.* No one on board the ferry was injured or hurt during the escape attempt, nor was the vessel damaged. *Id.*

#### **D. Summary Proceedings and Execution.**

On April 5, 2003 – only three days after his failed attempt to escape – Martinez Isaac was put on “trial” before the Havana City Provincial Court. Exh. A (Pl.’s Decl.) ¶¶ 6-9; Exh. B (Suchlicki Decl.) ¶ 16. The decedent and the other freedom seekers were charged under a Cuban “anti-terrorism” law known as *Ley Cubana contra Actos de Terrorismo*. Exh. A (Pl.’s Decl.) ¶ 7. The maximum penalty under this Cuban “anti-terrorism” law for hostage-taking in which no one is injured is 20 years:

He who seizes another person, or holds them against their will, and threatens to kill, wound or detain them, in order to oblige a State, an intergovernmental organisation, an natural or juridical person or a group of people, to carry out an action or an omission, as an explicit or implicit condition for the release of the hostage, incurs a penalty of ten to twenty years' imprisonment.

If as a consequence of the facts described in the previous section, this results in the death or serious injury of one or more people, or the conditions demanded for the release of the hostage are achieved, the penalty will be from ten to thirty years imprisonment, or death.

*See* Exh. D (Amnesty International Report, *Cuba: Essential Measures*, (2003), p. 87).

It is undisputed that the hijacking ended peacefully and that no one was injured. *Id.*; Exh. E (Official Note of the Cuban Government, published in *Granma International Digital* (April 11, 2003) (English and Spanish translations) (no allegation that any person was injured). Nevertheless, three days later, on April 8, 2003, Martinez Isaac and two other men were

sentenced to death for their alleged role in the hijacking, despite the fact that the law under which they were ostensibly tried provided for no such penalty. *Id.*; Exh. A (Pl.’s Decl.) ¶ 9.

The day of his conviction, Martinez Isaac appealed to the Cuban Supreme Court *Tribunal Supremo Popular*, and to the Council of State, but those appeals were also summarily dismissed. In fact, on appeal, the Cuban Supreme Court allegedly “held a new trial in which the [death] sentence was ratified.” Exh. E (Official Note of the Cuban Government), p.2. This new “trial” began and ended in one day. Only three days later, on April 11, 2003 – less than a week after the first “trial” – Martinez Isaac was executed by firing squad by the Cuban Armed Forces. Exh. A (Pl.’s Decl.) ¶ 9.

The summary proceedings against Martinez Isaac lacked any fundamental resemblance to a fair trial. In less than two weeks, Martinez Isaac was arrested, brought to trial, found guilty, his appeal heard and denied, and the death sentence imposed. At no point during the sham trial was Martinez Isaac provided access to effective legal counsel in order to present a defense. *Id.* ¶ 6. Moreover, the summary proceeding was not conducted by an impartial and independent tribunal as Castro exercised ultimate control over the case. Exh. B (Suchlikci Decl.) 8. In fact, the trial, sentencing, and executions of Martinez Isaac and the other men could not have occurred without the authorization and approval of Fidel Castro as the judiciary is completely subordinate to the government and the Communist Party. *Id.* ¶ 9, 19. Tellingly, the Cuban government itself stated that the imposition of death sentences was motivated, in part, by other factors, including a “sinister plan of provocations hatched by the most extremist sectors of the U.S. government and its allies among the Miami terrorist mafia . . . .” Exh. E (Official Note) p. 2.

Martinez Isaac’s family was not informed until the next day – April 12 – that he had been executed. His family was never allowed to conduct a funeral or give him a proper burial.

Martinez-Isaac's family was only shown the grave where Cuban authorities claim he was buried. Exh. A (Pl.'s Decl.) ¶ 11. Plaintiff and her family continue to suffer today from the trauma caused by Defendants' acts. *Id.* ¶ 12.

#### **E. The International Condemnation**

The international reaction to the execution of Martinez Isaac and the other two men was swift and certain. The Inter-American Commission on Human Rights ("IACHR"), a body of the Organization of American States, condemned the executions and, in particular, the summary nature of the hijackers' trials and the absence of due process. The IACHR concluded that the process leading up to the executions constituted "the arbitrary deprivation of life." *See* Exh. F (Annual Report of the Inter-American Commission on Human Rights 2003, and accompanying Press Release No. 12/03) ¶ 32. The IACHR stated:

[I]mposition of the death penalty is only valid pursuant to a final judgement rendered by a competent court and in accordance with a law establishing such punishment, enacted prior to the commission of the crime. The imposition of this penalty is subject to strict procedural requirements and a rigorous control of the minimum guarantees of the right to a fair trial, which are fundamental. These requirements include, among others, the presumption of innocence, the right not to be convicted of an offense except on the basis of individual penal responsibility and the right to be judged by a competent, independent and impartial court in accordance with applicable international law previously established by law. They also include the following procedural guarantees for the accused of crimes that carry the death penalty: the right of prior notification in detail of the charges against them; the right to adequate time and means for the preparation of their defense; the right to examine witnesses who testify against them; the right to obtain the appearance and examine their witnesses under the same conditions as those witnesses against them; the right to counsel, after the conviction, about the legal proceedings, or other matters including filing deadlines and the right to an appeal before a superior court.

In the opinion of the IACHR, the summary character that followed the judgement against the persons and which concluded with the imposition of the death penalty did not guarantee any of the above-mentioned requirements of due process. As a result, their execution is converted into the arbitrary deprivation of life.

*Id.* The U.S. State Department, in its annual human rights report, repeated these conclusions concerning the summary proceedings. *See* Exh. C (State Dep't Report), p. 2. A State Department spokesman stated:

We are concerned that these executions may have been a result of summary proceedings. Summary proceedings are a hallmark of totalitarian dictatorships like Cuba. Due process allows an appropriate judicial process to carefully identify and punish serious crimes like hijacking and guard against manufactured charges based on political agendas as was done with the opposition groups.

*See* Exh. G (Miami Herald, April 12, 2003).

The human rights monitoring group Human Rights Watch deplored Cuba's blatant violation of basic human rights:

To execute these men is itself a human rights violation, and to do it less than two weeks after their alleged crimes shows a flagrant disregard of the right to a defense. The men had summary trials that lacked any semblance of due process, and they were executed immediately after their appeals were denied.

Exh. H (Statement Issued April 11, 2003, quoting José Miguel Vivanco, executive director of the Americas Division of Human Rights Watch).

## **II. PROCEDURAL BACKGROUND**

### **A. Service and Entry of Default.**

This action was commenced on April 21, 2003 by the filing of Summonses and a Complaint against Defendants the Republic of Cuban and the Cuban Armed Forces. On or about June 27, 2003, Plaintiff attempted to effectuate service of process on Defendants pursuant to 28 U.S.C. §1608(a)(3) by having the Clerk send copies of the of the Summonses, Complaint and a Notice of Suit, together with a translation of each document into Spanish, to the ministry of foreign affairs of the Republic of Cuba.

More than 30 days elapsed after service was attempted via the Clerk, and Plaintiff did not

receive confirmation that Defendants Cuba and the Cuban Armed Forces had been served. As a result, Plaintiff attempted to serve Defendants Cuba and the Cuban Armed Forces through diplomatic channels, via the U.S. Department of State, pursuant to 28 U.S.C. § 1608(a)(4).

On or about December 10, 2003, Plaintiff received notification from the U.S. Department of State that Defendants Cuba and the Cuban Armed Forces had been served with the suit on November 19, 2003 by the Swiss Embassy, American Interests Section, via the Cuban ministry of Foreign Affairs in Havana. The U.S. Department of State transmitted documents regarding service on Defendants Cuba and the Cuban Armed Forces to the Clerk's Office on or about December 9, 2003.

After more than 60 days had elapsed and Defendants Cuba and The Cuban Armed Forces failed to respond to the Complaint, Plaintiff applied for defaults to be entered against Defendants Cuba and The Cuban Armed Forces by the Clerk on March 30, 2004. On March 31, 2004, the Clerk entered a default against Defendant The Cuban Armed Forces, but not against Defendant Cuba. The reason given by the Clerk was that there was no return of service for Defendant Cuba on file.

Plaintiff's counsel contacted the U.S. Department of State and was told that both Defendants Cuba and The Cuban Armed Forces were served on November 19, 2003 but that the Office of Policy Review and Interagency Liaison had neglected to include a copy of the Summons directed to Defendant Cuba with the documentation filed with the Clerk on December 10, 2003. An inspection of the documents filed with the Clerk and sent to Plaintiff's counsel revealed that the documents filed with the Clerk apparently included only the Summons issued to Defendant The Cuban Armed Forces, but did contain a Certification of Transmittal by the U.S. Consul General in Havana.

On April 12, 2004, a representative of the U.S. State Department told Plaintiff's counsel that his office would need to re-serve Defendant Cuba and file the appropriate documentation with the Clerk. He also reiterated the office's prior statement that both Defendants Cuba and The Cuban Armed Forces had been served on November 19, 2003 and further stated that his office would start working on the matter immediately.

On November 22, 2004, the U.S. Department of State filed a letter with the Clerk reaffirming that the U.S. Interests Section of the Swiss Embassy in Havana, Cuba had transmitted both sets of Summonses and Complaints and the Notices of Suit to the Ministry of Foreign Affairs of the Republic of Cuba on November 19, 2003. The letter was accompanied by a certified copy of all the documents transmitted on that date. These documents thus demonstrate that Defendants Cuba and The Cuban Armed Forces were served on that date and that all of the necessary documentation was transmitted.

Because Defendant Cuba was served on November 19, 2003 and failed to appear, answer, or otherwise plead or defend within the time required by law, the clerk entered a default against Cuba on December 17, 2004.

**B. Criteria for Default Judgment.**

Under the Foreign Sovereign Immunities Act ("FSIA"), 28 U.S.C. §§ 1602-11, in order for a plaintiff to obtain a judgment on the default of a defendant, the plaintiff must establish the right to a default judgment. Specifically, 28 U.S.C. § 1608(e) provides that:

[n]o judgment by default shall be entered by a court of the United States against a foreign state, a political subdivision thereof, or an agency or instrumentality of a foreign state, unless the claimant establishes his claim or right to relief by evidence satisfactory to the court.

The evidence submitted by the moving party, together with the factual allegations of the

complaint, are normally taken as true for purposes of determining whether a default judgment should be entered. *Hilao v. Marcos*, 25 F.3d 1467, 1470-71 (9<sup>th</sup> Cir. 1994) (accepting as true the allegations in plaintiff's complaint regarding abuses by ex-president).

### C. Plaintiff Has Standing To Bring This Action

Plaintiff brings this action individually and as personal representative of the Estate of Jorge Luis Martinez Isaac. Though a legal resident of the United States, Plaintiff is a citizen of the Republic of Cuba and sues under the Alien Tort Claims Act, 28 U.S.C. 1350 ("ATCA").

The ATCA is "silent concerning a plaintiff's standing to bring suit based on injury to another." *Estate of Winston Cabello v. Fernandez-Larios*, 157 F. Supp. 2d 1345, 1355 (S.D. Fla. 2001) ("*Cabello*") (citations omitted). Accordingly, when a "federal statute does not specify key details, such as standing, federal courts generally borrow analogous state law, unless its application would defeat the purpose of the federal statute," or "if there is a special federal need for uniformity." *Cabello*, 157 F. Supp. 2d at 1355 (citing *Xuncax v. Gramajo*, 886 F. Supp. 162, 190 (D. Mass. 1995) (other citations omitted)). In order to determine whether a deceased's relative has standing to sue under the ATCA for wrongful death, one option is to look to the "most analogous federal statute" – the Torture Victim Protection Act ("TVPA"), 28 U.S.C. § 1350 note § 2(a)(2) – which provides that the "legal representative" or "any person who may be a claimant in an action for wrongful death" may recover based on an extrajudicial killing. *See Cabello*, 157 F. Supp. 2d at 1355-56 (citing *Xuncax*, 886 F. Supp. at 191).

Plaintiff is the only relative of the decedent living outside of Cuba and free from Castro's control and, thus, able to bring this action. Exh. A (Pl.'s Decl.) ¶ 3. In her capacity as decedent's sister, Plaintiff is the only possible "legal representative" to bring this action. *See Tel-Oren v. Libyan Arab Republic*, 726 F.2d 774, 782-83 (Congress enacted ATCA to provide aliens access

to federal courts in the hope of avoiding the impact any “denial of justice” to an alien may have on foreign relations if an alien’s claim for a tort under international law could not be effectively adjudicated in state court). Moreover, Plaintiff also is a “person who may be a claimant in an action for wrongful death” and, thus, for this additional reason is entitled to bring an action on behalf of decedent’s estate. *Cabello* (citing the TVPA, 28 U.S.C. § 1350 note § 2(a)(2)); *see also In re Estate of Marcos Human Rights Litig.*, 910 F. Supp. 1460 (1995, D.C. Hawaii) (federal courts are free to and should create federal common law to provide justice for any injury contemplated by Alien Tort Statute).

Accordingly, Plaintiff has standing to sue Defendants for the wrongful death of her brother, both in her personal capacity and as personal representative of Martinez Isaac.

#### **D. Personal Jurisdiction**

This Court has jurisdiction in this action under 28 U.S.C. § 1330 and the FSIA. The FSIA provides that, under specific circumstances, a district court has jurisdiction over a “foreign state.” 28 U.S.C. § 1605. The FSIA defines a “foreign state” to include an “agency or instrumentality of a foreign state,” which is further defined as “any entity (1) which is a separate legal person, corporate or otherwise, and (2) which is an organ of a foreign state or political subdivision thereof, or a majority of whose shares or other ownership interest is owned by a foreign state or political subdivision thereof.” *Id.* § 1603(b). Congress has waived the sovereign immunity of foreign states designated as state sponsors of terrorism. 28 U.S.C. § 1605(a)(7). The Republic of Cuba has been designated as a state sponsor of terrorism and, therefore, Defendants are subject to this Court’s jurisdiction. 55 Fed. Reg. 37793-01 (1990).

## E. Subject Matter Jurisdiction Under the ATCA

Plaintiff brings this action under the ATCA, which allows aliens to sue in U.S. federal court for torts that violate “the law of nations or a treaty of the United States.” 28 U.S.C. § 1350. Federal subject matter jurisdiction exists when: (1) an alien sues (2) for a tort (3) committed in violation of the law of nations. *Kadic v. Karadzic*, 70 F.3d 232, 238 (2d Cir. 1995).

According to the U.S. Court of Appeals for the Eleventh Circuit (“Eleventh Circuit”), the ATCA, enacted as part of the First Judiciary Act of 1789, “establishes a federal forum where courts may fashion domestic common law remedies to give effect to violations of customary international law.” *Abebe-Jira v. Negewo*, 72 F.3d 844, 848 (11<sup>th</sup> Cir. 1996). Hence, the ATCA “creates both subject matter jurisdiction and a private right of action.” *Estate of Winston Cabello v. Fernandez-Larios*, 157 F. Supp. 2d 1345 (S.D. Fla. 2001) (citing *Abebe-Jira*, 72 F.3d at 848).

The U.S. Supreme Court recently explained the exact contours of the private right of action under the ATCA. *Sosa v. Alvarez-Machain*, 125 S. Ct. 2739 (2004). The Court held that the ATCA, as enacted by the First Congress, “was intended as jurisdictional in the sense of addressing the power of the courts to entertain cases concerned with a certain subject.” 124 S. Ct. at 2755. While stating that the ATCA is jurisdictional but does not explicitly create a cause of action, the Supreme Court held that Congress intended the statute to provide jurisdiction over common law claims “for a relatively modest set of actions alleging violations of the law of nations.” *Id.* at 2759. The Supreme Court noted that certain particular torts – offenses against ambassadors, violations of safe conduct, and piracy – as being against the law of nations, but it also held that:

courts should require any claim based on the present-day law of nations to rest on

a norm of international character accepted by the civilized world and defined with a specificity comparable to the features of the 18<sup>th</sup>-century paradigms we have recognized.

*Id.* at 2761-62.

As examples of such actions, the Supreme Court in *Sosa* specifically endorsed the holdings of certain key ATCA cases regarding conduct that violates international norms. *Id.* at 2765-66 (citing *Filartiga*, 630 F.2d at 890 (torture is violation of international norm); *Tel-Oren v. Libyan Arab Republic*, 726 F.2d 774, 781 (D.C. Cir. 1984) (ATCA reaches a handful of heinous actions – each of which violates definable universal and obligatory norms); and *In re Estate of Marcos Human Rights Litigation*, 25 F.3d 1467, 1475 (9<sup>th</sup> Cir. 1994) (actionable violations of international law must be of a norm that is specific, universal, and obligatory).

Among these handful of heinous actions, and of particular relevance here, is that summary execution is a violation of well-established international norms and thus is actionable under the ATCA. *In re Estate of Marcos*, 25 F.3d at 1475 (“The prohibition against summary execution or causing “disappearance” is similarly universal, definable, and obligatory.”).

### III. PLAINTIFF IS ENTITLED TO A DEFAULT JUDGMENT

As Plaintiff brings this action primarily under the ATCA, this Court has jurisdiction when: (1) an alien sues (2) for a tort (3) committed in violation of the law of nations. *Kadic v. Karadzic*, 70 F.3d at 238. As Plaintiff is an alien and sues in tort, she clearly meets the first two elements of an ATCA claim. Conduct violates the “law of nations” if it contravenes norms of customary international law that are “specific, universal and obligatory.” *Id.*; *Abebe-Jira v. Negewo*, 72 F.3d 844, 848 (11<sup>th</sup> Cir. 1996).

**A. Defendants Are Liable For The Extra-Judicial Killing And Wrongful Death of Martinez Isaac In Violation of the Law of Nations (COUNT I)**

Summary execution or “extra-judicial killing” is a violation of customary international law and, therefore, is actionable as a tort in violation of the “law of nations” under the ATCA. *In re Estate of Marcos*, 25 F.3d at 1475 (“The prohibition against summary execution or causing “disappearance” is similarly universal, definable, and obligatory.”). As this Court has summarized:

Like the torture in *Filartiga*, the practice of summary execution has been consistently condemned by the world community. A multitude of international agreements and declarations proclaim every individual's right not to be deprived of life wantonly and arbitrarily. So widespread is the consensus against extrajudicial killing that "every instrument or agreement that has attempted to define the scope of international human rights has 'recognized a right to life coupled with a right to due process to protect that right.'" The ban on extrajudicial killing thus rises to the level of jus cogens, a norm of international law so fundamental that it is binding on all members of the world community.

*Alejandro v. The Republic of Cuba*, 996 F. Supp. 1239, 1252 (S.D. Fla. 1997) (citations omitted).

In addition, U.S. law defines an “extrajudicial killing” as

a deliberated killing not authorized by a previous judgment pronounced by a regularly constituted court affording all the judicial guarantees which are recognized as indispensable by civilized peoples. Such term, however, does not include any such killing that, under international law, is lawfully carried out under the authority of a foreign nation.

28 U.S.C. § 1350 note § 2(a)(2); *see also Cabello*, 157 F. Supp. 2d at 1358 (court may refer to TVPA in order to assess ATCA claim).

Plaintiff has sufficiently alleged a claim of summary execution or extra-judicial killing. Taking as true the facts alleged in the complaint, Martinez Isaac was tried, convicted, appeal heard and denied, and executed in the span of less than a week. This summary proceeding lacked any of the protections of due process or the other recognized judicial guarantees afforded

to a defendant under international law such as adequate time to prepare a defense with the assistance of counsel. *See Alejandro*, 996 F. Supp. at 1248; *see also* Article 14(3)(d) of International Covenant on Civil and Political Rights, Article 8(2)(d) and (e) of American Convention on Human Rights and Article 6(3)(c) of the European Convention on Human Rights. Further, the imposition of a death sentence was entirely arbitrary, as the law under which Martinez Isaac was tried did not even provide for capital punishment in these circumstances. *See* Exh. D (Amnesty Int'l Report), p. 87. Martinez Isaac never received a fair and independent tribunal, at trial or on appeal. As the Cuban judiciary is wholly subservient to the Communist Party (Exh. B ¶ 9), the sentence was motivated by factors other than the crime for which decedent was on trial, specifically as part of Castro's crackdown on dissidents. *Id.* ¶ 12; Exh. G (Official Note).

Accordingly, Defendants are liable for the extra-judicial killing of Isaac Martinez.<sup>2</sup>

**B. Defendants Are Liable For Crimes Against Humanity Because Of Their Summary Execution of Martinez Isaac (COUNT II).**

Crimes against humanity have been recognized as violations of customary international law since the Nuremberg Trials in 1944. *Cabello*, 157 F. Supp. 2d at 1360 (finding that “the ruling of the Nuremberg Tribunal memorialized the recognition of crimes against humanity as customary international law”); *see also* *Princz v. Federal Republic of Germany*, 26 F.3d 1166, 1173 (D.C. Cir. 1994) (citing R. Jackson, Final Report to the President on the Nuremberg Trials (Oct. 7, 1946) (cited in R. Jackson, *The Nuremberg Case* xiv-xv (1971))); *see also* the Charter of

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<sup>2</sup> The Cuban Armed Forces is liable as it was acting as an agent of Cuba when it carried out the summary execution of Martinez Isaac. Exh. B (Suchlicki Decl) ¶ 16; *Alejandro v. Republic of Cuba*, 996 F. Supp. at 1248 (Cuban Air Force was acting as agent of Cuba when it committed killings).

the International Military Tribunal, Nuremberg, of August 8, 1945, confirmed by G.A. Res. 3, U.N. Doc. A/50 (1946) and G.A. Res. 95, U.N. Doc. A/236, 59 Stat. 1546 (1946). The most recent codification of the prohibition on crimes against humanity is found in Rome Statute on the International Criminal Court, opened for signature July 17, 1998, U.N. Doc. A/CONF.183/9 (1998), 37 I.L.M. 999 (1998).<sup>3</sup>

Defendants' acts or omissions, as alleged, constitute crimes against humanity. Martinez Issac was deprived of his life after being the victim of a sham, summary proceeding, which was part of a broader crackdown on dissent in Cuba. *See* Exh. B. (Suchlikci Decl.) ¶ 12. He and the other alleged hijackers were tried and convicted in the midst of a violent crackdown by Castro on all types of dissent in Cuba. *Id.* Because Martinez Isaac and the others attempted to escape during this period, they became victims of the crackdown also, by being subjected to sham, summary proceedings and having an arbitrary sentence imposed. For this reason, Defendants are liable for crimes against humanity and, therefore, subject to an action under the ATCA.

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<sup>3</sup> While the United States has not ratified the Rome Statute on the International Criminal Court, the U.S. has approved the other United Nations General Assembly and U.N. Security Council resolutions relating to crimes against humanity. *Cabello*, 157 F. Supp. 2d at 1360-61 (citing Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity, Nov. 26, 1968, G.A. Res. 2391, U.N. GAOR, 23d Sess., Supp. No. 18, at 40, U.N. Doc. A/7218, 754 U.N.T.S. 73 (entered into force Nov. 11, 1970); Principles of International Co-Operation in the Detection, Arrest, Extradition and Punishment of Persons Guilty of War Crimes against Humanity, G.A. Res. 3074, U.N. GAOR 28th Sess., Supp. No.30A at 78, U.N. Doc. A/9039/Add.1 (1973); Statute of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, Report of the Secretary General, pursuant to para. 2 of U.N.S.C. Res. 808 (1993), U.N. Doc. S/25704 at 36 (1993), adopted by U.N.S.C. Res. 827, U.N. Doc. S/Res/827 (1993), reprinted in 32 I.L.M. 1159, 1170 (1993); Statute for the International Tribunal for Rwanda, U.N. SCOR, 49th Sess., 3453rd mtg., at 1, U.N. Doc. S/Res/955 (1994).

**C. Defendants Are Liable For Violating Customary International Law By Subjecting Martinez Isaac to Cruel, Inhuman, and Degrading Treatment (COUNT III).**

Cruel, inhuman, or degrading treatment or punishment also is recognized as contrary to customary international law. Article 7 of the International Covenant on Civil and Political Rights (“ICCPR”) states in part: “No one shall be subjected to torture, or to cruel, inhuman or degrading treatment or punishment.”<sup>4</sup> See *Cabello*, 157 F. Supp. 2d at 1360-61. Numerous courts have affirmed that customary international law prohibits cruel, inhuman or degrading treatment. See, e.g., *Tachiona v. Mugabe*, 216 F. Supp. 2d 262, 281 (S.D.N.Y. 2002) (“cruel, inhuman, or degrading treatment includes acts which inflict mental or physical suffering, anguish, humiliation, fear and debasement”); *Mehinovic v. Vuckovic*, 198 F. Supp. 2d 1322, 1347, 1348 (N.D. Ga. 2002) (“[c]ruel, inhuman, or degrading treatment is a discrete and well-recognized violation of customary international law and is, therefore, a separate ground for liability under the ATCA”). Thus, an action may be brought under the ATCA for a violation of rights under Article 7 of the ICCPR.

Plaintiff has sufficiently alleged a claim of cruel, inhuman, and degrading treatment. In the final days of his life, Martinez Isaac was subjected to sham, summary proceedings, sentenced to death and executed. Defendants’ conduct caused Isaac Martinez severe mental or physical suffering, anguish, and fear, thus constituting a violation of Article 7 of ICCPR.

Plaintiff and her family similarly were subjected to extreme emotional distress by the

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<sup>4</sup> The U.S. ratified the ICCPR with the reservation that “Art. 7 protections shall not extend beyond protections of the 5th, 8th and 14th Amendments of the U.S. Constitution.” Senate Comm. on Foreign Relations Report on the International Covenant on Civil and Political Rights, S. Exec. Rep. No. 23, 102nd Cong., 2d Sess. (1992), reprinted in 31 I.L.M. 645, 646 (1992).

sham, summary proceeding, sentencing, and execution of Martinez Isaac. Defendants aggravated Plaintiff's suffering by not allowing Plaintiff and her family to have a funeral, view the decedent's body, or be allowed to bury the body. Exh. A (Pl.'s Decl.) ¶ 11.

Accordingly, Defendants are liable under the ATCA for cruel, inhuman, and degrading treatment.

**D. Plaintiff Is Entitled To Recover For Intentional Infliction of Emotional Distress (COUNT IV).**

As sovereign immunity for Cuba has been waived under the FSIA, Defendants also may be sued for a tort under state common law. 28 U.S.C. § 1605(a)(7). A court may exercise supplemental jurisdiction over a state law claim under 28 U.S.C. § 1367(a) if it finds that the claim "arise[s] out of a common nucleus of operative fact with a substantial federal claim." *Cabello*, 157 F.3d at 1361 (citing *Tamiami Partners, Ltd. v. Miccosukee Tribe Indians of Fla.*, 177 F.3d 1212, 1223 (11<sup>th</sup> Cir. 1999)).

Defendants' actions have caused Plaintiff individually severe emotional distress and suffering. Exh. A (Pl.'s Decl.) ¶ 12. By their outrageous and intolerable conduct – not allowing Plaintiff and her family to have a funeral, view her brother's body, or be allowed to bury the body – Defendants' actions have resulted in severe and continuing emotional distress for Plaintiff. *See Ayers v. Wal-Mart Stores, Inc.*, 941 F. Supp. 1163 (M.D. Fla. 1996) (claim for intentional infliction of emotional distress established by showing of deliberate or reckless infliction of mental suffering by outrageous conduct causing severe suffering)

Accordingly, Plaintiff individually is entitled to recover from Defendants for their tortious conduct.

#### **IV. Defendants Are Liable For Both Compensatory and Punitive Damages.**

Plaintiff is seeking compensatory and punitive damages, as well as damages for loss of solatium, pain and suffering, and emotional distress. The FSIA specifies the type of damages available against a “foreign state.” Section 1606 of the FSIA provides that

as to any claim for relief with respect to which a foreign state is not entitled to immunity under section 1605 or 1607 of this chapter, the foreign state shall be liable in the same manner and to the same extent as a private individual under like circumstances; but a foreign state except for an agency or instrumentality thereof shall not be liable for punitive damages.

28 U.S.C. § 1606. Thus, while the FSIA does not permit the award of punitive damages against a foreign state, it does allow such damages against an “agency or instrumentality” of the foreign state. Thus damages, compensatory and punitive, have been routinely awarded in cases against Cuba and its agencies and instrumentalities. *See, e.g., Alejandre v. The Republic of Cuba*, 996 F. Supp. 1239, 1252 (S.D. Fla. 1997) (awarding compensatory and punitive damages of more than \$187,000,000); *Weininger v. Castro*, Case No. 03-22920 CA 20, Final Judgment (Miami-Dade County, 11<sup>th</sup> Jud. Cir., Nov. 18, 2004) (damages in excess of \$86,000,000 awarded in case for extra-judicial killing) (attached as Exhibit I).

##### **A. Compensatory Damages**

Attached as “Exhibit J” is the expert report of Professor Carlos Sieglie. Professor Sieglie is an economist, experienced at calculating economic damages in wrongful death actions. Professor Sieglie estimates that the present value of Martinez Isaac’s lost wages, benefits, and services to his family as \$377,292.

Plaintiff also seeks damages for loss of solatium, pain and suffering, and emotional distress in the amount of \$10,000,000.

## **B. Punitive Damages**

Plaintiff asks that punitive damages be entered against Defendant Cuban Armed Forces, which is an agent or instrumentality of Defendant Republic of Cuba. *See, e.g., Alejandre*, 996 F. Supp. 1248 n.6 (“The Cuban Air Force is clearly an agent of the Cuban State, as it acts on Cuba’s behalf and subject to Cuba’s control (citations omitted)). Punitive damages have been awarded routinely in ATCA cases because they are designed “not merely to teach a defendant not to repeat his conduct but to deter others from following his example.” *Filartiga v. Pena-Irala*, 577 F. Supp. 860 (E.D.N.Y. 1984). *See Gertz v. Robert Welch, Inc.*, 418 U.S. 323, 350 (1974) (purpose of punitive damages is to punish wrongful conduct and deter others who might choose to emulate it).

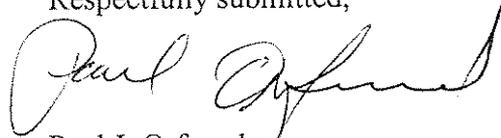
Accordingly, Plaintiff asks that an punitive damages be entered against Cuban Armed Forces in the amount of \$100,000,000.

V. CONCLUSION

Accordingly, for the reasons set forth above, Plaintiff respectfully requests that a final default judgment on her behalf be entered and the requested damages awarded.

Dated: February 23, 2005

Respectfully submitted,

 (JG)

Paul J. Orfanedes  
(Admitted *Pro Hac Vice*)  
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Attorney for Plaintiff

## DECLARATION OF YORDANIS MONTOYA ISAAC

1. My name is Yordanis Montoya Isaac. I am over the age of twenty-one (21) years and am fully competent and authorized to make this declaration. I am the sister of Jorge Luis Martinez Isaac ("Jorge").

2. I was born on June 5, 1975 in Cuba. In 2000 I was one of the winners of a visa lottery conducted by the U.S. Department of State and I moved to the United States on March 31, 2000. Since that time I have resided in Miami, Florida.

3. My brother Jorge was born on March 14, 1963. He was 40 years old on April 11, 2003, the date of his execution in Cuba. Jorge is survived by an 18-year-old daughter, two sisters (including me), one brother, and his mother. Other than me, all Jorge's close relatives still live in Cuba.

4. Jorge was an ordinary, hard-working citizen of Cuba. He had finished high school, and had been employed as a police officer and also held jobs at a warehouse and in construction.

5. On April 2, 2003, Jorge decided that he could no longer live under Fidel Castro's repressive regime. He made a bid for freedom in America along with ten other Cuban citizens by taking control of a passenger ferry and trying to sail it to Miami. The ferry ran out of gas after it had traveled about 30 miles away from Cuba. It was towed back to Havana by the Cuban Coast Guard after the authorities promised to allow the ferry to refuel so that it could return to sea and continue to America. The Cuban authorities subsequently broke their promise to refuel the ferry and a brief standoff resulted. Jorge and the others then peacefully surrendered to the Cuban authorities. None of the passengers on the ferry were harmed nor was the vessel damaged.

6. After Cuban authorities took over the ferry on April 3, 2003, Jorge was arrested.

Beginning on April 5, 2003 he was tried in a sham trial held in the Tribunal Popular in Havana. At the conclusion of the sham trial on April 8, 2003, Jorge, along two other men, were convicted under a Cuban “anti-terrorism” law known as *Ley Cubana contra Actos de Terrorismo*. At no point during the sham trial was Jorge provided access to effective legal counsel as required, I understand, by international law, including Article 14(3)(d) of International Covenant on Civil and Political Rights, Article 8(2)(d) and (e) of American Convention on Human Rights and Article 6(3)(c) of the European Convention on Human Rights.

7. Jorge was sentenced to death, despite that, as I understand the law of Cuba, Articles 14.1 and 14.2 of the *Ley Cubana contra Actos de Terrorismo*, it only prescribes a jail sentence of 10-20 years when no one is injured.

8. The day of his conviction, Jorge appealed to the Cuban Supreme Court *Tribunal Supremo Popular* and the Council of State, but those appeals were also summarily dismissed.

9. Only three days later, on April 11, 2003, Jorge was executed by firing squad by the Cuban Armed Forces. If he had received a prison sentence, I could have understood that, but there was no justification for his summary execution.

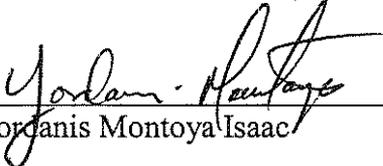
10. After I moved to America in 2000, Jorge and I remained close. We spoke to each other on the telephone often and exchanged letters with each other. I first learned of Jorge’s attempt to escape when I saw a news report about it on television and recognized him. From that time forward I called my relatives in Cuba daily to learn what was going on during Jorge’s trial and what would happen to him after his conviction.

11. I learned of Jorge’s execution on April 12, 2003, the day after it occurred. The previous day, my mother had gone to visit Jorge in his prison cell. When I called my mother on April

12, I learned that the execution had taken place shortly after her visit. My mother stated that Cuban police officers had arrived at her home on the morning of April 12 to inform her that Jorge had been executed the previous day. Neither I nor anyone in my family was ever allowed to conduct a funeral or give Jorge a proper burial. My family in Cuba was only shown the grave where Cuban authorities claim that Jorge was buried along with other two executed men.

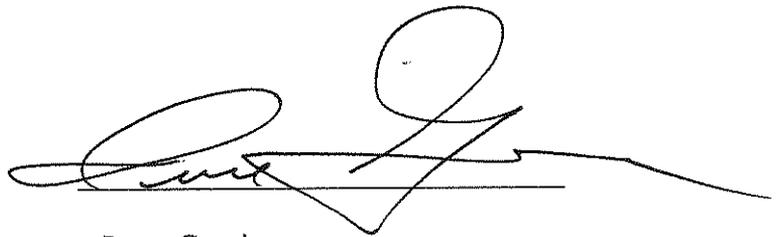
12. Jorge's execution has had a terrible impact on me and my family. I have and continue to experience feelings of depression and cannot believe that my brother was murdered in such a horrible manner. My mother suffered a nervous breakdown and has not been the same since Jorge's death. Also, Cuban authorities who had for the most part left my family in Cuba alone prior to the Jorge's attempt to escape, have been constantly following and harassing my mother and sister in Cuba. My mother publicly denounced Fidel Castro as a murderer shortly after Jorge's execution. I have and continue to fear for my family's safety in Cuba.

I declare under penalty of perjury of the laws of the United States that the foregoing statements are true and correct. I have executed this declaration in Miami, Florida on February 22, 2005.

  
Yordanis Montoya Isaac

I, Irene Garcia, declare under penalty of perjury of the laws of the United States that the translation (to Spanish) of Yordanis Montoya Isaac's affidavit is true and accurate.

I declare this in Miami, Florida on February 22, 2005

A handwritten signature in black ink, appearing to read 'Irene Garcia', written over a horizontal line. The signature is stylized with large loops and a long horizontal stroke extending to the right.

Irene Garcia

### Declaración de Yordanis Montoya Isaac

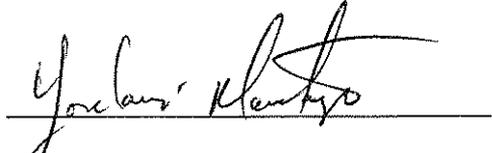
1. Mi nombre es Yordanis Montoya Isaac. Tengo más de veintiún (21) años y soy competente y estoy autorizada para hacer esta declaración. Soy la hermana de Jorge Luis Martínez Isaac (“Jorge”).
2. Nací en Cuba el 5 de julio de 1975. En 2000 me saque la lotería de visa del departamento de estado de los EE.UU. y me mude para los estados unidos el 31 de marzo de 2000. Desde entonces vivo en Miami, Florida.
3. Mi hermano Jorge nació el 14 de marzo de 1963. Tenía 40 años el 11 de abril de 2003, el día que lo fusilaron en Cuba. Jorge dejo una hija de 18 años, dos hermanas (incluyéndome a mi), un hermano y su madre. Menos yo, todos los familiares de Jorge viven en Cuba.
4. Jorge era un ciudadano cubano ordinario y trabajador. Había terminado la escuela secundaria y había tenido empleo como policía y también en la construcción y en almacenes.
5. El 2 de abril de 2003 Jorge decidió que no podía seguir viviendo bajo el régimen represivo de Fidel Castro. Busco la libertad en los estados unidos, con diez cubanos que tomaron el control de un ferry de pasajeros. Trataron de llegar a Miami. El ferry se quedo sin gasolina después de viajar como 30 millas de cuba. Fue remolcado a La Habana por el guarda costa cubano después que las autoridades prometieron dejar que el ferry llenara el tanque de gasolina para que continuara a los estados unidos. Las autoridades cubanas

rompieron su promesa y comenzó el conflicto. Jorge y los demás se entregaron pacíficamente a las autoridades cubanas. Ninguno de los pasajeros en el ferry sufrieron daños y tampoco el barco.

6. Después que las autoridades cubanas tomaran poder del ferry el 3 de abril de 2003, Jorge fue arrestado. Empezando el 5 de abril de 2003 tuvo un juicio fingido en el Tribunal Popular de La Habana. Después que termino el juicio el 8 de abril de 2003, Jorge y dos hombres más, fueron condenados bajo una ley cubana de “anti-terrorismo” que se llama *Ley Cubana contra Actos de Terrorismo*. En ningún momento durante el juicio Jorge tuvo representación legal como tengo entendido lo requiere ley internacional, incluyendo articulo 14(3)(d) del Pacto Internacional de Derechos Civiles y Políticos, articulo 8(2)(d) y (e) del Pacto Americano de Derechos Humanos y articulo 6(3)(c) del Pacto Europeo de Derechos Humanos.
7. Jorge fue sentenciado a muerte, aunque tengo entendido que la ley cubana, artículos 14.1 y 14.2 de la *Ley Cubana contra Actos de Terrorismo* solo recomienda una sentencia de cárcel de 10-20 años cuando no hay heridos.
8. El día que fue condenado Jorge apelo a la corte suprema de cuba, el *Tribunal Supremo Popular* y el consejo de estado, pero ambas apelaciones fueron desestimadas.
9. Solo tres días después, el 11 de abril de 2003, Jorge fue fusilado por las fuerzas aéreas cubanas. Hubiera entendido una sentencia de cárcel, pero no hubo justificación para fusilarlo.

10. Después que me mude para los estados unidos en 2000, Jorge y yo seguíamos muy pegados. Hablábamos por teléfono y nos escribíamos. Supe que Jorge trato de escaparse cuando lo vi en las noticias de la televisión y lo reconocí. Desde ese momento llamaba a mis familiares en cuba todos los días para saber de Jorge, su juicio y lo que le iba a pasar después de su condena.
11. Me entere del fusilamiento de Jorge el 12 de abril 2003, el día después que ocurrió. El día antes, mí. mama había visitado a Jorge en la prisión. Cuando llame a mi mama el 12 de abril, aprendí que lo habían fusilado poco después de su visita. Mi mama dijo que la policía cubana vino a su casa la madrugada del 12 de abril para informarle que Jorge había sido fusilado el día antes. No permitieron que nadie de la familia le hiciera un funeral a Jorge o un entierro apropiado. A mi familia en cuba solo le enseñaron donde las autoridades cubanas dicen que enterraron a Jorge con los otros dos hombres que fueron fusilados.
12. El fusilamiento de Jorge ha tenido un impacto terrible sobre mi y mi familia. Continuo sufriendo de depresión y no puedo creer que asesinaron a mi hermano de una manera tan horrible. Mi mama sufre de los nervios y sigue mal desde la muerte de Jorge. También, las autoridades cubanas, que no molestaban a mi familia antes que Jorge se tratara de escapar, persiguen a mi madre y mi hermana en cuba. Mi mama públicamente denunció como un asesino a Fidel Castro después que Jorge fue fusilado. Temo por mi familia.

13. Declaro bajo penalidad de perjuro de las leyes de los EEUU que lo que he dicho es verdad y correcto. E llevado a cabo esta declaración en Miami, Florida el 22 de febrero de 2005.

  
Jordanis Montoya Isaac

## **DECLARATION OF JAIME SUCHLICKI**

I, Jaime Suchlicki, residing in Coconut Grove, Florida, being over the age of 21 and, based on my research, study, and expertise described below, hereby make this declaration:

1. I am a professor of History and International Studies and holder of the Emilio Bacardi Moreau Chair in Cuban Studies and am Director of The Institute for Cuban and Cuban-American Studies at the University of Miami in Miami, Florida. I make this declaration in support of Yordanis Montoya Isaac, who is the plaintiff, individually and as the personal representative of the estate of Jorge Luis Martinez Isaac, in the action against The Republic of Cuba and the Cuban Armed Forces, pending in the United States District Court for the Southern District of Florida, Case No. 03-20946-CIV-Seitz/Bandstra.

2. My educational background, professional experience, areas of specialization, course experience, publications and books, research, and professional activities are set forth in my Curriculum Vitae, which is attached as Exhibit 1.

3. I was born in Havana, Cuba and attended the School of Law at the University of Havana for two years before leaving Cuba and emigrating to the United States after Fidel Castro's Revolution. In 1964, I obtained by Bachelor of Arts degree in Latin American Studies from the University of Miami and, in 1965, I received my Masters degree in Latin American History from the University of Miami. In 1968, I obtained my Ph.D. in Latin American History from Texas Christian University.

4. In 1967, I accepted a position as Assistant Professor of History and Director of the

Research Institute for Cuban and Caribbean Studies at the University of Miami. Since that time, I have been at the University of Miami in various capacities. I was the founding Executive Director of the North-South Center at the University of Miami.

5. For 14 years, I was the editor of the prestigious Journal of Interamerican Studies and World Affairs.

6. I have authored a dozen books and some 50 articles on Cuba and Latin America. Among my best known books are: Cuban Communism, now in its 11<sup>th</sup> edition (New Jersey: Transaction Publishers, 2003), co-authored with Irving Horowitz; and Cuba: From Columbus to Castro (Washington, D.C.: Pergamon-Brassey Press, 2002) now in its fifth edition.

7. I also am a consultant to the U.S. government and am the Director of the Cuban Transition Project, a research program funded by the United States Agency for International Development.

8. Since Fidel Castro and his army seized power in 1959, Cuba has been a totalitarian state persecuting those who attempt to flee the country, express dissenting opinions, or exercise other basic human rights. Castro maintains the titles of president, head of government, first secretary of the Communist Party, and commander in chief of the Cuban Armed Forces. Castro exercises control over all aspects of life through the Communist Party and its affiliated mass organizations, the government bureaucracy headed by the Council of State, and the state security apparatus.

9. The Communist Party is the only legal political entity, and Castro personally chooses the membership of the Politburo, the select group that heads the party. There are no contested elections for the National Assembly of People's Power (ANPP), which meets twice a

year for a few days to rubber stamp decisions and policies previously decided by the governing Council of State, which Castro heads. The Communist Party controls all government positions, including judicial offices. The judiciary is completely subordinate to the Government and to the Communist Party.

10. The Cuban Armed Forces are led by Fidel Castro's brother, General Raul Castro. Officers of the Armed Forces are assigned to and control key positions throughout the Government. Members of the Armed Forces have been recognized and internationally condemned for numerous, serious human rights abuses.

11. Since Castro came to power many thousands of Cubans have attempted to escape the regime, often fleeing in small boats or makeshift rafts. Those who attempt to escape are generally considered traitors to the revolution and subjected to criminal prosecution.

12. In March 2003, Castro launched a violent crackdown on political dissidents in Cuba. The Government arrested 75 human rights activists, independent journalists, and opposition political figures on various charges, including aiding a foreign power and violating national security laws. Authorities subjected the detainees to summary trials and sentenced them to prison terms ranging from 6 to 28 years. This crackdown was most likely motivated by Castro's desire eliminate dissent and establish a clear line of succession for assumption of power by Castro's brother Raul, currently in charge of the Cuban Armed Forces and second secretary of Cuba's Communist Party.

13. On April 2, 2003, ten young men, seeking freedom, took control of a Cuban ferry named Baragua in Havana Bay and attempted to reach the United States. Approximately 50 passengers were on board at the time. One of the freedom seekers was Jorge Luis Martinez

Isaac.

14. Later that day, the ferry ran out of fuel in the high seas of the Florida Straits, approximately 30 miles from the Cuban port of Mariel. The ferry had been chased by two Cuban Guard Patrol Boats, and after it ran out of fuel, the freedom seekers agreed to allow it to be towed back to port.

15. After it had been returned to port, Cuban authorities gained control of the ferry and arrested the freedom seekers. No one on board the ferry was injured or hurt prior to the Cuban authorities gaining control of the ferry.

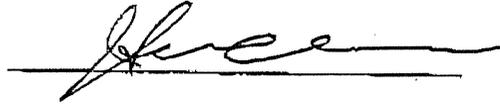
16. On April 5, 2003, the Havana City Provincial Court began a trial and on April 8 convicted the three men, including Jorge Luis Martinez Isaac. On April 9, the Supreme Court rejected their appeal and the Council of State confirmed the death sentences. On April 11, the Armed Forces executed the men and did not advise their families until they had been buried.

