

INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
ORGANIZATION OF AMERICAN STATES

**PETITION FOR IMMEDIATE RELIEF
AGAINST HUMAN RIGHTS VIOLATIONS
COMMITTED BY REPÚBLICA DE CUBA**

CUBAN AMERICAN BAR ASSOCIATION, INC.
On Behalf of Persons Affected by Human Rights Violations

v.

REPÚBLICA DE CUBA

I. PERSON, GROUP OF PERSONS, OR ORGANIZATION FILING THE PETITION

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Do you want the Commission to keep the identity of the Victims confidential during the procedure: No.

II. NAMES OF THE PERSONS AFFECTED BY THE HUMAN RIGHTS VIOLATIONS

Dr. Oscar Elías Biscet
Horacio Julio Piña Borrego
Osvaldo Alfonso Valdés
Ricardo González Alfonso
Pedro Pablo Alvarez Ramos
Julio C. Gálvez Rodríguez
Edel José García Díaz
Marcelo Cano Rodríguez
Angel Moya Acosta
Manuel Vázquez Portal
Adolfo Fernández Saínz
Carmelo Díaz Fernández
Nelson Molinet Espino

Eduardo Díaz Fleitas
Fidel Suárez Cruz
Jorge Olivera Castillo
Orlando Fundora Alvarez
Roberto de Miranda Hernández
Efrén Fernández Fernández
Víctor Rolando Arroyo Carmona
Orlando Zapata Tamayo
Oscar Espinosa Chepe
Héctor Maseda Gutiérrez
Mijail Bárzaga Lugo
Nelson Aguiar Ramírez
Antonio Díaz Sánchez

Regis Iglesias Ramírez
Martha Beatriz Roque Cabello
Héctor Palacios Ruiz
Marcelo López Bañobre
Alfredo Felipe Fuentes
Héctor Raúl Valle Hernández
Guido Sigler Amaya
Miguel Sigler Amaya
Félix Navarro Rodríguez
Librado Linares García
Léster González Pentón
Omar Pernet Hernández
Antonio A. Villarreal Acosta
Pedro Argüelles Morán
Alejandro González Raga
Mario Enrique Mayo Hernández
Dr. José Luis García Paneque
Alfredo Domínguez Batista
Reynaldo Labrada Peña
Julio Antonio Valdés Guevara
José Ramón Gabriel Castillo
Luis Milán Fernández
Alexis Rodríguez Fernández
Leonel Grave de Peralta
Juan Carlos Herrera Acosta
Rafael Mollet Leyva

Arnaldo Ramos Lausurique
Raúl Rivero Castañeda
Miguel Valdés Tamayo
Miguel Galván Gutiérrez
José Miguel Martínez Hernández
José Ubaldo Izquierdo Hernández
Ariel Sigler Amaya
Iván Hernández Carillo
Diosdado González Marrero
Margarito Broche Espinosa
Arturo Pérez de Alejo
Omar Ruiz Hernández
Blas Giraldo Reyes Rodríguez
Pablo Pacheco Ávila
Alfredo Pulido López
Normando Hernández González
Jorge Luis González Tanquero
Luis Enrique Ferrer García
Próspero Gainza Agüero
Cruz Delia Aguilar Mora
Claro Sánchez Altarriba
José Daniel Ferrer García
Ricardo Silva Gual
Jesús Mustafá Felipe
Manuel Ubais González
Fabio Prieto Llorente

Collectively, these Victims are referred to as the “Dissidents.”

III. MEMBER STATE OF THE O.A.S. RESPONSIBLE FOR THE HUMAN RIGHTS VIOLATIONS ALLEGED

República de Cuba (“Cuba”).

IV. THE COMMISSION HAS JURISDICTION OVER CUBA FOR THESE CLAIMS

1. The Charter of the Organization of American States (the “Charter” or the “OAS Charter”), as amended by the Protocol of Buenos Aires, grants the Inter-American Commission on Human Rights (the “Commission”) jurisdiction over the member states of the Organization of American States (the “OAS”). See Charter, Art. 112. Cuba ratified the OAS Charter on July 8,

1952.

2. The Commission “has always held that the Cuban State is a party to the international instruments initially adopted in the Western hemisphere to protect human rights: the American Declaration of the Rights and Duties of Man, and the Charter of the Organization of American States.” *See 2001 Annual Report, Inter-Am. C.H.R., Ch. IV, ¶ 3.*

3. The Commission has expressly stated that “the Cuban State is legally accountable before the Inter-American Commission as regards human rights.” *Id.* at ¶ 5. The Commission recognizes a distinction between the Cuban State and the Cuban government, the latter having been excluded from participating in the OAS. *See The Situation of Human Rights in Cuba – Seventh Report, OEA/Ser.L/V/II.61 Doc. 29 rev. 1, ¶ 34 (1983).* Indeed, “the Commission has always considered that the purpose of the Organization of American States in excluding Cuba from the inter-American system was not to leave the Cuban people without any protection. The exclusion of that Government from the regional system in no way implies that it can cease to carry out its international obligation in the area of human rights.” *See 2001 Annual Report, Inter-Am. C.H.R., Ch. IV, ¶ 7.*

4. Both the Inter-American Court of Human Rights (the “Court”) and the Commission have noted that although the American Declaration of the Rights and Duties of Man (“American Declaration” or “Declaration”) was initially embraced as a declaration and thus not legally binding, it is today a source of international obligations for OAS member states. *See Interpretation of the American Declaration of the Rights and Duties of Man Within the Framework of Article 64 of the American Convention on Human Rights, Advisory Opinion OC-10/89, July 14, 1989, ¶¶ 35-45, Inter-Am. C.H.R. (Ser. A) No. 10 (1989).*

5. Under Article 44 of the American Convention on Human Rights (“Convention” or

“American Convention”), “[a]ny person or group of persons, or any nongovernmental entity legally recognized in one or more states of the Organization, may lodge Petitions with the Commission” denouncing human rights violations. *American Convention on Human Rights*, Art. 44, November 22, 1969, 9 I.L.M. 673 (1970).