17. Numerous international observers, including the Inter-American Commission on Human Rights (“IACHR”), condemned the executions, in particular, the summary nature of the hijackers' trials and the absence of due process. The IACHR concluded that the process leading up to the executions constituted “the arbitrary deprivation of life.”

18. The three executed freedom seekers were all Afro-Cuban, a group increasingly subject to discrimination within Cuba.

19. The trial, sentencing, and executions of these three freedom seekers could not have occurred without the authorization and approval of Fidel Castro and the Raul Castro.

I declare under penalty of perjury under the laws of the United States that the foregoing statements are true and correct. I have executed this declaration on this 21 day of February, 2005, in Miami, Florida.

A handwritten signature in black ink, appearing to read 'Jaime Suchlicki', is written over a horizontal line.

Jaime Suchlicki



## Cuba

### Country Reports on Human Rights Practices - 2003

Released by the Bureau of Democracy, Human Rights, and Labor

February 25, 2004

Cuba is a totalitarian state controlled by Fidel Castro, who is chief of state with the titles of president, head of government, first secretary of the Communist Party, and commander in chief of the armed forces. Castro exercises control over all aspects of life through the Communist Party and its affiliated mass organizations, the government bureaucracy headed by the Council of State, and the state security apparatus. In March, Castro declared his intent to remain in power for life. The Communist Party is the only legal political entity, and Castro personally chooses the membership of the Politburo, the select group that heads the party. There are no contested elections for the 609-member National Assembly of People's Power (ANPP), which meets twice a year for a few days to rubber stamp decisions and policies previously decided by the governing Council of State, which Castro heads. On January 19, the Government held general elections for all 609 seats on the ANPP. The Communist Party controls all government positions, including judicial offices. The judiciary is completely subordinate to the Government and to the Communist Party.

The Ministry of Interior is the principal entity of state security and totalitarian control. Officers of the Revolutionary Armed Forces, which are led by Fidel Castro's brother, General Raul Castro, were assigned to the majority of key positions in the Ministry of Interior in the past several years. In addition to the routine law enforcement functions of regulating migration and controlling the Border Guard and the regular police forces, the Interior Ministry's Department of State Security investigated and actively suppressed political opposition and dissent. It maintained a pervasive system of surveillance through undercover agents, informers, rapid response brigades (RRBs), and neighborhood-based Committees for the Defense of the Revolution (CDRs). The Government traditionally has used the CDRs to mobilize citizens against dissenters, impose ideological conformity, and root out "counterrevolutionary" behavior. RRBs consisted of workers from a particular brigade (construction workers, a factory, etc.) that were organized by the Communist Party to react forcefully to any situation of social unrest. The Government on occasion used RRBs instead of the police or military during such situations. Members of the security forces committed numerous, serious human rights abuses.

The economy was centrally planned, with some elements of state-managed capitalism in sectors such as tourism and mining. The country's population was approximately 11 million. The economy depended heavily on primary products such as sugar and minerals, but also on its recently developed tourism industry and emigrant remittances. The economy performed poorly during the year, primarily due to inefficient policies. The annual sugar harvest was the smallest since 1933, partly as the result of a restructuring of the sugar industry that included the closure of half the country's sugar mills and the elimination of one-quarter of the jobs in the industry. Government officials predicted the economy would grow by 1.5 percent during the year. Government policy was officially aimed at preventing economic disparity, but persons with access to dollars enjoyed a significantly higher standard of living than those with access only to pesos. During the year, the Government repressed small-scale businesses and announced substantial new taxes for private room renters, imposing additional hardships for those operating in the country's small private sector. A system of "tourist apartheid" continued, whereby citizens were denied access to hotels, beaches, and resorts reserved for foreign tourists.

The Government's poor human rights record worsened, and it continued to commit numerous

serious abuses. Citizens did not have the right to change their government peacefully. Although the Constitution allows legislative proposals backed by at least 10,000 citizens to be submitted directly to the ANPP, in 2002, the Government rejected a petition known as the Varela Project with more than 11,000 signatures calling for a national referendum on political and economic reforms. In October, Project Varela organizers submitted a second petition to the ANPP with more than 14,000 new signatories. Communist Party-affiliated mass organizations tightly controlled elections to provincial and national legislative bodies, resulting in the selection of single, government-approved candidates. In March, the Government arrested 75 human rights activists, independent journalists, and opposition political figures on various charges, including aiding a foreign power and violating national security laws. Authorities subjected the detainees to summary trials and sentenced them to prison terms ranging from 6 to 28 years.

During the year, other human rights activists were arrested for acts such as possessing and publicly displaying human rights literature, receiving money and medicine from abroad for families of political prisoners, communicating with international media organizations, and organizing meetings and demonstrations to call for political reforms. Members of the security forces and prison officials continued to beat and abuse detainees and prisoners, including human rights activists. The Government failed to prosecute or sanction adequately members of the security forces and prison guards who committed abuses. Prison conditions remained harsh and life threatening, and the Government restricted medical care to some prisoners as a method of control. Prisoners died in jail due to lack of medical care. The authorities routinely continued to harass, threaten, arbitrarily arrest, detain, imprison, and defame human rights advocates and members of independent professional associations, including journalists, economists, doctors, and lawyers, often with the goal of coercing them into leaving the country. The Government used internal and external exile against such persons. The Government denied political dissidents and human rights advocates due process and subjected them to unfair trials. The Government infringed on citizens' privacy rights. The Government denied citizens the freedoms of speech, press, assembly, and association and closely monitored domestic and international journalists through physical and electronic surveillance. It limited the distribution of foreign publications and news, restricted access to the Internet, and maintained strict censorship of news and information to the public. The Government restricted some religious activities but permitted others. The Government limited the entry of religious workers to the country. The Government maintained tight restrictions on freedom of movement, including foreign travel and did not allow some citizens to leave the country. The Government was sharply and publicly antagonistic to all criticism of its human rights practices and discouraged foreign contacts with human rights activists. Violence against women, especially domestic violence, and child prostitution were problems. Racial discrimination was a problem. The Government severely restricted worker rights, including the right to form independent unions.

## RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From: a. Arbitrary and Unlawful Deprivation of Life There were no political killings; however, on April 11, the Government summarily executed three persons for hijacking a ferry, following a summary trial and a perfunctory review of the death sentences.

In March, the three men, Lorenzo Copello Castillo, Barbaro Sevilla Garcia, and Jorge Martinez Isaac, were arrested for hijacking a ferry during an effort to migrate illegally. On April 5, the Havana City Provincial Court began the trial and convicted the three men on April 8. On April 9, the Supreme Court rejected their appeal and the Council of State confirmed the death sentences. On April 11, the Government executed the men and did not advise their families until they had been buried. The Inter-American Commission on Human Rights (IACHR) and other international observers criticized the executions, in particular, the summary nature of the hijackers' trials and the absence of due process. The IACHR determined that the process leading up to the executions constituted "the arbitrary deprivation of life." Local human rights monitors noted the especially harsh nature of the punishments in view of the fact that no persons were injured during the hijacking.

During the year, there were reports that prisoners died in jail due to lack of medical care (see Section 1.c.).

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution prohibits abusive treatment of detainees and prisoners; however, members of the security forces sometimes beat and otherwise abused human rights advocates, detainees, and prisoners. The Government took no steps to curb these abuses. There continued to be numerous reports of disproportionate police harassment of black youths (see Section 5).

On January 22, police forced Jose Daniel Ferrer Garcia and a colleague from a bus and beat them. Ferrer was a local leader of the Christian Liberation Movement and a Project Varela organizer. In April, the Santiago Provincial Court sentenced him to 25 years' imprisonment for "acts against the independence or the territorial integrity of the State" (see Section 1.e.).

On February 11, police in Santiago Province beat Daniel Perea Garcia of the Christian Liberation Movement and dragged him to a local police station, where he was fined and released. Perea was one of several members of the Christian Liberation Movement arrested following a series of government-organized attacks against opposition members in Santiago Province.

The Government continued to subject persons who disagreed with it to what it called acts of repudiation. At government instigation, members of state-controlled mass organizations, fellow workers, or neighbors of intended victims were obliged to stage public protests against those who dissented from the Government's policies, shouting obscenities and often causing damage to the homes and property of those targeted; physical attacks on the victims sometimes occurred. Police and state security agents often were present but took no action to prevent or end the attacks. Those who refused to participate in these actions faced disciplinary action, including loss of employment.

In January, the first secretary of the Communist Party in Granma Province and several government candidates for the January 19 ANPP elections directed several dozen persons to engage in an act of repudiation against Tania de la Torre Montesinos of the Assembly to Promote Civil Society. Government officials placed young children in front of baton-wielding adults and instructed the children to yell pro-government slogans at de la Torre.

On February 4, 100 members of an RRB attacked the home of Jesus Mustafa Felipe of the Christian Liberation Movement, shouting death threats and pro-government slogans. According to the opposition members who took refuge in Mustafa's home, several individuals sprayed a toxic pesticide into the home during the attack. On February 18, Mustafa was tried on charges of "contempt of authority" and sentenced to 18 months' imprisonment. In March, the authorities levied additional charges against Mustafa and sentenced him to 25 years' imprisonment following a summary trial (see Section 1.e.).

There were also smaller-scale acts of repudiation, known as "reuniones relampagos" or rapid repudiations. These acts were conducted by a small number of persons, usually not from the target's neighborhood, and lasted up to 30 minutes. These individuals shouted epithets and threw stones or other objects at the victim's house.

On July 30, members of a CDR shouted pro-government slogans at fellow CDR member Olga Lidia Arbolaez Crespo for having signed the Varela petition. According to an independent journalist, Arbolaez was forced to take refuge in her home when her attackers threatened to stone her for stating that citizens needed greater political freedoms and for making other "subversive statements."

Prison conditions continued to be harsh and life threatening, and conditions in detention facilities also were harsh. The Government claimed that prisoners had rights such as family visitation, adequate nutrition, pay for work, the right to request parole, and the right to petition the prison director; however, police and prison officials often denied these rights in practice, and beat, neglected, isolated, and denied medical treatment to detainees and prisoners, including those

convicted of political crimes or those who persisted in expressing their views. The Penal Code prohibits the use of corporal punishment on prisoners and the use of any means to humiliate prisoners or to lessen their dignity; however, the code fails to establish penalties for committing such acts, and they continued to occur in practice. Detainees and prisoners, both common and political, often were subjected to repeated, vigorous interrogations designed to coerce them into signing incriminating statements, to force collaboration with authorities, or to intimidate victims. Some endured physical and sexual abuse, typically by other inmates with the acquiescence of guards, or long periods in punitive isolation cells. Pretrial detainees were generally held separately from convicted prisoners, although some long-term detainees, including political detainees, were held with convicted prisoners. In Havana, there were two detention centers; once sentenced, persons were transferred to a prison.

In June, political prisoner Manuel Vazquez Portal, one of 75 activists arrested by the Government in March, reported that his cell flooded with water every day and that sewage from a latrine regularly spilled into his cell. Vazquez was sentenced to 18 years' imprisonment for his work as an independent journalist (see Section 2.a.).

Prisoners sometimes were held in "punishment cells," which usually were located in the basement of a prison, were semi-dark all the time, had no water available in the cell, and had a hole for a toilet. No reading materials were allowed, and family visits were reduced to 10 minutes from 1 or 2 hours. There was no access to lawyers while in the punishment cell.

On January 31, a political reeducation officer beat jailed independent journalist Carlos Brizuela Yera for having copies of the Universal Declaration of Human Rights and a report from the international nongovernmental organization (NGO) Reporters Without Borders. Brizuela was arrested in March 2002 on charges of public disorder, resistance, and contempt for authority and remained jailed without trial.

On September 2, prison officials beat political prisoner Angel Ramon Eireos Rodriguez, of the February 24 Movement, with a club for demanding improved prison conditions. Eireos was jailed on February 28 and was serving a 20-month sentence on charges of "resistance" and "contempt for authority."

Prison guards and state security officials subjected human rights and prodemocracy activists to threats of physical violence, to systematic psychological intimidation, and to detention or imprisonment in cells with common and violent criminals, sexually aggressive inmates, or state security agents posing as prisoners.

In January, political prisoner Juan Carlos Gonzalez Leyva reported that another inmate had entered his cell during the night and attempted to bludgeon him but fled when Gonzalez Leyva awoke. Prison authorities told Gonzalez Leyva's family that they would take steps to prevent further such incidents. Gonzalez Leyva, who is blind, was arrested in March 2002 on charges of "contempt for authority, public disorder, disobedience, and resistance." Prosecutors requested a 6-year sentence for Gonzalez, but at year's end he remained jailed without trial.

On September 18, five political prisoners at 1580 Prison in Havana went on a hunger strike to demand protection from common prisoners, who were beating political prisoners at the instigation of prison guards. On September 22, police beat two of the hunger strikers, Iosvani Aguilar Camejo and Jose Enrique Santana, to induce them to give up their protest. Aguilar and Santana were among the 300 persons rounded up by the Government in February 2002 after 21 asylum seekers used a bus to break into the Mexican Embassy.

In October, seven political prisoners at Holguin Provincial Prison went on a hunger strike to protest the beating of jailed independent journalist Ivan Hernandez Carrillo by the prison official in charge of political re-education. Prison authorities denied a request by the families of the hunger strikers to see the prisoners to assess their health and barred the prisoners from otherwise communicating with their families. Prison officials ended the protest in November by separating the hunger strikers and sending them to different prisons.

In October, the family of Leonardo Bruzon Avila reported that he would be on a hunger strike from October 10 to November 11 to demand the release of all political prisoners. State Security officials reportedly offered to release Bruzon in July if he would allow himself to be filmed conversing with them. Bruzon declined the offer, suspecting authorities would use such a film falsely to allege that he was a Government agent, and officials transferred him from a medical detention facility to a regular prison. Bruzon was jailed in February 2002 on charges of civil disobedience and, at year's end, remained jailed without trial.

On December 6, a common prisoner in Holguin Provincial Prison beat 54-year-old political prisoner Adolfo Fernandez Sainz until Fernandez was unconscious. The prisoner who carried out the beating was authorized by prison guards to exercise control over other inmates. Prison officials told Fernandez the common prisoner should have beaten him harder in order to kill him. In April, Fernandez was sentenced to 15 years' imprisonment for his work as an independent journalist (see Section 2.a.).

Political prisoners were required to comply with the rules for common criminals and often were punished severely if they refused. They often were placed in punishment cells and held in isolation.

On June 9, Elsa Morejon, the wife of political prisoner Oscar Elias Biscet, reported that Biscet was being held in a tiny isolation cell for refusing to wear a prison uniform. Morejon asserted that common prisoners were permitted to wear their civilian clothes and believed that Biscet was being singled out for punishment because of his political views. Biscet's cell was sealed to prevent daylight from entering, and he was not permitted to leave his cell for exercise or to have a Bible. The authorities barred Biscet from receiving visitors from March until August, when he was permitted to see his wife. Biscet's conditions improved in August, although he continued to refuse to wear the prison uniform. In November, he was placed in a punishment cell with a convicted murderer for 21 days for allegedly inciting other prisoners to demand improved treatment by prison officials and authorities again suspended family visits. In December, authorities advised Morejon that Biscet would be placed in a punishment cell indefinitely for failing to show proper deference to prison officials. Biscet was 1 of 75 political detainees subjected to summary trials in April (see Section 1.e.).

The Government regularly failed to provide adequate nutrition and medical attention, and a number of prisoners died during the year due to lack of medical attention. Both the IACHR and the former U.N. Special Rapporteur on the country, as well as other human rights monitoring organizations, have reported the widespread incidence in prisons of tuberculosis, scabies, hepatitis, parasitic infections, and malnutrition. On July 30, Amnesty International (AI) expressed concern to the Government regarding the poor health of numerous political prisoners, the limitations on family visits for some political prisoners, and the incarceration of many political prisoners far from their home provinces. The Government did not respond to AI.

In May, Miriam Leyva, the wife of jailed independent journalist Oscar Espinosa Chepe, reported that prison officials were failing to provide adequate medical treatment for Chepe, who suffers from liver disease, high blood pressure, intestinal polyps, and other illnesses. Chepe was 1 of 28 independent journalists sentenced to long prison terms in April following summary trials (see Section 2.a.). According to Leyva, Chepe lost 25 pounds due to diarrhea and lack of medical care in the weeks following his arrest, conditions aggravated by his transfer to a prison 500 miles from Havana. Prison officials refused Leyva's numerous requests to see Chepe or to provide him medication. A prison doctor informed Leyva that State Security agents, rather than medical staff, determined what medication would be administered to Chepe. In August, prison officials transferred Chepe to a military hospital in Havana, where he received improved medical care and was permitted to see his wife but remained in poor health. Leyva complained that prison officials limited her access to Chepe's doctors and kept Chepe heavily sedated.

In July, jailed independent journalist Juan Carlos Herrera Acosta reported that common prisoner Carlos Duane died of a heart attack after prison medical officials repeatedly refused to respond to Duane's complaints of chest pains.

Prison officials regularly denied prisoners other rights, such as the right to correspondence, and

continued to confiscate medications and food brought by family members for political prisoners. Some prison directors routinely denied religious workers access to detainees and prisoners. Reading materials, including Bibles, were not allowed in punishment cells.

In September, officials at Kilo 8 Prison in Camaguey Province threatened to suspend family visits for nine political prisoners who read aloud to each other from the Bible. The nine prisoners, Eduardo Diaz Fleites, Ricardo Gonzalez Alfonso, Lester Gonzalez Penton, Juan Carlos Herrera Acosta, Regis Iglesias Ramirez, Jose Miguel Martinez, Omar Rodriguez Saludes, Claro Sanchez Altarriba, and Miguel Valdes Tamayo, were among the 75 activists and independent journalists arrested in March and sentenced to long prison terms following summary trials (see Section 1.e.).

There were separate prison facilities for women and for minors. Conditions of these prisons, especially for women, did not take into account the special needs of women. Human rights activists believed that conditions were poor.

The Government did not permit independent monitoring of prison conditions by international or national human rights monitoring groups. The Government has refused to allow prison visits by the International Committee of the Red Cross (ICRC) since 1989.

#### d. Arbitrary Arrest, Detention, or Exile

Arbitrary arrest and detention continued to be problems, and they remained the Government's most effective and commonly used tactics for harassing opponents. The Law of Penal Procedures requires police to file formal charges and either release a detainee or bring the case before a prosecutor within 96 hours of arrest. It also requires the authorities to provide suspects with access to a lawyer within 7 days of arrest. However, the Constitution states that all legally recognized civil liberties can be denied to anyone who actively opposes the decision of the people to build socialism. The authorities routinely invoked this sweeping authority to deny due process to those detained on purported state security grounds.

The Ministry of the Interior exercises control over police and internal security forces. The National Revolutionary Police (PNR) is the primary law enforcement organization and was generally effective in investigating common crimes. Specialized units of the Ministry of the Interior are responsible for monitoring, infiltrating and suppressing opposition political groups, although the PNR does play a supporting role by carrying out house searches and providing interrogation facilities for State Security agents. There were few reports of corruption, although authorities arrested several PNR officers in January on corruption charges during a crackdown on narcotics trafficking and other illegal activities.

The authorities routinely engaged in arbitrary arrest and detention of human rights advocates, subjecting them to interrogations, threats, and degrading treatment and unsanitary conditions for hours or days at a time. Police frequently lacked warrants when carrying out arrests or issued warrants themselves at the time of arrest. Authorities sometimes employed false charges of common crimes to arrest political opponents. Detainees often were not informed of the charges against them. The authorities continued to detain human rights activists and independent journalists for short periods, often to prevent them from attending or participating in events related to human rights issues (see Sections 2.a. and 2.b.). The authorities also placed such activists under house arrest for short periods for similar reasons.

In March, authorities arrested 75 human rights activists, journalists, and opposition political figures, charging them with various crimes, including national security violations and aiding a foreign power. The U.N. High Commissioner for Human Rights expressed concern regarding the arrests and summary trials, as did many governments, international organizations, and public figures. The 75 political prisoners included 28 independent journalists, 9 independent librarians, and at least 21 persons affiliated with the Varela petition. Several of the prisoners were elderly; 21 of the prisoners were over the age of 50.

In mid-March, police arrested Regis Iglesias Ramirez of the Christian Liberation Movement on charges of "acts against the independence or the territorial integrity of the State." On April 5, the

Havana City Provincial Court sentenced Iglesias, a Project Varela organizer, to 18 years' imprisonment (see Section 1.e.).

On March 18, Ministry of the Interior officials arrested poet and independent journalist Raul Rivero on charges that he carried out "acts against the independence or the territorial integrity of the State." On April 5, he was convicted and sentenced to 20 years' imprisonment (see Section 2.a.).

On March 20, Ministry of the Interior officials arrested Martha Beatriz Roque of the Assembly to Promote Civil Society for acts against the independence or the territorial integrity of the State.

On March 25, police arrested human rights monitor Marcelo Manuel Lopez Banobre of the Cuban Commission for Human Rights and National Reconciliation after he visited a foreign embassy in Havana. The authorities subjected Lopez to a summary trial and sentenced him to 15 years' imprisonment under Article 91 of the Penal Code, acts against the independence or the territorial integrity of the State (see Section 1.e.). He was penalized in part for his work on behalf of AI and other international human rights organizations.

Many of the 75 activists subjected to summary trials in April reported that they had little or no access to a lawyer and many were only advised of the charges against them as the trials were about to begin. For example, independent journalist Manuel Vazquez Portal was arrested on March 19 but was not able to see a lawyer until the day of his trial on April 4.

There were at least 32 political detainees awaiting trial at year's end. Most of the 32 had been held for more than 1 year.

According to relatives, approximately 9 of the 300 persons arrested near the Mexican Embassy in February 2002 remained jailed without trial at year's end.

The Government often held persons without charges for months and then released them, which avoided the spectacle of a trial.

State security police used detentions and warnings to prevent organizations around the country from performing any actions in remembrance of the four pilots killed in February 1996 by military aircraft.

The authorities sometimes detained independent journalists in order to question them about contacts with foreigners or to prevent them from covering sensitive issues or criticizing the Government (see Section 2.a.).

Time in detention before trial counted toward time served if convicted. Bail was available and usually was low and more equivalent to a fine.

The Penal Code includes the concept of "dangerousness," defined as the "special proclivity of a person to commit crimes, demonstrated by his conduct in manifest contradiction of socialist norms." If the police decide that a person exhibits signs of dangerousness, they may bring the offender before a court or subject him to therapy or political reeducation. Government authorities regularly threatened prosecution under this provision. Both the U.N. Commission on Human Rights and the IACHR criticized this tactic for its subjectivity, the summary nature of the judicial proceedings employed, the lack of legal safeguards, and the political considerations behind its application. According to the IACHR, the so-called special inclination to commit crimes referred to in the Penal Code amounted to a subjective criterion used by the Government to justify violations of individual freedoms and due process for persons whose sole crime was to hold a view different from the official view.

The Government also used exile as a tool for controlling and eliminating internal opposition. The Penal Code permits the authorities to bar an individual from a certain area or to restrict an individual to a certain area for a period of from 1 to 10 years. Under this provision, authorities may exile any person whose presence in a given location would be "socially dangerous."

On May 23, Ministry of the Interior officers advised independent journalist Oscar Mario Gonzalez that he should not return from a planned trip to Spain. The officials warned Gonzalez that he could be jailed for 25 years if he continued to work as a journalist.

The Government pressured imprisoned human rights activists and political prisoners to apply for emigration and regularly conditioned their release on acceptance of exile. Human Rights Watch (HRW) observed that the Government routinely invoked forced exile as a condition for prisoner releases and also pressured activists to leave the country to escape future prosecution. AI expressed particular concern about the Government's practice of threatening to charge, try, and imprison human rights advocates and independent journalists prior to arrest or sentencing if they did not leave the country. According to AI, this practice "effectively prevents those concerned from being able to act in public life in their own country."

#### e. Denial of Fair Public Trial

The Constitution provides for independent courts; however, it explicitly subordinates the courts to the ANPP and the Council of State. The ANPP and its lower level counterparts choose all judges. The subordination of the courts to the Communist Party, which the Constitution designates as the superior directive force of society and the State, further compromises the judiciary's independence. The courts undermined the right to a fair trial by restricting the right to a defense and often failed to observe the few due process rights available to defendants.

Civilian courts existed at the municipal, provincial, and supreme court levels. Panels composed of a mix of professionally certified and lay judges presided over them. There was a right to appeal, access to counsel, and charges were generally known to the defendant, although several political detainees subjected to summary trials in April were unaware of the charges against them until moments before their trials were set to begin. Defendants enjoyed a presumption of innocence, but the authorities often ignored this right in practice.

Military tribunals assumed jurisdiction for certain counterrevolutionary cases and were governed by a special law. The military tribunals processed civilians if a member of the military was involved with civilians in a crime. There was a right to appeal, access to counsel, and the charges were known to the defendant.

The law and trial practices did not meet international standards for fair public trials. Almost all cases were tried in less than 1 day; there were no jury trials. While most trials were public, trials were closed when there were alleged violations of state security. Prosecutors may introduce testimony from a CDR member about the revolutionary background of a defendant, which may contribute to either a longer or shorter sentence. The law recognizes the right of appeal in municipal courts but limits it in provincial courts to cases such as those involving maximum prison terms or the death penalty. Appeals in capital cases are automatic. The Council of State ultimately must affirm capital punishment.

Criteria for presenting evidence, especially in cases involving human rights advocates, were arbitrary and discriminatory. Often the sole evidence provided, particularly in political cases, was the defendant's confession, usually obtained under duress and without the legal advice or knowledge of a defense lawyer (see Section 1.c.). The authorities regularly denied defendants access to their lawyers until the day of the trial. Several dissidents who served prison terms reported that they were tried and sentenced without counsel and were not allowed to speak on their own behalf.

In early April, the Government summarily tried 75 independent journalists, human rights activists, and members of the political opposition for alleged acts against the independence or the territorial integrity of the State or aiding a foreign power. All 75 of the detainees were arrested, tried, convicted, and sentenced within a period of 20 days. On April 9, the Government asserted the 75 detainees were provided adequate legal guarantees during the trials; however, the families of the detainees disputed that assertion. Most defense attorneys for the 75 detainees had less than 24 hours to prepare for trial, and several defendants were unaware that they were going to be tried until the moment they were escorted into the courtroom. The authorities permitted small numbers of family members to attend the trials but excluded public and diplomatic observers and packed the

courtrooms with regime supporters. The family of Luis Enrique Ferrer Garcia of the Christian Liberation Movement was barred from the courtroom during his trial, and members of the public reportedly pushed Ferrer's 56-year-old mother to the ground as she waited outside for the verdict. Much of the evidence against the defendants consisted of unsubstantiated or unspecified allegations of activities against the Government on behalf of a foreign power and vague accusations of "counterrevolutionary" behavior. The testimony provided by 12 State Security agents infiltrated into opposition groups consisted primarily of attacks against the character of several of the defendants. In June, AI found that, "the conduct for which dissidents were prosecuted was not self-evidently criminal; it was nonviolent and appeared to fall within the parameters of the legitimate exercise of fundamental freedoms as provided under international standards." AI determined that all 75 jailed activists were "prisoners of conscience."

The law provides the accused with the right to an attorney, but the control that the Government exerted over the livelihood of members of the state-controlled lawyers' collectives compromised their ability to represent clients, especially when they defended persons accused of state security crimes. Attorneys reported reluctance to defend those charged in political cases due to fear of jeopardizing their own careers.

On April 4, the Havana City Provincial Court sentenced Martha Beatriz Roque Cabello of the Assembly to Promote Civil Society to 20 years' imprisonment for "activities aimed at subverting the internal order of the Cuban State" and for allegedly receiving funds from and maintaining links to a foreign government. Prosecutors, who had requested a life sentence for Roque, failed to specify how Roque's activities had threatened the stability of the Government. Roque was arrested on March 20 while undertaking a fast to draw attention to the case of Oscar Elias Biscet and other political prisoners.

On April 5, the Havana City Provincial Court sentenced Pedro Pablo Alvarez Ramos of the United Cuban Workers Council to 25 years' imprisonment for acts against the independence or the territorial integrity of the State. Much of the evidence against Alvarez consisted of an inventory of materials in his possession, including a fax machine, fax paper, and a video camera, as well as evidence of his contacts with unions in Latin America and Europe (see Section 6.a.).

On April 5, the Havana City Provincial Court sentenced Antonio Diaz of the Christian Liberation Movement to 18 years' imprisonment for acts against the independence or the territorial integrity of the State. The sentencing document indicated that business cards found in Diaz' possession demonstrated his links to foreign diplomats and that these links, together with Diaz' comments to foreign media and his possession of "counterrevolutionary" books, constituted a grave threat to national security.

On April 8, the Havana City Provincial Court sentenced Oscar Elias Biscet of the Lawton Human Rights Foundation to 25 years' imprisonment for unspecified acts against the independence or territorial integrity of the State. At the time of his trial, Biscet was in detention on separate charges of public disorder stemming from his arrest in December 2002 for attempting to organize a human rights seminar. Biscet was released from prison in October 2002 after serving a 3-year sentence for "insulting the symbols of the Fatherland" and public disorder.

Human rights monitoring groups inside the country estimated the number of political prisoners to be between 300 and 400 persons. The authorities imprisoned persons on charges such as disseminating enemy propaganda, illicit association, contempt for the authorities (usually for criticizing President Castro), clandestine printing, or the broad charge of rebellion, which often was brought against advocates of peaceful democratic change. The Government did not permit access to political prisoners by human rights organizations. It continued to deny access to prisoners by the ICRC.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

Although the Constitution provides for the inviolability of a citizen's home and correspondence, official surveillance of private and family affairs by government-controlled mass organizations, such

as the CDRs, remained one of the most pervasive and repressive features of daily life. The Government employed physical and electronic surveillance against nonviolent political opponents. The State assumed the right to interfere in the lives of citizens, even those who did not oppose the Government and its practices actively. The authorities utilized a wide range of social controls. The mass organizations' ostensible purpose was to improve the citizenry, but in fact their goal was to discover and discourage nonconformity. Although official statistics indicated that CDRs have grown over the past decade and included 93.5 percent of the population over the age of 14, in reality, citizen participation in these mass organizations declined. The economic crisis both reduced the Government's ability to provide material incentives for their participation and forced many persons to engage in black market activities, which the mass organizations were supposed to report to the authorities.

The Interior Ministry employed an intricate system of informants and block committees (the CDRs) to monitor and control public opinion. While less capable than in the past, CDRs continued to report on suspicious activity, including conspicuous consumption; unauthorized meetings, including those with foreigners; and defiant attitudes toward the Government and the revolution.

The Government controlled all access to the Internet, and all electronic mail messages were subject to censorship. Dial-up Internet service was prohibitively expensive for most citizens. The Interior Ministry's Department of State Security often read international correspondence and monitored overseas telephone calls and conversations with foreigners. The Government also monitored domestic phone calls and correspondence. The Government sometimes denied telephone service to political dissidents. Cell phones generally were not available to average citizens.

In April, authorities revealed that they used hotel waiters and other nonofficial persons to monitor the conversations of regime opponents in public places. Government prosecutors used testimony by waiters at the Hotel Nacional in Havana to help convict and sentence to lengthy prison terms the 75 political opponents during summary trials in April (see Section 1.e.).

In early August, officers of the Ministry of the Interior threatened to arrest the wife of political prisoner Blas Giraldo Reyes Rodriguez if she continued to receive activists who visited her to express sympathy for the jailing of her husband. Police told Isel de las Mercedes Acosta Obregon that they would try her for violating the Law to Protect National Independence and the Economy (Law 88) (see Section 2.a.) if she did not cease "counterrevolutionary activities."

On September 5, police threatened to take the 3-month-old daughter of Milka Pena, the wife of political prisoner Luis Enrique Ferrer Garcia. Police also warned Pena that they could prevent her from receiving remittances from abroad, her major source of income since the jailing of her husband in March. Police did not explain why they were threatening Pena, but she assumed it was because she had a sign on her home calling for the release of political prisoners.

There were numerous credible reports of forced evictions of squatters and residents who lacked official permission to reside in Havana. The number of forced evictions increased throughout the country during the year as the Government enforced new, stricter regulations against housing "illegalities."

On January 14, police in Santa Clara Province evicted 11 families from their houses and demolished the structures, despite the fact that the owner of the property authorized the families to settle there. The authorities gave the families 72 hours to remove their belongings before evicting them.

In late September, police evicted Hilda Machado from her home in Havana Province for building a home without the required permit. Machado complained that she previously paid a fine for building without a permit, but had been allowed to continue construction. Several dozen neighbors protested Machado's eviction but were unable to stop officials from seizing her property.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for citizens' freedoms of speech and press insofar as they "conform to the aims of socialist society"; this clause effectively bars free speech. In law and in practice, the Government did not allow criticism of the revolution or its leaders. Laws against anti-government propaganda, graffiti, and disrespect of officials impose penalties between 3 months and 1 year in prison. If President Castro or members of the ANPP or Council of State were the objects of criticism, the sentence could be extended to 3 years. Charges of disseminating enemy propaganda, which included merely expressing opinions at odds with those of the Government, could bring sentences of up to 14 years. In the Government's view, such materials as the Universal Declaration of Human Rights, international reports of human rights violations, and mainstream foreign newspapers and magazines constituted enemy propaganda. Local CDRs inhibited freedom of speech by monitoring and reporting dissent or criticism. Police and state security officials regularly harassed, threatened, and otherwise abused human rights advocates in public and private as a means of intimidation and control.

The Constitution states that print and electronic media are state property and can never become private property. The Communist Party controlled all media except for a few small church-run publications. The Penal Code bars "clandestine printing" and provides for 3 to 6 months' imprisonment for failure to identify the author of a publication or the printing press used to produce the publication. Even the Catholic church-run publications, denied access to mass printing equipment, were subject to governmental pressure. *Vitral* magazine, a publication of the diocese of Pinar del Rio, continued to publish during the year, although officials publicly described it as "counterrevolutionary propaganda." In March, the Cuban Conference of Catholic Bishops indicated that the Church did not register its publications with the Ministry of Culture as required by law because registration would force it to concede control to the State.

Citizens did not have the right to receive publications from abroad, although news stands in hotels for foreigners and certain hard currency stores sold foreign newspapers and magazines. The Government continued to jam the transmission of Radio Marti and Television Marti. Radio Marti broadcasts at times overcame the jamming attempts on short-wave bands, but its medium-wave transmissions were blocked completely in Havana. Security agents subjected dissidents, foreign diplomats, and journalists to harassment and surveillance, including electronic surveillance.

All legal media must operate under party guidelines and reflect government views. The Government attempted to shape media coverage to such a degree that it not only exerted pressure on domestic journalists but also pressured groups normally outside the official realm of control, such as visiting and resident international correspondents. The Government barred some foreign journalists from entering the country.

The 1999 Law to Protect National Independence and the Economy (Law 88) outlaws a broad range of activities that undermine state security and toughens penalties for criminal activity. Under the law, anyone possessing or disseminating literature deemed subversive, or supplying information that could be used by U.S. authorities in the application of U.S. legislation, may be subject to fines and prison terms of 7 to 20 years for each charge. The authorities convicted more than 30 independent journalists and human rights activists under Law 88 during the year, sentencing them to prison terms of up to 27 years. AI expressed "grave concern" regarding the application of Law 88, which it said appeared to place "unlawful restrictions on internationally-recognized rights."

The authorities arrested 28 independent journalists in March and subjected them to summary trials on charges of violating Law 88 or for alleged acts against the security of the State. All were convicted and sentenced to terms ranging from 14 to 27 years' imprisonment. On April 4, the IACHR Special Rapporteur for Freedom of Expression expressed "grave concern" about the actions taken against independent journalists and urged the Government to respect freedom of expression and information. The international press freedom organizations Reporters Without Borders (RSF) and the Committee to Protect Journalists (CPJ) also criticized the arrests and trials of the independent journalists. RSF launched a public campaign on behalf of the imprisoned journalists, identifying the country as the "Biggest Prison in the World for Journalists."

On April 5, the Havana City Provincial Court sentenced Raul Rivero, director of the independent Cuba Press news agency, to 20 years' imprisonment for acts against the independence or the

territorial integrity of the State. The sentencing document indicated Rivero was convicted for receiving payment for stories submitted to foreign news publications and for maintaining links with foreign diplomats and international NGOs, including RSF. The court alleged that Rivero filed false or misleading stories for personal gain, noting that he had used his income to purchase rugs, an air conditioner, and plastic chairs.

On April 5, the Havana City Provincial Court convicted Ricardo Gonzalez Alonso of the Cuba Press news agency of acts against the independence or territorial integrity of the State and sentenced him to 20 years' imprisonment. The sentencing document focused on Gonzalez' publication of the magazine *De Cuba*, which included articles by opposition political figures. The document also indicated Gonzalez maintained a library that included "counterrevolutionary" literature, had contacts with foreign diplomats, and received food, money, and medicine from exile organizations abroad.

On April 5, the Havana City Provincial Court sentenced independent journalist Manuel Vazquez Portal to 18 years' imprisonment for violating Law 88. The court determined that Vazquez received small payments for news stories that were "seditious and aggressive towards the revolutionary process." In September, the CPJ selected Vazquez as one of four winners of the annual International Press Freedom Award.

On April 6, the Havana City Provincial Court sentenced independent journalist Oscar Espinosa Chepe to 20 years' imprisonment for violating Law 88 and for acts against the independence or territorial integrity of the State. The court convicted Chepe for filing "false or distorted" news stories to foreign news organizations for payments of \$15 to \$100. Chepe was 62 years old and in poor health (see Section 1.c.).

The Government continued to subject independent journalists to internal travel bans; arbitrary and periodic detentions (overnight or longer); harassment of family and friends; seizures of computers, office, and photographic equipment; and repeated threats of prolonged imprisonment (see Sections 1.d., 1.f., and 2.d.). Independent journalists in Havana reported that threatening phone calls and harassment of family members continued during the year. The authorities also placed journalists under house arrest to prevent them from reporting on conferences sponsored by human rights activists, human rights events, and court cases against activists. AI, HRW, the Inter-American Press Association, RSF, and the CPJ criticized the imprisonment of journalists and the Government's continued practice of detaining independent journalists and others simply for exercising their right to free speech. In addition, police increasingly tried to prevent independent journalists from covering so-called sensitive events (see Section 1.d.).

In April, the Government revealed that purported independent journalists Manuel David Orrio and Nestor Baguer were agents of the Ministry of the Interior assigned to infiltrate and report on independent journalists. Both Orrio and Baguer testified on behalf of the State against independent journalists during summary trials of 75 activists in April.

On February 13, the authorities expelled Argentine journalist Fernando Ruiz Parra from the country for meeting with dissidents.

During the year, at least four independent journalists were denied the right to emigrate, including Manuel Vazquez Portal, Jorge Olivera, Normando Hernandez, and Dorka Cespedes. Vazquez, Olivera, and Hernandez were among the 28 independent journalists subjected to summary trials and lengthy prison sentences in April.

The authorities often confiscated equipment when arresting journalists, particularly photographic and recording equipment. It was possible to buy a fax machine or computer, payable in dollars; however, even if a receipt could be produced, police often confiscated equipment and used it as evidence against the journalists. Photocopiers and printers either were impossible to find on the local market or were not sold to individuals, which made them a particularly valuable commodity for journalists.

Resident foreign correspondents reported that the very high level of government pressure

experienced since 2000, including official and informal complaints about articles, continued throughout the year. The Government exercised its ability to control members of the resident foreign press by requiring them to obtain an exit permit each time they wished to leave the country. The Government also forced foreign correspondents to hire local staff from government agencies.

Distribution of information continued to be controlled tightly. Importation of foreign literature was controlled, and the public had no access to foreign magazines or newspapers. Leading members of the Government asserted that citizens did not read foreign newspapers and magazines to obtain news because they did not speak English and had access to the daily televised round tables on issues with which they needed to concern themselves. The Government sometimes barred independent libraries from receiving materials from abroad and seized materials donated by foreign diplomats.

In March, authorities arrested nine independent librarians and charged them with violating Law 88 or for acts against the independence or the territorial integrity of the State. All nine, including Raul Rivero, Victor Rolando Arroyo, Ivan Hernandez Carrillo, Jose Luis Garcia Paneque, Ricardo Gonzalez, Roberto de Miranda, Blas Giraldo Reyes, Jose Miguel Martinez Hernandez, and Omar Pernet Hernandez, were subjected to summary trials and sentenced to 13 to 26 years' imprisonment.

In late September, police in Holguin Province confiscated 250 books and 2 typewriters from independent librarian Lorenzo Garcia Rodriguez. Garcia reported that police stationed an officer outside his home following a 3-hour search of his belongings and that he was under constant police surveillance, even when he attended Mass.

The Government controlled all access to the Internet, and all electronic mail messages were subject to government review and censorship. Access to computers and peripheral equipment was limited, and the Internet only could be accessed through government-approved institutions. Dial-up access to government-approved servers was prohibitively expensive for most citizens. E-mail use grew slowly as the Government allowed access to more users; however, the Government generally controlled its use, and only very few persons or groups had access. During the year, the Government blocked instant messaging programs and reportedly increased efforts to identify unauthorized Internet and e-mail users. In 2002, the Government opened a national Internet gateway to some journalists, artists, and municipal-level youth community centers, but the authorities continued to restrict the types and numbers of international sites that could be accessed. The Government did not permit Catholic Church representatives to have access to the Internet.

The Government officially prohibits all diplomatic missions in Havana from printing or distributing publications, particularly newspapers and newspaper clippings, unless these publications exclusively address conditions in a mission's home country and prior government approval is received. Many missions did not accept this requirement and distributed materials; however, the Government's threats to expel embassy officers who provided published materials had a chilling effect on some missions. On September 11, the Government shut down the Spanish Cultural Center for allegedly undertaking activities outside the scope of cultural exchange; the Government did not specify which activities constituted the alleged violation.

The Government restricted literary and academic freedoms and continued to emphasize the importance of reinforcing revolutionary ideology and discipline more than any freedom of expression. The educational system taught that the State's interests took precedence over all other commitments. Academics, government journalists, and other government officials were prohibited from meeting with some diplomats without prior approval from the Ministry of Foreign Affairs. The Ministry of Education required teachers to evaluate students' and their parents' ideological character and to place such evaluations in school records. These reports directly affected students' educational and career prospects. As a matter of policy, the Government demanded that teaching materials for courses such as mathematics or literature have an ideological content. Government efforts to undermine dissidents included denying them advanced education and professional opportunities. President Castro stated publicly that the universities were available only to those who shared his revolutionary beliefs.

Artistic expression was less restricted. The Government encouraged the cultural community to attain the highest international standards and to sell its work overseas for hard currency.

#### b. Freedom of Peaceful Assembly and Association

Although the Constitution grants limited rights of assembly and association, these rights are subject to the requirement that they may not be "exercised against the existence and objectives of the Socialist State." The law punishes any unauthorized assembly of more than three persons, including those for private religious services in private homes, by up to 3 months in prison and a fine. The authorities selectively enforced this prohibition and often used it as a legal pretext to harass and imprison human rights advocates.

The Government's policy of selectively authorizing the Catholic Church to hold outdoor processions at specific locations on important feast days continued during the year. On September 8, the Government permitted for the sixth consecutive year a procession in connection with Masses in celebration of the feast day of Our Lady of Charity in Havana. A number of activists participated in the procession. The authorities permitted a total of 50 processions nationwide to mark the feast day of Our Lady of Charity but denied 14 others. The Government also denied permits for separate processions in the towns of Managua and East Havana on political grounds (see Section 2.c.).

The authorities never have approved a public meeting by a human rights group and often detained activists to prevent them from attending meetings, demonstrations, or ceremonies (see Section 1.d.). There were unapproved meetings and demonstrations, which the Government frequently disrupted or attempted to prevent. The authorities sometimes used or incited violence against peaceful demonstrators.

In June and July, officials of the Ministry of the Interior threatened to arrest the 10 to 20 wives of political prisoners who staged silent marches after attending Mass together at Havana's Santa Rita Church. In several instances, the authorities also threatened to terminate family visits with the political prisoners or to otherwise retaliate against the prisoners for their spouses' displays of support. The spouses stopped walking together as a result of the threats, but continued to attend the same Mass.

The Government organized marches on May Day and held a rally, "Tribuna Abierta," every Saturday in a different municipality in the country. There was both radio and television coverage of the weekly rally. The Government employed CDRs and officials in the workplace to compel mass participation in these events.

The Government generally denied citizens the freedom of association. The Penal Code specifically outlaws illegal or unrecognized groups. The Minister of Justice, in consultation with the Interior Ministry, decides whether to give organizations legal recognition. The authorities never have approved the existence of a human rights group. However, there were a number of professional associations that operated as NGOs without legal recognition, including the Association of Independent Teachers, the Association of Independent Lawyers (Agramonte), the Association of Independent Architects and Engineers, and several independent journalist organizations. The Constitution proscribes any political organization other than the Communist Party (see Section 3).

Recognized churches (see Section 2.c.), the Roman Catholic humanitarian organization Caritas, the Masonic Lodge, small human rights groups, and a number of nascent fraternal or professional organizations were the only associations outside the control or influence of the State, the Communist Party, and their mass organizations. With the exception of the Masons, who had been established in the country for more than a century, the authorities continued to ignore those groups' applications for legal recognition, thereby subjecting members to potential charges of illegal association. All other legally recognized NGOs were affiliated at least nominally with or controlled by the Government.

#### c. Freedom of Religion

The Constitution recognizes the right of citizens to profess and practice any religious belief within the framework of respect for the law; however, in law and in practice, the Government continued to restrict freedom of religion. In general, unregistered religious groups continued to experience various degrees of official interference, harassment, and repression. The Government's main interaction with religious denominations was through the Office of Religious Affairs of the Communist Party. The Ministry of Interior engaged in active efforts to control and monitor the country's religious institutions, including through surveillance, infiltration, and harassment of religious professionals and practitioners. The Government's policy of permitting apolitical religious activity to take place in government-approved sites remained unchanged; however, citizens worshiping in officially sanctioned churches often were subjected to surveillance by state security forces, and the Government's efforts to maintain a strong degree of control over religion continued.

The Constitution provides for the separation of church and State. In 1991, the Government allowed religious adherents to join the Communist Party. A 1992 constitutional amendment prohibits religious discrimination and removed references to "scientific materialism" (i.e., atheism) as the basis for the State. The Government does not favor any one particular religion or church; however, the Government appeared to be most tolerant of those churches that maintained close relations to the State through the Cuban Council of Churches (CCC). The CCC is generally supportive of government policies. Members of the armed forces do not attend religious services in uniform, probably to avoid possible reprimand by superiors.

The Government requires churches and other religious groups to register with the provincial registry of associations within the Ministry of the Interior to obtain official recognition. In practice, the Government refused to recognize new denominations; however, the Government tolerated some religions, such as the Baha'i Faith and a small congregation of the Church of Jesus Christ of Latter-day Saints. Unregistered religious groups were subject to official interference, harassment, and repression. The Government, with occasional exceptions, prohibited the construction of new churches, forcing many growing congregations to violate the law and meet in private homes.

Government harassment of private houses of worship continued, with evangelical denominations reporting evictions from houses used for these purposes. According to the CCC, most of the private houses of worship that the Government closed were unregistered, making them technically illegal. In addition, CCC Pentecostal members complained about the preaching activities of foreign missionaries that led some of their members to establish new denominations without obtaining the required permits. Because of these complaints by the Pentecostals, the CCC formally requested overseas member church organizations to assist them in dissuading foreign missionaries from establishing Pentecostal churches.

In 1998, following the visit of Pope John Paul II, the country's Roman Catholic bishops called on the Government to recognize the Catholic Church's role in civil society and the family, as well as in the temporal areas of work, the economy, the arts, and science and technology. The Government continued to limit the Catholic Church's access to the media and to the Internet and refused to allow the Catholic Church to have a legal independent printing capability. It maintained a prohibition against the establishment of religious-affiliated schools. In February, the Archbishop of Havana issued a pastoral letter lamenting the disintegration of families and the extreme pressure to emigrate and called upon the Government to shift from "policies of vengeance" to "policies of compassion." In March, the country's Ambassador to the Vatican asserted in an Italian magazine that complete religious freedom existed in the country and urged the Catholic Church to register its publications with the Ministry of Culture. The Cuban Conference of Catholic Bishops sent an open letter to the magazine criticizing the Government's strict control over the activities of the Catholic Church, especially state restrictions on religious education and Church access to the mass media. The Bishops' letter noted that the Catholic Church declined to register its publications because registration would force it to concede control to the State regarding the subject matter, number of pages, frequency, and number of copies of Catholic Church publications. In September, the Conference of Catholic Bishops issued a document accusing the Government of imposing tighter restrictions on the Church and on society since the visit of Pope John Paul II, and calling on the Government to show clemency towards political prisoners.

On May 15, local officials in the town of Managua in Havana Province revoked authorization for a

procession to mark the feast day of the patron saint of Managua. Although the authorities permitted the procession to take place for the first time in 2002, officials told Pablo Fuentes, the local Catholic priest, that they had revoked authorization for the procession because Fuentes was politically "unreliable." In September, the Office of Religious Affairs of the Communist Party advised Fuentes, a Spanish national, that the Government would not extend his authorization to remain in the country.

In mid-July, Communist Party officials in the city of East Havana barred a procession for the feast day of the Virgin of Carmen because the parish priest was a friend of Christian Liberation Movement leader Oswaldo Paya. Communist Party officials told the priest that he should inform his congregation that the Government had barred the procession specifically because of his friendship with Paya.

The Government allowed 9 foreign priests and 18 nuns to enter the country to replace other priests and nuns whose visas had expired. The applications of 60 priests and other religious workers remained pending at year's end, as did a request from the Conference of Catholic Bishops for the Government to permit 15 Catholic orders to establish a presence in the country; the lack of approval limited the training of Cuban seminarians.

In the past several years, the Government relaxed restrictions on some religious denominations, including Seventh-day Adventists and Jehovah's Witnesses. Jehovah's Witnesses, once considered "active religious enemies of the revolution," were allowed to proselytize door-to-door and generally were not subjected to overt government harassment, although there were sporadic reports of harassment by local Communist Party and government officials.

Education is secular, and no religious educational institutions are allowed. There were no reports that parents were restricted from teaching religion to their children.

The Government continued to prevent any national or joint enterprise (except those with specific authorization) from selling computers, fax machines, photocopiers, or other equipment to any church at other than official--and exorbitant--retail prices. Religious literature and materials must be imported through a registered religious group and can only be distributed to officially recognized religious groups. In punishment cells, prisoners were denied access to reading materials, including Bibles (see Section 1.c.).

The CCC continued to broadcast a monthly 15-minute program on a national classical music radio station on the condition that the program could not include material of a political character.

State security officials visited some priests and pastors prior to significant religious events, ostensibly to warn them that dissidents were trying to "use the Church"; however, some critics claimed that these visits were done in an effort to foster mistrust between the churches and human rights or prodemocracy activists. State security officers also regularly harassed human rights advocates who sought to attend religious services commemorating special feast days or before significant national days, sometimes entering churches and disrupting religious ceremonies.

For a more detailed discussion, see the [2003 International Religious Freedom Report](#).

#### d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Government severely restricted freedom of movement. The Government generally did not impose legal restrictions on domestic travel; however, it limited migration to Havana, and initially restricted persons found to be HIV-positive to sanatoriums for treatment and therapy before conditionally releasing them into the community. For the past several years, state security officials prohibited human rights advocates and independent journalists from traveling outside their home provinces, and the Government also sentenced others to internal exile.

In early August, officers of the Ministry of the Interior in Pinar del Rio Province warned dissident Hector Ramon Novo Suarez that he could not travel to the city of Havana. The officials told Novo

that he would be tried for "contempt for authority" if he ignored their instructions and traveled to Havana.

Decree 217 prohibits persons in other provinces from moving into Havana on the grounds that if internal migration was left unchecked, the city's problems regarding housing, public transport, water, and electrical supplies would become worse; visits to the city were permissible. Police frequently checked the identification of persons on the streets, and if someone from another province was found living in Havana illegally, that person was fined \$12 (300 pesos) and sent back home. Fines were \$40 (1,000 pesos) for those who resided illegally in the neighborhoods of Old Havana and Cerro. Human rights observers noted that while the decree affected migration countrywide, it targeted individuals and families predominantly of African descent from the more impoverished eastern provinces.

The Government imposed some restrictions on both emigration and temporary foreign travel. The Government allowed the majority of persons who qualified for immigrant or refugee status in other countries to depart; however, in certain cases the authorities delayed or denied exit permits, usually without explanation. Some denials involved professionals who tried to emigrate and whom the Government subsequently banned from working in their occupational fields. The Government refused permission to others because it considered their cases sensitive for political or state security reasons. Resolution 54 denies exit permits to medical professionals until they have performed 3 to 5 years of service in their profession after requesting permission to travel abroad. This regulation, normally applied to recent graduates, was not published officially and may have applied to other professionals as well.

On March 24, police confiscated the exit permits of independent journalist Normando Hernandez and his wife Yarahy Reyes as they were preparing to leave the country. Police arrested Hernandez, subjected him to a summary trial and sentenced him to 25 years' imprisonment for alleged acts against the independence and territorial integrity of the State (see Section 1.e.).

The Government routinely denied exit permits to young men approaching the age of military service until they reached the age of 27, even when it authorized other family members to leave. However, in most of those cases approved for migration to the United States under a 1994 migration agreement, the applicants eventually received exemption from obligatory service and were granted exit permits.

The Government has a policy of denying exit permission for several years to relatives of individuals who successfully migrated illegally (for example, merchant seamen who defected while overseas and sports figures who defected while on tours abroad).

Migrants who travel to the United States must pay the Government a total of \$600 per adult and \$400 per child, plus airfare. These government fees for medical exam, passport, and exit visa--which must be paid in dollars--were equivalent to approximately 5 years of a professional person's total peso salary and represented a significant hardship, particularly for political refugees who usually were marginalized. Many political refugees were fired from their jobs for being "politically unreliable" and had no income. At year's end, there were no refugees unable to leave the country because of inability to pay exit fees.

The Penal Code provides for imprisonment of up to 3 years or a fine of \$12 to \$40 (300 to 1,000 pesos) for unauthorized departures by boat or raft. The office of the U.N. High Commissioner for Refugees (UNHCR) stated that it regarded any sentence of more than 1 year for simple illegal exit as harsh and excessive. Under the terms of the May 1995, U.S.-Cuba Migration Accord, the Government agreed not to prosecute or retaliate against migrants returned from international or U.S. waters, or from the U.S. Naval Base at Guantanamo, after attempting to emigrate illegally if they had not committed a separate criminal offense.

In 1994, the Government eased restrictions on visits by and repatriations of Cuban emigrants. Citizens who established residency abroad and who were in possession of government-issued permits to reside abroad may travel to the country without visas, although citizens who departed after December 31, 1970, must obtain a costly passport to reenter the country. Persons who are at

least 18 years of age are eligible to travel abroad and may remain outside the country for up to 11 months. In 1995, the Government announced that emigrants, who were considered not to have engaged in so-called hostile actions against the Government and who were not subject to criminal proceedings in their countries of residence, could apply at Cuban consulates for renewable, 2-year multiple-entry travel authorizations. However, in 1999, the Government announced that it would deny entry permits for emigrants who had left the country illegally after September 1994. It remained unclear which policy the Government actually was implementing.

The Constitution provides for the granting of asylum to individuals persecuted "for their ideals or struggles for democratic rights against imperialism, fascism, colonialism, and neocolonialism; against discrimination and racism; for national liberation; for the rights of workers, peasants, and students; for their progressive political, scientific, artistic, and literary activities; and for socialism and peace." In practice, the Government has no formal mechanism to process asylum for foreign nationals. In practice, the Government provided protection against refoulement. The Government cooperated with the UNHCR, and provided temporary protection to a small number of persons. There was no information available on its use during the year.

A total of 29 persons applied for refugee status during the year, of which 11 were approved; according to the UNHCR, there were 836 refugees in the country.

### Section 3 Respect for Political Rights: The Right of Citizens to Change their Government

Citizens do not have the legal right to change their government or to advocate change, and the Government retaliated systematically against those who sought peaceful political change. The Constitution proscribes any political organization other than the Communist Party. In 2002, the Government amended the Constitution to restrict further citizens' rights to change the Government, making socialism the "irrevocable" basis of the Constitution. In March, President Castro declared his intent to remain in power for the rest of his life. While the Constitution provides for direct election of provincial, municipal, and ANPP members, the candidates for provincial and national office must be approved in advance by mass organizations controlled by the Government. In practice a small group of leaders, under the direction of President Castro, selected the members of the highest policy-making bodies of the Communist Party: The Politburo and the Central Committee.

The authorities tightly controlled the selection of candidates and all elections for government and party positions. The candidacy committees were composed of members of government-controlled mass organizations such as the Confederation of Cuban Workers (CTC) and the CDRs and were responsible for selecting candidates, whose names then were sent to municipal assemblies that selected a single candidate for each regional seat in the ANPP. An opposition or independent candidate never has been allowed to run for national office.

On January 19, the Government held national elections in which 609 candidates were approved to compete for the 609 seats in the National Assembly. According to the official media, 97.6 percent of registered voters participated in the elections, and the candidates were voted in by 91 percent of the electorate. No candidates with views independent from or in opposition to the Government were allowed to run, and no views contrary to the Government or the Communist Party were expressed in the government-controlled national media. The Government saturated the media and used government ministries, Communist Party entities, and mass organizations to urge voters to cast a "unified vote" where marking one box automatically selected all candidates on the ballot form. In practice, the Communist Party approved candidates for all offices. A small minority of candidates did not belong formally to the Communist Party. The Communist Party was the only political party allowed to participate in the elections.

Deputies in the National Assembly, delegates in the provincial assemblies, and members of the Council of State are elected during general elections every 5 years. Municipal elections are held every 2½ years to elect 14,686 local representatives to the municipal assemblies, the lowest level of the Government's structure. In 2002, the Government held elections for local representatives to the municipal assemblies. Government newspapers reported that 95 percent of voters participated in the election, compared with 98 percent in 2000. Slightly less than 50 percent of those elected were

incumbents, 22 percent were women, and 6 percent of all candidates were between the ages of 16 and 30. The reports also claimed that nationwide the number of blank ballots remained steady at 2.8 percent, and the number of annulled ballots decreased from 3 percent to 2.4 percent.

Although not a formal requirement, in practice, Communist Party membership was a prerequisite for high-level official positions and professional advancement.

The Government rejected any change to the political system judged incompatible with the revolution and ignored and actively suppressed calls for democratic reform. In 2002, opposition organization All United (Todos Unidos) delivered a petition to the National Assembly proposing a five-point national referendum on political and economic reforms. This effort, known as the Varela Project and led by Christian Liberation Movement leader Oswaldo Paya, was based on Article 88 of the 1976 Constitution, which permits citizens to propose legislation if such proposals are backed by at least 10,000 citizens; the Varela petition had 11,020 signatures. The Varela Project called for an end to limits on freedom of association, an amnesty for nonviolent political prisoners, reduced barriers to private enterprise, electoral reforms, and free elections within a year of the referendum. In an apparent effort to reject the Varela Project without publicly addressing it, the Government mobilized citizens to sign a petition making the socialist character of the Constitution "untouchable." The Government claimed that 99.37 percent of eligible voters signed the government petition requesting such a modification to the Constitution. The National Assembly unanimously passed the amendment making socialism the irrevocable basis of the Constitution. The changes did not rescind the right of citizens to propose legislation, and Varela organizers continued to collect signatures in support of their proposal.

On October 3, Paya submitted a second Varela petition to the ANPP with over 14,000 signatures. Government officials detained persons working in support of Project Varela and retaliated against certain persons who signed the petition. At least 21 of the 75 activists sentenced to lengthy prison terms in April were Varela organizers. The authorities jailed all of the key figures in the Christian Liberation Movement with the exception of Oswaldo Paya.

On February 5, the Supreme Court suspended municipal judge Iosdel Trujillo Vivas of Santa Clara Province for having signed the Varela petition.

On June 18, officials expelled Yailen Labores Rojas from her job as an agronomy professor for having signed the Varela petition. Officials told her that she was removed for being "politically unreliable." Labores did not belong to an opposition organization.

Government leadership positions continued to be dominated by men. There were no legal impediments to women voting, holding political office, or rising to political leadership; however, there were very few women or minorities in policymaking positions in the Government or the Communist Party. There were 2 women in the 24-member Politburo and 20 in the 150-member Central Committee. Women held 218 seats in the 609-seat National Assembly. Although blacks and persons of African descent made up more than half the population, they held only six seats in the Politburo. Following the selection of the new ANPP in January, government-run Granma reported that the National Assembly was 67 percent white, 22 percent black, and 11 percent mestizo.

#### Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

The Government did not recognize any domestic human rights groups or permit them to function legally. The Government subjected domestic human rights advocates to intense intimidation, harassment, and repression. In violation of its own statutes, the Government refused to consider applications for legal recognition submitted by human rights monitoring groups (see Section 2.b.).

Dissidents generally believed that most human rights organizations were infiltrated and subjected to constant surveillance. Activists believed that some of the dissidents were either state security officials or were persons attempting to qualify for refugee status to leave the country. Public

identification of suspected state infiltrators was a crime punishable by 8 to 15 years' imprisonment.

In April, authorities confirmed that 12 purported dissidents were in fact agents of the Ministry of the Interior. Those identified were Noel Ascanio Montero, Nestor Bager Sanchez, Odilia Collazo Valdes, Aleida Godinez Soler, Otuardo Hernandez Rodriguez, Ana Rosa Jorna Calixto, Roberto Martinez, Manuel David Orrio del Rosario, Yamila Perez Reyes, Pedro Serrano Urra, Pedro Luis Veliz Martinez, and Alicia Zamora Labrada. The 12 infiltrators testified against several of the 75 human rights activists and independent journalists subjected to summary trials in April.

In August, the Government released a book alleging that noted human rights monitor Elizardo Sanchez Santa Cruz, of the Cuban Commission for Human Rights and National Reconciliation, had been a state security agent since 1997. Sanchez denied having acted as a government agent, although he acknowledged having been in discussions with government officials for many years in an effort to negotiate improved human rights conditions.

The Government steadfastly rejected international human rights monitoring. In 1992, the country's U.N. representative stated that the Government would not recognize the mandate of the U.N. Commission on Human Rights on Cuba and would not cooperate with the Special Rapporteur on Cuba, despite being a UNCHR member. This policy remained unchanged, and the Government refused even to acknowledge requests by the Special Rapporteur to visit the country. On April 17, the UNCHR passed a resolution that expressed concern about the human rights situation in the country and repeated its earlier call to receive the visit of Christine Chanet, the personal representative for Cuba of the U.N. High Commissioner for Human Rights. At year's end, the Government had not allowed the representative to visit the country as required by the UNCHR resolution.

#### Section 5 Discrimination Based on Race, Sex, Disability, Language, or Social Status

The country is a multiracial society with a black and mixed-race majority. The Constitution forbids discrimination based on race, sex, or national origin; however, evidence suggested that racial discrimination occurred frequently. The Government restricted the migration of persons found to be HIV-positive to sanatoriums for treatment and therapy before conditionally releasing them into the community.

#### Women

Violent crime rarely was reported in the press, and there was no publicly available data regarding the incidence of domestic violence and rape; however, human rights advocates reported that violence against women was a problem. The law establishes strict penalties for rape, and the Government enforced the law; however, according to human rights advocates, the police did not act on cases of domestic violence.

The 2000 report of the U.N. Special Rapporteur on Violence Against Women stated that most government officials did not view violence against women as prevalent; however, activists at the grassroots level were attuned to problems of violence affecting women. The Rapporteur urged the Government to take comprehensive steps to enhance the legal protection against violence against women and urged the adoption of legislation to address domestic violence and sexual harassment.

Prostitution is legal for persons over 17 years of age; however, pandering or otherwise benefiting from prostitution is a felony. Prostitution increased greatly in recent years. Press reports indicated that tourists from various countries visited specifically to patronize inexpensive prostitutes. A government crackdown on prostitution that began in late 1998 initially had some effect, but prostitutes (known as "jineteras") still were visible in Havana and other major cities during the year. Police obtained early success in their efforts by stationing officers on nearly every major street corner where tourists were present. Some street police officers were suspected of providing protection to the jineteras. Most observers believed that the Government clamped down on prostitution to combat the perception that the Government promoted sex tourism. The Government set up centers to take prostitutes off the streets and reeducate them. The U.N. Special Rapporteur's

report recommended that the Government dismantle the centers and find "other mechanisms that do not violate the rights of the prostitutes." There was no information available regarding whether or not the Government dismantled these centers.

The Family Code states that women and men have equal rights and responsibilities regarding marriage, divorce, raising children, maintaining the home, and pursuing a career. Women were subject to the same restrictions on property ownership as men. The law provides up to 1 year of maternity leave and grants working mothers preferential access to goods and services. Approximately 40 percent of all women worked, and they were well represented in many professions. According to the Cuban Women's Federation (FMC), a mass organization affiliated with the Communist Party, in 2000, women held 33 percent of managerial positions. The FMC also asserted that 11,200 women had received land parcels to cultivate, that more than 561,000 women had begun working as agricultural workers, and that women devoted 34 hours a week to domestic work, approximately the same number of hours they spent working outside the home.

### Children

The Constitution provides that the Government protect family, maternity, and matrimony. It also states that all children have the same rights under the law and notes the duties of parents to ensure their protection. The law requires school attendance until the ninth grade, and this law generally was respected in practice. Education was free, but it was grounded in Marxist ideology. State organizations and schools were charged with the integral formation of children and youth. The national health care system covered all citizens.

Although not covered in the official media, there were occasional reports of child abuse; however, there was no societal pattern of child abuse. Police officers who found children loitering in the streets or begging from tourists frequently intervened and tried to find the parents. If a child was found bothering tourists more than once, police frequently fined the child's parents. Although work camps for adolescents still exist, the duration is considerably shorter than in the period before 1990. Students were pressured to enlist for up to a week of "volunteer labor" in rural areas.

Child prostitution was a problem, with young girls engaging in prostitution to help support themselves and their families. The police generally enforced laws on underage prostitution; however, the phenomenon continued as more cabarets and discos opened for the growing tourist industry, which made it easier for tourists to come into contact with child prostitutes. Workers at some tourist facilities appeared to tolerate both legal and underage prostitution. The Government did not publicly acknowledge the prevalence of child prostitution; however, the Government prosecuted persons involved in child prostitution and child pornography and assisted other countries in international investigations of child sexual abuse.

### Persons with Disabilities

The law prohibits discrimination based on disability, and there were few complaints of such discrimination. There are no laws that mandate accessibility to buildings for persons with disabilities. In practice, buildings and transportation rarely were accessible to persons with disabilities.

### National/Racial/Ethnic Minorities

Many persons of African descent have benefited from access to basic education and medical care since the 1959 revolution, and much of the police force and army enlisted personnel is black. Nevertheless, racial discrimination often occurred and was acknowledged publicly by high governmental officials, including President Castro during remarks at the World Conference on Racism in South Africa. President Castro acknowledged that the revolution had not eradicated racism. There were numerous reports of disproportionate police harassment of black youths. Evictions, exacerbated by Decree 217, primarily targeted individuals and families who migrated to Havana from the eastern provinces, which were traditionally areas of black or mixed-race populations (see Section 2.d.).

## Section 6 Worker Rights

### a. The Right of Association

The Constitution gives priority to state or collective needs over individual choices regarding free association or provision of employment. The demands of the economy and society take precedence over individual workers' preferences. Established official labor organizations have a mobilization function and do not act as trade unions, promote worker rights, or protect the right to strike. Such organizations were under the control of the State and the Communist Party, which also managed the enterprises for which the laborers worked. Because all legal unions were government entities, anti-union discrimination by definition did not exist.

The Communist Party selects the leaders of the sole legal labor confederation, the CTC, whose principal responsibility is to ensure that government production goals are met. Despite disclaimers in international forums, the Government explicitly prohibited independent unions, and none were recognized. There has been no change in conditions since the 1992 International Labor Organization (ILO) finding that the Government violated ILO norms on the freedom of association and the right to organize. Those who attempted to engage in unofficial union activities faced government harassment. On June 10, the International Labor Conference concluded that government law and practice were in violation of ILO Convention 87 on Freedom of Association. The Applications Committee of the International Labor Conference also called upon the Government to release trade unionists arrested in March and urged the Government to accept an ILO mission to verify labor conditions and to work with the Government to ensure full compliance with Convention 87. The Government rejected the Application Committee's conclusions and any possibility of an ILO mission.

In November, the ILO's Committee on Freedom of Association (CFA) criticized the authorities' recognition of only a single official union and prohibition of independent trade unions. The CFA also cited the absence of collective bargaining and the right to strike, the arrest and harassment of union members, government infiltration of independent unions, and illegal house searches. The CFA expressed particular concern regarding the arrests and lengthy imprisonment of seven union organizers in March and April and recommended that the ILO Direct Contacts Mission investigate the situation. The Government representative denounced the ILO and CFA as "stooges" of a foreign government and rejected any possibility of a Direct Contacts Mission.

Workers may lose--and many have lost--their jobs for their political beliefs, including their refusal to join the official union. Several small independent labor organizations were created but functioned without legal recognition, were subject to infiltration by Government agents, and were unable to represent workers effectively or work on their behalf.

On April 5, the Havana City Provincial Court sentenced Pedro Pablo Alvarez Ramos, leader of the illegal United Cuban Workers Council, to 25 years' imprisonment for acts against the independence or the territorial integrity of the State. The sentencing document indicated Alvarez was convicted in part for having links to international trade unions, including the Latin American Workers Central union and the Venezuelan Workers Central union, and for reporting workers rights violations to the ILO.

On April 5, the Havana City Provincial Court sentenced Carmelo Agustin Diaz Fernandez of the United Cuban Workers Council to 16 years' imprisonment for acts against the independence or the territorial integrity of the State.

The CTC is a member of the Communist World Federation of Trade Unions.

### b. The Right to Organize and Bargain Collectively

Collective bargaining does not exist. The State Committee for Work and Social Security (CETSS) sets wages and salaries for the state sector, which is virtually the only employer in the country. The law prohibits strikes, and none were known to have occurred during the year. The 1995 Foreign

Investment Law denies workers the right to contract directly with foreign companies investing in the country without special government permission. Although a few firms managed to negotiate exceptions, the Government required foreign investors and diplomatic missions to contract workers through state employment agencies, which were paid in foreign currency and, in turn, paid workers very low wages in pesos. Typically workers received 5 percent of the salary paid by the companies to the State. Workers subcontracted by state employment agencies must meet certain political qualifications. According to Minister of Basic Industry Marcos Portal, the state employment agencies consulted with the Party, the CTC, and the Union of Communist Youth to ensure that the workers chosen "deserved" to work in a joint enterprise.

There are no functioning export processing zones, although the law authorizes the establishment of free trade zones and industrial parks.

#### c. Prohibition of Forced or Bonded Labor

Neither the Constitution nor the Labor Code prohibits forced or bonded labor. The Government maintained correctional centers where it sent persons for crimes such as dangerousness. Prisoners held in such centers were forced to work on farms or building sites doing construction, agricultural work, or metal work. The authorities often imprisoned noncooperative internees.

In September, a prisoner at El Anoncillo minimum-security prison reported that inmates were forced to perform agricultural work for 12 hours per day without remuneration. The prisoner stated that the food was poor and that there were no baths or medical facilities at the camp. Prison guards threatened to send inmates to a maximum-security prison if they failed to work and to place them in isolation cells if they complained.

The Government employed special groups of workers, known as "microbrigades," who were reassigned temporarily from their usual jobs to work on special building projects. These microbrigades were increasingly important in the Government's efforts to complete tourist and other priority projects. Workers who refused to volunteer for these jobs often risked discrimination or job loss. Microbrigade workers reportedly received priority consideration for housing assignments. The military assigned some conscripts to the Youth Labor Army, where they served a 2-year military service requirement working on farms that supplied both the armed forces and the civilian population.

The Government prohibits forced and bonded labor by children; however, the Government required children to work. Secondary school students were expected to devote up to 15 days of their summer vacation completing a variety of tasks ranging from farm labor to urban cleanup projects, and were paid a small wage for this labor. Students in post-secondary institutions (technical schools, university preparatory schools, and agricultural institutes) were expected to devote 30 to 45 days per year on mainly agricultural work. According to school rules, refusal to do agricultural work could affect the student's ability to continue studying at the institution.

#### d. Status of Child Labor Practices and Minimum Age for Employment

The legal minimum working age is 17 years. However, the Labor Code permits the employment of 15- and 16-year-old children to obtain training or to fill labor shortages. The country has not ratified ILO Convention 182, but the Government adhered to Convention 182 standards concerning the elimination of the worst forms of child labor.

#### e. Acceptable Conditions of Work

The CETSS sets the minimum wage, which varies by occupation. For example, the minimum monthly wage for a maid was \$6.35 (165 pesos); for a bilingual office clerk, \$7.30 (190 pesos); and for a gardener \$8.30 (216 pesos). The Government supplemented the minimum wage with free education, subsidized medical care (daily pay is reduced by 40 percent after the third day of being admitted to a hospital), housing, and some food (this subsidized food is enough for approximately 1 week per month). However, even with these subsidies, the minimum wage did not provide a decent

standard of living for a worker and family. Corruption and black market activities were pervasive. The Government rationed most basic necessities such as food, medicine, clothing, and cooking gas, which were in very short supply.

The Government required foreign companies in joint ventures with state entities to hire and pay workers through the State (see Section 6.b.). HRW noted that the required reliance on state-controlled employment agencies effectively left workers without any capacity directly to negotiate wages, benefits, the basis of promotions, or the length of the workers' trial period at the job with the employer. Foreign companies paid the Government as much as \$500 to \$600 per worker per month, while the workers received only a small fraction of that in pesos from the Government.

The standard workweek was 44 hours, with shorter workweeks in hazardous occupations, such as mining. The Government reduced the workday in some government offices and state enterprises to save energy.

Workplace environmental and safety controls usually were inadequate, and the Government lacked effective enforcement mechanisms. Industrial accidents apparently were frequent, but the Government suppressed such reports. The Labor Code establishes that a worker who considers his life in danger because of hazardous conditions has the right not to work in his position or not to engage in specific activities until such risks are eliminated. According to the Labor Code, the worker remains obligated to work temporarily in whatever other position may be assigned him at a salary provided for under the law.

In July, administrators at the Gerardo Abreu Fontan candy factory in Havana fired maintenance foreman Julian Diaz for refusing to work on a high-voltage power line without the proper safety equipment. Diaz requested assistance from the union representative, but the union representative advised Diaz not to challenge the firing or otherwise "make trouble" for the candy factory.

#### f. Trafficking in Persons

The Penal Code prohibits trafficking in persons. Although there were no reports that persons were trafficked to or from the country, there were incidents of trafficking, in the form of child prostitution, within the country that were not reported in the official media.

The code also provides for penalties for violations, including a term of 7 to 15 years' imprisonment for organizing or cooperating in alien smuggling through the country; 10 to 20 years' imprisonment for entering the country to smuggle persons out of the country; and 20 years to life in prison for using violence, causing harm or death, or putting lives in danger in engaging in such smuggling. These provisions were directed primarily at persons engaging in organized smuggling of would-be emigrants. In addition, the revised code made it illegal to promote or organize the entrance of persons into or the exit of persons from the country for the purpose of prostitution; violators were subject to 20 to 30 years' imprisonment.

Child prostitution was a problem, with young girls engaging in prostitution to help support themselves and their families (see Section 5).

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# Cuba

## ""Essential measures" ?

### Human rights crackdown in the name of security

#### 1. Introduction

In the most severe crackdown on the dissident movement since the years following the 1959 revolution, Cuban authorities arrested 75 dissidents in the space of several days in mid-March. They were subjected to summary trials and were quickly sentenced to long prison terms of up to 28 years. With this sweep the authorities detained, with the exception of half a dozen well-known figures critical of the regime, the bulk of the mid-level leadership of the dissident movement; many of those arrested had been involved in activities of dissent for a decade or more.

The move, unprecedented in scope, was surprising to some observers in that over the last several years Cuba had generally seemed to be moving towards a more open and permissive approach. With some exceptions, for example numerous arrests of dissidents before and after the attempted gate-crashing of the Mexican Embassy in February 2002, the number of prisoners of conscience had declined steadily over past years. The Cuban authorities had seemed to be moving away from the blanket imposition of lengthy prison sentences as a means of stifling dissent, and towards a more low-level approach of harassment, designed more to discourage than to punish critics.<sup>1</sup> In addition, in April 2000 Cuba began implementing a *de facto* moratorium on executions, which was widely welcomed by observers of the human rights situation on the island.

Given the accumulation over the last several years of these and other signals of a relaxation in human rights terms, the wave of arrests and summary trials, in addition to the execution of three men convicted of hijacking, signal an alarming step backwards in terms of respect for human rights. Not unusually in the history of fraught bilateral

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<sup>1</sup> See Amnesty International, *CUBA: Short term detentions and harassment of dissidents* (AI Index: AMR 25/04/00), March 2000.

relations, Cuban authorities identified provocation and aggression from the United States as the root source of the tensions which caused the crackdown.

Whatever the merits of the dispute between the Cuban government and the United States over the latter's practices with regard to Cuba, a review of the limited information contained in the available trial documents indicates that the conduct for which dissidents were prosecuted was not self-evidently criminal; it was non-violent and seemed to fall within the parameters of the legitimate exercise of fundamental freedoms as guaranteed under international standards. On the basis of the available information, therefore, Amnesty International considers the 75 dissidents to be prisoners of conscience<sup>2</sup> and calls for their immediate and unconditional release.

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<sup>2</sup> For Amnesty International, prisoners of conscience are people detained anywhere for their beliefs or because of their ethnic origin, sex, colour, language, national or social origin, economic status, birth or other status, who have not used or advocated violence.

## 2. Context on the eve of the clampdown

### 2.1. Some positive developments with regard to human rights

Limitations on freedom of expression, association and assembly remain codified in Cuban law; however, there were a number of indicators that repression of dissidents was waning before the crackdown in March

One seemingly positive signal was the lack of wide scale repression of a number of initiatives by unofficial organizations in Cuba. While there were some incidents of harassment, the authorities appeared to largely ignore dissident activities. The most internationally well-known of these efforts is the *Proyecto Varela* petition drive for legal reform. In 2002 other initiatives, such as the *Asamblea para promover la sociedad civil*, Assembly to Promote Civil Society, headed by prisoner of conscience Marta Beatriz Roque Cabello, arrested in the recent crackdown, were announced.

Another positive indicator was the slow but steady decline in numbers of prisoners of conscience over the last years. However the number peaked again in February 2002: the arrest of several activists was followed by an incident at the Mexican embassy in which a busload of youths crashed a bus through the perimeter fence, in what the authorities said was a search for asylum. The incident sparked more arrests of dissidents, with the result that at the end of 2002 there were more prisoners of conscience than at any point during the previous year.

On the eve of the March 2003 clampdown on dissent, Amnesty International had identified 15 Cubans as prisoners of conscience, detained solely for peaceful exercise of fundamental freedoms: Yosvany Aguilar Camejo; José Aguilar Hernández; Bernardo Arévalo Padrón; Oscar Elías Biscet González; Leonardo Bruzón Avila; Francisco Chaviano González; Rafael Corrales Abonso; Carlos Alberto Domínguez González; Emilio Leyva Pérez; Eddy Alfredo Mena y González; Carlos Oquendo Rodríguez; Ricardo Ramos Pereira; Lázaro Miguel Rodríguez Capote; Néstor Rodríguez Lobaina; and Jorge Enrique Santana Carreiras.<sup>3</sup>

A *de facto* moratorium on executions dating back to April 2000 was seen as another positive sign; although some new death sentences continued to be handed down, there

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<sup>3</sup> Amnesty International, *CUBA: Continued detentions following mass arrests in February and December 2002* (AI Index: AMR 25/001/2003), 27 February 2003.

was no information indicating that executions had been carried out. This changed with the April 2003 executions of three young men summarily tried and convicted under new anti-terrorism legislation, following a hijacking in which no one was harmed (see below).

## **2.2. Improving relations with the international community**

Cuba's relations with some sectors of the international community seemed to be improving in 2002 and early 2003. Political dialogue with the European Union, blocked for five years over a number of issues, including human rights concerns, had reopened with an initial meeting in December 2001. A follow-up meeting with representatives of the European Union was held in November 2002, and in March 2003 the first-ever official European Union delegation was opened in Havana.

In April 2002 the UN Human Rights Commission had passed a relatively mild resolution on human rights in Cuba, and in November 2002, for the 11th consecutive year, the UN General Assembly passed a resolution calling on the USA to end its embargo against Cuba.

Cuba's relations with Canada, which had deteriorated over the three previous years, improved with the visit of a senior Canadian official in November 2002, and bilateral relations with a number of other countries appeared to be strong or improving.

## **2.3. Ongoing tensions with the United States**

One exception to this pattern was the ongoing tension with the government of the United States. Relations between the two countries have been strained since the 1959 revolution, becoming increasingly so with Cuba's espousal of a socialist system and the 1961 US-backed invasion of Cuba at the Bay of Pigs. The two countries do not have diplomatic relations; although from 1977 Interests Sections were set up in their respective capitals. The tension between them has affected both bilateral and international relations, and can be seen in numerous areas.

### **The US embargo against Cuba**

The US has operated a financial and trade embargo against Cuba since 1962. It has consistently maintained that it will only change its policy if it sees fundamental political shifts on the island. The Cuban authorities maintain that the embargo is

illegal and has caused massive suffering in Cuba, and regularly call for it to be repealed. This call has been consistently made by others as well, including the United Nations General Assembly (see below).

US legislation strengthening the embargo has been passed several times since its inception; in one such effort, in March 1996, US president Bill Clinton signed into law the "Cuban Liberty and Democratic Solidarity Act," otherwise known as the "Helms-Burton Act" after the lawmakers who sponsored it. The text of that law is discussed in more detail below. In more recent years, however, calls in the US for a lifting of the embargo have increased.

Since his inauguration, US president George W. Bush indicated that he would veto any legislative attempt to remove the embargo or other restrictions on Cuba unless a multiparty system was established and elections held. This position was criticised by former US president Jimmy Carter, whose visit to Cuba in May 2002 marked the highest-level visit from the USA since 1959. There was also opposition to the Bush administration's approach from other sectors in the US; in October 2002, the US House of Representatives voted to end travel restrictions on US citizens wanting to visit Cuba, and Cuba continued to receive visits from local and national US lawmakers, among other public figures.

### **Human rights and the US embargo**

Amnesty International calls for the lifting of sanctions where it believes the continuation of sanctions might contribute to grave human rights abuses. A review of the impact of the US embargo against Cuba and other related policies in this regard is deeply worrying.

#### **a. Impact of the embargo on economic, social and cultural rights**

In November 2002, for the eleventh consecutive year, the UN General Assembly approved a resolution that called on the US to "take the necessary steps to repeal or invalidate" the embargo against Cuba and related measures.<sup>4</sup> The resolution, entitled "Necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba," passed by 173 votes to 3, with 4 abstentions.

The vote followed the issuance of a report of the same name by the UN Secretary General; the General Assembly had requested that the report be drawn up in its 2001

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<sup>4</sup> United Nations General Assembly resolution A/RES/57/11 of 16 December 2002.

resolution condemning the embargo. In that report, UN agencies resoundingly condemned the impact of the embargo on the economic, social and cultural life of Cuba. A selection of their comments provided in the text box below demonstrates how the embargo has affected all areas of life on the island.

The overwhelming evaluation of the relevant UN agencies is that the US embargo against Cuba is highly detrimental to Cubans' enjoyment of a range of economic, social and cultural rights. Moreover, much of their analysis indicates that the negative effects of the embargo are felt disproportionately, not by the decisionmakers and authorities whose policies the embargo is aimed at influencing, but by the weakest and most vulnerable members of the population.

**The negative impact of the US embargo on economic, social and cultural rights**

The 2002 report of the **Food and Agriculture Organization of the United Nations** described the negative impact of the embargo and indicated that "Cuba is one of the five countries with the largest increases in the prevalence of undernourishment during the 1990s. According to FAO estimates, the proportion of the undernourished in its population rose from 5% in 1990-1992 to 17% in 1997-1999."<sup>5</sup>

**UNICEF, the United Nations Children's Fund**, was unequivocal about the negative impact of the embargo, indicating that it "has an impact upon all spheres of Cuban society. It affects particularly the efforts of the Government of Cuba to protect children, adolescents, women and families, as defined in the Convention of the Rights of the Child."<sup>6</sup>

The **United Nations Educational, Scientific and Cultural Organization** found that "in the case of education, where Cuba has achieved very important development levels, there has been an exacerbation in the scarcity of material resources for the publication of textbooks, the lack of availability of educational materials, the deterioration of many educational centres, the decrease in the quality of food and the drop in material incentives for teaching personnel ... The embargo has also retarded the scientific development of the country."<sup>7</sup> UNESCO's findings "demonstrate(s) the need to put into effect the call on the United States Government to put an end to this policy, which violates the rights of the Cuban people."<sup>8</sup>

The **United Nations Population Fund** added: "The decades-long United States economic embargo has exacerbated the situation and contributed to a further deterioration of the quality of life of the Cuban population. In 2001, the standard of living indicators stood below 1990 levels. The scarcity of financial assistance and severe restrictions on imports due to financial constraints have taken their toll on the delivery of basic social services."<sup>9</sup>

The **World Health Organisation** condemned the health impact of the embargo: "at the outset, it should be noted that the embargo has had a very significant negative impact on the overall performance of the national economy, diverting the optimal allocation of resources from the prioritized areas and affecting the health programmes and services. This, in the end, compromises the quality of life of the population, specifically the children, the elderly and the infirm."<sup>10</sup>

<sup>5</sup> "Necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba," Report of the Secretary-General, 0249898 - 260802 - 251002, A/57/150, Fifty-seventh session. Para. 2 of agency report.

<sup>6</sup> Ibid, para. 1 of agency report.

<sup>7</sup> Ibid, paras. 3 and 6 of agency report.

<sup>8</sup> Ibid, para. 7 of agency report.

<sup>9</sup> Ibid, para. 1 of agency report.

<sup>10</sup> Ibid, para. 1 of agency report.

### **b. Impact of the embargo on the enjoyment of civil and political rights**

In addition, Amnesty International believes that the US embargo has helped to undermine the enjoyment of key civil and political rights in Cuba by fuelling a climate in which such fundamental rights as freedom of association, expression and assembly are routinely denied. The embargo provides the Cuban government with an excuse for its repressive policies, while the widespread sympathy the country has garnered for resisting US pressure has left third countries reluctant to push Cuba to resolve its human rights crisis. Specific embargo provisions have also undermined the development of a human rights movement on the island, which in turn weakens prospects for the emergence of an independent civil society.

This impact can be seen most clearly on the legal front. The Cuban authorities have systematically defended their repressive legal system on the grounds that states under aggression have the right to restrict freedoms in the interests of national security.

Article 1 of Cuba's Constitution names it as an explicitly socialist state.<sup>11</sup> The Constitution conditions the exercise of fundamental freedoms on support for the system:

None of the liberties recognised for the citizens can be exercised against what is established by the Constitution and the laws, or against the existence and objectives of the socialist state, or against the decision of the Cuban people to construct socialism and communism.<sup>12</sup>

This conditionality also exists with regard to specific rights. The rights of assembly and association are recognised, within the defined framework of "mass and social organisations" which "possess the means necessary to such ends."<sup>13</sup> Freedom of speech and of the press are recognised, "in conformity with the objectives of the socialist society."<sup>14</sup> In this way, the exercise of fundamental freedoms in ways which are perceived as hostile to the system is not Constitutionally protected.

In addition to conditioning the exercise of rights in this way, the Constitution specifically declares Cuba as "anti-imperialist and internationalist," and declares that Cuba

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<sup>11</sup> Constitution of 1976, article 1: "*Cuba es un Estado socialista de trabajadores, independiente y soberano, organizado con todos y para el bien de todos, como república unitaria y democrática...*" ("Cuba is a socialist workers' state, independent and sovereign, organised with all and for the good of all, as a unified and democratic republic.") Unofficial translation.

<sup>12</sup> Constitution of 1976, article 62, unofficial translation.

<sup>13</sup> Constitution of 1976, article 54, unofficial translation.

<sup>14</sup> Constitution of 1976, article 53, unofficial translation.

repudiates direct or indirect intervention in the internal or external matters of any State and, therefore, armed aggression, economic blockade, and any other form of economic or political coercion...<sup>15</sup>

The combination of these two tendencies, the conditionality of rights and the avowedly anti-interventionist nature of the Cuban republic, create a situation in which perceived external aggression is met with increased internal repression of dissent.

Then-Minister for Foreign Affairs Roberto Robaina demonstrated the link during a 1995 address, the language of which is strikingly similar to recent official declarations:

... we can only make further progress if the policies and actions contrary to the interests of the vast majority of our people are eliminated. No country admits the legal existence of organised groups that endanger the democratic system in power, particularly if that system was created on the basis of a consensus such as few peoples in the world have ever known. In other words: in Cuba it is not possible to make a counter-revolution legally, especially if the credentials for doing so are obtained in the offices of the representative of our number-one enemy.<sup>16</sup>

As later sections of this document will demonstrate, the strengthening of the embargo with the Helms-Burton law in 1996 prompted the Cuban authorities to respond with harsh legislation which has ultimately been used to condemn prisoners of conscience to long prison terms. The passage of this law elicited expressions of concern about the its potential impact on the development of Cuba's dissident movement. In his January 1997 report, the then UN Special Rapporteur on the situation of human rights in Cuba, Carl-Johan Groth, noted that

under the terms of the Helms-Burton Act (officially, the Cuban Liberty and Democratic Solidarity Act) and the Torricelli Act (officially, the Cuban Democracy Act), which stipulate specific conditions and time-frames for the lifting of the embargo, the United States of America assumes the right to be the outside party that determines the rules for converting the current totalitarian system into a different, more pluralist one. This inspires doubt rather than confidence about the future and may cause some dissidents to feel that their own criteria are irrelevant and that Cuba's future will in any case be decided

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<sup>15</sup> Constitution of 1976, article 12e, unofficial translation.

<sup>16</sup> Excerpt from the statement by the Minister for Foreign Affairs of Cuba, Mr. Roberto Robaina, at the inaugural meeting of the first international workshop on Legal Protection of Citizens' Rights, Havana, 7-10 November 1995. Annexed to E/CN.4/1996/60, Report on the situation of human rights in Cuba by the Special Rapporteur, Mr. Carl-Johan Groth, in accordance with Commission resolution 1995/66, 7 February 1996.

without consulting them. The direct result of this situation could be a decline in the trend towards overt political activity and the risk it implies.<sup>17</sup>

In addition to these concerns, Amnesty International believes that Cuban authorities have been able to use US economic assistance, even given indirectly through Miami-based or other groups, to undermine the human rights movement in several areas. With regard to these issues, following his May 2002 visit to Cuba, former US president Jimmy Carter advised the Bush administration against any deepening of the restrictions against Cuba. On the issue of aid to the dissident movement, he shared serious concerns about the ultimately negative impact of such aid:

We then had extensive meetings with a wide range of the most notable dissidents, each the leader of an organization and many having completed prison sentences for their demands for change in the socialist regime. They were unanimous in expressing appreciation for my speech, willingness to risk punishment rather than be silent, hope that American visitation could be expanded, and opposition to any elevation of harsh rhetoric from the United States toward Cuba and to any funding of their efforts from the U.S. government. Any knowledge or report of such financial support would just give credibility to the long-standing claims of President Castro that they were "paid lackeys" of Washington.<sup>18</sup>

Recent reports have indicated that the United States government is considering further tightening its sanctions against Cuba, possibly through widening the ban on US travel to Cuba and cutting off remittances sent by Cubans resident in the US to their families on the island. Amnesty International believes that any tightening of the existing sanctions would only heighten the negative human rights impact of the embargo described above.

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<sup>17</sup> Report on the situation of human rights in Cuba submitted by the Special Rapporteur, Mr. Carl-Johan Groth, in accordance with Commission resolution 1996/69 and Economic and Social Council decision 1996/275. E/CN.4/1997/53, 22 January 1997, para. 46.

<sup>18</sup> "President Carter's Cuba Trip Report," the Carter Center, 21 May 2002.

### The situation of the 'Miami Five'

Tensions between the two countries have been heightened over the last months by disputes over the treatment of five Cuban men, René González, Fernando González, Gerardo Hernández Nordelo, Antonio Guerrero and Ramón Labañino, convicted in the US in 2001 on charges of spying on behalf of Cuba. The Cuban authorities gave much attention to the case, describing the men as heroes whose sole aim had been to protect Cuba from a potential terrorist threat by infiltrating exile groups in Miami, and their campaign received substantial support internationally.

In November 2002, the five men demanded a retrial on the grounds that anti-Cuba bias in Miami prevented them from getting a fair trial. Amnesty International wrote to the US authorities on several occasions to express concern at the treatment received by the men and the difficulties faced by their families in gaining access to them.

### The 'war on terror'

Cuban officials have criticised the United States for not acting against certain groups among the Cuban exile community in the US which are allegedly training for a possible armed invasion of Cuba.<sup>19</sup> One such group, *Comandos F-4*, reportedly claims to have shot and wounded a Cuban spy in Havana earlier this year.<sup>20</sup>

For its part, the US has also made accusations against Cuba. On 6 May 2002 the Undersecretary of State for arms control, John R. Bolton, alleged that Cuba was researching biological weapons and had provided technology to "other rogue states."<sup>21</sup> His allegation coincided with the run-up to the visit of former President Jimmy Carter to Cuba, during which Carter maintained that US authorities who briefed him prior to the visit had assured him there was no such evidence. In a statement during a visit to the Center for Genetic Engineering and Biotechnology in Havana, Carter said that "there were absolutely no such allegations made or questions raised" during "intense briefings from the State Department, the intelligence agencies ... and high officials in the White House" before his visit to Cuba.<sup>22</sup>

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<sup>19</sup> "FBI downplays role of the terrorist group 'Comandos F-4,'" *South Florida Sun-Sentinel*, 6 April 2003.

<sup>20</sup> Ibid; also "Anti-Castro group claims shooting of spy in Cuba," *The Miami Herald*, 31 December 2002;

and "Militant: Cuba admits that spy got shot," *The Miami Herald*, 22 January 2003.

<sup>21</sup> "Carter questions Cuba terror claims," Associated Press, 14 May 2002.

<sup>22</sup> "Statement by Carter in Cuba," Associated Press, 13 May 2002.

Cuba also roundly denied the accusations. Former president Carter stated that in response to the allegations, President Castro had offered to open Cuba's biotechnology research facilities for inspection.<sup>23</sup>

Since that time, somewhat conflicting signals have emerged from the US administration about this issue. Prominent administration members, including Secretary of State Colin Powell, were reported to have distanced themselves from the allegation.<sup>24</sup> It was repeated again, however, by then-Assistant Secretary of State for the Western Hemisphere Otto Reich.<sup>25</sup> The US Department of State's "Patterns of Global Terrorism" report for 2001 contained no mention of the allegation; neither did the 2002 report, released on 20 April 2003.

However, the latter report again included Cuba in a list of seven "state sponsors of terrorism," defined as states which have "repeatedly provided support for acts of international terrorism."<sup>26</sup> With regard to Cuba, the report acknowledged that Cuba had signed and ratified all twelve international counterterrorism conventions in 2001 and noted that "Cuba did not protest the use of the Guantanamo Bay base to house enemy combatants from the conflict in Afghanistan;" however, it continued, "it has remained opposed to the US-led Coalition prosecuting the war on global terrorism and has been actively critical of many associated US policies and actions."<sup>27</sup>

The specific accusations against Cuba were that it "continued to host several terrorists and US fugitives" and "sent agents to US missions around the world who provided false leads designed to subvert the post-September 11 investigation."<sup>28</sup>

In mid-March, against the backdrop of preparations for the US-led military invasion of Iraq and widespread speculation that other states accused of sponsoring terrorism might also be targeted, the Cuban authorities detained scores of dissidents on accusations of seeking to subvert the Cuban system and conspiring with the US.

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<sup>23</sup> Ibid.

<sup>24</sup> "Bush plans to tighten sanctions on Cuba, not ease them," *The New York Times*, 14 May 2002; and "Report mum on bio-threat," *The Miami Herald*, 22 May 2002.

<sup>25</sup> "Cuba tente de produire des armes biologiques," *Agence France Presse*, 31 October 2002.

<sup>26</sup> Office of the Coordinator for Counterterrorism, United States Department of State, "Patterns of Global Terrorism," 30 April 2003.

<sup>27</sup> Ibid.

<sup>28</sup> Ibid.

### 3. The mass arrests: a sudden and unprecedented crackdown

I am certain that informing others objectively and professionally and writing my opinions about the society in which I live cannot be a very serious crime ... no one, no law will make me believe that I have become a gangster or a delinquent just because I report the arrest of a dissident, or list the prices of staple foods in Cuba, or write that I find it appalling that more than 20,000 Cubans every year go into exile in the United States and hundreds of others try to go anywhere they can.<sup>29</sup> - Raúl Rivero Castañeda, in 1999. He was arrested in the crackdown and sentenced to 20 years' imprisonment.

For several days beginning on 18 March 2003, Cuban security forces began arresting known dissidents across the island. Those detained included journalists and economists, doctors, pro-democracy members of illegal opposition parties and other activists. According to reports, security agents searched the homes of those detained, confiscating computers, fax machines, typewriters, books and papers; in a number of cases, this material was then included in the prosecution's case against the activists.

#### 3.1. Cuba's official stance on the mass arrests

As they had often done in the past, Cuban authorities immediately justified the crackdown as an unavoidable response to US aggression. They maintained that the behaviour of James Cason, head of the US Interests Section in Havana, was the immediate catalyst for the crackdown.

Since his arrival in Cuba in September 2002, the head of the US Interests Section,<sup>30</sup> James Cason, had reportedly taken a higher and more active profile and more public stance in criticising the Cuban system than his predecessors. As one journalist wrote in January after an interview with him, 'Since he arrived, Cason says, he has put more than 4,000 miles on his car and visited nine of Cuba's 14 provinces, talking to hitchhikers along the way and dining with dissidents and religious leaders in the island's heartland.'<sup>31</sup> In the period leading up to the crackdown Cason reportedly made a high-profile visit to a meeting of dissidents and spoke with international journalists gathered there, as well as allowing dissidents to use his official residence for events.

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<sup>29</sup> Raúl Rivero, "I am free," *Miami Herald*, 25 February 1999.

<sup>30</sup> As mentioned above, Cuba and the United States do not have diplomatic relations. However, since 1977 the US has had an Interests Section based at the Swiss Embassy in Havana, while Cuba has an Interests Section in Washington.

<sup>31</sup> "US envoy caters to needs of island's dissident community," *La Nueva Cuba*, 8 January 2003.

In the days leading up to the crackdown, Cuban Foreign Minister Felipe Pérez Roque described what he called "really unprecedented behaviour, something new for us since the Section was created," and said that the Cuban government believed it to be part of a deliberate plan to strain relations.<sup>32</sup> President Castro indicated that on 17 March, the day before the crackdown began, the Cuban authorities submitted a written note to the US Interests Section to protest at what they considered James Cason's violations of the 1961 Vienna Convention on Diplomatic Relations.<sup>33</sup>

The official note announcing the arrests opens with a condemnation of

the shameless and repeated provocations of the Head of the United States Interests Section in Cuba, obviously conceived and carried out as part of the hostile and aggressive policy of the current Administration towards our country, with the close cooperation and support of the terrorist mafia in Miami and the extreme right of the United States.<sup>34</sup>

The note asserted that the Interests Section was involved in activities to destabilise Cuba:

No country, as powerful as it may be, has the right to convert its diplomatic representation into the organizer, funder, chief and general headquarters of activities to destabilize, subvert the constitutional order, break the laws, conspire against the social development, sabotage the economic relations, threaten the security and destroy the independence of another country.<sup>35</sup>

The note went on to warn:

There should not be the slightest doubt that the Revolution will apply with the necessary rigor, and as required by the circumstances, the laws created to defend itself from new and old tactics and strategies against Cuba.<sup>36</sup>

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<sup>32</sup> Conferencia de prensa del Ministro de Relaciones Exteriores de la República de Cuba, Felipe Pérez Roque. (Tema: Comisión de Derechos Humanos). Teatro del Minrex, viernes 14 de marzo del 2003. Unofficial translation.

<sup>33</sup> "Comparecencia especial del Comandante en Jefe Fidel Castro Ruz, Primer Secretario del Comité Central del Partido Comunista de Cuba y Presidente de los Consejos de Estado y de Ministros, en la Mesa Redonda sobre los más recientes acontecimientos en nuestro país y el incremento de las acciones agresivas del gobierno de Estados Unidos contra nuestro pueblo, el 25 de abril de 2003." Transcript in *Granma*, Año 7, Número 116, 26 April 2003.

<sup>34</sup> *Nota Oficial*, 18 March 2003, *Granma*, 19 March 2003, Año 7 / Número 78. Unofficial translation.

<sup>35</sup> *Ibid.* Unofficial translation.

<sup>36</sup> *Ibid.* Unofficial translation.

In a 9 April speech on the trials of the dissidents, Foreign Minister Felipe Pérez Roque refuted allegations that Cuba had timed the crackdown to take advantage of diverted global attention to the conflict in Iraq, repeating again the official justification of the arrests:

these arrests were carried out before the beginning of the war in Iraq...it was before that the decision was made and the arrests were carried out as a consequence of the unsustainable situation that we had been put in by the provocations and irresponsible behaviour of Mr. Cason.<sup>37</sup>

Foreign Minister Pérez Roque indicated that Cuba reserved the right to close the Interests Section:

We know that this is the hope, the golden dream of those who maintain the blockade and the policy of aggression towards Cuba; it may also be the dream of Mr. Cason, his heroic return expelled from Cuba. We know well who would celebrate and welcome this decision; but, in any case, closing the Interests Section in Havana and asking Mr. Cason to leave the country is a right that we reserve.<sup>38</sup>

In later speeches, additional aggravating factors in US-Cuba relations were added to the official explanation. Cuban authorities have consistently criticised US immigration policy; they claim it encourages dangerous attempts at illegal migration by automatically granting Cubans, unlike those of other nationalities, the automatic right to legal status upon arrival on US soil. In a 25 April speech, President Castro described a series of recent hijackings of Cuban vessels by individuals attempting to reach the US, and accused the US of violating bilateral migration agreements and putting Cuban lives at risk by provoking such attempts: "the most serious part of the conspiracy against Cuba ... is the aim of breaking the Migration Accords and forcing a mass emigration."<sup>39</sup>

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<sup>37</sup> "Conferencia de prensa ofrecida por el canciller Felipe Pérez Roque con relación a los juicios del 3,4,5 y 7 de abril. Ciudad de La Habana, 9 de abril de 2003." Transcript in *Juventud Rebelde*, 10 April 2003. Unofficial translation.

<sup>38</sup> Ibid. Unofficial translation.

<sup>39</sup> "Comparecencia especial del Comandante en Jefe Fidel Castro Ruz, Primer Secretario del Comité Central del Partido Comunista de Cuba y Presidente de los Consejos de Estado y de Ministros, en la Mesa Redonda sobre los más recientes acontecimientos en nuestro país y el incremento de las acciones agresivas del gobierno de Estados Unidos contra nuestro pueblo, el 25 de abril de 2003." Transcript in *Granma*, Año 7, Número 116, 26 April 2003. Unofficial translation.

President Castro went even further, accusing the US not just of provoking mass migration but of doing so as an excuse for armed intervention: "the sinister idea is to provoke armed conflict between Cuba and the United States. In this way they hope to liquidate the Revolution."<sup>40</sup>

### 3.2. Domestic reaction to the crackdown

There were important reactions to the crackdown from within Cuba. In a significant move, the permanent committee of Cuba's Conference of Catholic Bishops issued a press release on 11 April expressing concern at recent events.

On 22 April a group of Cuban women, including wives and mothers of those convicted, reportedly presented at the Council of State building a letter addressed to Fidel Castro asking for an end to repression and executions in Cuba:

We demand the abolition of the death penalty, as a crime with judicial trappings. Also, the elimination of the excessive sentences imposed on 75 peaceful human rights defenders -- independent journalists and economists and opposition members -- only for expressing their opinions openly.<sup>41</sup>

Some of the women had been regularly carrying out weekly peaceful marches at the Santa Rita church in the Playa area of Havana as part of the *Comité de madres cubanas por la libertad de los presos políticos*, Committee of Cuban Mothers for Freedom for Political Prisoners. The group of mothers marched to call for the release of their loved ones and for better access for family visits.

### 3.3. International response

The international condemnation of the crackdown in Cuba has been unprecedented, indicating that a significant portion of the international community did not accept Cuba's justification for its actions or felt that its response had been excessive and ill-judged. At the same time, Cuba avoided specific condemnation at the United Nations Commission on Human Rights.

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<sup>40</sup> Ibid. Unofficial translation.

<sup>41</sup> Carta abierta, La Habana, 21 April 2003. Unofficial translation.

### United Nations Commission on Human Rights

As has happened every year since 1992, the issue of Cuba's human rights record was raised during the meeting of the United Nations Human Rights Commission in Geneva in April 2003.<sup>42</sup> Voting was postponed for a day after two amendments to the original text, which was presented by Costa Rica, Nicaragua, Peru and Uruguay before the crackdown, were proposed. One amendment, put forward by Costa Rica, added language that condemned the recent crackdown in Cuba. It was voted down by 31 votes to 15, with 7 abstentions.

The second amendment, proposed by Cuba, urged the immediate ending of the US embargo and requested that the UN High Commissioner for Human Rights undertake an evaluation of the human rights impact of "continuous terrorist acts carried out with impunity against the people of Cuba from the territory of the United States."<sup>43</sup> It was voted down as well, by 26 votes to 17 with 10 abstentions. On 17 April the original, pre-crackdown resolution was passed; it simply noted the previous year's resolution, which had invited the Cuban government to achieve similar progress in civil and political rights as it had done in social rights. In addition it called on Cuba to receive the visit of Christine Chanet, the personal representative for Cuba of the United Nations High Commissioner for Human Rights, who was appointed in January 2003.<sup>44</sup> The resolution was passed by 24 votes to 20, with 9 abstentions.

In a press conference on 18 April, Cuban Foreign Minister Pérez Roque expressed satisfaction at the defeat of the Costa Rican amendment but clarified that that did not imply acceptance of the resolution itself:

... We want to say that this does not change the fact, however, that we reject also the final Resolution that was adopted. We reject it because, although it is not a condemnatory text, it is a text which is not justified ... it is a North American text, which corresponds to North American interests.<sup>45</sup>

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<sup>42</sup> Resolutions on Cuba were passed every year except 1998, when the proposed resolution was rejected by 19 votes to 16, with 18 abstentions.

<sup>43</sup> United Nations press release, "Commission on Human Rights adopts resolution on Lebanese detainees in Israel, rejects draft on Chechnya," Commission on Human Rights, 59<sup>th</sup> session, 16 April 2003, morning.

<sup>44</sup> See United Nations Economic and Social Council E/CN.4/2003/L.2 of 24 March 2003, Question of the Violation of Human Rights and Fundamental Freedoms in any part of the world: 2003 / ... Situation of human rights in Cuba.

<sup>45</sup> "Conferencia de prensa ofrecida por el canciller cubano Felipe Pérez Roque, a la prensa nacional y extranjera, sobre los resultados de la votación en la Comisión de Derechos Humanos de Ginebra, en el MINREX, el 18 de abril del 2003." Transcript in *Granma*, 22 April 2003, año 7, número 112. Unofficial translation.

In November 1994 the then-High Commissioner, José Ayala Lasso, visited Cuba, in response to an invitation soon after the post was created. However, the request to allow a visit from the Special Rapporteur for Cuba was not granted. On the issue of the recommended visit of the new High Commissioner's representative, in his address Foreign Minister Pérez Roque indicated that Cuba would not comply with the recent resolution:

Cuba does not refuse to cooperate with the High Commissioner, on the contrary; nor with the non-selective and non-discriminatory mechanisms of the Commission or the Office of the High Commissioner, of course not. What Cuba is not willing to accept is the manipulation of this topic; the unscrupulous use, even of the United Nations itself, to justify the campaign against Cuba ... it is for this reason that Cuba does not accept the mandate of the resolution.<sup>46</sup>

At the end of the Commission session, Cuba was re-elected as one of the 53 members of the Commission. A spokesman for the US White House reportedly said Cuba's election was "like putting Al Capone in charge of bank security."<sup>47</sup> The US had itself lost its seat in 2001 for the first time since the Commission's establishment in 1947, to return to it one year later.

### European Union

The crackdown came just as relations with Europe had improved significantly. On 12 March, just days before the wave of arrests began, the European Union opened its first-ever office in Cuba. Poul Nielson, Commissioner for Development and Humanitarian Aid, visited the island to open the delegation and stated publicly that the EU intended to strengthen its relations with Cuba.<sup>48</sup> He also welcomed Cuba's application for admission to the Cotonou trade agreement.<sup>49</sup>

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<sup>46</sup> Ibid. Unofficial translation.

<sup>47</sup> "Outrage as Cuba keeps UN seat," BBC news, 30 April 2003; also "Cuba returned to UN rights body, prompting US rage," Reuters, 29 April 2003.

<sup>48</sup> (EU) EU/CUBA: Poul Nielson opens Commission delegation in Havana, Brussels, 12/03/2003 (Agence Europe).

<sup>49</sup> Cuba was formally admitted to the group of African, Caribbean and Pacific (ACP) states on 14 December 2000 as the group's 78<sup>th</sup> member, after having held observer status since May 1998 (the ACP Group was formed in 1975, and currently incorporates 48 African countries as well as 16 from the Caribbean and 14 from the Pacific.) It is the only ACP member which has not signed trade and aid agreements with the EU, although it has applied for admission to the Cotonou Agreement, a twenty-year

Following the crackdown, in his 9 April press conference on the trials, Foreign Minister Pérez Roque addressed the issue of the EU's relations with Cuba. He was critical of the parallels between the EU's positions and those of the US:

The European Union has not had the capacity to project an independent position towards Cuba, and this explains its lukewarm reaction to the blockade against Cuba; it explains its aligning itself with the North American position against Cuba in Geneva; it explains the fact that they have not been capable of forming a European position on Cuba that defends international law ... I should remind you that Cuba has already once withdrawn its application to the Cotonou Agreement, and if it had to do so again it would.<sup>50</sup>

On 14 April the External Relations Council of the European Union adopted a resolution on Cuba condemning the mass arrests, unfair trials and excessive sentences as well as the executions of the three hijackers. The resolution stated,

These latest developments display a deterioration in the human rights situation in Cuba and will both affect EU/Cuba relations and the perspectives of strengthened cooperation. The Council will continue to monitor the situation closely.<sup>51</sup>

In response, on 17 April the Cuban ambassador to the EU, Rodrigo Malmierca Díaz, defended Cuba's policy and reaffirmed his country's interest in the Cotonou Agreement.<sup>52</sup>

On 23 April, the European Commission scheduled for the following week a debate on its reaction to the situation in Cuba; several member states were reportedly considering

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trade accord signed on 21 June 2000 between the European Community and ACP countries, replacing the Lomé Convention of 1975. The stated objectives include "to promote and expedite the economic, cultural and social development of the ACP States, with a view to contributing to peace and security and to promoting a stable and democratic political environment" (The Cotonou Agreement, 21 June 2000, article 1.)

<sup>50</sup> "Conferencia de prensa ofrecida por el canciller Felipe Pérez Roque con relación a los juicios del 3,4,5 y 7 de abril. Ciudad de La Habana, 9 de abril de 2003." Transcript in *Juventud Rebelde*, 10 April 2003. Unofficial translation.

<sup>51</sup> (EU) EU/CUBA: Council condemns executions of three leaders who hijacked ferry and expresses concern over deterioration in human rights situation in Cuba, Luxembourg, 15/04/2003 (Agence Europe). Also 8220/03 (Presse 105).

<sup>52</sup> (EU) CUBA: Cuban ambassador to the EU justifies repression by 'legitimate defence' and reaffirms Cuba's interest in the Cotonou Agreement, Brussels, 17/04/2003 (Agence Europe).

downgrading the level of their cooperation with the island.<sup>53</sup> On 30 April the Commission announced its decision to freeze consideration of Cuba's application. On 16 May, Cuba's Ministry of Foreign Affairs informed the head of the European Commission delegation that Cuba was cancelling its application to the Cotonou Agreement. The Ministry's official statement issued the following day concluded:

Cuba has resisted more than 44 years of embargo, aggression and threats from the United States without surrendering, and it sees no reason whatsoever to accept pressure from anyone else.<sup>54</sup>

These recent developments reverse earlier improvements in relations with the EU, and make Cuba ineligible for EU development funds and other assistance earmarked for ACP countries.

### Organization of American States

The Special Rapporteur for Freedom of Expression of the Organisation of American States (OAS) expressed concern at the arrests and summary trials, and "urged the Cuban authorities once again to change their position regarding the independent press and to allow all inhabitants the right to freedom of expression and information."<sup>55</sup> On World Press Freedom Day, 3 May 2003, the Special Rapporteur joined his UN counterpart, the United Nations Special Rapporteur on Freedom of Opinion and Expression, to express grave concern at the sentences given out to the dissidents.<sup>56</sup>

Meanwhile, the Inter-American Commission on Human Rights condemned the executions of the three would-be hijackers<sup>57</sup> and expressed grave concern at the detention and trial of the dissidents.<sup>58</sup>

Several efforts to introduce a resolution by the 34-member OAS condemning human rights violations in Cuba failed due to lack of support. On 19 May, Canada, Chile and Uruguay, which had sponsored the latest effort, re-submitted the text in a non-binding form to the Permanent Council of the OAS. Sixteen of the member states signed on to

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<sup>53</sup> (EU) EU/CUBA: Commission to hold debate on situation in Cuba next week, Brussels, 23/04/2003 (Agence Europe).

<sup>54</sup> Declaración del MINREX, *Granma*, 19 May 2003.

<sup>55</sup> "Special Rapporteur for Freedom of Expression expresses grave concern about judicial proceedings against journalists in Cuba," Press Release PREN 74/03, 4 April 2003.

<sup>56</sup> "UN and OAS Special Rapporteurs on Freedom of Expression gravely concerned about situation in Cuba," Press Release PREN 77/03, 3 May 2003.

<sup>57</sup> Inter-American Commission on Human Rights, Press release no. 12/03, 16 April 2003.

<sup>58</sup> Inter-American Commission on Human Rights, Press release no. 10/03, 9 April 2003.

the revised statement, indicating a sharp divide among members. In 1962, the OAS had decided that adherence by any of its members to Marxism-Leninism was incompatible with the inter-American system and that such incompatibility therefore excluded "the present government of Cuba" from participation in the system.

### United States

The United States firmly condemned the crackdown, and, as in previous years, provided impetus for the UN Human Rights Commission text condemning Cuba; the rejection of the Costa Rica amendment was therefore seen as a defeat of the initiative preferred by the US. It had played a similar role with regard to the effort to produce a resolution condemning Cuba by the OAS, with comparable results (see above).

#### a. Discussion of tightening of the embargo

In response to the crackdown, organisations in the US which had favoured an easing of US relations with Cuba quickly revised their positions. The board of directors of one such group, the Cuba Policy Foundation, resigned in protest at the crackdown in Cuba:

We organized, funded and supported the Foundation because we hoped, and had reason to believe, that its energetic efforts to modify the ban on Cuba trade, travel and investment might succeed over time. We can only conclude, however, that in spite of its claims to the contrary, Cuba does not share our enthusiasm for a more open relationship. For this reason we have tendered our resignations.<sup>59</sup>

The US government reportedly considered tightening even further its restrictive policy towards Cuba, by cutting off cash remittances from relatives in the United States, an important source of income for many Cubans, and strengthening the travel ban. US authorities reportedly reviewed contingency plans for their response in the event of another mass migration from Cuba like those that occurred in 1980 and 1994.<sup>60</sup> US Secretary of State Colin Powell called Cuba an "aberration in the Western Hemisphere" and said "we're reviewing all of our policies and our approach toward Cuba in light of what I think is a deteriorating human rights situation."<sup>61</sup>

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<sup>59</sup> Statement from the Cuba Policy Foundation, 23 April 2003.

<sup>60</sup> "US ready in case of major exodus from Cuba," *The Miami Herald*, 20 April 2003.

<sup>61</sup> "Powell, denouncing crackdown, calls Cuban 'Aberration'," *The New York Times*, 29 April 2003.

### **b. Heightened rhetoric between Cuba and the US**

Some US officials went even further in their statements, fuelling increasingly strong rhetoric between the US and Cuba. On 10 April, the US ambassador to the Dominican Republic, Hans Hertell, indicated that the war in Iraq was an example for Cuba: "I think what is happening in Iraq is going to send a very positive signal, and it is a very good example for Cuba, where we saw that last week the Fidel Castro regime ordered the arrest of more than 80 citizens."<sup>62</sup>

US diplomat Wayne Smith, Head of the US Interests Section under President Jimmy Carter, said "the Cubans saw it [ the Iraq war ] as a signal that the United States was determined to throw its weight around and to blow away anyone it doesn't like through the unilateral use of force."<sup>63</sup> Speaking to National Public Radio, he said "there is a certain sense on the part of the Cubans that they might be next."<sup>64</sup>

On the Cuban side there were statements that reinforced the impression that Cuban officials felt under threat in the context of the war in Iraq. The president of the International Relations Committee of the Cuban parliament told regional press, "I believe that countries like ours, that are considered by the United States as its enemies, are in more danger than others; but we should not see it as a matter affecting one country alone, it really is a risk for everyone."<sup>65</sup>

In an interview with a US television network, US Defense Secretary Donald Rumsfeld responded to a question about whether the US would consider 'the liberation of the Cuban people' by saying that at the present time "there are no plans for military action against Cuba."<sup>66</sup> He said that that could change if Cuba were believed to possess weapons of mass destruction.

In his May Day speech, President Castro again alluded to the perceived threat of US military aggression against Cuba, stating that "in Miami and in Washington it is being

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<sup>62</sup> "US ambassador in Dominican Republic says Iraq an example for Cuba," *Agence France Press*, 10 April 2003.

<sup>63</sup> "Rising dissent, US pressure led to Cuba repression," Reuters, 16 April 2003.

<sup>64</sup> "Regimes who worry that they will be next: rules face conciliation or confrontation," *The Guardian*, 11 April 2003.

<sup>65</sup> "Diputado Cubano: belicismo de EU pone en riesgo a Cuba," Notimex, 9 abril 2003. Unofficial translation.

<sup>66</sup> "Castro: US 'conspiracy' led to crackdown," Associated Press, 26 April 2003; "Representante Cuba teme EEUU prepare futuras acciones contra isla," EFE, 23 April 2003.

discussed today where, how and when to attack Cuba.<sup>67</sup> He ended the speech with a dramatic appeal for peace between the two countries, while reiterating the willingness of the Cuban people to fight if needed to defend their country.

On 13 May the Bush administration, in one of the largest such expulsions to date, expelled 14 Cuban diplomats from the US. Seven worked at the Interests Section in Washington, and seven more at the Cuban mission to the UN in New York. Although official statements about the reasons for the expulsions varied, they indicated that the Cuban diplomats had been accused of "inappropriate activities."

### Other agencies and organisations

On 26 April the Vatican announced that Pope John Paul had written to President Castro on 13 April to express sorrow at the executions and the harsh sentences against dissidents. The letter reportedly asked for a gesture of clemency from the Cuban authorities.<sup>68</sup>

The United Nations High Commissioner for Human Rights expressed concern over the arrests and the fairness of the expedited trials, including with regard to the right to defence.<sup>69</sup> The director general of the United Nations Educational, Scientific and Cultural Organization (UNESCO) was among those who denounced the arrests.<sup>70</sup>

Numerous governments expressed their deep concern at the events to the Cuban diplomatic representatives in their countries. More than 300 artists, intellectuals and politicians joined a campaign begun by a Spanish magazine on behalf of the detainees; a separate international campaign, in support of Cuba's position, drew attention from other artists and intellectuals.<sup>71</sup>

Activists of the human rights organisation Reporters without Borders were reportedly beaten by embassy security guards while protesting the arrest of 26 journalists during the crackdown. The protest took place in front of the Cuban embassy in Paris on 24 April. The confrontation occurred when the activists handcuffed themselves to the property's fence. On 1 April the organisation's activists had briefly occupied the Cuba tourism office in Paris.

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<sup>67</sup> "Discurso pronunciado por el Presidente de la República, Fidel Castro Ruz, el en acto por el Día Internacional de los Trabajadores, efectuado en la Plaza de la Revolución el 1 de mayo de 2003." Transcript in *Granma*, 1 May 2003, año 7/ número 121. Unofficial translation.

<sup>68</sup> "Pope asks Castro to show dissidents clemency," Reuters, 26 April 2003.

<sup>69</sup> Press Release HR/4652, 9 April 2003, "High Commissioner for Human Rights concerned over sentencing of recent detainees in Cuba."

<sup>70</sup> "Director UNESCO denuncia arrestos y juicios disidentes en Cuba," EFE, 7 April 2003.

<sup>71</sup> In addition, well-known authors Eduardo Galeano, José Saramago and Gabriel García Márquez wrote opinion pieces or issued personal statements reacting to the crackdown.

Overall, the March crackdown was met with an unprecedented international reaction, prompting a heightened level of scrutiny of Cuba's human rights situation at many different levels. The impact of this in Cuba remains unclear.

#### 4. The legal proceedings against the dissidents

The March arrests were handled differently than smaller-scale multiple arrests carried out in 2002. In February 2002, a group of young men drove a commandeered public bus into the Mexican Embassy compound in Havana in an apparent attempt to secure asylum and leave Cuba; the incident set off a chain of arrests of known dissidents, and was thought to influence the continued detention of several who had just been arrested. Most of the dissidents were released thereafter, but ten of them remain in detention and are considered by Amnesty International to be prisoners of conscience. In those cases, the men were not promptly brought to justice; over a year has passed without them being brought to trial.<sup>72</sup>

In contrast, those arrested in the March sweep were brought to trial immediately and subjected to hasty collective proceedings. While a number of aspects of the judicial process were flawed, Amnesty International will focus on the charges brought against the defendants and their trials and sentencing.

##### 4.1. The charges brought against the dissidents

Significantly, the charges brought against those arrested in the crackdown did not include the more common accusations usually used to suppress dissent, such as "*propaganda enemiga*", "enemy propaganda", "*desacato*", "disrespect", or "*desórdenes públicos*", "public disorder." Rather, the emphasis was on more serious offences which carry higher penalties under the Cuban Penal Code.

##### Article 91 of the Penal Code

Amnesty International has had access to trial documents for 51 of the 75 dissidents tried. Article 91 of the Penal Code, which was the sole charge for 26 of the dissidents and was used in conjunction with Law 88 (see below) for another six, provides for sentences of ten to 20 years or death against anyone convicted of "acts against the independence or territorial integrity of the state."<sup>73</sup> Under this article, "he who, in the interest of a foreign state, commits an act with the objective of damaging the independence or territorial integrity of the Cuban state, incurs the penalty of ten to twenty years imprisonment or death."<sup>74</sup>

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<sup>72</sup> Amnesty International, *CUBA: Continued detentions following mass arrests in February and December 2002* (AI Index: AMR 25/001/2003), February 2003.

<sup>73</sup> Law no. 62, Penal Code, National Assembly of Popular Power, 1987. Unofficial translation.

<sup>74</sup> *Ibid.* Unofficial translation.

Law 87 of 1999, which modifies the Penal Code, changes the provisions regarding sentencing to provide for life imprisonment.

### Law 88

In nineteen of the 51 cases that Amnesty International has been able to review in detail, dissidents were charged under Law 88, the *Ley de Protección de la Independencia Nacional y la Economía de Cuba*, Law for the Protection of the National Independence and Economy of Cuba. In another six cases, Law 88 was used in conjunction with article 91 of the Penal Code (see above).

#### a. The build-up to Law 88

As mentioned above, in March 1996, US President Bill Clinton signed into law the "Cuban Liberty and Democratic Solidarity Act," otherwise known as the "Helms-Burton Act" after the lawmakers who sponsored it. The text condemned recent events in Cuba,<sup>75</sup> tightened the US embargo, and discouraged investment in Cuba by providing for penalties against foreign companies investing there. It also provided for claims of confiscation of property and for US assistance to 'democracy-building efforts' in Cuba (see text box).

In December 1996 the *Asamblea Nacional del Poder Popular*, the National Assembly of Popular Power, passed Law 80, *Ley de Reafirmación de la Dignidad y Soberanía Cubana*, Law of Reaffirmation of Cuban Dignity and Sovereignty. This law was an explicit response to the Helms-Burton law:

The National Assembly of Popular Power, as representative of the people, repudiates the 'Helms-Burton Law' and declares its irrevocable decision to adopt the measures in its power as a response to this anti-Cuban legislation.<sup>76</sup>

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<sup>75</sup> In section 116, the text of the law explicitly condemns a February 1996 incident in which two planes belonging to a Cuban exile group were shot down by the Cuban airforce. Cuban authorities claim that this was an act of self defence prompted by violation of its airspace, while supporters of the exile group maintain that it was an act of aggression committed over international waters. The text also condemns government repression against *Concilio Cubano* (see below).

<sup>76</sup> Law No. 80, Law of Reaffirmation of Cuban Dignity and Sovereignty, 24 December 1996 (Unofficial translation).

**'Cuban Liberty and Democratic Solidarity (Libertad) Act of 1996,'  
or 'Helms-Burton Act'**

One hundred fourth Congress of the United States of America, at the second session.  
H.R. 927, 3 January 1996.

First and foremost, the Helms-Burton law tightens the US embargo against Cuba. Under section 109 it also allows the US president to "furnish assistance and provide other support for individuals and independent nongovernmental organizations to support democracy-building efforts for Cuba," including through

- provision of published materials to independent democratic groups in Cuba;
- humanitarian assistance to victims of political repression and their families;
- support for democratic and human rights groups in Cuba; and
- support for visits and permanent deployment of international human rights monitors in Cuba.

The law also sets out 'requirements and factors for determining a transition government' (section 205) as well as 'requirements for determining a democratically elected government' (section 206).

The "Title III: Protection of property rights of United States nationals" provision of the law would allow US nationals whose property was confiscated by Cuba to seek compensation in US courts from any foreign national who bought that property from Cuba's government; this provision has been consistently waived, and has yet to come into force.

The Helms-Burton Act has been explicitly condemned by members of the international community, but has not been repealed. In February 1997 the European Union filed a formal petition with the World Trade Organization challenging the Helms-Burton law as restricting the principle of free trade. The US argued that it was an issue of national security, and in April 1998 the EU dropped the effort. The law has continued to be a source of tension, in spite of subsequent negotiations and agreements.

The text of law 80 provided for the adoption of further measures necessary to protect Cuba from the effects of the Helms-Burton Law. Just over two years later, those further measures were codified in Law 88.

### **b. Provisions of Law 88**

In February 1999 Cuba's National Assembly passed tough legislation providing for stiff prison terms for those guilty of supporting United States policy against Cuba as laid out in the Helms-Burton Law:

Whereas, the Government of the United States has dedicated itself to promoting, organizing, financing and directing counterrevolutionary and imperialist elements inside and outside the territory of the Republic of Cuba. For four decades it has invested significant financial and material resources to carry out numerous covert activities in order to destroy the independence and economy of Cuba, using to such end individuals recruited within the national territory, as has been recognized by the Central Intelligence Agency since 1961 according to a report released in 1998.<sup>77</sup>

The text of the law further details US legislative measures to finance counterrevolutionary activities in Cuba:

through the Law of 12 March 1996 known as the Helms-Burton Law, the United States expanded, intensified and codified its economic war against Cuba and detailed how such assistance would be given to individuals who would be used in the national territory to carry out the subversive and imperialist objectives of the Empire ... the Federal Budget Law, passed on 21 October 1998 by the Government of the United States, set a minimum of two million dollars to support counterrevolutionary activities in Cuba ...<sup>78</sup>

In this way, financing subversive activities within Cuba is portrayed, in addition to the embargo, as part of the US 'economic war' against Cuba. The introductory text concludes that it is "an inescapable duty to respond to this aggression against the Cuban people,"<sup>79</sup> and proceeds to detail the types of behaviour that would be considered as facilitating US policy and the penalties for them (see text box).

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<sup>77</sup> Law No. 88 For the Protection of National Independence and the Economy of Cuba, published in the Official Gazette of the Republic of Cuba, Special Edition, Number 1, dated 15 March 1999. Unofficial translation.

<sup>78</sup> Ibid. Unofficial translation.

<sup>79</sup> Ibid. Unofficial translation.

### Penalties included in Law 88

Article 4 of the law provides for seven to 15 years' imprisonment for **passing information** to the United States government or its agents that could be used to bolster anti-Cuban measures such as the US embargo or related destabilising activities within Cuba. This would rise to 20 years if the information is acquired with the participation of two or more persons; is passed on in order to receive personal gain; or is acquired surreptitiously or in a work context. Similarly, the penalty would be aggravated if the Cuban economy were ultimately to be harmed by the information being passed or if, as a result, the United States government were to take punitive measures against Cuban or foreign enterprises.

Article 5 provides for penalties of three to eight years, and/or a fine, for those who **seek out classified information** to be used in this way, which would rise to twelve years in the aggravating circumstances outlined above.

Under article 6 the legislation also sanctions with three to eight years and/or a fine the introduction into Cuba, ownership, distribution or reproduction of '**subversive materials**' from the US government that would facilitate US economic aggression or related destabilising activities within Cuba. The penalties are more severe for those who do so for personal gain or who cause damage to the Cuban economy.

It proposes in article 7 terms of imprisonment of up to five years for collaborating with radio and TV stations, printed publications or other **media** deemed to be assisting US policy; accredited foreign journalists are exempt. Again, the penalties are more severe if the individual profits by the activity.

Also punishable by up to five years' imprisonment are acts which **disturb public order** for the benefit of the US economic war on Cuba, according to article 8; the penalties increase for organisers of such events.

Article 9 outlaws '**any act intended to impede or prejudice the economic relations** of the Cuban state' with penalties of up to 15 years. This can be extended if violence, blackmail or other illegal means are used; if private profit is obtained as a result; or if the United States government takes punitive measures in reprisal. The remaining articles cover **incitement** of others to commit any of the above acts; **distribution of US funds or materials** for these activities; and **collaboration with third states** sympathetic to US aims in Cuba.

### c. Application of Law 88 in the recent trials

Cuban authorities have consistently presented the crackdown as a response to US aggression; in a recent press conference, for example, Foreign Minister Pérez Roque maintained that Cuba had until now deliberately refrained from applying the strict measures of Law 88, passed in 1999, out of a 'spirit of tolerance.'

the laws which were applied to try the mercenaries who act in the service of the power that is attacking its people, are laws dating from the end of the 90s and that had not been applied, in a spirit of tolerance; they were our response to Helms-Burton; but we have been placed in a situation where we had no other option, and we have acted.<sup>80</sup>

In this way, Law 88 itself is presented as a Cuban response to perceived US aggression, and the crackdown a reaction to a US-led rather than a domestic threat. In another press conference, the Foreign Minister spelled the connection out clearly, concluding a review of the provisions of Law 88 as follows:

It is the North American Interests Section in Havana, and this has been fully proven in the trials, that creates, directs, finances, stimulates, protects the creation and the subversive work of its agents in Cuba. How does it do this? In fulfillment of the Helms-Burton Law.<sup>81</sup>

### Human rights concerns with regard to the charges

Though passed in 1999, this crackdown marks the first time that the provisions of Law 88, described in detail above, have been applied in criminal proceedings in Cuba. This development is of grave concern, as elements of the law, mirroring other aspects of the Cuban legal framework, appear to place unlawful restrictions on internationally-recognised rights.

International standards make clear that the exercise of the right to freedom of expression, among other rights, shall only be subject to restriction on a well-defined

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<sup>80</sup> "Conferencia de prensa ofrecida por el canciller cubano Felipe Pérez Roque, a la prensa nacional y extranjera, sobre los resultados de la votación en la Comisión de Derechos Humanos de Ginebra, en el MINREX, el 18 de abril del 2003." Transcript in *Granma*, 22 April 2003, año 7, número 112. Unofficial translation.

<sup>81</sup> "Conferencia de prensa ofrecida por el canciller Felipe Pérez Roque con relación a los juicios del 3,4,5 y 7 de abril. Ciudad de La Habana, 9 de abril de 2003." Transcript in *Juventud Rebelde*, 10 April 2003. Unofficial translation.

and exceptional basis. Article 19 of the International Covenant on Civil and Political Rights defines these restrictions as

such as are provided by law and are necessary:

- (a) for the respect of the rights or reputations of others;
- (b) for the protection of national security or of public order (*ordre public*), or of public health or morals.<sup>82</sup>

The Human Rights Committee's General Comment on the implementation of article 19 specifies that "when a State party imposes certain restrictions on the exercise of freedom of expression, these may not put in jeopardy the right itself."<sup>83</sup> International jurisprudence has affirmed that any restriction must be strictly proportionate to the threat posed to national security or other legitimate interest, and must not exceed what is strictly necessary to fulfill that aim.

In contrast, as outlined in section 2.3.b above, the Cuban Constitution places clearly excessive limitations on the exercise of fundamental freedoms:

none of the liberties recognised for the citizens can be exercised against what is established by the Constitution and the laws, or against the existence and objectives of the socialist state, or against the decision of the Cuban people to construct socialism and communism.<sup>84</sup>

In this way, the exercise of fundamental freedoms in ways which are perceived to be in any way "against" the system is not Constitutionally protected. Law 88, and other laws within the Cuban system, place further restrictions on these freedoms, in violation of international standards.

Concerns about unlawful restriction of fundamental freedoms lead to related ones with regard to arbitrary detention,<sup>85</sup> whether arrests have taken place under the provisions of Law 88 or article 91 of the Penal Code covering acts against the independence or territorial integrity of the state.

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<sup>82</sup> 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; entry into force 23 March 1976), article 19.

<sup>83</sup> Human Rights Committee, CCPR General comment 10, 29 July 1983.

<sup>84</sup> Constitution of 1976, article 62, unofficial translation.

<sup>85</sup> Arbitrary deprivation of liberty is expressly prohibited by article 9 of the Universal Declaration of Human Rights and article 25 of the American Declaration of the Rights and Duties of Man, among other instruments.

The United Nations Working Group on Arbitrary Detention (WGAD) has established criteria for determining when detention is arbitrary under international standards. These criteria 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.<sup>86</sup> Since its creation in 1991, the WGAD has raised a number of individual cases with the Cuban Government, and has determined that more than twenty individuals were arbitrarily deprived of liberty. The most frequent reason was the criteria pertaining to the exercise of fundamental freedoms and rights. In an open letter on 3 April, the International Federation for Human Rights informed the Cuban government that it was bringing the mass arrests and trials to the attention of the Working Group.<sup>87</sup>

The text of law 88 may be determined to lead to arbitrary detention in some or all cases, in that it imposes unjustifiable limits on freedom of expression, association and assembly based on the potential foreign reaction to or possible economic ramifications of such acts, in violation of international standards as described above.

Equally worrying, the descriptions of a number of the proscribed acts seem so general and vague as to risk being interpreted subjectively and in a manner damaging to fundamental freedoms: such could be the case with article 9 of Law 88 outlawing 'any act intended to impede or prejudice' Cuba's economic relations or the 'subversive material' prohibited in the law's article 6. Similarly, with regard to article 91 of the penal code regarding 'an act with the objective of damaging the independence or territorial integrity of the Cuban state,' the behaviour which the article is meant to prohibit is ill-defined and open to subjective interpretation, potentially opening the door to arbitrary detention.

#### **4.2. Prosecutions: the case against the dissidents**

Amnesty International has reviewed trial documents for 51 of the 75 dissidents prosecuted. The section on individual cases below contains information on the specific charges against given individuals. In general, the prosecutors' briefs accuse the dissidents of

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<sup>86</sup> 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.

<sup>87</sup> Open letter from the International Federation for Human Rights to Fidel Castro, President of the Republic of Cuba, 3 April 2003.

- receiving funds and/or materials from the United States government, either through its agencies or third parties,
- in order to engage in a number of activities which the authorities perceived as subversive and damaging to Cuba's internal order and/or beneficial to the embargo or other punitive measures by the US against Cuba.

As mentioned above, the Helms-Burton Law provides for US funding for individuals and groups to support "democracy-building" efforts in Cuba. In addition, the US funds other initiatives, such as Miami-based *Radio Martí*, aimed at disseminating within Cuba views critical of Castro and the Cuban system. Foreign Minister Felipe Pérez Roque made extensive references to this funding in his 9 April press release on the trials of the dissidents.<sup>88</sup> Security agents of the Cuban state who had infiltrated dissident groups, and who later testified against some dissidents at their trials, reported regularly receiving and handling funds from various groups in the United States that were in turn financed by agencies of the US government.<sup>89</sup> The text box provided here gives a sample of the information publicly available on such funding.

As also mentioned above, Cuba has consistently expressed outrage at these practices, declaring them, with the US embargo, acts of aggression against Cuba. Cuba has moreover accused the US of an escalation of provocations against Cuba following the posting of James Cason as head of the US Interests Section in Havana.

The dissidents were not charged under articles of the Penal Code covering spying or revelation of secrets concerning state security (articles 95-97), and the evidence given does not point to such activity. None of them held sensitive positions of authority through which they would have access to privileged information. Whatever the merits of the Cuban government's argument with the United States over its practices in Cuba, a review of the limited information contained in the trial documents indicates that the specific behaviour for which dissidents were prosecuted was non-violent and seemed to fall within the parameters of the legitimate exercise of fundamental freedoms rather than those of any recognisable criminal activity.

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<sup>88</sup> "Conferencia de prensa ofrecida por el canciller Felipe Pérez Roque con relación a los juicios del 3, 4, 5 y 7 de abril. Ciudad de La Habana, 9 de abril de 2003." Transcript in *Juventud Rebelde*, 10 April 2003. Unofficial translation.

<sup>89</sup> "Agent gained trust of Cuban dissidents," Associated Press, 22 April 2003.

According to the trial documents available, the activities on which the prosecutions were based included, among others,

- publishing articles or giving interviews, in US-funded or other media, said to be critical of economic, social or human rights matters in Cuba.
- communicating with international human rights organisations.
- having contact with entities or individuals viewed as hostile to Cuba's interests, including US functionaries in Cuba and hardline figures or groups in the Cuban exile community in the United States and Europe.<sup>90</sup>
- distributing or possessing material, such as radios, battery chargers, video equipment or publications, from the US Interests Section in Havana.
- being involved in groups which have not been officially recognised by the Cuban authorities and which were accused of being counterrevolutionary, including among others unofficial trade unions, professional associations such as doctors' and teachers' associations, academic institutes, press associations and independent libraries.

Despite the Cuban government's claims that such acts threatened national security and therefore warranted prosecution, the above activities constitute legitimate exercise of freedoms of expression, assembly and association, and cannot in themselves justify the authorities' repressive reaction.

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<sup>90</sup> One example of mass arrests following dissident contact with foreign diplomats took place around the 1999 Ibero-American Summit. The Ibero-American Summit is an annual event begun in 1991 to bring together the heads of state of the Spanish- and Portuguese-speaking nations of Europe and America to discuss issues of common concern. The 1999 meeting was held in Havana. Prior to and following the summit, some 260 dissidents were detained. Most were released without charge shortly thereafter, but a number were brought to trial and served prison sentences.

### Some examples of US government funding for Cuba

**Radio Martí** was established by the the 1983 Radio Transmissions for Cuba Act. It began broadcasting from the US into Cuba in 1985, with a budget for this fiscal year of US\$ 15,000,000. (Source: [www.martinoticias.com/mision.asp](http://www.martinoticias.com/mision.asp))

The **United States Agency for International Development (USAID)** provides funds for work on Cuba pursuant to the 1992 Cuban Democracy Act and the 1996 Cuban Liberty and Solidarity ('Libertad') Act (Helms-Burton Act). The goal of the program is to "promote rapid, peaceful transition to democracy in Cuba, helping develop civil society." The program description states that USAID policy precludes recipients from using grant funds to provide cash assistance to any person or organisation in Cuba.

Recipients under the project for "Building solidarity with Cuba's human rights activists" include:

- **Freedom House: Cuban Democracy Project (\$1,325,000)**: "promotes the formation of civil and political leadership in Cuba by linking professional organizations in Cuba to one another and to those in free democracies."
- **Grupo de Apoyo a la Disidencia (Dissidence Support Group) (\$2,700,000)**: "provides humanitarian assistance and informational materials to political prisoners and their families and other victims of repression."
- **International Republican Institute (\$2,174,462)**: "helps create and bolster international solidarity committees in Latin America and Europe to provide material, moral and ideological support for democratic activists in Cuba."

Recipients under the "Giving voice to Cuba's independent journalists" project include:

- **Cuba Free Press (\$280,000 - completed)**: "published the work of professional and independent writers and journalists inside Cuba."
- **CubaNet (\$833,000)**: "expanding its comprehensive internet on-line coverage of Cuba's independent journalists, and other national and international press reports on Cuban human rights and economic issues."

The "Helping develop independent Cuban NGOs" project recipients include:

- **Pan American Development Foundation (\$553,500)**: "establishes linkages between Cuban NGOs and counterpart NGOs operating elsewhere in the Americas, to demonstrate how NGOs function within democratic societies. Provides information and material assistance to Cuba's independent libraries."
- **University of Miami: developing civil society (\$320,000 - completed)**: "facilitated access to information and training for Cuban NGOs and individuals."
- **Florida International University: NGO development (\$291,749)**: "trains Cuban NGO leaders in management and delivery of social services."

The "Planning for transition" project recipients include:

- **US-Cuba Business Council (\$852,000 - completed)**: "surveyed US private sector resources and plans to assist the eventual reconstruction of the Cuba economy. Conducted a conference series on Cuba's democratic free market future."
- **University of Miami: Cuba transition planning (\$1,545,000)**: "analyzes challenges that will face a future transition government in Cuba, including: legal reform, political party formation, privatization and foreign investment, combating corruption, education reform, economic policy reform, international donor coordination."

(Source: USAID webpage, [www.usaid.gov/regions/lac/cu/upd-cub.htm](http://www.usaid.gov/regions/lac/cu/upd-cub.htm))

### 4.3. The trials: summary justice

As mentioned previously, the treatment of those detained in the March mass arrests was different from those caught up in previous crackdowns in February and December 2002. In the earlier arrests, dissidents were either released after a short period or held for long stretches without trial. One factor of note about the March arrests was the speed with which trials were organised and held; the majority of trials were concluded by the end of the first week of April.

As Amnesty International and other human rights organisations have previously noted, the right to a fair trial is severely limited in Cuba, with the courts and prosecutors under government control. Article 75 of the Constitution states that Cuba's National Assembly should elect the President, Vice-President and the other judges of the Peoples' Supreme Court, as well as the Attorney General and the Deputy Attorney General.<sup>91</sup> According to Article 121 of the Constitution, the courts are hierarchically subordinate to the National Assembly and the Council of State. This raises concerns with regard to the internationally-recognised right to trial by an independent and impartial tribunal.<sup>92</sup>

The full exercise of the right to defence is also problematic, as lawyers are employed by the Cuban state and as such may be reluctant to challenge prosecutors and the evidence presented by the security apparatus. This raises concern with regard to respect for the right to an effective defence.<sup>93</sup>

The dissidents' trials were generally held in provincial courts. Once the prosecution has prepared its case, the defendant is meant to be allowed access to a defence lawyer, although this was reportedly not respected in these cases. In instances where the

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<sup>91</sup> "The attributes of the National Assembly of Popular Power are ... m) to elect the President, Vice Presidentes and other Judges of the Supreme Popular Tribunal; n) to elect the Attorney General and the Vice Attorneys General of the Republic." Constitution of 1976, article 75. Unofficial translation.

<sup>92</sup> This right is recognised under article 10 of the Universal Declaration of Human Rights, article 14.1 of the International Covenant on Civil and Political Rights and article XXVI of the American Declaration of the Rights and Duties of Man, among others. See also Basic Principles on the Independence of the Judiciary (adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders held at Milan from 26 August to 6 September 1985 and endorsed by General Assembly resolutions 40/32 of 29 November 1985 and 40/146 of 13 December 1985).

<sup>93</sup> See Basic Principles on the Role of Lawyers, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990.

defendant did not appoint a lawyer, an *abogado de oficio*, ex-officio advocate, was assigned. Family members and colleagues of the accused charged that the authorities denied the attorneys access to the defendant and said that as a result they had been unable to prepare their defense, in violation of international fair trial standards.

The hearings took place in front of panels of judges. Although some family members and others were allowed to attend, foreign diplomats and some journalists were barred from entering.

Foreign Minister Pérez Roque defended Cuba's recourse to summary trials in these cases, and denied claims that the right to an adequate defense had not been respected. In a press release following the trials, he noted that 54 attorneys took part in the 29 trials, representing 75 dissidents; and that of these 44 were named by the defendants or their families. He maintained that foreign diplomats had no reason to attend the trials.

A total of twelve reported state security agents testified at the April trials; they had been involved in the dissident movement for a number of years, and several of them had become prominent leaders of groups of journalists or other activists.<sup>94</sup> Some observers expressed the opinion that the fact that the government was willing to reveal so many of its agents indicated the seriousness of the crackdown.

In a recorded 9 April press conference, Foreign Minister Felipe Pérez Roque presented journalists with a series of pieces of evidence from the dissidents' trials. Copies of these were distributed at the United Nations Human Rights Commission, and a copy is attached here as Appendix 1. The evidence includes:

- A copy of an open entry badge to the US Interests Section in the name of dissident Oscar Elías Biscet.
- A list entitled 'Summary of shipments carried out' from what appears to be an account based in Coral Gables, Florida, USA, for Frank Hernández Trujillo, reportedly head of the US-based *Grupo de Apoyo a la Disidencia*, Group for Support to Dissidence. The list contains dates; dispatch numbers; names and identity card numbers of recipients, some of whom were caught up in the crackdown; and the type of goods. These included money, videos, lamps and telephones.

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<sup>94</sup> 'Agente Tania,' dissident Odilia Collazo Valdés, was president of the *Partido Pro Derechos Humanos de Cuba*, a group that she reportedly joined in 1990. She was among the dissidents who were harassed by the Cuban authorities, and at one point was declared a possible prisoner of conscience by Amnesty International. After revealing herself as a state agent, she testified that in her human rights work, she helped dissidents to dissimulate being the victims of repression so that they could eventually gain a US visa. (See "Otra vez Odilia," *Juventud rebelde*, 12 April 2003.)

- Two photos of James Cason with what appears to be the same group of individuals; the captions say "James Cason founds the 'youth wing of the Liberal Cuban Party'" and "James Cason shares snacks with the 'future' of subversion." A third photo shows Cason with prominent dissident Marta Beatriz Roque Cabello.
- A photocopy of what appears to be the cover of a magazine, '*De Cuba: Revista de la Sociedad de Periodistas Manuel Márquez Sterling, miembro de la Red Internacional de Reporteros sin Fronteras*,' From Cuba: Magazine of the Journalists Society 'Manuel Márquez Sterling', member of the International Network of Reporters sans frontières, dated December 2002. The subtitle says that the magazine was printed in the US Interests Section.
- A handwritten signed note on letterhead of the 'Bibliotecas independientes de Cuba,' 'Independent Libraries of Cuba,' apparently referring to the receipt and spending of US dollars.
- Three handwritten notes, apparently to dissident Osvaldo Alfonso, on letterhead marked 'Carlos Alberto Montaner.'<sup>95</sup> The text of the notes indicate that two were accompanied by a sum of US\$ 200 and the third by 30,000 Spanish pesetas. The text of one says that "everyone has as an outlook the death of Fidel. Afterwards, we'll see." The text of another mentions the Varela Project. The explanatory note gives the full text as "Very soon some high level Spanish friends will call you to talk about the Varela Project. I suggested five names to found this new idea," although only the beginning of the second sentence is visible in the photocopy provided.

Again, despite the Cuban authorities' claims that this evidence demonstrated a threat to national security and therefore warranted prosecution, the evidence in itself is not indicative of any obvious criminal activity, and cannot in itself justify the authorities' repressive reaction.

#### 4.4. Sentencing

For many of the defendants, the prosecution called for the upper limit of the prescribed sanction. A number of defendants faced calls for life imprisonment, on the basis of 1999 revisions to the penal code:

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<sup>95</sup> Carlos Alberto Montaner is a prominent anti-Castro exile. He has strongly denied the accusations made against him by Cuban authorities during the trials. "Montaner dice no pertenece a la CIA ni fundó Proyecto Varela," EFE, 10 April 2003.

The sanction of life imprisonment can be imposed as the principal sanction in crimes for which it is expressly provided or alternatively in those which provide for the death penalty.<sup>96</sup>

In one instance, that of José Daniel Ferrer García, prosecutors reportedly called for the death penalty.<sup>97</sup> At sentencing, one activist received a sentence of six years; the rest received between ten and 28 years.

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<sup>96</sup> Law no. 87, modifying the Penal Code, 1999. Article 30.2.

<sup>97</sup> "Piden pena de muerte en Cuba a un activista pacífico," *El Nuevo Herald*, 7 April 2003.

## **5. Individual case summaries: the faces of the dissident movement**

The 75 dissidents caught up in the crackdown represent all facets of the dissident movement in Cuba. They include longtime activists, some well-known and some less so. Below are summaries, based on past Amnesty International work and the available information, of their backgrounds and involvement in the dissident movement. Where available, the summaries conclude with an overview of the accusations against them in the trial documents. The text box includes descriptions of some important initiatives in the recent history of peaceful dissent in Cuba, which may be helpful in tracing the activities of some of the individuals targeted in the crackdown.

The case summaries below have been arranged alphabetically. The 75 individuals described were all arrested in the March crackdown, and have subsequently been sentenced to harsh prison terms following summary trials. Amnesty International considers them to be prisoners of conscience, detained solely for the peaceful exercise of fundamental freedoms.

The information contained in these summaries is current as of this document going to print.

The *Concilio Cubano*, Cuban Council, was a forum of some 140 unofficial groups including human rights groups, political opposition groups, and groups of journalists, lawyers, women, young people, economists, engineers, ecologists and trade unionists. It was established in October 1995 to work for political change through peaceful means. Its aims included an amnesty for political prisoners; respect for the Constitution; fulfillment of Cuba's international human rights obligations; lifting of labour restrictions; and movement towards more free and open direct elections.<sup>98</sup>

*Concilio Cubano* members were subjected to a government crackdown in late 1995 and early 1996; a planned national meeting scheduled for 24 February 1996 was eventually banned by the authorities.<sup>99</sup> Scores of people were arbitrarily detained; though most were released shortly thereafter, four were sentenced to prison terms and were considered prisoners of conscience by Amnesty International.

The "Todos Unidos," "All Together" movement of dissident groups was formed in the runup to the 1999 Ibero-American Summit. Their Joint Declaration on the occasion of the Summit was, over the next years, signed by a growing number of individuals representing a significant number of dissident groups across the island. In March 2001, 117 "Todos Unidos" signatories issued a proclamation in favour of the Proyecto Varela referendum movement (see below), and "Todos Unidos" members were instrumental in gathering signatures and support for Proyecto Varela. In December 2002, the "Todos Unidos" movement released a series of Proposals for measures to resolve the crisis, including a range of economic, labour, social and legal measures to reform national life.

The **Proyecto Varela** is a petition for referendum on legal reform which seeks greater personal, political and economic freedoms, as well as amnesty for political prisoners. It is led by Oswaldo Payá Sardiñas, of the *Movimiento Cristiano Liberación*, Christian Liberation Movement, and signatures were collected by a broad range of organisations. In March 2002 project organisers reported having collected the 10,000 signatures constitutionally required to hold a referendum; these were submitted to the National Assembly. In December 2002 Oswaldo Payá received the European Union's top human rights award, the Sakharov Prize, named after the late Soviet dissident.

Activists for the Proyecto Varela have been subjected to threats, short-term detention, summons, confiscation of materials and other forms of harassment by State Security agents; several of the initiative's leaders were arrested in the recent roundup.

<sup>98</sup> For more information see Amnesty International, *CUBA: Government crackdown on dissent* (AI Index AMR 25/14/96), April 1996.

<sup>99</sup> Amnesty International, *CUBA: Dissidents imprisoned or forced into exile* (AI Index: AMR 25/29/96), July 1996.

**1. Nelson Alberto Aguiar Ramírez**, aged 57, is president of the unofficial *Partido Ortodoxo de Cuba*, Cuba Orthodox Party, and a member of the recent initiative, *Asamblea para Promover la Sociedad Civil*, Assembly to Promote Civil Society. He is an electrician by profession, and has been involved in activities critical of the government for a number of years. In one example, in December 1999 he was detained during a mass arrest of dissidents aimed at preventing them from participating in celebrations commemorating the 10 December anniversary of the Universal Declaration of Human Rights.

He was detained on 20 March 2003,<sup>100</sup> and his house was carefully searched, with a number of documents reportedly confiscated. The prosecution claimed that he had been involved in anti-governmental activities since the 1990s, that he had received funds from the US government and that he had been a member of the unofficial *Confederación de Trabajadores Democráticos de Cuba*, Confederation of Democratic Workers of Cuba, since 2000.

Nelson Aguiar was charged under articles 6.1 and 11 of Law 88.<sup>101</sup> He received a 13-year sentence.<sup>102</sup> He is currently serving his sentence in Boniato provincial prison in Santiago de Cuba.

**2. Osvaldo Alfonso Valdés**, aged 38, is president of the unofficial *Partido Liberal Democrático*, Liberal Democratic Party. He has been a member of the "*Todos Unidos*," "All Together" movement, and the steering committee of the *Proyecto Varela* initiative.

Osvaldo Alfonso was arrested on 18 March 2003. The verdict against him referred to his alleged ties to the United States Agency for International Development, USAID:

The accused ALFONSO VALDES was called to the US Interests Section in Havana by a USAID functionary to verify whether he was receiving the aid destined for them, in money, equipment, books and other materials, to promote and develop their work.<sup>103</sup>

The verdict also states that

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<sup>100</sup> Amnesty International, "CUBA: Massive crackdown on dissent," (AI Index AMR 25/008/2003), April 2003. Please note that in this document his name was incorrectly given as Nelson Aguiar Ramírez.

<sup>101</sup> Case 12/2003, *Tribunal Provincial Popular*, People's provincial Court, Havana, 31 March 2003.

<sup>102</sup> Sentence 7/2003, *Tribunal Provincial Popular*, People's provincial Court, Havana, 4 April 2003 (case 12/2003).

<sup>103</sup> Sentence 6/2003, *Tribunal Provincial Popular*, People's provincial Court, Havana, 6 April 2003 (case 11/2003). Unofficial translation.

Equally, the accused ALFONSO VALDES, PALACIOS RUIS [sic] and CANO RODRIGUEZ wrote and signed on 19 December 2002 in Havana a document called 'Cuba: proposals for measures to solve the crisis,' created by the union of different illegal organisations called 'Todos Unidos.' The document was disseminated abroad, a clear means of implementing the measures established by the Helms Burton law to increase the US blockade against Cuba, as the proposals in the two texts are very similar.<sup>104</sup>

This document, which was available on a number of websites, is described in the textbox at the beginning of this section. It proposed a number of economic, labour, social and legal measures to reform national life.

Oswaldo Alfonso was convicted under article 91 of the Penal Code, with "*actos contra la independencia o la integridad territorial del Estado*," "acts against the territorial independence or integrity of the state," as well as under articles 4.1, 4.2a-b, 6.1, 6.2a-b, 7.1, 7.2, 7.3, 8.1, 8.2, 9.1, 9.2, 10 and 11 of Law 88.<sup>105</sup> The trial verdict claimed that he had confessed to some of the activities of which he had been accused, and he received an 18-year sentence. The prosecution had asked for a life sentence for him.<sup>106</sup> He is currently being held in Guanajay prison, Havana province.

**3. Pedro Pablo Alvarez Ramos**, 55 years old, is President of the unofficial *Consejo Unitario de Trabajadores Cubanos (CUTC)*, United Cuban Workers Council. The CUTC is affiliated with regional and international labour bodies such as the *Central Latinoamericana de Trabajadores (CLAT)*, Latin American Workers Office, and the *Confederación Mundial de Trabajadores*, World Confederation of Labour. He served as a vice delegate in the 1995-96 *Concilio Cubano* initiative, and became involved with the *Proyecto Varela* in 2002.

Pedro Pablo Alvarez has been subjected to harassment and detention for his trade union activities since at least 1996. He was put under house arrest, summoned and interrogated on a number of occasions, during waves of mass arrests or harassment of *Concilio Cubano* activists.<sup>107</sup>

He was again detained in August and October 2000, apparently in relation to his work in preparing the first CUTC congress, planned for 20-21 October. Several other trade union members and dissidents were arrested with him on 13 October, and other leaders

<sup>104</sup> Ibid. Unofficial translation.

<sup>105</sup> Ibid.

<sup>106</sup> Case 11/2003, *Tribunal Provincial Popular*, People's provincial Court, Havana, 31 March 2003.

<sup>107</sup> Amnesty International, "Cuba: Government crackdown on dissent," (AI Index: AMR 25/14/96), April 1996.

of the CUTC were visited and threatened with arrest should they attend the CUTC conference. He was subsequently held in detention for over three months, during which time he was formally charged with resisting arrest in November 2000.<sup>108</sup> He was released on 26 January 2001. The trial verdict indicated that he did not have a prior criminal record.<sup>109</sup>

On the morning of 19 March 2003 Pedro Pablo Alvarez' house was searched, and all the books of the private library there, the '*Biblioteca sindical Emilio Máspero*,' were confiscated. He received a 25-year sentence under article 91 of the Penal Code<sup>110</sup> and is currently imprisoned in the *Prisión Provincial de Ciego de Avila*, Ciego de Avila Provincial Prison (called "*Canaleta*").

**4. Pedro Argüelles Morán**, 55 years of age, is a member of the *Cooperativa de Periodistas Independientes*, Cooperative of Independent Journalists. He is also a member of the *Comité Cubano Pro Derechos Humanos*, Cuban Committee for Human Rights, in Ciego de Avila. Neither organisation has been recognised by the Cuban authorities.

Pedro Argüelles has reportedly been harassed periodically for his activities since 1997, including through threats, warnings and short term detentions.<sup>111</sup>

Pedro Argüelles was sentenced under articles 6.1, 6.3b, 7.1, 7.3 and 11 of Law 88 to 20 years' imprisonment.<sup>112</sup> He is currently being held in the provincial prison in Santa Clara.

**5. Víctor Rolando Arroyo Carmona**, aged 52, is vice-president of the unofficial group *Foro por la Reforma*, Forum for Reform, as well as a member of the unofficial *Unión de Periodistas y Escritores Cubanos Independientes (UPECI)*, Union of Independent Cuban Journalists and Writers.

In January 2000 Víctor Arroyo was sentenced to six months' imprisonment, reportedly for buying, with money sent by exile groups in Miami, toys for distribution to

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<sup>108</sup> Amnesty International press release, "*Cuba marks Human rights day with mass detentions and sentences for dissidents*," (AI Index: AMR 25/026/2000), 14 December 2000.

<sup>109</sup> Sentence 10/2003, *Tribunal Provincial Popular*, People's provincial Court, Havana, 5 April 2003 (case 13/2003).

<sup>110</sup> *Ibid.*

<sup>111</sup> Amnesty International, "*Cuba: Some releases but repression and imprisonment continue*," (AI Index: AMR 25/05/99), February 1999.

<sup>112</sup> Sentence 2/2003, *Tribunal Provincial Popular*, People's provincial Court, Ciego de Avila, 4 April 2003 (case 1/2003).

disadvantaged children.<sup>113</sup> The arrest took place during a period of clampdown on dissidents, in the aftermath of the 1999 Ibero-American Summit in Havana. He was released on 20 July 2000, and continued his activities, in spite of reported incidents of harassment.

Víctor Arroyo was arrested on 18 March 2003. On 5 April 2003 he was convicted of criminal activity under article 91 of the penal code and sentenced to 26 years in prison.<sup>114</sup> The text of the verdict noted, among other accusations against him, that he had been awarded the Hellman/Hammet human rights prize by Human Rights Watch. Although Víctor Arroyo lives and was tried in Pinar del Río, on the west end of Cuba, he has been transferred to the other end of the island and is currently being held in the provincial prison in Guantánamo.

**6. Mijail Barzaga Lugo**, aged 35, was reportedly detained on 20 March 2003, and charged with infractions under articles 4.1, 4.2b, 7.1 and 7.3 of Law 88.<sup>115</sup> He was sentenced to 15 years.<sup>116</sup>

According to the trial verdict, Mijail Barzaga had worked as an 'independent journalist' and was paid by US government funds:

It has been proved that the accused Mijail Barzaga Lugo, in 2002, wrote, as an 'independent journalist' in different websites like Cubanet, Cubaliberal and Payolibre (the first of which is financed by the North American government agency USAID), different articles of a subversive and counterrevolutionary type, with the obvious objective of their being used in campaigns to discredit the Cuban socialist state.<sup>117</sup>

Mijail Barzaga was tried in Havana, but is being held in the provincial prison in Santa Clara province.

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<sup>113</sup> Amnesty International Urgent Action (AI Index: AMR 25/01/00), 18 January 2000 and Amnesty International, "CUBA: Prisoners of Conscience: New convictions overshadow releases," (AI Index: AMR 25/21/00), October 2000.

<sup>114</sup> Sentence 1/2003, *Tribunal Provincial Popular*, People's provincial Court, Pinar del Río, 5 April 2003 (case 2/2003).

<sup>115</sup> Case 12/2003, *Tribunal Provincial Popular*, People's provincial Court, Havana, 31 March 2003.

<sup>116</sup> Sentence 7/2003, *Tribunal Provincial Popular*, People's provincial Court, Havana, 4 April 2003 (case 12/2003).

<sup>117</sup> *Ibid.* Unofficial translation.

**7. Oscar Elías Biscet González**, 41 years old, president of the unofficial *Fundación Lawton de Derechos Humanos*, Lawton Human Rights Foundation, has been detained over two dozen times in the past. In one instance, he was arrested on 3 November 1999 and served a three year sentence, charged with 'insult to the symbols of the homeland,' '*ultraje a los símbolos de la patria*,' 'public disorder,' '*desorden público*,' and 'incitement to commit an offence', '*instigación a delinquir*.' During his imprisonment he was considered by Amnesty International to be a prisoner of conscience.<sup>118</sup> He was released on 31 October 2002 from a maximum security prison in Holguín province, and reportedly gave a press conference denouncing prison conditions a short time afterwards.

On 6 December 2002 Oscar Biscet was re-detained with 16 other dissidents after they attempted to meet at a home in Havana to discuss human rights.<sup>119</sup> When police prevented them from entering the home, Oscar Biscet and the others reportedly sat down in the street in protest and uttered slogans such as "long live human rights" and "freedom for political prisoners." The group was then arrested, though most of them were released shortly afterwards.

In spite of the fact that he was already in detention during the crackdown, Oscar Biscet was tried together with a number of dissidents who were arrested in March. He was sentenced under article 91 of the Penal Code to 25 years in prison.<sup>120</sup> Although he lives and was tried in Havana, he is currently imprisoned in Kilo 5 1/2 prison in Pinar del Río province.

**8. Margarito Broche Espinosa**, aged 45, was reportedly tried and fined after trying to leave the country illegally in 1992, and was said to have been harassed on several occasions in recent years.

He was arrested on 18 March 2003. According to the trial verdict, after his own attempt at leaving the country, Margarito Broche founded a group called *Asociación Nacional de Balseros, Paz, Democracia y Libertad del Centro Norte de Cuba*, the National Association of Rafters, Peace, Democracy and Liberty of North Central Cuba. The group was accused of having as its aims

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<sup>118</sup> Amnesty International, "CUBA: Prisoners of conscience: new convictions overshadow releases" (AI Index: AMR 25/21/00), October 2000.

<sup>119</sup> Amnesty International, "CUBA: Continued detentions following mass arrests in February and December 2002" (AI Index: AMR 25/001/2003), February 2003.

<sup>120</sup> Sentence 16/2003, *Tribunal Provincial Popular*, People's provincial Court, Havana, 8 April 2003 (case 15/2003).

To render homage to boat people who went missing or were returned [to Cuba] following attempts to leave the country secretly, and through this, to sabotage the migration accords signed between the governments of Cuba and the United States, creating a favourable atmosphere for the North American authorities to violate those accords and to search for justifications for toughening its policies against our people.<sup>121</sup>

Margarito Broche received a 25-year sentence under article 91 of the penal code.<sup>122</sup> He is currently being held in Guanajay prison in Havana province.

**9. Marcelo Cano Rodríguez**, 38 years old and a medical doctor, is National Coordinator of the unofficial *Colegio Médico Independiente de Cuba*, Cuban Independent Medical Association, an association of medical professionals around the island. He is also a member of the unofficial *Comisión Cubana de Derechos Humanos y Reconciliación Nacional (CCDHRN)*, Cuban Commission for Human Rights and National Reconciliation.

Marcelo Cano was arrested on 25 March 2003 in Las Tunas, reportedly as he was investigating the arrest of another March detainee, Jorge Luis García Paneque. He had no previous criminal record. The activities which the prosecution cited against this human rights defender included visiting prisoners and their families as part of his work with the CCDHRN, and maintaining ties to the international organisation *Médicos sin Fronteras*, Doctors without Borders.<sup>123</sup>

Marcelo Cano was tried and convicted under article 91 of the Penal Code and articles 4.1, 4.2a-b, 6.1, 6.2a-b, 7.1, 7.2, 7.3, 8.1, 8.2, 9.1, 9.2, 10 and 11 of Law 88 to 18 years in prison.<sup>124</sup> Although he lives and was tried in Havana, he was transferred and is serving his sentence in the *Prisión Provincial de Ciego de Avila*, Ciego de Avila Provincial Prison (called "Canaleta").

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<sup>121</sup> Sentence 3/2003, *Tribunal Provincial Popular*, People's provincial Court, Villa Clara, 7 April 2003 (case 1/2003). Unofficial translation.

<sup>122</sup> Ibid.

<sup>123</sup> Case 11/2003, *Tribunal Provincial Popular*, People's provincial Court, Havana, 31 March 2003.

<sup>124</sup> Sentence 6/2003, *Tribunal Provincial Popular*, People's provincial Court, Havana, 6 April 2003 (case 11/2003).

**10. Juan Roberto de Miranda Hernández**, aged 57, is vicepresident of the unofficial *Colegio de Pedagogos de Cuba*, Teachers College of Cuba. He has reportedly been harassed and detained numerous times in the past for being involved in activities critical of the government.

On 7 September 1998 he was detained for three days during the most significant crackdown on anti-government activism since the January 1998 visit of the Pope to Cuba. The arrest occurred when he was taking part in a demonstration outside the court where another activist, Reinaldo Alfaro García, was being tried.<sup>125</sup> He was again briefly detained following a demonstration outside the trial of dissident Mario Julio Viera González in November 1998;<sup>126</sup> harassment against him and his family reportedly continued in subsequent years.

Following his March arrest, Roberto de Miranda received a 20-year sentence under the state security provisions of article 91 of the Penal Code.<sup>127</sup> The prosecution had requested a sentence of 25 years.<sup>128</sup>

The trial verdict contained one sentence regarding supposed links between Roberto de Miranda and an individual said to be connected to Alpha 66, a US-based Cuban exile group which has admitted carrying out violent attacks in Cuba in the past. However, aside from the assertion itself, there was no substantive information or evidence provided, and no accusation that Roberto de Miranda had plotted, encouraged or engaged in violent behaviour. As with the other cases, the activities for which he was tried appeared to amount to peaceful exercises of freedom of association and expression, for example the following:

In 1996 he created the illegal and counterrevolutionary College of Independent Teachers of Cuba, of which he named himself head. He also dedicated himself to intentionally and maliciously criticising the objectives of the Cuban education system, and tried to minimise the achievements in this area of our revolutionary process.<sup>129</sup>

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<sup>125</sup> Amnesty International, "CUBA: Some releases but repression and imprisonment continue" (AI Index: AMR 25/05/99), February 1999.

<sup>126</sup> Ibid.

<sup>127</sup> Sentence 8/2003, *Tribunal Provincial Popular*, People's provincial Court, Havana, 5 April 2003 (case 16/2003).

<sup>128</sup> Case 16/2003, *Tribunal Provincial Popular*, People's provincial Court, Havana, 31 March 2003.

<sup>129</sup> Sentence 8/2003, *Tribunal Provincial Popular*, People's provincial Court, Havana, 5 April 2003 (case 16/2003). Unofficial translation.

For this reason Amnesty International considers that based on the available information, Roberto de Miranda, like the others tried following the crackdown, is a prisoner of conscience. He is currently imprisoned in Agüica prison, in the municipality of Colón in Matanzas province, though he was reportedly sent briefly to a military hospital on 20 April with heart problems. He also reportedly suffers from high blood pressure and kidney ailments.

**11. Carmelo Agustín Díaz Fernández**, 65 years old, is a member of the unofficial *Unión Sindical Cristiana Cubana*, the Christian Cuban Workers Union, and president of the also unofficial *Agencia de Prensa Sindical Independiente de Cuba (APSIC)*, the Independent Union Press Agency. He is the Cuban correspondent for the Venezuelan magazine *Desafíos*, and his articles have also appeared on a number of websites. He has been reportedly harassed and threatened with imprisonment for his work as a journalist and trade unionist.

Carmelo Díaz was sentenced to 16 years under article 91 of the Penal Code.<sup>130</sup> He is currently being held in Guanajay prison in Havana province.

**12. Eduardo Díaz Fleitas**, aged 51, belongs to a number of groups in his province of Pinar del Río, including the unofficial *Movimiento 5 de Agosto*, 5 August Movement. A farmer by profession, he reportedly worked for the state as a young man, but joined the opposition movement at the beginning of 1990s. Since then, he has been subjected to regular harassment, including summons, interrogations, house searches and periods of detention.

On 10 November 1999 he was arrested together with another activist at a demonstration that had begun in Dolores Park, in the run-up to the IX Ibero-American Summit.<sup>131</sup> During the march the pair were reportedly injured by government supporters in the presence of the international press. After more than three months in detention, during which time he reportedly suffered medical problems and was moved to a military hospital, Eduardo Díaz was sentenced to a year's restricted freedom and house surveillance on 25 February 2000 for "desorden público," or public disorder.

Eduardo Díaz was convicted under articles 4.1, 4.2a-b, 6.1, 6.3a-b, 7.1, 7.3 and 11 of Law 88, and received a 21-year sentence.<sup>132</sup> According to the trial verdict,

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<sup>130</sup> Sentence 10/2003, *Tribunal Provincial Popular*, People's provincial Court, Havana, 5 April 2003 (case 13/2003).

<sup>131</sup> Amnesty International, "CUBA: Eleven remain in detention following government crackdown on dissent during the Ibero-American Summit in Havana" (AI Index: AMR 25/02/00), January 2000; Urgent Action update 161/99 (AI Index: AMR 25/05/00), 23 February 2000.

<sup>132</sup> Sentence 1/2003, *Tribunal Provincial Popular*, People's provincial Court, Pinar del Río, 5 April 2003 (case 2/2003).

It is known by everyone in the area that he directs an opposition group of so-called 'human rights,' carrying out activities and meetings, using our national flag and showing posters asking for freedom for political prisoners and prisoners of conscience, in a frank challenge to the judicial, political and social system.<sup>133</sup>

He is serving his sentence in Villa Marista, the headquarters of the Department of State Security.

**13. Antonio Ramón Díaz Sánchez**, 40 years old, is a member of the unofficial *Movimiento Cristiano Liberación*, Christian Liberation Movement, and has been active in the *Proyecto Varela* initiative. He is an electrician by profession.

Antonio Díaz was given a 20-year sentence for infractions under article 91 of the Penal Code.<sup>134</sup> This was the sentence requested by the prosecution.<sup>135</sup>

Although he lives and was tried in Havana, he has reportedly been transferred to the provincial prison of Holguín at the other end of the island to serve his sentence.

**14. Alfredo Rodolfo Domínguez Batista**, is also a member of the *Movimiento Cristiano Liberación*, Christian Liberation Movement, and has been involved in the *Proyecto Varela* initiative in Las Tunas province.

He was arrested on 19 March, tried and sentenced to 14 years. He began serving his sentence in "El Típico" provincial prison in Las Tunas, with four other men arrested in the crackdown. However, they were all transferred, reportedly after they had staged a protest in the prison. Alfredo Rodolfo Domínguez is now being held in Holguín provincial prison.

**15. Oscar Manuel Espinosa Chepe**, aged 62, is a former employee of the National Bank of Cuba. He also worked for the Cuban government as economic counsellor for the Cuban Embassy in Belgrade. Later, after expressing criticism of government policies, he became a journalist reporting on economic and other matters.

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<sup>133</sup> Ibid. Unofficial translation.

<sup>134</sup> Sentence 8/2003, *Tribunal Provincial Popular*, People's provincial Court, Havana, 5 April 2003 (case 16/2003).

<sup>135</sup> Case 16/2003, *Tribunal Provincial Popular*, People's provincial Court, Havana, 31 March 2003.

Since being detained Oscar Espinosa has suffered health problems. He is believed to be suffering from a liver condition, a thoracic hernia, persistent hyper-tension and weight loss. On 20 April he was transferred to a military hospital, though his family maintains that medical treatment was withheld.<sup>136</sup>

Oscar Espinosa was convicted under article 91 of the Penal Code and articles 4.1, 4.2a-b, 6.1, 6.2a-b, 7.1, 7.2, 7.3, 8.1, 8.2, 9.1, 9.2, 10 and 11 of Law 88 to 20 years in prison.<sup>137</sup> He was accused, among other activities, of "having a regular program on Radio Martí called 'Talking with Chepe,' where he gave distorted information on the Cuban economy."<sup>138</sup>

Oscar Espinosa lives and was tried in Havana but has been transferred to Guantánamo provincial prison in eastern Cuba to serve his sentence. His health problems reportedly continue, and he was said to have again been taken to hospital in late May.

**16. Alfredo Felipe Fuentes** is a member of the *Consejo Unitario de Trabajadores Cubanos (CUTC)*, United Cuban Workers Council, and other organisations. He is said to have been active in collecting signatures for the *Proyecto Varela* initiative in Artemisa, Havana province, where he lives.

Alfredo Felipe was reportedly sentenced to 26 years. He is being held in Guamajal prison in the municipality of Santa Clara.

**17. Efrén Fernández Fernández**, age 54, is secretary of the *Movimiento Cristiano Liberación*, Christian Liberation Movement, and was active in the *Proyecto Varela* signature drive in Havana.

Efrén Fernández was convicted of state security violations under article 91 of the Penal Code and sentenced to 12 years.<sup>139</sup> The prosecution had requested 15 years.<sup>140</sup> He was tried in Havana and is serving his sentence in Guanajay prison in Havana province.

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<sup>136</sup> Urgent Action (AI Index: AMR 26/016/2003), 24 April 2003.

<sup>137</sup> Sentence 6/2003, *Tribunal Provincial Popular*, People's provincial Court, Havana, 6 April 2003 (case 11/2003).

<sup>138</sup> Ibid. Unofficial translation.

<sup>139</sup> Sentence 8/2003, *Tribunal Provincial Popular*, People's provincial Court, Havana, 5 April 2003 (case 16/2003).

<sup>140</sup> Case 16/2003, *Tribunal Provincial Popular*, Havana, 31 March 2003.

**18. Juan Adolfo Fernández Sainz**, 54 years old, is a trained English language translator, and reportedly worked in this field first with official structures and then with unofficial groups. He is also a journalist with the unofficial agency *Patria*, Fatherland.

In July 2002, the Cuban government reportedly denied him and three other dissidents permission to leave the country to participate in a seminar "Cómo democratizar Cuba desde dentro," "How to democratise Cuba from within," at the European Parliament in Strasbourg, France.

Adolfo Fernández was found guilty of infractions under articles 4.1, 4.2b, 7.1 and 7.3 of Law 88.<sup>141</sup> He was sentenced to 15 years imprisonment,<sup>142</sup> and has been transferred from Havana to the prison in Holguín province, eastern Cuba.

**19. José Daniel Ferrer García**<sup>143</sup> is an active *Proyecto Varela* supporter and regional co-ordinator for the *Movimiento Cristiano Liberación*, Christian Liberation Movement, in Santiago Province.

José Daniel Ferrer has reportedly been detained and harassed on numerous occasions for his work. He was briefly detained in November 2000 together with other dissidents, apparently to prevent them from attending the trial of fellow dissidents. On 22 January 2002, he and other *Proyecto Varela* activists were said to have been forced from the bus in which they were travelling and beaten by the police. Referring to the incident and to his *Proyecto Varela* work, he told a US-based reporter, "we're for peaceful change as allowed under our Constitution. We aren't breaking any laws by collecting those signatures, and they know it. They know it."<sup>144</sup>

José Daniel Ferrer was sentenced to 25 years. The prosecution had reportedly requested the death sentence for him. He is serving his sentence in Kilo 5 1/2 prison in Pinar del Río in western Cuba, though he lives and was tried in Santiago de Cuba, at the other end of the island.

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<sup>141</sup> Case 12/2003, *Tribunal Provincial Popular*, People's provincial Court, Havana, 31 March 2003.

<sup>142</sup> Sentence 7/2003, *Tribunal Provincial Popular*, People's provincial Court, Havana, 4 April 2003 (case 12/2003).

<sup>143</sup> NOTE: his last name was incorrectly given as Ferrer Castillo in earlier Amnesty International documents.

<sup>144</sup> "In Cuba, nothing is what it seems," *Sun Sentinel*, 14 April 2002.

**20. Luis Enrique Ferrer García**, aged 27, is the brother of José Daniel Ferrer García. He also is a member of *Movimiento Cristiano Liberación*, Christian Liberation Movement.

Luis Enrique Ferrer has been harassed and detained on numerous occasions. In December 1999 he was reportedly sentenced to 6 months' restricted freedom for his refusal to pay a fine which he claimed was imposed upon him unfairly.

During his trial, Luis Enrique Ferrer's family members were said to have been denied access to the court room, instead having to wait in the corridor. At the end of the trial, members of the public were said to have insulted and displayed physical aggression against the family members, reportedly pushing Luis Enrique Ferrer's mother to the floor.

Luis Enrique Ferrer was sentenced to 28 years' imprisonment. He was transferred from "El Típico" provincial prison in Las Tunas to Combinado del Este, reportedly after being involved in a protest with other activists caught up in the March crackdown.

**21. Orlando Fundora Alvarez**, 47 years old, is president of the unofficial *Asociación de Presos Políticos 'Pedro Luis Boitel'*, or 'Pedro Luis Boitel' Political Prisoners Association. His wife, Yolanda Triana, is director of a private library and is also an active dissident. Orlando Fundora reportedly lived in the US for a period after the 1980 Mariel boatlift. He was accused of illegal entry into Cuba on 27 July 1991 and sentenced to two years' imprisonment. He was released in 1993.

Orlando Fundora and his wife have reportedly been subjected to frequent harassment in recent years, including short-term detention and interrogation. Their house has reportedly been attacked by unknown assailants.

Following his March arrest, Orlando Fundora was tried and sentenced under article 91 of the Penal Code to 18 years in prison.<sup>145</sup> He is being held in Combinado del Este prison in Guanabacoa municipality in Havana province. Since his detention, there have been concerns for his health, as he is said to suffer from hypertension and heart problems.

**22. Próspero Gaínza Agüero** is the delegate for Holguín province of the unofficial *Movimiento Nacional de Resistencia Cívica 'Pedro Luis Boitel'*, 'Pedro Luis Boitel' National Civil Resistance Movement.

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<sup>145</sup> Sentence 16/2003, *Tribunal Provincial Popular*, People's provincial Court, Havana, 8 April 2003 (case 15/2003).

Próspero Gaínza reportedly took part in a number of activities critical of the government, and in 2002 was said to have been briefly detained for his participation in a protest by members of his group to demand to release of a detainee charged with 'public disorder.'

He was detained on 18 March 2003, and believed to have been charged under Law 88, on the basis of 'subversive' activities and material found during a search of his house. He was tried in Holguín on 3 April 2003 and shortly after, sentenced to 25 years in prison. He is serving his prison sentence in Boniato provincial prison in Santiago de Cuba, and is said to be in poor health.

**23. Miguel Galván Gutierrez** is 38 years of age. He was born and lives in the town of Güines, Havana province, and is an engineer by profession. He has reportedly written articles for the unofficial press agency Havana Press and served as president of the unofficial *Colegio de Ingenieros y Arquitectos de Cuba*, College of Engineers and Architects of Cuba. He is also the area coordinator for *Proyecto Varela*.

In recent years Miguel Galván was reportedly harassed on numerous occasions, including through interrogation and short term detention. He was arrested on 18 March 2003, reportedly charged under Law 88 and Article 91 of the Penal Code and sentenced to 26 years in prison. He is serving his prison sentence in Agüica prison in the municipality of Colón in Matanzas province. Miguel Galván is said to be physically handicapped due to the effects of a past traffic accident, and his family has reportedly expressed concerns for his health.

**24. Julio César Gálvez Rodríguez**, aged 58, lives in Havana and works as a journalist. In 2001, he was allegedly sacked from the official radio stations *Radio Ciudad de La Habana* and *Radio Cadena Habana* for collaborating with the unofficial organization Cuba Free Press.

He reportedly continued his unofficial journalism work and was detained on 19 March 2003. He was sentenced under articles 4.1, 4.2b, 6.1, 6.3b, 7.1, 7.3, and 11 of Law 88, to a penalty of 15 years' imprisonment.<sup>146</sup> Although he is resident and was tried in

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<sup>146</sup> Sentence 5/2003, *Tribunal Provincial Popular*, People's provincial Court, Havana, 5 April 2003 (case 14/2003).

Havana, he was transferred to the provincial prison in Santa Clara to serve his sentence. There are concerns for his health, as he is reported to suffer from high blood pressure.

**25. Edel José García Díaz**, 57 years old, worked as director of an unofficial press agency in Havana, and reportedly took part in a workshop on journalistic ethics held just before the crackdown.

According to reports Edel José García was harassed repeatedly during 1997, 1998 and 1999, including through short term detention, interrogation and official warnings.

Edel José García was convicted under articles 4.1, 4.2b, 6.1, 6.3b, 7.1, 7.3, and 11 of Law 88 and received a sentence of 15 years.<sup>147</sup> He was accused of writing articles about, among other topics, the poor physical condition of a school building in Havana, "accompanying this article with a photo of the state of this installation."<sup>148</sup> He is being held in Boniato provincial prison in Santiago, on the other side of the island from his home.

**26. José Luis García Paneque**, 38 years of age, lives in the province of Las Tunas. He is a plastic surgeon by training and a member of the unofficial *Colegio Médico Independiente de Cuba*, Cuban Independent Medical Association. He has also been involved in journalism, as director of the independent news agency *Libertad* and member of unofficial *Sociedad de Periodistas*, Journalists' Society, "*Manuel Marquez Sterling*." He was also reportedly involved in the *Proyecto Varela* initiative as well as directing a private library. In 2002, he was reportedly arrested and detained together with other journalists, but was later released.

José Luis García was detained on 18 March 2003. Following a search of his house, materials, correspondence and medical equipment were reportedly confiscated. He was said to have been charged and tried under Law 88 and Article 91 of the Penal Code, and given a 24-year sentence, even though the prosecution had called for a lesser sentence of 18 years. He is being held in Villa Clara prison, having reportedly been transferred from "El Típico" provincial prison in Las Tunas following a protest with other prisoners arrested in the March crackdown.

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<sup>147</sup> Ibid.

<sup>148</sup> Ibid.

**27. Ricardo Severino Gonzales Alfonso**, 53, is president of the unofficial *Sociedad de Periodistas "Manuel Marquez Sterling"*, "Manuel Marquez Sterling" Journalists' Society, and correspondent in Cuba of the international nongovernmental organization Reporters Without Borders. He also has a private library called the 'Jorge Mañach' Library in his home.

Ricardo Gonzales has been detained on many occasions. In October 1997 he was reportedly arrested for distributing reports of alleged human rights violations in the Santa Clara area. He was released without charge after two days but warned that if he did not stop writing such articles, he would have to choose between imprisonment and exile. Amnesty International believed him to be a prisoner of conscience.<sup>149</sup>

In 2001, Amnesty International received reports that he had been detained on 16 February, allegedly to prevent a seminar entitled "Ethics and Journalism" from being held in the library of which he is director. On that occasion, as on similar occasions on 22 February and 15 July 2001, he was apparently released after being questioned for several hours.

Ricardo Gonzales was arrested on 18 March and sentenced to 20 years' imprisonment under article 91 of the Penal Code.<sup>150</sup> The prosecution had called for life imprisonment, on charges that he was responsible for "aggressive and untrue publications against the Cuban Government."<sup>151</sup> The sentence document stated that:

"he wrote this type of information for the *Fundación Hispano Cubano Americana*, Cuban American National Foundation, based in Spain, for which he received sums of money from its president, Orlando Fondevila, who is of Cuban origin, he managed to get his articles, which were subversive and misleading in nature with regard to the Cuban system, published in various newspapers and magazines such as *Encuentros en la Red* and Reporters Without Borders, among others, from whom he received sums of money for his articles."<sup>152</sup>

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<sup>149</sup> Urgent Actions: AI Index: AMR 25/37/97, 17 October 1997, AI Index: AMR 25/38/97, 21 October 1997 and AI Index: AMR 25/39/97, 30 October 1997.

<sup>150</sup> Sentence 4/2003, *Tribunal Provincial Popular*, People's Provincial Court, Havana, 5 April 2003 (case 10/2003).

<sup>151</sup> Case 10/2003, *Tribunal Provincial Popular*, People's Provincial Court, Havana, 31 March 2003.

<sup>152</sup> Sentence 4/2003, *Tribunal Provincial Popular*, People's Provincial Court, Havana, 5 April 2003 (case 10/2003). Unofficial translation.

Ricardo Gonzales is serving his sentence in Kilo 8 Provincial Prison in the province of Camagüey despite the fact that he lives with his family in the city of Havana.

**28. Diosdado González Marrero** has been an activist for several years and has been detained on several occasions. In January 2000 he was considered a prisoner of conscience by Amnesty International when he was detained during the government crackdown on dissidents during the Ibero-American Summit held in Havana in November 1999.<sup>153</sup> On that occasion he spent over six months in prison.

Diosdado González, who was arrested at the end of March, was reportedly convicted under Law 88. He is serving a 20-year sentence in Kilo 5½ Prison in the province of Pinar del Río. According to his family, he is being held in solitary confinement in a punishment cell from which he is only taken out for one hour a day to get some sunlight. He is also reportedly only allowed to receive restricted visits from members of his family.

**29. Léster González Pentón**, 26, is a member of the *Movimiento pro Derechos Humanos Razón, Verdad y Libertad*, Reason, Truth and Freedom Human Rights Movement, and delegate of the *Confederación de Trabajadores Democráticos de Cuba*, Cuban Confederation of Democratic Workers, in Santa Clara. Neither group has been recognized by the authorities.

Léster González had suffered police harassment in the past. For example, on 5 August 2002 state security officials apparently prevented him from leaving his house to stop him from participating in events organized by dissidents. In addition, on 9 July 2001 he was said to have been questioned by police and threatened with imprisonment if he did not work, despite the fact that he had reportedly been sacked from his job as a baker because of his activities with the *Confederación de Trabajadores Democráticos de Cuba*.

Léster González was arrested on 18 March and sentenced to 20 years' imprisonment for breaching article 91 of the Penal Code.<sup>154</sup> He is serving his sentence in Boniato Provincial Prison, in the municipality of Santiago de Cuba.

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<sup>153</sup> Amnesty International, CUBA: Eleven remain in detention following government crackdown on dissent during the Ibero-American Summit in Havana (AI Index: AMR 25/02/00), January 2000.

<sup>154</sup> Sentence 3/2003, *Tribunal Provincial Popular*, People's Provincial Court, Villa Clara, 7 April 2003 (case 1/2003).

**30. Alejandro González Raga** is 45 years old and lives in Camaguey. According to reports, he is a journalist and helped to collect signatures for the *Proyecto Varela*, Varela Project.

Alejandro González was sentenced to 14 years' imprisonment for breaching article 91 of the Penal Code.<sup>155</sup> He is serving his sentence in "Canaleta" Provincial Prison in the municipality of Ciego de Avila.

**31. Jorge Luis González Tanquero**, 32, is reportedly a member of a group called *Movimiento Independentista Carlos Manuel de Céspedes*, Carlos Manuel de Céspedes Independence Movement, which is not recognized by the authorities. He also helped to collect signatures for the *Proyecto Varela* in Las Tunas.

Jorge Luis González was arrested on 19 March 2003 and has reportedly been sentenced to 20 years' imprisonment. He is being held in Guanajay Prison in Havana Province.

**32. Leonel Grave de Peralta Almenares** is a member of the *Movimiento Cristiano Liberación*, Christian Liberation Movement, in the province of Santa Clara. He reportedly helped to gather signatures for the *Proyecto Varela* in that region. He is also said to have a private library called the "Bartolomé Massó" Library.

According to the *Movimiento Cristiano Liberación*, Leonel Grave de Peralta was reportedly subjected to harassment in September 2002 when his home was besieged by members of the *Brigadas de Respuesta Rápida*, Rapid Response Brigades.<sup>156</sup>

Leonel Grave de Peralta was tried at the same time as other members of the *Movimiento Cristiano Liberación*. The alleged basis of the charge against him was that he had been involved in activities related to the *Proyecto Varela*. He was reportedly sentenced to 20 years' imprisonment for breaching Law 88. He is imprisoned in Kilo 5½ Prison in Pinar del Río.

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<sup>155</sup> Sentence 1/2003, *Tribunal Provincial Popular*, People's Provincial Court, Camaguey, 4 April 2003 (case 2/2003).

<sup>156</sup> These brigades were first set up in 1991 to deter crime and counter-revolutionary activities.

**33. Iván Hernández Carrillo** is 32 years old. He reportedly belongs to several groups: he is a member of the *Partido por la Democracia "Pedro Luis Boitel,"* "Pedro Luis Boitel" Democracy Party, has worked as a journalist for several agencies, including the "*Patria*", "Fatherland", agency, and has a private library in his house in the province of Matanzas.

According to reports received by Amnesty International, Iván Hernández has been repeatedly subjected to harassment involving short-term detention, searches and being called in for questioning. For example, he was apparently visited by police officers on two occasions in January 1997, arrested in February 1997 and again arrested in November 1999. On 23 June 2002 he was said to have been arrested with other members of his group to prevent them from attending a meeting of the "Pedro Luis Boitel" Democracy Party in the municipality of Perico.

He was arrested on 18 March 2003. The evidence submitted against him at his trial included a computer allegedly sent from the United States and invoices for moneys said to have been received by the private library. Witnesses for the prosecution stated that cars belonging to the diplomatic corps had visited his home. Iván Hernández Carrillo was sentenced to 25 years' imprisonment on the basis of articles 4.1, 4.2a-b, 6.1, 6.3b, 7.1, 7.3 and 8.2 of Law 88.<sup>157</sup> He is being held in Holguín Provincial Prison.

**34. Normando Hernández González**, 32, from the province of Camagüey, is the director of the *Colegio de Periodistas Independientes*, College of Independent Journalists. He has been subjected to harassment on many occasions over the past few years: in February and March 2001, for example, he was reportedly detained and released several miles from his home on at least two occasions, and on 8 March 2002 members of the police apparently threatened to imprison him for his journalism work. He has also reported other types of harassment as well, including that his telephone has been cut off since 15 June 2002 despite having paid the required bills.

Normando Hernández was arrested on 24 March 2003. According to reports, on the day of his arrest the police confiscated documents permitting him and his wife to leave Cuba.

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<sup>157</sup> Sentence 2/2003, *Tribunal Provincial Popular*, People's Provincial Court, Matanzas, 4 April 2003 (case 8/2003).

According to the verdict, the activities for which Normando Hernández has been convicted include writing articles on various issues relating to daily life. He was accused of the following activities, among others:

He prepared one hundred and sixteen reports for the ill-named Radio 'José Martí', some of which were untrue and others tendentious, with the aforementioned aim of creating conditions in which our national integrity would be put at risk, reports which were transmitted by those radio stations and monitored in Cuba, and in which he attacked the health system [and] the education provided in this country, questioned the justice system, tourism, culture, agriculture, fishing....<sup>158</sup>

Normando Hernández was sentenced to 25 years' imprisonment for breaching article 91 of the Penal Code.<sup>159</sup> He is being held in Boniato Provincial Prison in the province of Santiago de Cuba.

**35. Juan Carlos Herrera Acosta**, 36, is a member of the *Movimiento Cubano de Jóvenes por la Democracia*, Cuban Movement of Young People for Democracy, and the *Asociación de Presos Políticos 'Pedro Luis Boitel'*, 'Pedro Luis Boitel' Political Prisoners Association.<sup>160</sup> Neither organisation has been recognised by the authorities. He also works as a journalist in the province of Guantánamo.

Between September 1997 and 2001, Juan Carlos Herrera had served a four-year prison sentence in Combinado de Guantánamo Prison for trying to leave the country illegally. On that occasion he was reportedly held in a punishment cell with no light because of his activities in defence of prisoners' rights and for refusing to cooperate with the prison's re-education program.<sup>161</sup>

He was detained on 19 March 2003 and later tried together with Manuel Ubals González. Despite being accused of having links with '*Comandos F-4*,' a Miami-based organization which has reportedly claimed to have committed acts of violence in Cuba, no evidence of this or that they had acted violently or incited others to use violence

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<sup>158</sup> Sentence 1/2003, *Tribunal Provincial Popular*, People's Provincial Court, Camagüey, 4 April 2003 (case 2/2003). Unofficial translation.

<sup>159</sup> Ibid.

<sup>160</sup> This group, created in 1997 by prisoners in Combinado de Guantánamo Prison, was known at that time as *Presidio Político 'Pedro Luis Boitel'*, 'Pedro Luis Boitel' Political Prisoners Group.

<sup>161</sup> Medical Action, Political prisoners in need of medical attention (AI Index: AMR 25/40/99), 12 October 1999.

was presented. The activities for which they were convicted in the verdict appear to have been peaceful in nature and related solely to the exercise of fundamental freedoms. According to the information it has received, Amnesty International believes that the two men, like the other dissidents arrested in March, are prisoners of conscience.

Juan Carlos Herrera was sentenced to 20 years' imprisonment for breaching articles 4.1, 4.2a-b, 6.1, 6.3b, 7.1, 7.3 10 and 11 of Law 88.<sup>162</sup> He is serving his sentence in Boniato Provincial Prison in the municipality of Santiago de Cuba.

**36. Regis Iglesias Ramírez**, 33, is a member of the *Movimiento Cristiano Liberación*, Christian Liberation Movement, in Havana. He has been involved in work related to the *Proyecto Varela*. According to the prosecution, he had no previous convictions.<sup>163</sup>

Regis Iglesias was arrested at the end of March and tried on 3 April. He was sentenced to 18 years' imprisonment under article 91 of the Penal Code.<sup>164</sup> He is serving his sentence in Kilo 8 Provincial Prison in the municipality of Camagüey.

**37. José Ubaldo Izquierdo Hernández** runs the private "Sebastián Arcos Bergnes" Library and works as a journalist for an agency called "*Grupo Decoró*."

José Ubaldo Izquierdo has reportedly been a victim of harassment on several occasions. On 8 March 2002, for example, he was apparently arrested when he was on his way to participate in an event connected with International Women's Day and that same night his house was stoned by unknown individuals. On 4 December 2002 he was said to have been threatened with imprisonment if he attended festivities in honour of the Virgin of Santa Bárbara in Güines, Havana province. When he was returning home from the event on his bicycle, he was hit by a car, reportedly suffering injuries to his abdomen and legs.

José Ubaldo Izquierdo was arrested at the end of March, tried in the San Antonio Provincial Court on 3 April and sentenced to sixteen years' imprisonment. He is serving his sentence in Kilo 5½ Prison in the municipality of Pinar del Río.

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<sup>162</sup> Sentence 2/2003, *Tribunal Provincial Popular*, People's Provincial Court, Guantánamo, 3 April 2003 (case 8/2003).

<sup>163</sup> Case 16/2003, *Tribunal Provincial Popular*, People's Provincial Court, Havana, 31 March 2003.

<sup>164</sup> Sentence 8/2003, *Tribunal Provincial Popular*, People's Provincial Court, Havana, 5 April 2003 (case 16/2003).

**38. Reinaldo Miguel Labrada Peña**, aged 40, is a member of the *Movimiento Cristiano Liberación*, Christian Liberation Movement. He has been involved in the work around the *Proyecto Varela* initiative.

Reinaldo Labrada was arrested on 19 March in Las Tunas. The prosecution reportedly sought a ten-year sentence. He was sentenced to six years, the shortest sentence imposed on any of the dissidents arrested during the crackdown. He was transferred from "El Típico" Provincial Prison in Las Tunas following a protest with other activists arrested in the March crackdown, and is being held in the provincial prison in Guantánamo.

**39. Librado Ricardo Linares García**, 42 years old, is president of the unofficial *Movimiento Cubano Reflexión*, Cuban Reflection Movement, in the town of Camajuaní, Villa Clara province. He is an engineer by training and, after reportedly being expelled from the Communist Party in 1992 for calling for economic reforms, has been involved in dissident activities for a number of years.

Librado Linares was harassed, arrested and fine several times in the crackdown against *Concilio Cubano* activists in late 1995 and 1996.<sup>165</sup> In November 1999, he was reportedly detained for several days to prevent him from taking part in activities around the *Cumbre Iberoamericana*, the Inter-American Summit in Havana.<sup>166</sup>

He was arrested on 18 March 2003, and a number of items including a bicycle were reportedly confiscated from his house by the agents who searched it. He was tried in Villa Clara, where he was sentenced to 20 years in prison under article 91 of the penal code.<sup>167</sup>

The trial verdict accused Librado Linares and the four other men from Villa Clara province with whom he was tried of using human rights work as a front for alleged counterrevolutionary activities such as meetings, conferences and seminars:

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<sup>165</sup> Amnesty International, *CUBA: Government crackdown on dissent* (AI Index AMR 25/14/96), April 1996.

<sup>166</sup> Amnesty International, *CUBA: Short term detention and harassment of dissidents* (AI Index AMR 25/04/00), March 2000.

<sup>167</sup> Sentence 3/2003, *Tribunal Provincial Popular*, People's Provincial Court, Villa Clara, 7 April 2003 (case 1/2003).

They acted in agreement, meeting to take organizational measures on how to carry out their struggle against the Revolution, sheltering behind the facade of simple human rights defenders.<sup>168</sup>

Librado Linares is incarcerated in Combinado del Este prison in the municipality of Guanabacoa, Havana province.

**40. Marcelo Manuel López Bañobre**, is 39 years old and a tugboat captian by profession. He joined the *Comisión Cubana de Derechos Humanos y Reconciliación Nacional* (CCDHRN), Cuban Commission for Human Rights and National Reconciliation, after the 1994 sinking of the "13 de Marzo" tugboat,<sup>169</sup> later becoming its spokesman. He was initially involved in tracking the detentions of other dissidents as the crackdown began. At the time, he wrote

The wave of searches, confiscations and especially detentions that began on March 18 is the most serious I have witnessed ... at the Cuban Commission for Human Rights and National Reconciliation, where I am spokesman, we are busy trying to establish lists of those detained and their whereabouts. It is not easy; people are afraid to speak up because they do not know their own rights, and also simply because transportation is a nightmare, there are constant blackouts and the telephone is virtually useless.<sup>170</sup>

By the time the article was printed, Marcelo López had been detained. He was arrested on 25 March 2003 on the street in Havana. He was tried on 4 April along with five other dissidents, including his CCDHRN colleague and fellow human rights defender Marcelo Cano Rodríguez.

Marcelo López was convicted under article 91 of the Penal Code and articles 4.1, 4.2a-b, 6.1, 6.2a-b, 7.1, 7.2, 7.3, 8.1, 8.2, 9.1, 9.2, 10 and 11 of Law 88 to 15 years in prison.<sup>171</sup> He is currently held in Guanajay prison in Havana province.

According to the trial verdict, Marcelo López was penalised for his association with Amnesty International and other international human rights organisations:

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<sup>168</sup> Sentence 3/2003, *Tribunal Provincial Popular*, People's Provincial Court, Villa Clara, 7 April 2003 (case 1/2003). Unofficial translation.

<sup>169</sup> In this incident at least 35 people died, according to witness reports after having been rammed by an official vessel. The Cuban authorities denied responsibility for the tugboat's sinking. However, that incident has never been fully and impartially investigated, in spite of government commitments to do so.

<sup>170</sup> Marcelo Lopez Bañobre, "Collateral Damage in Cuba," *Washington Post*, 16 April 2003.

<sup>171</sup> Sentence 6/2003, *Tribunal Provincial Popular*, People's Provincial Court, Havana, 6 April 2003 (case 11/2003).

The accused MARCELO MANUEL LOPEZ BANOBRE carries out activities as 'spokesman and secretary' of the illegal Cuban Commission for Human Rights and National Reconciliation, dedicating himself to sending information to international organisms like Amnesty International and Human Race [sic], notifying them of people given the death penalty in this country, but without explaining the motive for its imposition. This distorts the information, making the penalty look like extrajudicial assassination by the Cuban State, which helps condemn our country before the Human Rights Commission in Geneva.<sup>172</sup>

Marcelo López was also accused of "approaching the families of those condemned to death so that they will address the aforementioned international organisations."<sup>173</sup>

The Cuban authorities are well aware of Amnesty International's work on the death penalty; as recently as 18 April 2003, for instance, Foreign Minister Felipe Pérez Roque read extensively from an Amnesty International report on the use of the death penalty in the United States during his press conference on the results of the Human Rights Commission vote in Geneva.<sup>174</sup> As such, the authorities are aware that Amnesty International opposes the death penalty in all cases, regardless of the 'motive for its imposition,' and that questions of alleged distortion of case information are irrelevant to the organisation's response to death sentences, in any country where they occur.

Amnesty International is deeply disturbed that allegations of contact with this organisation are viewed as grounds for Cuban authorities to sanction human rights defenders. Ironically, Cuban officials have repeatedly cited Amnesty International's work on human rights violations by the US and its allies to support their accusations against these countries.<sup>175</sup>

**41. Héctor Fernando Maseda Gutierrez, 60,** is reportedly an engineer and physicist by profession. Since becoming involved in dissident activities, he has written many

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<sup>172</sup> Sentence 6/2003, *Tribunal Provincial Popular*, People's Provincial Court, Havana, 6 April 2003 (case 11/2003). Unofficial translation.

<sup>173</sup> Ibid. Unofficial translation.

<sup>174</sup> "Conferencia de prensa ofrecida por el canciller cubano Felipe Pérez Roque, a la prensa nacional y extranjera, sobre los resultados de la votación en la Comisión de Derechos Humanos de Ginebra, en el MINREX, el 18 de abril del 2003." Transcript in *Granma*, 22 apr 2003, año 7, número 112.

<sup>175</sup> For example, in his 25 April speech on the recent events in Cuba, President Castro cited Amnesty International's work in reference to the April 1999 NATO attacks on Serbian state media stations.

articles, especially on history, economy and culture, which have been published in different sites.

Héctor Maseda has been repeatedly harassed for his activities. He was reportedly detained as part of a sweep at the beginning of September 1997, while in May 2000 he was threatened with prison if he attended a conference on the theme of 'culture and globalisation.'

Héctor Maseda was arrested at his house on 18 March 2003, and some of his journalistic writings, a type writer, a fax and books were confiscated. He was convicted under article 91 of the Penal Code and articles 4.1, 4.2a-b, 6.1, 6.2a-b, 7.1, 7.2, 7.3, 8.1, 8.2, 9.1, 9.2, 10 and 11 of Law 88, and sentenced to 20 years in prison.<sup>176</sup>

In the trial he was accused, among other activities, of "maintaining relations with the International University of Florida, which receives funds from USAID, that is, from the US government, for subversion in Cuba."<sup>177</sup>

Héctor Maseda is currently being held in Manacas prison in the municipality of Manacas.

**42. José Miguel Martínez Hernández**, aged 39, is from Quivicán in Havana province. He is an area representative for the unofficial political group *Movimiento 24 de Febrero*, 24 February Movement. He has been active with the *Proyecto Varela* and has a private library, the "General Juan Bruno Zayas" library, in his house.

José Miguel Martínez has reportedly been harassed and detained on a number of occasions in connection with his activism. In one example, in June 2001 he was said to have been taken into custody by state security agents and driven out of Quivicán for interrogation. He was later released.

After being arrested in March, José Miguel Martínez was tried and sentenced to 13 years' imprisonment. He is currently being held in Kilo 8 prison in Camagüey municipality.

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<sup>176</sup> Sentence 6/2003, *Tribunal Provincial Popular*, People's Provincial Court, Havana, 6 April 2003 (case 11/2003).

<sup>177</sup> Sentence 6/2003, *Tribunal Provincial Popular*, People's Provincial Court, Havana, 6 April 2003 (case 11/2003). Unofficial translation.

**43. Mario Enrique Mayo Hernández**, 38, is a lawyer by profession. He has worked as a journalist, publishing articles in a number of media, and is the director of the unofficial press agent 'Félix Varela' in Camagüey.

In November 2000 Mario Enrique Mayo was reportedly visited in his house by a state security agent, who threatened him and insisted that he give up his dissident activities.

Mario Enrique Mayo was arrested on 19 March and tried in Camagüey. The trial verdict refers to a number of 'counterrevolutionary' articles Mario Enrique Mayo allegedly wrote, covering topics such as health care, prison conditions, and the situation of families of political prisoners. He is accused of doing so with the intention of "creating in this way the conditions necessary for our country to be condemned in the Human Rights Commission, and consequently creating conditions favourable for a 'humanitarian' intervention into our territory."<sup>178</sup>

Mario Enrique Mayo was sentenced to 20 years in prison under article 91 of the Penal Code.<sup>179</sup> He is currently being held in the provincial prison in Holguín.

**44. Luis Milán Fernández** is reportedly a medical doctor by profession. He is a member of the unofficial *Colegio Médico de Cuba*, Cuban Medical Association.

In June 2001 he and his wife, also a doctor, signed a document called '*Manifiesto 2001*,' calling among other measures for recognition of fundamental freedoms in Cuba. Together with other health professionals they carried out a one-day hunger strike to call attention to the medical situation of detainees and other issues.

Luis Milán was reportedly sentenced to 13 years in prison. He is currently being held in the provincial prison of Ciego de Avila (called "*Canaleta*").

**45. Nelson Moliné Espino**, 38 years old, is president of the unofficial *Confederación de Trabajadores Democráticos de Cuba*, Confederation of Democratic Workers of Cuba, and a member of the unofficial *Partido 30 de noviembre*, 30 November Party.

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<sup>178</sup> Sentence 1/2003, *Tribunal Provincial Popular*, People's Provincial Court, Camagüey, 4 April 2003 (case 2/2003). Unofficial translation.

<sup>179</sup> Sentence 1/2003, *Tribunal Provincial Popular*, People's Provincial Court, Camagüey, 4 April 2003 (case 2/2003).

Nelson Moliné had previously been harassed by the authorities for his activities. In May 2002, for instance, he was reportedly called into the local police station in San Miguel del Padrón, Havana province, and threatened with arrest if he did not give up his trade union work.

On 20 March 2003 Nelson Moliné's home was searched and he was detained. The indictment states that at his home "many books and magazines containing subversive material", "*múltiples libros y revistas de contenido subversivo*", were found. The indictment also claims that he "mixes with people dedicated to subversive activity, and leads a comfortable life due to the monetary rewards of his subversive activity," "*Se relaciona con personas dedicadas a la actividad subversiva, y lleva un modo de vida holgado por las cuantiosas entradas monetarias derivadas de la actividad subversiva.*"<sup>180</sup>

Nelson Moliné was convicted on the basis of article 91 of the Penal Code to 20 years' imprisonment.<sup>181</sup> He is currently being held in Kilo 8 prison in Pinar del Río municipality, a distance which reportedly makes it difficult for his wife and four year old daughter to visit. He is reportedly suffering from ill health due to rapid weight loss and low blood pressure.

**46. Angel Juan Moya Acosta**, aged 38, is president of the *Movimiento Opción Alternativa*, Alternative Option Movement, in Matanzas province, as well as a member of the *Consejo Nacional de Resistencia Cívica*, National Council of Civic Resistance, both organisations which have not been recognised by the authorities. He was active in the "*Todos Unidos*," "All United" umbrella movement.

Angel Moya has been imprisoned several times in the past and has previously been considered to be a prisoner of conscience by Amnesty International. He was detained on 15 December 1999 after participating in a peaceful demonstration to celebrate the 51<sup>st</sup> anniversary of the Universal Declaration of Human Rights, and was eventually released without having been tried.<sup>182</sup> In December 2000 he was sentenced to one year's imprisonment and 10 years' confinement to his home province, Matanzas,

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<sup>180</sup> Case 12/2003, *Tribunal Provincial Popular*, People's Provincial Court, Havana, 31 March 2003.

<sup>181</sup> Sentence 7/2003, *Tribunal Provincial Popular*, People's Provincial Court, Havana, 4 April 2003 (case 12/2003).

<sup>182</sup> Amnesty International, "*CUBA: Eleven remain in detention following government crackdown on dissent during the Ibero-American Summit in Havana*" (AI Index: AMR 25/02/00), January 2000 and Amnesty International, "*CUBA: Prisoners of Conscience: New convictions overshadow releases*," (AI Index: AMR 25/21/00), October 2000.

charged with "disrespect," *desacato*." The sentence was reportedly imposed because, in the course of a mass celebrated at his home in November 2000, prayers were said for political prisoners and prisoners of conscience, including calls for them to be amnestied. He was released on 4 December 2001.<sup>183</sup>

Angel Moya was arrested in the March crackdown and tried on 7 April in the Tribunal Popular de 10 de Octubre, *10 October Popular Tribunal*, in Havana. He was found guilty and sentenced under article 91 of the Penal Code to 20 years in prison.<sup>184</sup> He is currently held in the Holguín provincial prison.

**47. Jesús Miguel Mustafa Felipe**, aged 58, is a member of the *Movimiento Cristiano Liberación (MCL)*, Christian Liberation Movement. He was involved in collecting signatures for the *Proyecto Varela* in his home town of Palma Soriano, Santiago de Cuba province.

Jesús Mustafa had been detained on 17 December 2002 along with Robert Montero Tamayo, after they went to a police station to find out about the detention of fellow MCL member, Ramuel Vinajera Stevens. Both men were released a few days later but on 19 February 2003 they were tried and sentenced to 18 months' imprisonment, charged with "disobedience," *desobediencia* and "resistance," *resistencia*." Amnesty International wrote to the Cuban authorities about these events but did not receive a reply.

Jesús Mustafa was apparently tried again in the context of the March crackdown. He is reported to have received a 25-year sentence, after the prosecution had requested a life sentence. He is currently held in Combinada del Este prison in Havana province.

**48. Félix Navarro Rodríguez**, 49 years old, is a member of the unofficial *Partido Solidaridad Democrática*, Democratic Solidarity Party, in Matanzas province and works as a journalist. He was reportedly fired from his position as a school headmaster in the city of Perico in 2001 after being arrested in connection with dissident activities. He has reportedly been active in the *Proyecto Varela* campaign and the "*Todos Unidos*" umbrella movement.

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<sup>183</sup> Amnesty International, "CUBA: The situation of human rights in Cuba" (AI Index: AMR 25/002/2002), May 2002.

<sup>184</sup> Sentence 16/2003, *Tribunal Provincial Popular*, People's Provincial Court, Havana, 8 April 2003 (case 15/2003).

Félix Navarro has been subjected to harassment and detention for his dissident activities since at least 1992. According to reports he was detained in December 1992 for putting up pro-democracy posters on the street, and in November 1996 he was taken for questioning for activities such as not paying his union dues and having an issue of the US-published "*El Nuevo Herald*" newspaper at work. He was reported to have been detained briefly in November 1999, and again in September 2001 for participating in a commemoration of two political prisoners who were said to have died in custody. In February 2002 he was apparently briefly detained again; during the search of his house, State Security agents reportedly confiscated materials for the *Proyecto Varela* initiative.

Félix Navarro was arrested in the March crackdown and tried in Matanzas. The activities on which his conviction was based included the following: "he received, among other things, leaflets and literature; the latter was proved by the confiscation of aggressive and corrosive writings and printed material from his house."<sup>185</sup>

Félix Navarro was sentenced to 25 years under articles 4.1, 4.2a-b, 6.1, 6.3b, 7.1, 7.3 and 8.2 of law 88.<sup>186</sup> He is being held in Guantánamo provincial prison.

**49. Jorge Olivera Castillo**, 41, a former national television editor, is director of the unofficial Havana Press agency. The agency's articles have been featured on the US-based *Nueva Prensa Cubana*, New Cuban Press, website.

Jorge Olivera has been repeatedly detained and harassed during the course of his reporting activities. He was said to have been expelled from his house in the Lawton neighbourhood of Havana in February 1997 in retribution for his contacts with foreign press, and arrested in September 1997 after trying to cover the trial of dissident Maritza Lugo Fernández in the municipality of Playa, Havana province. In the weeks preceding the Ibero-American Summit in Havana in November 1999, President Castro reportedly mentioned Jorge Olivera and other journalists by name during a television broadcast, accusing them of counterrevolutionary activities.

Jorge Olivera was convicted under articles 4.1, 4.2b, 6.1, 6.3b, 7.1, 7.3, and 11 of Law 88 and received a sentence of 18 years.<sup>187</sup> Though he was tried in Havana, he was

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<sup>185</sup> Sentence 2/2003, *Tribunal Provincial Popular*, People's Provincial Court, Matanzas, 4 April 2003 (case 8/2003). Unofficial translation.

<sup>186</sup> *Ibid.*

<sup>187</sup> Sentence 5/2003, *Tribunal Provincial Popular*, People's Provincial Court, Havana, 5 April 2003 (case 14/2003).

transferred to the other extreme of the island to begin serving his sentence in a prison in Guantánamo province.

**50. Pablo Pacheco Avila**, 31, works for the unofficial agency *Cooperativa Avileña de Periodistas Independientes (CAPI)*, Avileña Cooperative of Independent Journalists, in Ciego de Avila.

Pablo Pacheco has been subjected to harassment in the past. In one example, in November 2002 he was reportedly detained for six hours after attempting to video police officers ill-treating two women, and in March 2002 he was reportedly detained for the third time in a month for providing news coverage on the meeting of an unofficial group.

He was sentenced under articles 6.1, 6.3b, 7.1, 7.3 and 11 of Law 88 to 20 years imprisonment.<sup>188</sup> He is currently being held in Agüica prison in the municipality of Colón in Matanzas province. He is reportedly suffering from high blood pressure and migraines, for which he is said to have received some treatment.

**51. Héctor Palacios Ruiz**, aged 61, is director of the unofficial *Centro de Estudios Sociales*, Centre of Social Studies, and secretary of the reporting committee of the "Todos Unidos," "All United," coalition.

Héctor Palacios is a well-known and longstanding figure among Cuban dissidents, and has been considered by Amnesty International to be a prisoner of conscience following arrests in 1994, 1997 and 1999. In August 1994, he was among a group of activists targeted for arrest in the wake of violent clashes between police and protesters who had gathered on the Havana shore following a spate of attempted armed hijackings of local ferries.<sup>189</sup> In January 1997, when he was president of the unofficial *Partido Solidaridad Democrático (PSD)*, Democratic Solidarity Party, and member of *Concilio Cubano*, Cuban Council, he was detained and sentenced to 18 months' imprisonment for "disrespect," "*desacato*," following an interview with a German television station in which he criticised the Cuban government. He was released in February 1998 following Pope John Paul II's visit to Cuba.<sup>190</sup>

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<sup>188</sup> Sentence 2/2003, *Tribunal Provincial Popular*, People's Provincial Court, Ciego de Avila, 4 April 2003 (case 1/2003).

<sup>189</sup> Urgent Action 296/94 (AI Index: AMR 25/10/94), 11 August 1994.

<sup>190</sup> Amnesty International, "CUBA: Prisoner of conscience - Héctor Palacios Ruiz" (AI Index: AMR 25/02/97), January 1997; "CUBA: Prisoner of conscience Héctor Palacios Ruiz sentenced to 18 months'

Héctor Palacios was detained on 20 March 2003 and subsequently tried in Havana. He was convicted under article 91 of the Penal Code and articles 4.1, 4.2a-b, 6.1, 6.2a-b, 7.1, 7.2, 7.3, 8.1, 8.2, 9.1, 9.2, 10 and 11 of Law 88 to 25 years in prison.<sup>191</sup> The prosecution had called for life imprisonment.<sup>192</sup>

Hector Palacios was accused, among other activities, of

having in his home one of the so-called independent libraries, a program created at the request of the already mentioned organisations based in Miami that financed this project with money received by USAID, in other words the United States government, the majority of the books sent being subversive and counterrevolutionary.<sup>193</sup>

Héctor Palacios is currently imprisoned in Kilo 5 1/2 prison in Pinar del Río province. His wife, Gisela Delgado Sablón, was reportedly refused permission to visit him in May and threatened with imprisonment if she participated in public demonstrations on his behalf.

**52. Arturo Pérez de Alejo Rodríguez** is president of the unofficial organisation *Frente Escambray de Derechos Humanos*, Escambray Human Rights Front. He was also involved in the *Proyecto Varela* initiative in Villa Clara province. In January 2003, he was said to have been briefly detained for handing out copies of the UN Declaration of Human Rights.

Arturo Pérez de Alejo was arrested on 18 March 2003. He was tried, found guilty and sentenced to 20 years in prison. He is currently imprisoned in Kilo 5 1/2 prison in Pinar del Río province.

**53. Omar Pernet Hernández**, 57, lives in Placetas in Santa Clara province and is a leader of the unofficial *Movimiento Nacional por los Derechos Humanos*, National

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*imprisonment*" (AI Index: AMR 25/35/97), October 1997; and "Cuba: Some releases but repression and imprisonment continue," (AI Index: AMR 25/05/99), February 1999.

<sup>191</sup> Sentence 6/2003, *Tribunal Provincial Popular*, People's Provincial Court, Havana, 6 April 2003 (case 11/2003).

<sup>192</sup> Case 11/2003, *Tribunal Provincial Popular*, People's Provincial Court, Havana, 31 March 2003.

<sup>193</sup> Sentence 6/2003, *Tribunal Provincial Popular*, People's Provincial Court, Havana, 6 April 2003 (case 11/2003). Unofficial translation.

Movement for Human Rights, "*Mario Manuel de la Peña*." He is active in a number of other organisations and in the *Proyecto Varela* in the area.

Omar Pernet Hernández received a 25 year sentence under article 91 of the penal code.<sup>194</sup> The accusations upon which he was convicted included

carrying out subversive activities through denunciations of supposed human rights violations in Cuba, which were disseminated by counterrevolutionary stations based in the territory of the United States of North America [sic], such as the mis-named Radio Martí, Radio Mambí and "La Poderosa," that have as their only objective to provoke the North American government into intensifying its aggressive policy towards our country.<sup>195</sup>

Omar Pernet Hernández is imprisoned in Guanajay prison in the province of Havana.

**54. Horacio Julio Piña Borrego**, aged 36, lives in Sandino in the province of Pinar del Río. He has been involved with the *Proyecto Varela* for the region as well as being a provincial delegate for the *Partido Pro Derechos Humanos en Cuba*, Party for Human Rights in Cuba, which is affiliated with the Sajarov Foundation. He had been briefly detained by security forces in May 2001.

He was arrested on 19 March 2003, during the wave of arrests. He was tried and convicted under articles 4.1, 4.2a-b, 6.1, 6.3a-b, 7.1, 7.3 and 11 of Law 88.<sup>196</sup> He received a 20-year sentence and is currently being held in the Pinar del Río provincial headquarters of the Department of State Security.

**55. Fabio Prieto Llorente** lives on the Isla de Pinos and works for the island's unofficial news agency, *Agencia de Prensa Independiente de Isla de Pinos*.

Fabio Prieto Llorente was involved in independent journalism since at least November 1999. He was said to have received regular visits, threats and warnings from police and other security agents to discontinue his activities. In January 2002, he was briefly detained, and harassment reportedly continued throughout that year.

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<sup>194</sup> Sentence 3/2003, *Tribunal Provincial Popular*, People's Provincial Court, Villa Clara, 7 April 2003 (case 1/2003).

<sup>195</sup> Ibid. Unofficial translation.

<sup>196</sup> Sentence 1/2003, *Tribunal Provincial Popular*, People's Provincial Court, Pinar del Río, 5 April 2003 (case 2/2003).

He was arrested on 18 March 2003, tried and sentenced to 20 years in prison. As of this writing he is being held in Guanajay prison in Havana province.

**56. Alfredo Manuel Pulido López**, 42, lives in Camagüey. He worked as a journalist for the unofficial news agency *El Mayor* in Camagüey. In addition, he was reportedly a member of the *Movimiento Cristiano Liberación* and was involved in *Proyecto Varela* activities.

Alfredo Pulido was arrested on 18 March 2003. He was sentenced to 14 years in prison under article 91 of the Penal Code.<sup>197</sup> He was transferred from his home province and is currently being held in Combinado del Este prison in the municipality of Guanabacoa, Havana province.

**57. José Gabriel Ramón Castillo**<sup>198</sup> is said to be a trained teacher. He is the director of the unofficial *Instituto Independiente Cultura y Democracia*, Independent Culture and Democracy Institute, based in Santiago de Cuba. He also works as an independent journalist and has had articles and news items published in a variety of websites include CubaNet. He was repeatedly subjected to persecution and harassment by the authorities from the beginning of his involvement in these activities.

José Gabriel Ramón was detained on 19 March 2003 and tried in the first week of April 2003. He was convicted and sentenced to 20 years in prison. He is currently being held in the provincial prison in Santa Clara.

**58. Arnaldo Ramos Lauzerique**, 60 years of age, lives in the city of Havana and is a member of the *Instituto Cubano de Economistas Independientes*, the Cuban Institute of Independent Economists. He is also a member of the umbrella group *Asamblea para promover la sociedad civil*, Assembly to promote civil society.

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<sup>197</sup> Sentence 1/2003, *Tribunal Provincial Popular*, People's Provincial Court, Camagüey, 4 April 2003 (case 2/2003).

<sup>198</sup> His name was erroneously given as José Ramón Gabriel Castillo in Amnesty International's 3 April 2003 document on the wave of arrests.

After being detained during the wave of arrests in March 2003, he was tried under article 91 of the Penal Code. He received a sentence of 18 years.<sup>199</sup> He is being held in the provincial prison in Holguín.

**59. Blas Giraldo Reyes Rodríguez**, aged 46, lives in Sancti Spiritus. He is a member of the steering committee of the *Proyecto Varela* in Sancti Spiritus and director of a private library located in his residence.

Following his arrest in March 2003, he was tried and sentenced to 25 years in prison. He is being held in Agüica prison in the municipality of Colón in Matanzas province.

**60. Raúl Rivero Castañeda** is a 57-year-old poet and journalist. He was founder, and serves as director, of the unofficial press agency *Cuba Press*.

Raúl Rivero has been detained and threatened many times in the past. For example, in January 1996 he was detained for one day and threatened with imprisonment if he did not stop his work with *Concilio Cubano*, of which *Cuba Press* had just become a member.<sup>200</sup> In February 1996 he was again detained, in a roundup of *Concilio Cubano* activists.<sup>201</sup> In July 1997 he was detained, following an article he wrote about dissident Vladimiro Roca, and he was again arrested in August 1997.<sup>202</sup> In March 1999 after Law 88 came into force, Raúl Rivero was reportedly interrogated for three hours. The officers reportedly told him that he would be one of the first to whom the new law would be applied if he did not stop his journalistic work.<sup>203</sup>

Raúl Rivero was detained on 18 March 2003 and tried on 4 April 2003, along with journalist Ricardo Severino González.

Raúl Rivero was accused under article 91 of the Penal Code. The indictment accused him of carrying out unspecified "*actividades subversivas encaminadas a afectar la*

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<sup>199</sup> Sentence 7/2003, *Tribunal Provincial Popular*, People's Provincial Court, Havana, 4 April 2003 (case 12/2003).

<sup>200</sup> Urgent Action 08/96 (AI Index: AMR 25/01/96), 16 and 17 January 1996.

<sup>201</sup> Update to Urgent Action 08/96 (AI Index: AMR 25/05/96), 20 February 1996; Amnesty International, "*CUBA: Government crackdown on dissent*" (AI Index: AMR 25/14/96), April 1996.

<sup>202</sup> Urgent Action 273/97 (AI Index: AMR 25/27/97), 14 August 1997 and update of 18 August 1997; Amnesty International, "*CUBA: Renewed crackdown on peaceful government critics*," (AI Index: AMR 25/29/97), August 1997.

<sup>203</sup> Amnesty International Report 2000.

*independencia e integridad territorial cubana*," "subversive activities, aimed at affecting the territorial independence and integrity of Cuba." It also stated that he disseminated "*falsas noticias para satisfacer los intereses de sus patrocinadores del gobierno norteamericano*," "false news to satisfy the interests of his sponsors of the North American government."<sup>204</sup>

He was found guilty and received a 20-year sentence.<sup>205</sup> The trial verdict highlighted his contacts with international organisations:

The accused RIVERO CASTANEDA, in addition to the facts already described, from 2000 began disseminating information via the *Encuentro en la Red* webpage belonging to the International Press Society. [The information] was all of a nature destabilising to the Cuban state.<sup>206</sup>

The verdict also accused him of working as a paid correspondent for *Agence France Presse* and of having contacts with the international organisation Reporters without Borders.

Raúl Rivero is currently being held in the provincial prison of Ciego de Avila (called "*Canaleta*").

**61. Alexis Rodríguez Fernández**, aged 33, is a member of the *Movimiento Cristiano Liberación*, Christian Liberation Movement. He was involved in the *Proyecto Varela* initiative.

Alexis Rodríguez had been detained several times in the past. For example, when he was municipal delegate of the unofficial group *Movimiento de Jóvenes Cubanos por la Democracia*, Movement of Cuban Young People for Democracy, he was reported to have been temporarily detained on 14 October 1997. In January 2002, after collecting signatures for the *Proyecto Varela* he was attacked and threatened, reportedly by plain clothes state security agents, and later abandoned in a remote area.

Alexis Rodríguez was arrested in the March crackdown and tried in early April. He was sentenced to 15 years' imprisonment and is currently imprisoned in Agüica prison in the municipality of Colón in Matanzas province.

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<sup>204</sup> Case 10/2003, *Tribunal Provincial Popular*, People's Provincial Court, Havana, 31 March 2003.

<sup>205</sup> Sentence 4/2003, *Tribunal Provincial Popular*, People's Provincial Court., Havana, 5 April 2003 (case 10/2003).

<sup>206</sup> *Ibid.* Unofficial translation.

**62. Omar Rodríguez Saludes**, aged 37, is director of the unofficial *Nueva Prensa* news agency. In addition to reporting, he is also a photographer.

He has been arrested several times in the past. In December 1998, he was among a group of dissidents apparently detained to prevent them from taking part in activities to commemorate the anniversary of the Universal Declaration of Human Rights.<sup>207</sup> He was also said to have been detained in February and November 1999 and November 2000. On 17 January 2002 he was temporarily detained after reporting on a meeting between a visiting Spanish official and some dissidents. He was reportedly interrogated for several hours and told that his work was illegal and counter-revolutionary.

In 2002 he is reported as telling *The New York Times*, "We know the risks we are taking... The risk is even in our homes. The government knows what we do and it watches. They know our lives better than we do." Due to restrictions on freedom in Cuba, he said that he had never seen the webpage that runs his photographs, or seen the photos themselves except as negatives. "I am a blind photographer," he stated.<sup>208</sup>

Omar Rodríguez was convicted on the basis of accusations such as "he photographed places that, because of the state they were in, gave a distorted image of Cuban reality, and he sent them to be published in the foreign, mainly counterrevolutionary, press."<sup>209</sup>

Omar Rodríguez was convicted under state security charges in article 91 of the Penal Code and given a penalty of 27 years.<sup>210</sup> The prosecution had argued for a sentence of life imprisonment.<sup>211</sup> He is imprisoned in Kilo 8 prison in Camagüey municipality.

**63. Marta Beatriz Roque Cabello**, aged 57, has been recognised by Amnesty International as a prisoner of conscience in the past. She is an economist who heads the unofficial *Instituto Cubano de Economistas Independientes*, Cuban Institute of Independent Economists. She is also the head of the *Asamblea para promover la sociedad civil*, Assembly to promote civil society, an umbrella organization of

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<sup>207</sup> Amnesty International, "Cuba: Some releases but repression and imprisonment continue" (AI Index: AMR 25/05/99), February 1999.

<sup>208</sup> "Cuban reporter travels a bumpy path to deadline," *The New York Times*, 31 May 2002.

<sup>209</sup> Sentence 8/2003, *Tribunal Provincial Popular*, People's Provincial Court, Havana, 5 April 2003 (case 16/2003). Unofficial translation.

<sup>210</sup> *Ibid.*

<sup>211</sup> Case 16/2003, *Tribunal Provincial Popular*, Havana, 31 March 2003.

dissident groups created in October 2002 to call for democracy and greater respect for freedoms.

Marta Beatriz Roque previously served out a 3 1/2 year prison sentence following her arrest on 16 July 1997.<sup>212</sup> She was sentenced along with three other members of the *Grupo de Trabajo de la Disidencia Interna para el Análisis de la situación Socio-Económica Cubana*, Internal Dissidents' Working Group for the Analysis of the Cuban Socio-Economic Situation. They were all charged with "*otros actos contra la seguridad del estado*," "other acts against state security" (Article 125 (c) of the Cuban Penal Code) in relation to a charge of "*sedición*," sedition (Art 100 (c) of the Cuban Penal Code). Their arrest took place one month after a press conference attended by foreign press during which they criticised an official discussion document and gave journalists a copy of their own critique of the document, entitled "*La Patria es de Todos*," The Homeland is for Everyone. The latter document advocated peaceful democratic changes in the country. She was released on 23 May 2000. The other three members were released later, and have not been re-arrested in the recent crackdown.

Marta Beatriz Roque was most recently arrested on 20 March 2003.

The indictment against her charges that she carried out unspecified "*acciones dirigidas a subvertir el orden interno del Estado Cubano, provocar su desestabilización y la pérdida de su independencia, actividades por las que recibió cuantiosos recursos monetarios del Gobierno de Los Estados Unidos*", "activities aimed at subverting internal order of the Cuban State, provoking its destabilisation and the loss of its independence, activities for which she received substantial monetary funds from the US Government." It also states that she had links with the head of the US Interests Section, James Cason, who paid visits to her house.<sup>213</sup>

Marta Beatriz Roque was found guilty, among other activities, of having

Created a website on a North American internet server, for use by the self-proclaimed Institute of Independent Cuban Economists 'Manual Sanchez Herrero,' which she used to put out propaganda articles and work that disfigured the economic reality ... for the execution of the abovementioned activities, the

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<sup>212</sup> See, *inter alia*, Amnesty International, "CUBA: Prisoners of Conscience: New Convictions overshadow releases," (AI Index: AMR 25/21/00), October 2000; Amnesty International, "Cuba: One year later and four members of the 'Grupo de Trabajo' still imprisoned without being informed of any charges" (AI Index: AMR 25/16/98), July 1998; and Amnesty International, "CUBA: Imminent trial of four members of the Grupo de Trabajo" (AI Index: AMR 25/24/98), October 1998.

<sup>213</sup> Case 12/2003, *Tribunal Provincial Popular*, People's Provincial Court, Havana, 31 March 2003.

incriminated Roque Cabello received enough financing and considerable material assistance, fundamentally from the United States Agency for International Development.<sup>214</sup>

The prosecution requested a life sentence.<sup>215</sup> She was convicted under article 91 of the Penal Code and received a 20-year sentence.<sup>216</sup> She is currently being held in Manto Negro Prison in the municipality of La Lisa, Havana province.

**64. Omar Moisés Ruiz Hernández**, aged 56, is a journalist for the unofficial *Grupo de Trabajo Decoro*, Decoro Working Group.

Previously Omar Rodríguez was vice delegate of the *Partido Solidaridad Democrática*, Democratic Solidarity Party, in Villa Clara. During this time he was reportedly arrested several times, for example in January and March 1996. Similarly, he was said to have been summoned and interrogated in October 1997. Such harassment was ongoing as he continued to carry out his activities.

Omar Ruiz Hernández was sentenced to 18 years under article 91 of the penal code.<sup>217</sup> He is currently being held in Guantánamo provincial prison.

**65. Claro Sánchez Altarriba**, 49, is a member of the unofficial *Movimiento de Jóvenes Cubanos por la Democracia*, Movement of Cuban Young People for Democracy, in Santiago de Cuba. He had suffered some prior harassment for his activities, including a short-term detention and a fine in October 2002.

Claro Sánchez was detained on 19 March 2003. He was tried and was sentenced to 15 years in prison under articles 4.1, 6.1 and 7.1 of Law 88.<sup>218</sup> He is imprisoned in Kilo 8 prison, Camagüey municipality.

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<sup>214</sup> Sentence 7/2003, *Tribunal Provincial Popular*, People's Provincial Court, Havana, 4 April 2003 (case 12/2003). Unofficial translation.

<sup>215</sup> Case 12/2003, *Tribunal Provincial Popular*, People's Provincial Court, Havana, 31 March 2003.

<sup>216</sup> Sentence 7/2003, *Tribunal Provincial Popular*, People's Provincial Court, Havana, 4 April 2003 (case 12/2003).

<sup>217</sup> Sentence 3/2003, *Tribunal Provincial Popular*, People's Provincial Court, Villa Clara, 7 April 2003 (case 1/2003).

<sup>218</sup> Sentence 3/2003, *Tribunal Provincial Popular*, People's Provincial Court, Santiago de Cuba, 4 April 2003 (case 3/2003).

**66 and 67. Ariel and Guido Sigler Amaya** were detained on 18 March 2003. (Their brother Miguel is also in prison, as mentioned in the chapter below, and is facing a range of charges apparently relating to different incidents.) Ariel and Guido Sigler are both members of the unofficial *Movimiento Opción Alternativa*, Alternative Option Movement, in Matanzas Province.

The Sigler brothers have been detained and harassed several times in the past. They were declared prisoners of conscience by Amnesty International following their detention in December 1999 after participating in a peaceful demonstration to celebrate the 51<sup>st</sup> anniversary of the Universal Declaration of Human Rights.<sup>219</sup> Guido was released in July 2000 and Ariel in August 2000.<sup>220</sup> Most recently, in December 2002 Ariel and Guido were detained along with Oscar Elías Biscet and 14 other dissidents after they attempted to meet at a home in Havana to discuss human rights. Ariel and Guido were later released.<sup>221</sup>

Ariel Sigler Amaya, 39, received a 20-year sentence under articles 4.1, 4.2a-b, 6.1, 6.3b, 7.1, 8.1, 8.2, 8.11 of Law 88.<sup>222</sup> He is being held in the Ciego de Avila provisional prison, 'Canaleta.' Guido, aged 46, was like Ariel sentenced to 20 years in prison under articles 4.1, 4.2a-b, 6.1, 6.3b, 7.1, 8.1, 8.2, 8.11 of Law 88.<sup>223</sup> He is currently imprisoned in Combinado del Este prison in Guanabacoa municipality, Havana province. Family members have reported that both men are being held in solitary confinement. There are concerns about their health, particularly that of Guido, and the family has requested that he receive specialised medical attention for a prostate condition.

**68. Ricardo Silva Gual** is a medical doctor and a member of the *Movimiento Cristiano Liberación*, Christian Liberation Movement. He has reportedly suffered a number of forms of harassment related to his activities.

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<sup>219</sup> Amnesty International, "CUBA: Eleven remain in detention following government crackdown on dissent during the Ibero-American Summit in Havana" (AI Index: AMR 25/02/00), January 2000.

<sup>220</sup> Amnesty International, "CUBA: Prisoners of Conscience: New convictions overshadow releases" (AI Index: AMR 25/21/00), October 2000.

<sup>221</sup> Amnesty International, "CUBA: Continued detentions following mass arrests in February and December 2002" (AI Index: AMR 25/001/2003), February 2003.

<sup>222</sup> Sentence 9/2003, *Tribunal Provincial Popular*, People's Provincial Court, Matanzas, 5 April 2003 (case 7/2003).

<sup>223</sup> *Ibid.*

Ricardo Silva was detained on 18 March 2003 and was reportedly sentenced to 10 years' imprisonment under articles 4.1 and 6.1 of Law 88. He is currently being held in the Guantánamo provincial prison.

**69. Fidel Suárez Cruz**, 33, is a farmer and a member of the unofficial *Partido Pro Derechos Humanos en Cuba*, Party for Human Rights in Cuba, in Pinar del Río. He also heads the private library "*San Pablo*."

In 2000 he was sentenced to six months' restricted freedom for "*desobediencia*", "disobedience," for fishing in a restricted area; however, in December 2000 this sentence was reportedly changed to imprisonment after he was arrested for carrying out peaceful political activities. He was also believed to have been detained in 1999.

Fidel Suárez was arrested on 18 March 2003 and subsequently tried on 3 April at the *Tribunal Provincial*, Provincial Court, in Pinar del Río. He was convicted under articles 4.1, 4.2a-b, 6.1, 6.3a-b, 7.1, 7.3 and 11 of Law 88 and sentenced to 20 years in prison.<sup>224</sup> He is being held at Agüica prison in Matanzas province.

**70. Manuel Ubals González**, 34, is President of the unofficial *Consejo por la Libertad de Cuba*, Council for the Freedom of Cuba. He lives in Guantánamo province.

In 1994 he was reportedly sentenced to three years' correctional work with internment for "*salida ilegal del territorio nacional*," "illegal exit from the national territory."

Manuel Ubals was detained on 20 March 2003 and subsequently tried on 3 April at the Provincial Court in Guantánamo province.

Although he, with Juan Carlos Herrera, was accused of links with '*Comandos F-4*,' a Miami-based organisation that, according to the information received, claims to have committed acts of violence in Cuba, there is no evidence given of such a link. Neither were Manuel Ubals and Juan Carlos Herrera accused of acting violently or inciting others to violence. The activities described in the verdict, on the basis of which they were convicted, amounted to the peaceful exercise of fundamental freedoms. Based on the information available, therefore, Amnesty International considers these two men, like the other dissidents tried after the recent crackdown, to be prisoners of conscience.

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<sup>224</sup> Sentence 1/2003, *Tribunal Provincial Popular*, People's Provincial Court, Pinar del Río, 5 April 2003 (case 2/2003).

Manuel Ubals was sentenced to 20 years under articles 4.1, 4.2a-b, 6.1, 6.3b, 7.1, 7.3 10 and 11 of Law 88.<sup>225</sup> He is imprisoned in Agüica prison, in the municipality of Colón in Matanzas province.

**71. Julio Antonio Valdés Guevara,**<sup>226</sup> aged 52, is director of the private library of an unofficial group, *Unión de Activistas y Opositores "Golfo de Guacanayabo"*, Union of Activists and Opponents "Gulf of Guacanayabo," in Manzanillo, Granma province.

Julio Antonio Valdés was reportedly detained on 19 March 2003, tried, and sentenced to twenty years' imprisonment.

He is believed to be suffering from high blood pressure, renal insufficiency and dizzy spells and is not receiving any medication. He is reportedly being held in the *Prisión Provincial de Ciego de Avila*, Ciego de Avila Provincial Prison (called "Canaleta").

**72. Miguel Valdés Tamayo,** aged 46, is vice president of the unofficial group *"Hermanos Fraternal por la Dignidad"*, Fraternal Brothers for Dignity. At the time of his detention he was reportedly working as a television mechanic in a state run workshop in Havana province.

Miguel Valdés had previously been detained on 23 October 2002 in Havana, when he and other members of his organisation reportedly tried to light candles in a park.

He was detained on 19 March 2003, tried and sentenced under article 91 of the Penal Code to 15 years in prison.<sup>227</sup> He is currently in prison in Kilo 8 prison in the municipality of Camagüey. He is reportedly suffering from a number of health problems including ulcer, high blood pressure and heart problems.

**73. Héctor Raúl Valle Hernández,** aged 35, is vice president of the unofficial *Confederación de Trabajadores Democráticos de Cuba*, Confederation of Democratic

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<sup>225</sup> Sentence 2/2003, *Tribunal Provincial Popular*, People's Provincial Court, Guantánamo, 3 April 2003 (case 8/2003).

<sup>226</sup> NOTE: his last name was incorrectly listed as Valdés Guerra in Amnesty International, "CUBA: Massive crackdown on dissent" (AI Index: AMR 25/008/2003), April 2003.

<sup>227</sup> Sentence 16/2003, *Tribunal Provincial Popular*, People's Provincial Court, Havana, 8 April 2003 (case 15/2003).

Workers of Cuba, and an activist of the unofficial *Partido Pro-Derechos Humanos*, Pro Human Rights Party, in San José de las Lajas.

He had previously been detained and harassed on several occasions. For example, on 16 November 2002 he was reportedly detained and taken to the police station in San José, Havana, where he was interrogated and told to stop his anti-government activities.

He was reportedly sentenced to 12 years' imprisonment, charged with infringing article 91 of the penal code. He is currently being held at *Combinado de Guantánamo* Prison, some 900km from his home.

**74. Manuel Vázquez Portal**, aged 51, is an independent journalist for the *Grupo de Trabajo Decoro*, Decoro Working Group. His articles have been published in CubaNet and other media sites. He also is a poet.

He had reportedly been detained temporarily before for his activities, for example in November 1999.

Manuel Vázquez was arrested on 19 March 2003. He was tried and found guilty under articles 4.1, 4.2b, 6.1, 6.3b, 7.1, 7.3, and 11 of Law 88, and received a sentence of 18 years.<sup>228</sup> He is currently being held in Boniato provincial prison, Santiago.

**75. Antonio Augusto Villareal Acosta** was involved in collecting signatures for the *Proyecto Varela*. Amnesty International does not have information on his past activities. He was sentenced to 15 years' imprisonment and is currently being held in in Boniato provincial prison, Santiago.

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<sup>228</sup> Sentence 5/2003, *Tribunal Provincial Popular*, People's Provincial Court, Havana, 5 April 2003 (case 14/2003).

## **6. Additional arrests of concern**

A number of additional dissidents were reportedly arrested during or around the time of the crackdown. The organisation is currently gathering information on their activities, the circumstances of their arrest and their current legal status, in order to determine if they too should be considered prisoners of conscience. They include **Rafael Ernesto Avila Pérez, Javier García Pérez, Félix Jaime González Martínez, Rolando Jimenes Posada, Rafael Millet Leyva, Miguel Sigler Amaya, Pablo Solis Cubilla and Orlando Zapata Tamayo.**

### 7. Death penalty: resumption of executions in Cuba

The three young men executed on 11 April 2003, Lorenzo Enrique Copello Castillo, Bárbaro Leodán Sevilla García and Jorge Luis Martínez Isaac, had been among a group of eleven who on 2 April had taken control of a Cuban ferry in Havana Bay with several dozen passengers on board and tried to force it to take them to the United States. When the ferry ran out of fuel 30 miles from Cuba, the men allegedly threatened the lives of passengers. The ferry was eventually escorted back to the Cuban shore by the Cuban coast guard. After a standoff, the matter was resolved without violence after Cuban security forces encouraged passengers to escape by jumping into the water. The hijackers were then apprehended. As a note issued at the time by the Cuban government stated, "all of those who were in the vessel were rescued and saved without a shot or a scratch."<sup>229</sup>

The hijackers were tried in summary procedures provided for in the Law of Criminal Procedure:

When exceptional circumstances warrant it, the Attorney General of the Republic can inform the President of the Supreme Popular Court, and the latter decide, to judge illegal conduct under summary procedures under the jurisdiction of any of the Courts of Justice.<sup>230</sup>

The three men were convicted under anti-terrorism legislation, *Ley Cubana contra Actos de Terrorismo*, dating from December 2001. It was believed that the legislation was adopted at least in part as a response to increased attention to terrorism-related topics following the 11 September 2001 events in the United States. Although the article on hostage-taking does not provide for the death penalty in cases in which there are no injuries, they received the death sentence. Their appeals to the Supreme Court and the Council of State were summarily dismissed, and the three were executed by firing squad less than a week after their trial began. The remaining eight received less severe sentences.

In an Official Note, the Cuban government maintained that the men were tried "with full respect of the fundamental guarantees and rights of the accused."<sup>231</sup> However, the speed with which they were brought to trial, found guilty and their appeals denied raises profound concerns about the fairness of the judicial procedure to which they were subjected.

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<sup>229</sup> Nota Informativa, *Granma*, 4 April 2003, año 7 / número 94. Unofficial translation.

<sup>230</sup> Law no. 5, Law of Criminal Procedure, 1977. Unofficial translation.

<sup>231</sup> Nota Oficial, *Granma*, 11 April 2003, año 7 / Número 101. Unofficial translation.

The authorities did not offer a detailed justification of the death sentence. As stated above, the maximum penalty for hostage-taking in which no one is injured is 20 years:

He who seizes another person, or holds them against their will, and threatens to kill, wound or detain them, in order to oblige a State, an intergovernmental organisation, a natural or juridical person or a group of people, to carry out an action or an omission, as an explicit or implicit condition for the release of the hostage, incurs a penalty of ten to twenty years' imprisonment.

If, as a consequence of the facts described in the previous section, this results in the death or serious injury of one or more people, or the conditions demanded for the release of the hostage are achieved, the penalty will be from ten to thirty years imprisonment, or death.<sup>232</sup>

Once again the Cuban authorities used the US as a justification for their actions. On 17 April the Cuban ambassador to the European Union reportedly defended the executions, saying "we do not like implementing the death penalty," but indicating that for Cuba it was an act of "legitimate defence": "we are not the only ones in the world to pass the death penalty. It is often implemented in Texas, a state where George W. Bush was governor."<sup>233</sup>

Cuban authorities also justified the executions as a way of deterring further hijackings. In his 18 April press conference on the UN Human Rights Commission, Foreign Minister Pérez Roque clarified Cuba's longterm position on the death penalty. He pointed out that Cuba habitually abstains from the Commission resolution calling for the elimination of the death penalty, but justified the ongoing recourse to capital punishment as a defence against external aggression:

We see the death penalty as an extreme, totally extraordinary and undesired recourse, and one day, we hope, it will not be in our legislation; it is not consistent with our philosophy of life. But we have been a country under attack, we are a country facing an ongoing effort to destabilise us, and we have to use all resources in our reach ... the day that Cuba is not under blockade, the day that Cuba is not under attack; the day that there is no Helms-Burton, Torricelli, Cuban Adjustment Act; the day that the aggressions, plots and conspiracies cease; the day that Cuba is left in peace to pursue its own path;

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<sup>232</sup> Law 93, *Ley Cubana contra actos de terrorismo*, 24 December 2001; articles 14.1 and 14.2.

<sup>233</sup> (EU) CUBA: Cuban ambassador to the EU justifies repression by 'legitimate defence' and reaffirms Cuba's interest in the Cotonou Agreement, Brussels, 17/04/2003 (Agence Europe).

Cuba will not have to use drastic measures that it does not want, but that today are a duty."<sup>234</sup>

Amnesty International is deeply concerned that, with the resumption of death by firing squad, the 52 prisoners remaining on death row may also face execution.

Even though Cuba is not formally a party to international mechanisms for the abolition of the death penalty, international standards apply to its treatment of death row prisoners. Those standards include explicit provisions, such as those for fair trial, which were not fully respected in the case of Lorenzo Enrique Copello Castillo, Bárbaro Leodán Sevilla García and Jorge Luis Martínez Isaac:

capital punishment may only be carried out pursuant to a final judgement rendered by a competent court after legal process which gives all possible safeguards to ensure a fair trial, at least equal to those contained in article 14 of the International Covenant on Civil and Political Rights, including the right of anyone suspected of or charged with a crime for which capital punishment may be imposed to adequate legal assistance at all stages of the proceedings.<sup>235</sup>

In addition to grave concerns about the summary trial and appeals procedure used in this case, in contravention of international standards, Amnesty International is concerned about the regressive nature of the Cuban government's decision to end the *de facto* moratorium on executions in place since April 2000.

The Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, asserts that "abolition of the death penalty contributes to enhancement of human dignity and progressive development of human rights."<sup>236</sup> It also maintains that "all measures of abolition of the death penalty should be considered as progress in the enjoyment of the right to life."<sup>237</sup> These standards serve as a benchmark, in spite of the fact that Cuba is not a signatory to the optional protocol or the covenant itself, and the decision to resume executions is therefore a deeply worrying one.

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<sup>234</sup> "Conferencia de prensa ofrecida por el canciller cubano Felipe Pérez Roque, a la prensa nacional y extranjera, sobre los resultados de la votación en la Comisión de Derechos Humanos de Ginebra, en el MINREX, el 18 de abril del 2003." Transcript in *Granma*, 22 apr 2003, año 7, número 112.

<sup>235</sup> Safeguards guaranteeing protection of the rights of those facing the death penalty (adopted by Economic and Social Council resolution 1984/50 of 25 May 1984), para. 5.

<sup>236</sup> Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty (adopted and proclaimed by General Assembly resolution 44/128 of 15 December 1989).

<sup>237</sup> *Ibid.*

## 8. Recommendations

### 8.1. Recommendations to the Cuban government

Based on its review of the information available, Amnesty International does not accept the Cuban government's portrayal of the 75 dissidents arrested as mercenaries or foreign agents. The organisation believes that the activities for which they have been arrested, tried and sentenced fall within the framework of the legitimate exercise of fundamental freedoms of expression, association and assembly. The organisation therefore calls on the Cuban government

- to order the immediate and unconditional release of all those arrested in the March crackdown as prisoners of conscience.
- to immediately and unconditionally release the 15 prisoners previously named by Amnesty International as prisoners of conscience.
- to immediately and unconditionally release anyone else who is detained or imprisoned solely for having peacefully exercised their rights to freedom of expression, association and assembly.

Amnesty International believes that the Cuban authorities have used the climate created by economic and political pressure from the United States to justify a repressive legal system which restricts fundamental freedoms in a manner which goes far beyond what is permissible under international human rights standards for the protection of national security and public order. The organisation urges the authorities

- to reform the Cuban legislation which facilitates the ongoing incarceration of prisoners of conscience by outlawing the legitimate exercise of fundamental freedoms, and to bring such legislation into line with international standards.
- to provide full judicial guarantees to ensure that, in accordance with international human rights standards, all detainees accused of politically-motivated offences have access to a fair trial, including immediate access to a lawyer of their choice.
- to suspend Law 88 and other similar legislation that facilitates the imprisonment of prisoners of conscience by unlawfully restricting fundamental freedoms.

Amnesty International opposes the death penalty in all countries where it exists, as a violation of the fundamental right to life. The organisation urges the Cuban government

- to reverse its regressive decision to resume executions, and to publicly commit itself to respecting the *de facto* moratorium in place prior to the April executions so that no further such state killings will be carried out.
- to immediately commute the sentences of those on death row to prison terms.
- to abolish the death penalty from its legal system, and to reform all laws and legal texts that refer to it accordingly.

In addition, Amnesty International urges the Cuban government

- to ratify the International Covenant on Economic, Social and Cultural Rights; the International Covenant on Civil and Political Rights; the Optional Protocol to the International Covenant on Civil and Political Rights; and the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty.

## **8.2. Recommendations to the US government**

Given its grave concerns at the negative impact of the US embargo and related policies on the enjoyment of human rights in Cuba, Amnesty International calls on the United States government

- to immediately suspend decisions on any measures that could toughen the embargo.
- to review its foreign and economic policy towards Cuba, with an aim towards ending this damaging practice.
- to place enjoyment of the full range of human rights at the forefront of its concerns in developing new policy towards Cuba.

## **Appendices**

**Appendix 1: copies of 'evidence' distributed at the UN Human Rights Commission in Geneva**

**Appendix 2: map of Cuba showing location of prisons where those convicted in the crackdown are being held**

Political Prisoners of the Empire MIAMI 5

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## Death penalty applied to main ferry hijackers for terrorist crimes

ON April 5, as was announced at the due time, the individuals responsible for the hijacking and attempted violent rerouting to the United States of the Baraguá ferry were brought before the Crimes against State Security courtroom in City of Havana People's Court. This hijacking was accompanied by extreme violence and death threats to the crew and passengers on board the ferry in service in the Bay of Havana, and gravely endangered the lives of dozens of people taken hostage who were at the point of perishing when, 30 miles from our coast, the vessel, designed for navigating in off-shore waters, ran out of fuel in a force-four sea and could easily have sunk before the arrival of the Border Patrol units to lend assistance.

The Court applied the summary proceedings system laid down in Articles 479 and 480 of the Criminal Law Procedures, with full respect for the guarantees and basic rights of the accused.

The trial concluded on April 8.

The court considered as proven the facts, which constitute the grave crimes of terrorism established in the Law 93 against Acts of Terrorism of December 24, 2001, in virtue of which, and taking into account the elevated social danger of the acts as well as individual responsibility, degree of participation and the criminal records of the accused, gave the following sentences:

Capital punishment: Lorenzo Enrique Copello Castillo, Bárbaro Leodán Sevilla García and Jorge Luis Martínez Isaac, the three principal, most active and brutal hijacker ringleaders.

Life imprisonment: Maikel Delgado Aramburo, Yoanny Thomas González, Harold Alcalá Aramburo and Ramón Henry Grillo.

30 years' imprisonment: Wilmer Ledea Pérez.

Five years' imprisonment: Ana Rosa Ledea Ríos.

Three years' imprisonment: Yolanda Pando Rizo.

Two years' imprisonment: Dania Rojas Góngora.

The three men given the death sentence were allocated the immediate recourse to appeal to the People's Supreme Court, the maximum agency of justice, which duly held a new trial in which the sentence was ratified.

The maximum penalty sentences were subsequently officially referred to the consideration of the Council of State. During a lengthy meeting called to this effect the collective discussed in all detail the proven facts giving rise to the sentence, the gravity of the same, and the potential danger they implied for both the lives of a large number of innocent persons and for the security of the country, subjected to a sinister plan of provocations hatched by the most extremist sectors of the U.S. government and its allies among the Miami terrorist mafia, with the sole objective of creating conditions and pretexts for attacking our homeland, which will be defended at any price necessary. The Council of State viewed the sentences as absolutely just and the decisions of both courts in strict adherence to the laws, and ratified the sentences.

At dawn today, the sanctions were applied.

April 11, 2003. 10:30 a.m. local time.

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## Aplicada la pena de muerte por terrorismo a principales secuestradores de lancha

El pasado 5 de abril, como se informó oportunamente, fueron puestos a disposición de la Sala de los Delitos contra la Seguridad del Estado del Tribunal Popular de Ciudad de La Habana los responsables del secuestro y desvío hacia Estados Unidos con extrema violencia y amenaza de muerte a los tripulantes y viajeros de la embarcación de transporte de pasajeros "Baraguá", que prestaba servicios en la bahía de La Habana, con gravísimo peligro para la vida de decenas de personas, convertidas en rehenes, que estuvieron a punto de perecer cuando, a 30 millas de nuestras costas, la embarcación, diseñada para navegar en aguas interiores, quedó sin combustible, con mar fuerza cuatro, y estuvo en peligro de zozobrar antes de llegar en su auxilio las unidades de Guardafronteras.

El Tribunal aplicó el procedimiento de juicio sumarísimo previsto en los Artículos 479 y 480 de la Ley de Procedimiento Penal, con pleno respeto de las garantías y derechos fundamentales de los acusados.

El martes 8 concluyó el juicio.

El Tribunal consideró probados los hechos, que constituían graves delitos de terrorismo previstos en la Ley 93 contra Actos de Terrorismo, del 24 de diciembre del 2001, en virtud de lo cual y tomando en cuenta la alta peligrosidad social de los hechos, así como la responsabilidad individual, el grado de participación y los antecedentes de conducta de los acusados, resultaron sancionados a:

Pena capital: Lorenzo Enrique Copello Castillo, Bárbaro Leodán Sevilla García y Jorge Luis Martínez Isaac, los tres principales, más activos y brutales jefes de los secuestradores.

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Los tres sancionados a la pena máxima establecieron de inmediato recurso de apelación ante el Tribunal Supremo Popular, máximo órgano de justicia, que celebró un nuevo juicio en el que la sentencia fue ratificada.

Sometidas de oficio las sentencias de máxima pena a la consideración del Consejo de Estado, éste, en reunión convocada al efecto en la que durante horas el colectivo analizó con profundidad los hechos probados por los cuales fueron sancionados, la gravedad de los mismos, y los peligros potenciales que implicaban no solo para la vida de numerosas personas inocentes sino también para la seguridad del país sometido a un plan siniestro de provocaciones fraguado por los sectores más extremistas del Gobierno de Estados Unidos y sus aliados de la mafia terrorista de Miami con el único propósito de crear condiciones y pretextos para agredir a nuestra Patria, la cual será defendida al precio que sea necesario, consideró absolutamente justas y con estricto apego a las leyes las decisiones de ambos tribunales y ratificó las sentencias.

Al amanecer de hoy, las sanciones fueron aplicadas.

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### PRESS RELEASE

No. 12/03

#### **CUBA: INTER-AMERICAN COMMISSION ON HUMAN RIGHTS CONDEMNS THE EXECUTION OF THREE PERSONS**

The Inter-American Commission on Human Rights expressed its condemnation of the execution by the State of Cuba of Lorenzo Lorenzo Enrique Copello Castillo, Bárbaro Leodán Sevilla García y Jorge Luis Martínez Isaac who were accused and condemned as the persons responsible for the kidnapping of a boat in the Havana Bay, in which the passengers were taken as hostages. This act took place in the early morning hours of 11 April 2003.

The executed persons had been tried in the Court of Crimes Against State, Popular Court, Havana City (Sala de los Delitos contra la Seguridad del Estado del Tribunal Popular de Ciudad de La Habana). The Court convened a summary trial procedure under the articles 479 and 480 of the Criminal Procedure Law. The process began on 5 April and was concluded by 8 April. The Court condemned the three persons for the crimes of planned terrorism as provided for in Law 93, Against Acts of Terrorism of 24 December 2001. The three condemned appealed to the Popular Supreme Court (*Tribunal Supremo Popular*). According to the official information, the Supreme Court passed a new judgment in which the previous sentence was ratified. The maximum penalty sentences were officially submitted to the State Council (*Consejo de Estado*) for their consideration, and they held they were, "absolutely justified and the judges decisions were in strict compliance (accordance) with the laws". The Council, according to the official release, analyzed the seriousness of the facts and the potential dangers the condemned persons implied for the life of innocent persons and for the country's security.

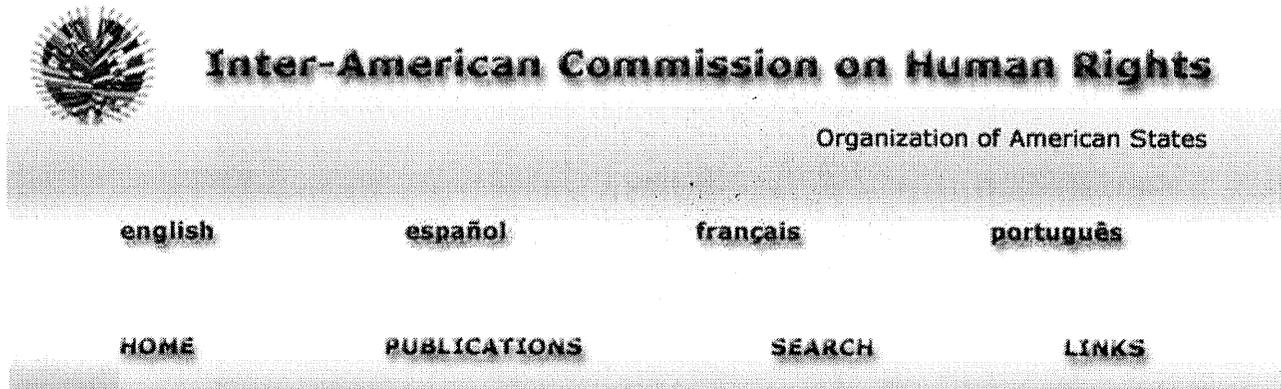
In its recent report on Terrorism and Human Rights, the Commission showed that the imposition of the death penalty is only valid pursuant to a final judgement rendered by a competent court and in accordance with a law establishing such punishment, enacted prior to the commission of the crime. The imposition of this penalty is subject to strict procedural requirements and a rigorous control of the minimum guarantees of the right to a fair trial, which are fundamental. These requirements include, among others, the presumption of innocence, the right not to be convicted of an offense except on the basis of individual penal responsibility and the right to be judged by a competent, independent and impartial court in accordance with applicable international law previously established by law. They also include the following procedural guarantees for the accused of crimes that carry the death penalty: the right of prior notification in detail of the charges against them; the right to adequate time and means for the preparation of their defense; the right to examine witnesses who testify against them; the right to obtain the appearance and examine their witnesses under the same

conditions as those witnesses against them; the right to counsel, after the conviction, about the legal proceedings, or other matters including filing deadlines and the right to an appeal before a superior court.

In the opinion of the IACHR, the summary character that followed the judgement against the persons and which concluded with the imposition of the death penalty did not guarantee any of the above-mentioned requirements of due process. As a result, their execution is converted into the arbitrary deprivation of life.

The IACHR is the principal organ of the Organization of the American States (OAS) with the mandate to promote and protect the observance of human rights in the Hemisphere and whose attributions are derived from, among others, the OAS Charter. Resolution VI of the Eighth Consultation Meeting of 1959 excluded the Government of Cuba, not the State, from participating in the OAS. As a result, the Commission continues monitoring the human rights situation in Cuba. The Cuban State is obligated internationally to respect and guarantee the rights emanated in the American Declaration of the Rights and Duties of Man.

Washington D.C., 16 April 2003



## CUBA

20. Since publication of the last Annual Report, for 2002, the IACHR has made an exhaustive evaluation of the human rights situation in Cuba. The IACHR notes that the situation of civil and political rights in Cuba has deteriorated substantially as a consequence of the events transpired on March of 2003.

21. On March 18, 2003, Cuban authorities began a week-long crackdown on human rights activists and independent journalists that culminated in the arrest of about 100 activists. They were all taken to the offices of the Department of State Security and subjected to long interrogations and other types of psychological torture.<sup>[15]</sup> After these interrogations, 73 of the 78 detained human rights activists were charged under Law 88 and Article 92 of the Cuban Penal Code. To these 73 cases were added two more involving two activists who had already been arrested several months earlier: Dr. Oscar Elías Biscet and Jesús Muestafá Felipe. The Prosecutor General of the Republic of Cuba filed motions with the Court requesting sentences that ranged from 15 years in prison to the death penalty in some cases. Summary trials took place starting April 3, 2003, without allowing any time for the defendants' families to mount a proper defense. Many of the activists were assigned counsel by the State itself. None of the accused was acquitted (although during the hasty trial it was not possible to demonstrate the guilt of any of them with the evidence presented by the prosecution). The 75 persons were sentenced to prison terms of between 6 and 28 years. At this time the 75 human rights activists remain confined in a "maximum lockdown" in punishment cells with limited family visitation (once every three months) and in many cases no access to medical or religious assistance. In addition, most of the prisoners were moved to facilities far removed from their homes.

22. The IACHR was also told that the remaining five detainees were charged, and four of them were already tried. One of them is still awaiting trial, without having appeared before a judge. These cases are: a human rights activist in Matanzas, Miguel Sigler Amaya, sentenced to six months in prison on March 26, 2002 for contempt, and on April 2, 2003 to 20 months in prison for disobedience and recalcitrance; a human rights activist couple from Guantánamo, Jorge Rafael Benítez Chui and Migdalia Hernández Enamorado, sentenced on September 18, 2003 to four and two years in prison respectively for contempt and assault; an activist from the Varela Project in Las Tunas, Francisco Godar Meriño, sentenced to two years and six months in prison for contempt; and an activist from the Isle of Pines, Rafael Millet Leiva, awaiting trial.

23. A large number of detainees, tried and sentenced during the wave of

repression, were the Cuban citizens who promoted the Varela Project.<sup>[16]</sup> In 2002, citing Articles 63 and 88<sup>[17]</sup> of Cuba's Constitution, a group of Cuban citizens called "*Todos Unidos* [All United]," representing more than 140 organizations and coordinated by Osvaldo Payá Sardiñas, presented a petition with 11,020 signatures to the General Assembly of the People's Power asking for a constitutional referendum to introduce substantive changes in the law. The Varela Project petitions the National Assembly for a referendum on the amendments needed in the laws, preserving the general welfare and respect for human rights.<sup>[18]</sup> The Cuban authorities' initial response a few days after the "Varela Project" was presented was a nationwide mobilization in which 800,000 signatures were collected to declare the Cuban Constitution and the socialist system *irrevocable*. The Commission was also told that prominent notables from the peaceful opposition who signed the Varela Project petition, like Gustavo Arcos Bergnes, Elizardo Sánchez, Julio Ruiz Pitaluga, Osvaldo Payá Sardiñas—coordinator of the Christian Liberation Movement—, Héctor Palacios Ruiz, and Pedro Pablo Álvarez, were arbitrarily arrested. Cuban authorities confiscated their documents and personal belongings and temporarily prohibited them from leaving the country.

24. Subsequently, several members of the Citizens' Steering Committee for the Varela Project received a document from the National Assembly of the People's Power, delivered to family members or neighbors, taking advantage of the absence of the activists to whom it was addressed. The document is a distortion of the proposal of the Varela Project, disguised as an official response to the demand for a referendum. Advocates of the Varela Project answered this document with a letter summoning authorities to publish the contents of the project so that Cuban citizens could form their own opinions. The letter also transmitted a report of repressive acts against the signers of the Varela Project.

25. The Varela Project was followed by repressive acts by the Cuban State against its sponsors and the Cuban citizens who supported it. On February 18, 2003 the Provincial People's Court of Santiago de Cuba sentenced two members of the Citizen's Steering Committee of the Varela Project in the Contramaestre area to 18 months in prison. Jesús Mustafá Felipe, 58, and Roberto Montero, 32, were tried for alleged crimes of contempt and resisting arrest. The accusations and charges stemmed from heated clashes with the political police, acts of repudiation against the home of Jesús Mustafá Felipe, as repressive measures to halt the civic effort of these advocates of the Varela Project. Other members of the Christian Liberation Movement were arrested on the same day so they could not attend the trial. On February 13, 2003 a member of the Citizens' Steering Committee of the Varela Project in the city of Santiago de Cuba, Vicente Díaz Espinosa, was threatened with application of Law 88 by agents of the political police, receiving an official citation from State security.

26. Also in January 2003, a report by the *Christian Liberation Movement* confirmed that Agustín Cervantes García, José Alberto Castro Aguilar, and Yunier Santos de la Cruz were being held in Mar Verde Prison in Santiago de Cuba, and Raunel Vinajera Stevens was in custody in Boniato Prison in the same province. All were arrested without just cause and awaiting trial because they were members of the *Christian Liberation Movement* and advocates of the Varela Project. On January 15, 2003, Cuban Republican Party activist Roberto Oliveros Rodríguez was harassed by agents of the "Rapid Response Brigades" in front of his home in the city of Santiago de Cuba. Demonstrators screamed obscenities at him and warned him to leave the country. The activist was promoting the Varela Project among the people and a campaign urging his neighbors to abstain in the general election of January 19, and authorities wanted to muzzle his activism. That same month Yunier Santos de la Cruz, a member of the *Christian Liberation Movement* and activist on behalf of the signature campaign for the Varela Project, was arrested and taken to Mar Verde Prison in Santiago de Cuba to complete his compulsory military service, which he had decided to quit because of the cruel, inhumane, and degrading treatment at the hands of the police, which he had denounced.

27. The IACHR was also told that Roberto Valdivia Hernández, delegate of the Cuban Committee for Human Rights and representative of the Citizens' Steering Committee for the Varela Project in Ciego de Ávila, was visited on October 1, 2003 at his home by officials of Carlos González and Fernando, State security agents, who told him they would not permit any more meetings of the opposition group he led, and that he would be charged under Law 88 for the alleged crimes of subversion and illicit association, which would send him to prison for 10 years. The officers told the activist that the Varela Project is "a counterrevolutionary hotbed" and that all activists of the Cuban Committee for Human Rights would receive an official warning. In addition, officers visited the following activists: Guillermo Rodríguez Duarte, Sergio Aguiar Cruz, Magalys García, Ismael Borroto, and Emilio Martín Morales. On September 23, 2003 young Roger Rubio Lima, a second-year art student, was expelled from the Jose Martí Pedagogical Institute in the city of Camaguey for having signed the Varela Project.

28. The IACHR must express its deep concern over the facts cited above, because Cuban authorities' intolerance of any form of political opposition remains the main constraint on participation and it has become even more onerous because they have termed their present regime "irrevocable" following the presentation of the Varela Project. Several constitutional provisions that this Commission has indicated violate Cuba's international obligations give a mantle of presumed legitimacy to the State's repressive action against peaceful opponents, human rights activists, and independent journalists, who are punished with stiff sentences for attempting to exercise their rights of freedom of expression, assembly, and association. The Constitution imposes a serious restriction on the rights and freedoms of persons under the State's jurisdiction when it stipulates in Article 62 that:

No freedom given to the citizenry shall be exercised against the provisions of the Constitution and the laws, or against the existence and purposes of the Socialist State, or against the Cuban people's decision to build socialism and communism. Any violation of this principle shall be punishable.

29. This Constitutional provision establishes legal grounds for censorship, since the State alone has the authority to determine whether the right to freedom of oral or written expression, the right of association, the right of assembly and the other rights recognized in the Constitution, have been exercised in a manner contrary to the existing political system. In addition to the right to freedom of expression, Cubans' right to information is seriously limited because there are no independent media. A group of independent journalists has emerged in recent years. However, their work has seen daily restraints through temporary detentions, disciplinary confinement, harassment, searches, seizures of equipment, etc. That has severely limited and/or restricted their work.

30. Finally, the IACHR learned that in the early hours of April 11, 2003, the Cuban State executed Lorenzo Enrique Copello Castillo, Bárbaro Leodán Sevilla García, and Jorge Luis Martínez Isaac, convicted of hijacking a launch in Havana Bay and taking its passengers hostage.

31. The persons executed had reportedly been tried by the State Security Crimes Section of the People's Court of the city of Havana. The Court applied the extremely summary proceedings envisioned in Articles 479 and 480 of the Penal Procedure Code. The trial began on April 5 and ended on April 8. The Court sentenced the three persons for the crimes of terrorism prescribed in Law 93 against Terrorist Acts, of December 24, 2001. The three condemned men reportedly appealed to the Supreme People's Court. According to the official information, the Supreme Court conducted a new trial at which the sentence was upheld. When the capital sentences were routinely referred to the Council of State, it said "*the courts' sentences were completely just and strictly pursuant to law.*" According to the official note, the Council considered the seriousness of the crimes and the potential threat that the

convicted men represented to the lives of innocent persons and to national security.

32. On April 16, 2003, the IACHR issued a press release condemning the executions carried out by the Cuban State, noting *inter alia* that "[i]n its recent report on *Terrorism and Human Rights*, the Commission showed that the imposition of the death penalty is only valid pursuant to a final judgment rendered by a competent court and in accordance with a law establishing such punishment, enacted prior to the commission of the crime. The imposition of this penalty is subject to strict procedural requirements and a rigorous control of the minimum guarantees of the right to a fair trial, which are fundamental. These requirements include, among others, the presumption of innocence, the right not to be convicted of an offense except on the basis of individual penal responsibility and the right to be judged by a competent, independent and impartial court in accordance with applicable international law previously established by law. They also include the following procedural guarantees for the accused of crimes that carry the death penalty: the right of prior notification in detail of the charges against them; the right to adequate time and means for the preparation of their defense; the right to examine witnesses who testify against them; the right to obtain the appearance and examine their witnesses under the same conditions as those witnesses against them; the right to counsel, after the conviction, about the legal proceedings, or other matters including filing deadlines and the right to an appeal before a superior court. In the opinion of the IACHR, the summary character that followed the judgment against the persons and which concluded with the imposition of the death penalty did not guarantee any of the above-mentioned requirements of due process. As a result, their execution is converted into the arbitrary deprivation of life."

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[15] Testimony of the Cuban Democratic Directorate to the IACHR at the 118<sup>th</sup> regular session.

[16] This event is one of the most serious suffered by human rights activists and independent journalists since the days of the *plantados históricos* [detainees who refused to accept the prison regime].

[17] Article 63. Every citizen has the right to file complaints and petitions with the authorities and to receive the pertinent attention or response within the legally prescribed time period. Article 88(g) Citizens may propose laws. If so, the legislative initiative must have the support of at least ten thousand citizens, all of whom shall be voters.

[18] Mareclino Miyares PhD, *The Varela Project and Political Rights of Cubans*, testimony before the Inter-American Commission on Human Rights, Washington, D.C., October 17, 2002. Those who signed the Varela Project are petitioning for citizens to be guaranteed "The right to associate freely, in keeping with one's interests and ideas, so that persons, either individually or in groups, are able to express their ideas, beliefs and opinions by means of the spoken and written word and by any means of dissemination and expression;

The laws that guarantee these rights shall enter into force within no more than sixty days after this referendum is held;

That an amnesty be declared for all those detained, sentenced and incarcerated for political reasons and who have not participated in acts that constituted direct assaults against the lives of other persons. The amnesty law would take effective within thirty days of this referendum;

That amendments be introduced in the law in order to guarantee citizens their right to form private businesses, both individual and cooperative, their right to engage in business activity, which may be either a productive business or service business in which contracts can be made between the workers and the businesses for their operation, under conditions that are just, where no one can profit by exploiting the work of another. These new laws should also guarantee respect for the rights of workers and citizens and the interests of society, and should take effect within sixty days of this referendum;

That the Election Law be rewritten and its new provisions guarantee:

That election districts be determined for elections of delegates to the municipal assemblies, delegates to the provincial assemblies, and deputies to the National Assembly of the People's Power;

That the voters in each election district carved out for the municipal elections shall themselves elect one delegate to the municipal assembly. A voter may vote for only one candidate for delegate;

That the voters in each election district carved out for the provincial elections shall themselves elect one delegate to the provincial assembly. A voter may vote for only one candidate for delegate;

That a citizen shall be nominated as candidate for the office of delegate to the municipal assemblies, or candidate for the office of delegate to the provincial assemblies, or as candidate to serve as deputy in the

National Assembly of the People's Power, only after he/she gathers signatures in support of his/her candidacy directly from the voters in his/her municipal, provincial or national election district, as appropriate, in accordance with the terms and conditions set forth in points 4.A.4, 4.A.4.1, 4.A.4.2 and 4.A.4.3 of this petition;

That the necessary and sufficient conditions that must be met for a citizen to be nominated as a candidate shall be as follows:

The citizen satisfies the conditions stipulated in Articles 131, 132 and 133 of the Constitution for a citizen to have the right to vote and to be elected to office;

The signatures in support of the citizen's candidacy are presented to the appropriate authorities no later than thirty days before election day; these signatures must represent no fewer than 5% of the number of voters in the district the prospective candidate aspires to represent. A voter can give this kind of support to only one person aspiring to be nominated for the office of Delegate to the municipal assembly, only one person aspiring to be nominated for the office of delegate to the provincial assembly, and only one person aspiring to be nominated for the office of deputy in the National Assembly of People's Power;

The citizen must live in the election district he/she aspires to represent in the municipal assembly; must live in the province he/she aspires to represent in the Provincial Assembly, and in the country if he/she seeks to be nominated a candidate for the office of National Assembly deputy. To be nominated, a citizen must have lived in the country for at least one year prior to the elections;

Voters, those seeking to be nominated, and the nominees have the right to meet in assemblies, provided they respect law and order, to explain their platforms and ideas. Every candidate shall be entitled to equitable use of the mass media;

The new election law, with the terms herein expressed, is to take effect no later than 60 days after this referendum.

1 of 1 DOCUMENT

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April 12, 2003 Saturday F1 EDITION

**SECTION:** A; Pg. 1

**LENGTH:** 1343 words

**HEADLINE:** Quick trial, firing squad for three men provoke fury;  
Quick trial, firing squad evokes fury

**BYLINE:** BY ALFONSO CHARDY; achardy@herald.com

**BODY:**

Three men who hijacked a passenger ferry and attempted to steer it to Florida last week were executed by firing squad at dawn Friday after summary trials, infuriating the U.S. government, international human rights organizations and Cuban Americans in Miami.

The men were charged with "very grave acts of terrorism" and sentenced at trials Tuesday, according to an official statement read on Cuban state television. The men appealed — but the sentences were swiftly upheld by Cuba's Supreme Tribunal and ruling Council of State and carried out shortly thereafter, the statement said.

No one was hurt in the hijacking, ultimately foiled by the Cuban authorities, for which the three men were executed.

The three were identified as Lorenzo Enrique Copello Castillo, Barbaro Leodan Sevilla Garcia and Jorge Luis Martinez Isaac. In Miami, Yordani Montoya, 27, half sister of Martinez Isaac, blasted the Castro regime.

"This was an injustice," she said. "No one was killed or injured in the hijacking. If he had gotten a prison term, that would have been OK. . . . From Fidel Castro, you can expect anything."

In Havana, police reportedly were sent to cordon off the neighborhood where Sevilla Garcia's mother lives, after witnesses said some neighbors went into the streets crying and shouting against the government.

Though more than a dozen people have been executed in Cuba since 1994, Friday's executions were the first of Cubans charged with terrorism-related offenses in more than a decade. An exile from Miami, Eduardo Diaz Betancourt, was executed in January 1992 after being found guilty of terrorism, sabotage and enemy propaganda following his arrest while on a mission to infiltrate Cuba.

"These were almost certainly cases in which the defendants were not given due process and, given that Cuba hadn't carried out death sentences in two years, a highly disturbing development," read a statement issued by the U.S. branch of Amnesty International.

Friday's executions came as a shock, but seemed part of a deliberate hardening of Cuban government attitudes against any act of political dissent. They were the capstone to weeks of heightened political tension on the island, highlighted by scores of arrests of dissidents, stiff sentences against some of those opponents and a string of successful and attempted hijackings.

Seventy-five dissidents were sentenced this week to terms ranging from six to 28 years on charges of receiving money from, and collaborating with, U.S. officials to undermine the Cuban government.

Senior Cuban officials have said the crackdown was necessary to protect national security against opponents bent on undermining the island's communist system at the behest of the United States.

Cuba's Catholic bishops issued a statement deploring the executions and the crackdown on dissidents. "No one has the right to put in danger the lives of other people, like the hijackers did, but in the same manner, no one can decide that death

must be inflicted on others as a remedy," the statement said in part.

The Bush administration reacted quickly, calling the executions a reflection of totalitarianism.

"We are concerned that these executions may have been a result of summary proceedings," said Lou Finton, a State Department spokesman. "Summary proceedings are a hallmark of totalitarian dictatorships like Cuba. Due process allows an appropriate judicial process to carefully identify and punish serious crimes like hijacking and guard against manufactured charges based on political agendas as was done with the opposition groups."

South Florida's Cuban-American Republicans in Congress also condemned the executions.

"They were sentenced in kangaroo courts, tried for trying to flee Cuba and within hours shot to death," said Rep. Ileana Ros-Lehtinen.

"Castro's oppression constitutes a form of terrorism that cannot continue to be allowed to exist by the international community," said Rep. Lincoln Diaz-Balart.

In Miami, Cuban exile leaders were furious. Joe Garcia, executive director of the Cuban American National Foundation, summed up the sentiment: "They have murdered these poor people," he said. "The summary trial and an execution without due process is murder, and the U.S. government should indict Fidel Castro and his brother Raul Castro and all the other thugs that govern that island."

In Key West, a U.S. Coast Guard spokesman said the service was on alert for any unusual activity in the Florida Straits arising from the executions. In times of tension in Cuba, South Florida officials worry about uncontrollable refugee boatlifts.

Criticism also came from a few other countries — but, by and large, foreign governments were silent. For example, Spanish Vice President Mariano Rajoy said the executions prove Castro "is a tyrant," but Venezuelan President Hugo Chavez — a Castro friend — refused comment, saying he did not wish to interfere in Cuban affairs.

Some Cuban experts said the executions and the dissident crackdown marked the start of a period of harshness in the island.

Jaime Suchlicki, director of the Institute for Cuba and Cuban American Studies at the University of Miami, said Castro is trying to eliminate the opposition to solidify the Cuban Communist Party before retiring.

"The crackdown has to do with a plan by Castro of ending the opposition to pave the way for his brother and succession in Cuba," Suchlicki said.

Castro has repeatedly said his brother Raul, the defense minister, will be his successor.

Besides those executed, another four men received life sentences: Maikel Delgado Aramburo, Yoanny Thomas Gonzalez, Harold Alcalá Aramburo and Ramon Henry Grillo.

Also sentenced in the same case were Wilmer Ledea Perez, who received a 30-year term; Ana Rosa Ledea Rios, five years; Yolanda Pando Rizo, three years; and Dania Rojas Gongora, two years.

The group, reportedly armed with at least one pistol and several knives, seized the Baragua and its 50 passengers in Havana Bay April 2 and ordered the captain to sail north toward Florida.

Later that day, the 45-foot ferry ran out of fuel in the Florida Straits. Officers on two Cuban Coast Guard patrol boats that chased the boat tried to persuade the hijackers to return to the island.

The hijackers allegedly threatened to throw passengers from the boxy, flat-bottomed boat overboard but soon agreed to let the ferry be towed 30 miles back to Cuba's Mariel port for refueling.

After the boat docked April 3 in Mariel, west of Havana, Cuban authorities gained control of the ferry and arrested the suspects. The arrests came after a French woman hostage jumped into the water to confuse her captors.

The standoff ended with all the hostages, then the suspects, jumping into the water.

The Baragua was hijacked a day after a Cuban passenger plane was hijacked to Key West by a man who allegedly threatened to blow up the aircraft with two grenades. The grenades turned out to be fake.

Another Cuban plane was hijacked to Key West less than two weeks earlier.

Cuba blames the hijackings on what it says is a lax attitude by American authorities toward Cuban hijackers who reach American shores.

Hijackers who reached U.S. soil are now in U.S. custody, and U.S. officials deny they are being treated leniently.

U.S. Attorney Marcos Jimenez in Miami has said Castro is "wrong" to say his office will treat the seven charged hijackers as "heroes," noting they could face at least 20 years in prison for forcing the planes to Key West.

Yet, U.S. District Judge James Lawrence King on Thursday agreed with a Key West magistrate that six of the hijackers could be released on bail because they pose no danger to the community or risk of flight.

Immigration officials, however, say that even if the defendants are ordered released on bail, they would still remain in detention because of immigration violations.

Herald staff writers Luisa Yanez and Jennifer Babson contributed to this report, which was supplemented by material from The Associated Press.

**LOAD-DATE:** April 12, 2003



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## Cuba: Executions of Three Alleged Hijackers

(Washington, April 11, 2003) Cuba's execution this morning of three alleged hijackers after summary trials violates basic human rights standards, Human Rights Watch said today.

**"To execute these men is itself a human rights violation, and to do it less than two weeks after their alleged crimes shows a flagrant disregard of the right to a defense."**

**José Miguel Vivanco**  
Executive Director  
Americas Division  
Human Rights Watch

flagrant disregard of the right to a defense," said José Miguel Vivanco, executive director of the Americas Division of Human Rights Watch. "The men had summary trials that lacked any semblance of due process, and they were executed immediately after their appeals were denied."

The three men were convicted of hijacking a ferry, the Baragua, on April 2. Some 50 people were aboard the boat when it was seized, but none of them were believed to have been injured during the incident. The hijackers allegedly told the captain to sail the boat to the United States.

Human Rights Watch recognized that the crimes allegedly committed by the men are serious ones, and may have merited a heavy punishment. But it opposed the use of the death penalty, and condemned the summary nature of the men's trials and of the appeals process.

"To execute these men is itself a human rights violation, and to do it less than two weeks after their alleged crimes shows a

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When the boat ran out of fuel in the Florida Straits, officers on two Cuban Coast Guard patrol boats convinced the hijackers to let the ferry be towed back to Cuba's Mariel port for refueling. Back in Cuba, the Cuban authorities regained control of the vessel and captured the hijackers.

The executions took place in a context of massive repression. Since March 18, the Cuban government has arrested and tried 75 dissidents, independent journalists, human rights advocates and independent unionists. Defendants received sentences of up to twenty-eight years of imprisonment.

In response to the crackdown, Human Rights Watch called for a vigorous debate on Cuba's human rights record at the U.N. Commission on Human Rights, which is currently meeting in Geneva. The commission will be voting on a resolution on Cuba next week.

"The Commission on Human Rights should condemn the crackdown, including the summary trials of both the dissidents and the accused hijackers," said Vivanco.

Human Rights Watch opposes capital punishment in all circumstances. The death penalty is a form of punishment unique in its cruelty. The intrinsic fallibility of all criminal justice systems assures that even when full due process of law is respected, innocent persons may be executed.



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IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT  
IN AND FOR MIAMI-DADE COUNTY, FLORIDA

CASE NO. 03-22920 CA 20

JANET RAY WEINLGER,  
Individually, and as Administrator,  
Executor, Personal Representative, and/or  
Guardian of the Estate of her father,  
Thomas Willard Ray,

Plaintiff,

v.

FIDEL CASTRO, as an individual,  
agency, and instrumentality of  
The Republic of Cuba,  
RAUL CASTRO, as an individual,  
agency, and instrumentality of  
The Republic of Cuba, the  
ARMY of THE REPUBLIC OF CUBA,  
an agency and instrumentality of  
The Republic of Cuba; and  
THE REPUBLIC OF CUBA, a  
foreign state.

Defendants.

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FINAL JUDGMENT

THIS CAUSE came before the Court for non-jury trial on November 15, 2004.

After receiving the evidence in this case, the Court hereby makes the following findings:

**FINDINGS OF FACT**

1. In April of 1961, Thomas Willard Ray (known as "Pete Ray"), a citizen of the United States of America, and pilot with the Alabama Air Guard flew on a CIA mission to support this country's efforts to liberate Cuba during the "Bay of Pigs" invasion of Cuba. Ray's plane was shot down, but Pete Ray survived the crash and was

captured alive. Fidel Castro and Raul Castro, by and through their agents, including the Army of the Republic of Cuba, summarily executed Pete Ray, without a trial.

2. In 1961, the United States government informed the Ray family of Pete Ray's death, but no details were provided regarding how he had died. No remains were returned to the family, and the government of Cuba refused to provide any information. As a result, the Ray family suffered through years of uncertainty because they did not know what had happened to Pete Ray.

3. Janet Ray, Plaintiff herein, was six-years old the last time she saw her father alive. Because of the uncertainty surrounding her father's disappearance she set out to discover the truth. The evidence introduced at the trial demonstrated that she was haunted by her father's unexplained disappearance. Eventually she learned that her father had participated in the Bay of Pigs invasion, but that knowledge only served to further her quest for the truth. Plaintiff spent her childhood visiting libraries looking for information that might help her discover what happened to her father. She used her allowance to photocopy items from the library rather than to spend it on toys or clothes like other children.

4. As a result of the loss of her father, her mother suffered life long emotional problems -- resulting in her hospitalization for psychiatric treatment from time to time. This resulted in even further emotional trauma to the Plaintiff.

5. The overwhelming evidence establishes that Defendants' actions deprived young Ms. Ray of a normal childhood. Indeed, her testimony established the severity of her extreme and lasting emotional distress.

6. Starting at approximately the age of fifteen, Ms. Ray began writing monthly letters to Fidel Castro inquiring about her father. Whenever she could, Ms. Ray traveled the country to speak with members of the Alabama Air Guard, who had served with her father on the mission to Cuba. And, when she was in college, Ms. Ray would visit Miami and walk its streets in search of people who might have information about what happened to her father in Cuba.

7. The overwhelming evidence establishes that Defendants' actions deprived Ms. Ray of a normal young adulthood. Her testimony established the severity of her loneliness and the depths of her pain.

8. After Ms. Ray married in her early twenties, she continued her search for information. She testified that her need to uncover the truth led her to ignore, at times, her personal safety. During the height of the Cold War, Ms. Ray ignored her personal safety in order to track down leads about her father's fate. She testified that due to the lack of information from Fidel Castro and his government, she was still not sure whether or not her father was really dead.

9. In 1978, Ms. Ray received a message from an author who was writing a book on the Bay of Pigs invasion. The author provided Ms. Ray with photographs of what appeared to be the body of her father. Plaintiff believed that this was a message from Defendant, Fidel Castro. Ms. Ray continued her efforts to communicate with Fidel Castro and the Cuban government. Finally, after years of painful work, Ms. Ray learned that her father's body was being held by the Cuban government.

10. After this discovery Ms. Ray fought for another excruciating eighteen months before the Defendants released her father's body. Plaintiff finally saw her father

when he arrived in a casket in Birmingham, Alabama in December of 1979, eighteen years after his murder. Pete Ray was buried with full military honors in Alabama.

11. An autopsy was performed by Jay W. Glass. At the trial Mr. Glass testified that Pete Ray did not perish when his plane went down over Cuba. There was evidence that Pete Ray was captured and taken to the headquarters of Fidel and Raul Castro. Mr. Glass testified that Peter Ray was suffering from several superficial, non-fatal wounds when a firearm was firmly placed against Pete Ray's right temple and fired. According to Mr. Glass, Pete Ray died as result of this execution. Pete Ray was not provided any of the international protections or rights afforded to prisoners of war prior to his execution. Pete Ray was the victim of an extrajudicial killing.

12. Expert testimony and the photographs introduced into evidence regarding Fidel Castro's involvement with the Bay of Pigs invasion establish that both Fidel Castro and Raul Castro would have been consulted and must have approved the execution of Pete Ray. Expert testimony in this Court and through deposition introduced into evidence established that Cuba is and was at all relevant times, a terrorist state due to its actions dating back to 1959.

13. There was also testimony at trial that Pete Ray's body, which was kept in a freezer in Havana, Cuba for eighteen years, was desecrated. Eyewitness testimony established that high ranking officials of the Cuban government would routinely remove Pete Ray's body from the freezer to mock it and to place their feet on top of his face.

14. The Court has also considered the affidavit of Enrique Rivero, dated November 16, 2004, who states:

"On many occasions in 1961 and 1962, I personally saw the body of Pete Ray removed from the freezer where it was stored in Havana, Cuba. On numerous occasions, I saw government officials in uniform spit on the body of Pete Ray and kick the body of Pete Ray. Likewise, on numerous occasions, the same government officials would swear at the body of Pete Ray. On one occasion, I saw person with the rank of Commander in the Cuban Army urinate on the body of Pete Ray."

15. The overwhelming evidence establishes that Defendants' heinous actions have caused and will cause Janet Ray Weininger severe and irremediable emotional pain, distress, and suffering. Ms. Ray's emotional distress over the years has been repeatedly compounded by the events described herein and warrants the awards set forth below.

#### CONCLUSIONS OF LAW

Section 1608(e) of the Foreign Sovereign Immunities Act ("FSIA") provides that "no judgment by default shall be entered by a court of the United States or of a State against a foreign state, a political subdivision thereof, or an agency or instrumentality of a foreign state, unless the claimant establishes his claim or right to relief by evidence satisfactory to the court."

Based on the overwhelming evidence presented at trial, this Court finds that Ms. Ray has met her burden. During the trial, Ms. Ray presented clear, convincing, competent, and substantive evidence regarding each element of her claim. Clear,

convincing, competent, and substantive evidence was also presented regarding the damages suffered by the Estate of Pete Ray and by Ms. Ray. With regard to the emotional distress or solatium damages suffered by Ms. Ray, such damages may be awarded to her individually pursuant to the Foreign Sovereign Immunities Act. *See, e.g., Stern v. The Islamic Republic of Iran*, 271 F. Supp. 2d 286, 300 (D.D.C. 2003) ("damages for solatium belong to the individual heir personally for injury to the feelings and loss of decedent's comfort and society").

With regard to the issues of subject matter jurisdiction, personal jurisdiction, and service of process, the record establishes that this Court has subject matter jurisdiction and personal jurisdiction over the Defendants and that service was perfected pursuant to applicable law. This Court notes that Plaintiff, in her Summons, invited the Defendants to arbitrate the claim in accordance with accepted international rules of arbitration. Defendants failed to respond to this request and failed to appear in this Court.

This Court also notes that pursuant to Section 1605(f) of the FSIA and the case law interpreting that section, the causes of action brought in this suit were tolled and did not begin to run until the passage of the Anti-Terrorism and Effective Death Penalty Act of 1996, which provides that actions must be filed within ten (10) years of 1996. This action was timely filed within that ten year period.

Finally, with regard to punitive damages, this Court finds that Ms. Ray has met all requirements for the award of punitive damages. As properly conceded by Ms. Ray, Section 1606 of the FSIA, however, does not permit the entry of an award of punitive damages against a foreign state, but does permit such an award against its agencies and

instrumentalities. Thus, no punitive damage award will be entered against the Republic of Cuba.

Having found that it has the authority to enter a judgment against the Defendants, it is hereby:

**ADJUDGED** that:

1. Judgment is entered in favor of Janet Ray Weininger as the Administrator, Executor, Personal Representative, and/or Guardian of the Estate of Thomas Willard Ray and jointly and severally against Fidel Castro, as an individual, agency, and instrumentality of The Republic of Cuba, Raul Castro, as an individual, agency, and instrumentality of The Republic of Cuba, the Army of The Republic of Cuba, as an agency and instrumentality of The Republic of Cuba, and The Republic of Cuba as follows:
  - a. \$ 3,512,000<sup>00</sup> to the Estate of Thomas Willard Ray, representing economic damages to the Estate;
  - b. \$ 50,000<sup>00</sup> to the Estate of Thomas Willard Ray, representing pain and suffering suffered by Thomas Willard Ray in the final moments of his life.
2. Judgment is entered in favor of Janet Ray Weininger as the Administrator, Executor, Personal Representative, and/or Guardian of the Estate of Thomas Willard Ray and jointly and severally against Fidel Castro, as an individual, agency, and instrumentality of The Republic of Cuba, Raul Castro, as an individual, agency, and instrumentality of The

Republic of Cuba, the Army of The Republic of Cuba, as an agency and instrumentality of the Republic of Cuba in the amount of \$ 65,000,000.00, representing punitive damages.

3. Judgment is entered in favor of Janet Ray Weininger, individually, and jointly and severally against Fidel Castro, as an individual, agency, and instrumentality of The Republic of Cuba, Raul Castro, as an individual, agency, and instrumentality of The Republic of Cuba, the Army of The Republic of Cuba, as an agency and instrumentality of The Republic of Cuba, and The Republic of Cuba in the amount of \$ 18,000,000.00 representing damages for solatium, pain, and suffering, and emotional distress.
4. Execution may issue forthwith against all Defendants against any of their assets wherever situated.
5. Plaintiff's counsel is hereby authorized to serve a copy of this Final Judgment upon Defendants by sending the Final Judgment and a translation thereof to the Ministry of Foreign Affairs of Cuba via International Mail in accordance with Section 1608 of the FSIA.
6. This Court will retain jurisdiction to enforce its judgment.

DONE AND ORDERED this 18th day of November, 2004 at the Eleventh Judicial Circuit in Miami Dade County Florida.

  
\_\_\_\_\_  
RONALD C. DRESNICK  
CIRCUIT COURT JUDGE

Assessment of Economic Loss

Plaintiffs, Yordanis Montoya Isaac, individually and as a personal representative of the Estate of Jorge Luis Martinez Isaac

vs.

Defendants, The Republic of Cuba, the Cuban Armed Forces, Fidel Castro Ruz and Raul Castro Ruz.

Carlos Seiglie, Ph.D.  
Analytica Inc.  
18 Lancaster Court  
Cresskill, NJ 07626  
February 23, 2005

## **I. Background**

This report calculates the present value of certain economic losses resulting from the death of Jorge Luis Martinez Isaac on April 11, 2003. The losses consist of: (1) the loss of wages and employee benefits net of personal consumption; and (2) the loss of household services.

## **II. Summary of Analysis**

A summary of economic losses for Mr. Jorge Luis Martinez Isaac is as follow. Loss of wages and benefits, net of personal consumption is \$312,504. Loss of household services is \$64,789. The total of these economic losses is estimated at \$377,292. Note that a trier-of-fact may weigh other factors to determine if these estimated losses should be adjusted for special circumstances that economist do not have a methodology for analysis.

## **III. Socioeconomic Data**

The following information is based on the information that was provided after I submitted a case information form.

Mr. Jorge Luis Martinez Isaac was born on March 14, 1963 and therefore, was 40 years old at the time of his death. He was a high school graduate. At the time of his death, Mr. Martinez Isaac was not married. He had an 18 year-old daughter and is survived by two sisters, one brother and his mother. Finally, at the time of his arrest, Mr. Martinez Isaac's employment status is unknown, but previously it has been reported that he had worked as a police officer, in a warehouse, and in construction. His salary at the time of his death is unknown.

### Life Expectancy

In determining Mr. Martinez Isaac's life expectancy, I have had to use data from the World Health Organization on life expectancy at birth in Cuba for the year 2003 which is 75.0 years for males and 79.3 years for female. Therefore, his remaining life expectancy was estimated at 35.0 years (United Nations Population Division).

## **IV. Methodology**

In order to estimate losses, past wage growth, interest rates and consumer prices are required. Since past wages are not available, I use the average earnings per month in Cuba (in pesos) for the year 2002 for workers in the construction industry. This data is from the International Labor Organization and is compiled by them from various administrative reports. In 2002, the average construction worker in Cuba earned 321 pesos which included employment-related allowances received from the State. This

amounts to an annual wage of 3,852.00 pesos per year. In order to convert this figure into dollars we must take into account purchasing power parity. It should be pointed out that the Cuban government in 2002 had an official (nonconvertible) exchange rate of 1 peso to the US dollar and a convertible peso rate sold for domestic use of 22 at government-run Cajas de Cambio, SA, at the end of 2001. Based on these rates and not adjusting for cost of living differences between the US and Cuba because of lack of data, annual estimates for Mr. Martinez Isaac is \$3,852 per year (\$321 month) at the official rate to \$142.67 at the convertible rate (\$11.89 month). Estimates of economic losses will be provided at the official exchange rate since this is the rate the government uses for international transactions.

### Wage Growth

There are three economic factors that influence wage growth: (1) inflation, (2) macroeconomic productivity changes and (3) individual productivity growth. The average wage growth for construction workers in Cuba from 2000 to 2002 was 7% annually. GDP growth from 1997 to the beginning of 2002 is reported at 6.3 % (Economic Commission for Latin America, Statistical Yearbook 2003). Therefore, it seems that the estimate of nominal growth of 7% in wages is plausible. The Cuban government reports the average annual rate of inflation from 1990-2003 was only 1.00 %. Therefore, the estimate of the growth in real wages is 6.00% annually.

### Employee Benefits

In the US as well as in some other countries, data on employee benefits provided by employers is available. These are not available in Cuba since the employer is the State. Therefore, employer benefits such as health insurance, child-care and contributions to pensions are part of the Central governments budget. Estimates of the combined social safety net in 1992 was enormous, comprising 37.0% of the gross domestic product (GDP) of Cuba and 55.4% of all payroll wages in a study by José F. Alonso, Ricardo A. Donate-Armada and Armando M. Lago, entitled "A First Approximation Design of the Social Safety Net for a Democratic Cuba," Association for the Study of the Cuban Economy (<http://lanic.utexas.edu/la/cb/cuba/asce/cuba4/healsys1.html>). Since 1992 is the last year in their study, I will use 55.4 percent of Mr. Martinez Isaac annual wage as an estimate of these other benefits.

### Discount Rate

Since Cuba does not have a well-developed capital market, it is difficult to estimate the real interest rate. For the US, the real rate of return on US Treasury bills from 1979 to 1999 as published in the Economic Report of the President is 2.65 percent. We use this as the rate of discount which would prevail if Cuba had a market system.

### Average worklife

There are three economic factors that determine a person's worklife expectancy: the probability of living, the probability of labor force participation and the probability of unemployment. A person's worklife expectancy increases as the first two probabilities increase and as the third probability decreases. Unfortunately, Cuba does not publish worklife tables and therefore, we use only data on Cuba's unemployment rate. The estimate for the unemployment for Cuba was 2.6% in 2003. Therefore, I will assume that 97.4 percent of the time over his lifetime Mr. Martinez Isaac would have been working. As a result, we assume that he would have received this portion of future wages. Since the State continues to provide employee benefits regardless of the employment status of the individual, we assume that he would have received the full amount of these.

#### Household services

Time devoted to work is compensated in pesos in Cuba. Yet household work performed outside formal markets also has a monetary value. One frequently used measure to place value on time spent doing household work is the wage rate. This is the wage that the individual commands in the market. This rate measures the income foregone in order to complete household work. Assuming a 40 hour workweek, Mr. Martinez Isaac's hourly wage was \$1.85 at the official rate. In the US, estimates for the number of hours of household services by individuals range from 1 to 2 hours per day. In my judgment, I believe that in Cuba it will be substantially higher due to the need for individuals to queue in lines for basic necessity. Therefore, I will assume that Mr. Martinez Isaac would have dedicated 4 hours of his day to household services and I value these at his hourly wage that is assumed to grow over the lifecycle. These services are assumed to continue until his life expectancy.

#### Personal Consumption

In the US, for 2-adult households the percentage of total income spent exclusively for an adult ranges from 18 percent to 30 percent depending upon the number of children below the age of 18 in the household (see Earl F. Cheit, Injury and Recovery in the Course of Employment, New York: John Wiley & Sons, 1961, p 78.) . We use the lower estimate of 18 percent for Cuba.

### Definition of Variables in Table 1

**(W)** WAGES =  $\$3,852 * (1.06)^t$  Initial Wage assumed to be \$3,852 in 2003.

**(B)** BENEFITS =  $(0.554)*W$

**(EW)** EXPECTED WAGES =  $(0.974) * W$

**(EWB)** WAGES & BENEFITS =  $EW+B$

**(PC)** PERSONAL CONSUMPTION =  $(0.18) * (EW+B)$

**(DF)** DISCOUNT FACTOR =  $1 / (1.0265)^t$

**(PVEV)** EXPECTED VALUE =  $DF * (EWB-PC)$ , This is the present value of wages & benefits net of consumption for each year.

**(PVHS)** HOUSEHOLD SERVICES =  $(0.17)* EWB$ , This is the present value of household services for each year.

**TOTAL** =  $PVEB+PVHS$ , This is the present value of net wages & benefits and household services for each year.

**CUMULATE** = the sum of **TOTAL**, This is the present value of economic loss over Mr. Martinez Isaac's expected lifetime.

**WAGES/BENEFITS** = the sum of **PVEV**, This is the present value of wages & benefits net of consumption over Mr. Martinez Isaac's expected lifetime.

TABLE 1

YEAR	AGE	WAGES	BENEFITS	EXPECTED WAGES	WAGES & BENEFITS	PERSONAL CONSUMPTION	SCOUNT FACTOR	EXPECTED VALUE	HOUSEHOLD SERVICES	TOTAL	CUMULATE	WAGES / BENEFITS(1)
2003	40	2,765.00	1,531.81	2,693.11	4,224.92	760.49	0.97	3,375.05	699.71	4,074.76	4,074.76	3,375.05
2004	41	4,083.12	2,262.05	3,976.96	6,239.01	1,123.02	0.95	4,855.41	1,006.61	5,862.02	9,936.77	8,230.46
2005	42	4,328.11	2,397.77	4,215.58	6,613.35	1,190.40	0.92	5,013.95	1,039.48	6,053.42	15,990.19	13,244.40
2006	43	4,587.79	2,541.64	4,468.51	7,010.15	1,261.83	0.90	5,177.66	1,073.42	6,251.08	22,241.27	18,422.06
2007	44	4,863.06	2,694.14	4,736.62	7,430.76	1,337.54	0.88	5,346.72	1,108.47	6,455.19	28,696.46	23,768.79
2008	45	5,154.84	2,855.78	5,020.82	7,876.60	1,417.79	0.85	5,521.30	1,144.66	6,665.96	35,362.42	29,290.09
2009	46	5,464.14	3,027.13	5,322.07	8,349.20	1,502.86	0.83	5,701.58	1,182.04	6,883.62	42,246.04	34,991.67
2010	47	5,791.98	3,208.76	5,641.39	8,850.15	1,593.03	0.81	5,887.75	1,220.63	7,108.38	49,354.43	40,879.43
2011	48	6,139.50	3,401.28	5,979.88	9,381.16	1,688.61	0.79	6,080.00	1,260.49	7,340.49	56,694.92	46,959.49
2012	49	6,507.87	3,605.36	6,338.67	9,944.03	1,789.93	0.77	6,278.52	1,301.65	7,580.17	64,275.08	53,237.95
2013	50	6,898.35	3,821.68	6,718.99	10,540.67	1,897.32	0.75	6,483.53	1,344.15	7,827.68	72,102.76	59,721.48
2014	51	7,312.25	4,050.98	7,122.13	11,173.11	2,011.16	0.73	6,695.23	1,388.04	8,083.27	80,186.03	66,416.71
2015	52	7,750.98	4,294.04	7,549.46	11,843.50	2,131.83	0.71	6,913.84	1,433.36	8,347.20	88,533.23	73,330.55
2016	53	8,216.04	4,551.69	8,002.42	12,554.11	2,259.74	0.69	7,139.59	1,480.16	8,619.75	97,152.98	80,470.14
2017	54	8,709.00	4,824.79	8,482.57	13,307.36	2,395.32	0.68	7,372.72	1,528.49	8,901.21	106,054.18	87,842.86
2018	55	9,231.54	5,114.27	8,991.52	14,105.80	2,539.04	0.66	7,613.45	1,578.40	9,191.85	115,246.03	95,456.31
2019	56	9,785.43	5,421.13	9,531.01	14,952.14	2,691.39	0.64	7,862.04	1,629.94	9,491.98	124,738.01	103,318.35
2020	57	10,372.56	5,746.40	10,102.87	15,849.27	2,852.87	0.62	8,118.76	1,683.16	9,801.91	134,539.92	111,437.11
2021	58	10,994.91	6,091.18	10,709.05	16,800.23	3,024.04	0.61	8,383.85	1,738.12	10,121.96	144,661.89	119,820.96
2022	59	11,654.61	6,456.65	11,351.59	17,808.24	3,205.48	0.59	8,657.60	1,794.87	10,452.47	155,114.35	128,478.56
2023	60	12,353.89	6,844.05	12,032.68	18,876.74	3,397.81	0.58	8,940.29	1,853.47	10,793.76	165,908.11	137,418.84
2024	61	13,095.12	7,254.70	12,754.65	20,009.34	3,601.68	0.56	9,232.20	1,913.99	11,146.20	177,054.31	146,651.05
2025	62	13,880.83	7,689.98	13,519.92	21,209.90	3,817.78	0.55	9,533.65	1,976.49	11,510.14	188,564.46	156,184.70
2026	63	14,713.68	8,151.38	14,331.12	22,482.50	4,046.85	0.53	9,844.95	2,041.03	11,885.97	200,450.43	166,029.65
2027	64	15,596.50	8,640.46	15,190.99	23,831.45	4,289.66	0.52	10,166.40	2,107.67	12,274.07	212,724.50	176,196.05
2028	65	16,532.29	9,158.89	16,102.45	25,261.33	4,547.04	0.51	10,498.36	2,176.49	12,674.85	225,399.35	186,694.41
2029	66	17,524.22	9,708.42	17,068.59	26,777.01	4,819.86	0.49	10,841.15	2,247.56	13,088.71	238,488.05	197,535.56
2030	67	18,575.68	10,290.92	18,092.71	28,383.63	5,109.05	0.48	11,195.14	2,320.94	13,516.08	252,004.13	208,730.70
2031	68	19,690.22	10,908.38	19,178.27	30,086.65	5,415.60	0.47	11,560.68	2,396.73	13,957.41	265,961.54	220,291.38
2032	69	20,871.63	11,562.88	20,328.97	31,891.85	5,740.53	0.46	11,938.16	2,474.98	14,413.14	280,374.68	232,229.53
2033	70	22,123.93	12,256.66	21,548.71	33,805.36	6,084.97	0.44	12,327.96	2,555.80	14,883.76	295,258.44	244,557.50
2034	71	23,451.36	12,992.06	22,841.63	35,833.68	6,450.06	0.43	12,730.50	2,639.25	15,369.74	310,628.19	257,287.99
2035	72	24,858.45	13,771.58	24,212.13	37,983.70	6,837.07	0.42	13,146.17	2,725.43	15,871.60	326,499.78	270,434.16
2036	73	26,349.95	14,597.87	25,664.85	40,262.73	7,247.29	0.41	13,575.42	2,814.42	16,389.84	342,889.62	284,009.58
2037	74	27,930.95	15,473.75	27,204.74	42,678.49	7,682.13	0.40	14,018.69	2,906.31	16,925.00	359,814.62	298,028.27
2038	75	29,606.81	16,402.17	28,837.03	45,239.20	8,143.06	0.39	14,476.42	3,001.21	17,477.63	377,292.25	312,504.69

(1) NET OF CONSUMPTION

## CURRICULUM VITAE

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Rutgers University, B.A., Economics, (Summa cum laude), 1979.  
University of Chicago, M.A., Economics, 1981.  
University of Chicago, Ph.D., Economics, 1991.

### Work Experience:

Associate Professor, Rutgers University, Newark, NJ., 1994 - present.  
Faculty Fellow, Center for Global Change and Governance, Rutgers University, 1997 - present.  
Adjunct Associate Professor, Columbia University, Program in Economic Policy Management, Summer 2000  
Spring 2003, Fall 2003 – current.  
Visiting Professor, Helsinki School of Economics and Business Administration, Helsinki, Finland,  
Summer 2000, 2001 and Fall 2002.  
Visiting Professor, National Defense University, Washington, DC, Summer 2002.  
Visiting Professor, Université Pierre Mendès France - Grenoble II, Winter-Spring 2000.  
Associate Professor, Binghamton University, Binghamton, NY., 1994 - 1996.  
Assistant Professor, Rutgers University, Newark, NJ., 1991 - 1994.  
Instructor, Rutgers University, Newark, NJ., 1986 - 1991.  
Consultant, Arthur Andersen & Co., World Headquarters. Strategic Planning, 1983-1984.  
Consultant, Arthur Andersen & Co., Chicago Office. Participated in engagements to  
corporate clients, 1982-1984.  
Adjunct Instructor, Northeastern Illinois University, Microeconomics, 1984-1985.

## Publications:

- "International Conflict and Military Expenditures: An Externality Approach," Journal of Conflict Resolution, March 1988.
- "A Theory of the Politically Optimal Commodity Tax," Economic Inquiry, July 1990.
- "Internal and External Factors Affecting Military Expenditures," in M. Chatterji and L. Forcey (eds.), Disarmament, Economic Conversion and Management of Peace. New York: Praeger Publishers, 1992.
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- "Arms Races in the Developing World: Policy Implications," (with P. Liu), Journal of Policy Modeling, December 2002.
- "Understanding Child Outcomes: An Application to Child Abuse and Neglect," Review of Economics of the Household. (Forthcoming, Fall 2004)
- "Challenges to Spanish Investments in Latin America." in Peseta Diplomacy, eds. F. Martin and P. Toral (forthcoming).

### Articles Under Review:

"Uniform Pricing in Competitive Markets When Price Discrimination Seems Optimal," Economica.

"Efficient Peacekeeping for a New World Order," Journal of Peace Research (revise and resubmit).

"Openness of the Economy, Terms of Trade and Arms," Journal of Conflict Resolution (revise and resubmit).

"Arms Races: An Empirical Review," (with P. Liu), Journal of Applied Econometrics (revise and resubmit).

"An Analysis of South America's Major Wars: Lessons for the Eurocentric Study of Wars," (with M. Pastore), Review of International Studies (revise and resubmit).

### Book Reviews:

The Liberal Illusion: Does Trade Promote Peace? by Katherine Barbieri, Journal of Economic Literature.

### Work in Progress:

"Determining Fair Market Values Using Options Contracts," (with A. Abdulkadiroglu).

"Explaining Anomaly Pricing in Multiplex Theaters."

"Evidence on the Informational Efficiency of Markets: Evidence from Durable Goods."

"On the Formation of Nations."

"Trade, Conflict and Economic Development," (with S. Polachek).

"The Impact of Foreign Direct Investment on International Conflict," (with S. Polachek)

### Professional Meetings:

"The Impact of Technological Progress on Arms Races," presented at the American Economic Association Meetings in New York, December 1988.

"The Effects of Economic Growth and Openness of the Economy on Military Expenditures," presented at the American Economic Association Meetings in Atlanta, December 1989.

"Internal and External Factors Affecting Military Expenditures," presented at Conference on Disarmament, Economic Conversion and Management of Peace sponsored by Cornell University and SUNY-Binghamton School of Management, May 1989.

"Modeling Military Spending," presented at the Peace Science Society (International) Rutgers University, November 1990.

"Defense Spending in a Ricardian World," presented at the American Economic Association Meetings in New Orleans, January 1992.

"Endogenous Political Structures," (with L. Locay) presented at the ASCE Meetings in Miami, August 1992.

"Economic Growth and Military Expenditures: A General Equilibrium Approach," presented at the American Economic Association Meetings in Anaheim, January 1993.

"Endogenous Political Structures," (with L. Locay) presented at the American Economic Association Meetings in Anaheim, January 1993.

"The Political Economy of State-Owned Enterprises," (with L. Locay) presented at the ASCE meetings in Miami, August 1993.

"A Theory of Military Intervention when National Security is Not at Risk," presented at the PSSI meetings, Syracuse University, November 1993.

"The Political Economy of Trade Sanctions," presented at the ASCE meetings in Miami, August 1994.

"On the Formation and Dissolution of Nations," presented at the PSSI meetings, University of Illinois, November 1994.

"The Political Economy of Trade Embargoes," presented at the American Economic Association Meetings in Washington, D.C., January 1995.

"Trade, Endowments, the Industrial Organization of Revenue Collection and Wars in Latin America's Economic Development, Mid 1840s to Late 1940," (with Mario Pastore) presented at the Latin American Studies Association Meetings in Washington, DC, September 1995.

"Conflicts in Transitional Economies," presented at the PSSI meetings, Ohio State University, October 1995.

"The Constraints on the Speed of Transition in Cuba," presented at the American Economic Association Meetings in San Francisco, CA., January 1996.

"The Rise and Demise of the Territorial State," presented at the World Peace Science Congress, Tinbergen Institute, Amsterdam, Holland, June 1996.

"The Optimal Size of the Military in a Post-Castro Cuba," presented at the ASCE meetings in Miami, August 1996.

"The Effects of Trade on Military Spending," presented at the PSSI meetings, Rice University, Houston, October 1996.

"The Optimal Size of the Military in a Post-Castro Cuba," presented at the American Economic Association Meetings in New Orleans, LA, January 1997.

"A Theory of Foreign Aid and Military Intervention," presented at the American Economic Association Meetings in New Orleans, LA, January 1997.

"Agricultural Reform and Growth in Transition Economies: The Case of Cuba," presented at the ASCE meetings in Miami, August 1998.

"Efficient Peacekeeping for a New World Order," presented at the Peace Science Society (International) Rutgers University, October 1998.

"Measuring the Social Cost of Cuban Economic Policy," presented at the ASCE meetings in Miami, August 1997.

"How the West Won," presented at the PSSI meetings, Indianapolis, November 1997.

"Containing an Adversary with Differential Rates of Economic Growth," presented at the World Peace Science Congress, University of New South Wales, Sydney, Australia, December 1997.

"The Cold War Conflict: How to Contain an Adversary with a Differential Rate of Economic Growth," presented at the American Economic Association Meetings in Chicago, IL, January 1998.

"Economic Development in the Tropics: Fiction or Possibility," with Roger R. Betancourt presented at the American Economic Association Meetings in New York, January 1999.

"An Economic Approach to Peacekeeping," presented at the World Peace Science Congress, Tinbergen Institute, Amsterdam, Holland, June 1999.

"An Economic Approach to Enforcing World Peace," presented at the American Economic Association Meetings in Boston, MA., January 2000.

"Cuba's Road to Serfdom," presented at the ASCE meetings in Miami, August 2000.

"Putting *Economics* Back into International Political Economy," presented at the Peace Science Society (International), Yale University, November 2000.

"Conflict and Trade," presented at the American Economic Association Meetings in New Orleans, January 2001.

"Cuba's Road to Serfdom," presented at the American Economic Association Meetings in New Orleans, January 2001.

"Economic and Social Determinants of Child Abuse and Neglect," presented at the First International Interdisciplinary Conference on Economics and Sociology, Taiwan, May 2001.

"Military Spending and Trade," presented at the World Peace Science Congress, Middlesex University, London, June 2001.

"Conflict and Economic Growth," presented at the American Economic Association Meetings in Atlanta, January 2002.

"Conflict and Economic Growth," presented at Bar Ilan University, Israel, January 2002.

"Challenges to Spanish Investments in the Energy Sector in Latin America," presented at Miami European Union Center Conference on Spanish Investment in Latin America, Miami, October 2002.

"Capital Flows and Conflict," presented at the Peace Science Society (International), University of Arizona, November 2002.

"Trade and Conflict: Rectifying Two Paradoxical Results" (with S. Polachek) presented at the American Economic Association Meetings in Washington, D.C., January 2003.

"La Politique Commerciale Des États-Unis À L'Échelle Des Amériques" presented at L'Empire Commercial Des États-Unis, University of Québec at Montréal, Montreal, March 2003.

"The Impact of Foreign Direct Investment on International Conflict," (with S. Polachek) presented at the Peace Science Society-North American Meetings, Ann Arbor, Michigan, November 2003.

"The Impact of Foreign Direct Investment on International Conflict," (with S. Polachek) presented at the American Economic Association Meetings in San Diego, January 2004.

"Foreign Direct Investment and Conflict," (with S. Polachek) presented at the International Studies Association Meetings in Montreal, March 2004.

Discussant, AEA session on Arms Races, Atlanta, December, 1989.

Discussant, AEA session on Terrorism, New Orleans, January 1992.

Discussant, AEA session on Trade Conflicts, New Orleans, January 1992.

Discussant, AEA session on Nonequilibrium Analysis for Conflict, Boston, January 1994.

Discussant, AEA session on Economic Reform in Latin America and Eastern Europe,

Boston, January 1994.

Discussant, AEA session on Conflict in the International System, Washington, D.C.,  
January 1995.

Discussant, AEA session on Latin Immigration into the U.S., Washington, D.C.,  
January 1995.

Chair and Discussant, EEA session on Privatization and Property Rights in Cuba, New York March 1995.

Discussant, SEA session on Issues in Transportation Safety, Washington, D.C., November 1996.

Discussant, AEA session on the Economics of Transitions, Chicago, January 1998.

Discussant, AEA session on Post-Socialist Economies, New York, January 1999.

Discussant, AEA session on the Cuban Economy, Boston, January 2000.

### **Other Professional Activity:**

### **Journal Editorial Board:**

Peace Economics, Peace Science and Public Policy

Pax Economica

Review of Economics of the Household

Defence and Peace Economics: Special Issue Editor.

### **Journal and Grants Referee:**

American Economic Review, Journal of Political Economy, Economics and Politics, Economic Modeling, Regional Science and Urban Economics, Conflict Management and Peace Science, Defence and Peace Economics, Journal of Public Economic Theory, Managerial and Decision Economics, Review of Economics of the Household, The Journal of International, Trade and Economic Development, Contemporary Economic Policy, International Studies Quarterly, Journal of Peace Research, National Science Foundation: Economics Division Reviewer, Encyclopedia of Violence, Peace and Conflict, Academic Press.

### **Professional Organizations:**

American Economic Association

Western Economic Association

Peace Science Society (International)

Society of Labor Economists

Member of the Executive Committee and Faculty Fellow: Center for Global Change and Governance: Rutgers University

Member of the Executive Committee: Committee on Institutional Cooperation (CIC)

Minority Doctoral Fellowship Program

Ex-Officio Member of the Executive Committee: Association for the Study of the Cuban Economy

**Fellowships, Scholarships, Academic Honors:**

Eli Lilly Fellow in Economics, University of Chicago.

Phi Beta Kappa.

Rutgers University Scholar.

Certificate of Appreciation, Rutgers University Hispanic Student Association.

The American-Scandinavian Foundation, Thord-Gray Memorial Fund, 1998.

**Languages:**

Spanish (fluent)