6. The Commission’s regulations state that it “shall receive and examine any petition that contains a denunciation of alleged violations of the human rights set forth in the American Declaration on the Rights and Duties of Man, concerning the member states of the Organization that are not party to the American Convention on Human Rights.” *See 2000 Annual Report*, Inter-Am. C.H.R., OEA/Ser.L/V/II.111 Doc. 20 rev. at 1495 (2000).

7. Pursuant to such authority, CABA files this Petition on behalf of the Dissidents.

V. FACTS DENOUNCED

8. The Commission has long recognized that Cuba violates even the most basic human rights:

[D]espite its repeated recommendations to the State to reform its legal system so as to achieve the unhampered enjoyment of human rights in Cuba, the authorities have not changed their practice of systematic violations of freedom of expression, assembly, and association, nor have they reformed the constitutional and criminal statutory provisions on which they are based. The harassment and the accusations, the adoption of disciplinary measures, the official warnings, and the penalties involving deprivation of liberty continue to be applied routinely by the Cuban authorities, who, day after day, subjugate any individual or group that expresses disagreement with government policies, orally or in writing.

2001 Annual Report, Inter-Am. C.H.R., Ch. IV, ¶ 19. Cuba continues its pattern of violating human rights.

9. In March and April 2003, Cuba deliberately violated the Dissidents' human rights as part of its efforts to silence internal opposition to Cuba's totalitarian and repressive government.

10. From March 18, 2003, through March 20, 2003, Cuba systematically arrested and detained more than 70 Dissidents. Many of the Dissidents are involved with the Varela Project, a petition calling for democratic reforms to the Cuban Constitution and system of law, which the Cuban people have submitted to the Cuban legislature for consideration.¹ Other Dissidents arrested in the March 2003 crackdown were independent journalists, independent librarians, and human rights activists, all of whom advocate the emergence of a democratic civil society in Cuba.

11. This systematic crackdown is nothing new in Cuba. In its 2001 Annual Report, the Commission cited the report of Reporters without Borders, which noted, among other things, the mistreatment of journalists:

In Cuba, where control continues to be exercised over the information disseminated to the population, there are a hundred independent journalists, treated as "counterrevolutionaries" by the authorities; they are a favorite target of repression, just at a time when the Internet gives their work a larger potential audience.

See 2001 Annual Report, Inter-Am. C.H.R., Ch. IV, ¶ 22.

12. Victims of political persecution, the Dissidents were subjected to violent arrests—often in front of family members—that were intended to terrorize and intimidate the Dissidents, their families and friends, and, ultimately, the Cuban people. Additionally, Cuba violated the

¹ The principal proponent of the Varela Project, Osvaldo Paya Sardinias, was awarded the Sakharov Prize for Freedom of Thought by the Parliament of the European Union in recognition of his efforts to bring forth democratic change in Cuba.

Dissidents' rights through humiliating searches of their homes intended to torment them and their families.

13. Cuba charged the Dissidents with unspecified "subversive" activities against the State and disseminating propaganda or "illicit" information. This practice has been condemned by the Commission:

Constitutional and criminal provisions such as "enemy propaganda," "contempt of authority," "illicit association," "clandestine printing," "dangerousness," "rebellion," "acts against State security," "official warning," "pre-criminal and post-criminal security measures," "links or relations with person potentially dangerous to society," "socialist legality," "socially dangerous," etc. are enforced daily by the Cuban authorities even though they are *clearly incompatible with the American Declaration and with the universal principles for the protection of human rights*.

See 2001 Annual Report, Inter-Am. C.H.R., Ch. IV, ¶ 19 (emphasis added). Human Rights Watch/Americas has stated that "[t]he denial of basic civil and political rights is written into Cuban law." *See 2001 Annual Report, Inter-Am. C.H.R., Ch. IV, ¶ 33.*

14. Only 48 hours before the trials were to begin, Cuba announced to the foreign press that summary trials would be held from April 3 to April 6, 2003. Cuba expected the Dissidents to prepare an adequate legal defense to the charges only days and hours before trial despite limited interaction with state-designated defense counsel. Regrettably, this is not a novel violation of human rights for the Cuban government.²

15. Summary trials were held in various Cuban provinces over a five-day period from April 3 through April 7, 2003. In all cases, only close family members and Communist Party

² *See 2001 Annual Report, Inter-Am. C.H.R., Ch. IV, ¶ 47* ("[A]s regards the time given the accused and his attorney to prepare the defense, a large share of the complaints received indicate that they did not have access to the case file with sufficient lead time. It has also been noted that the attorney's intervention is limited mainly to the trial phase, and that this is basically due to the fact that the defense counsel meet with the accused one hour before the trial, and in many cases at the moment of the trial.").

loyalists were allowed in the courtrooms. Reporters, diplomats, and the general public were excluded from the trials.

16. No trial lasted more than a single day. In most cases, Dissidents were notified of the formal charges against them on the eve of trial. In all cases, the Dissidents were denied an opportunity to meaningfully challenge the charges or application of the law. Every single trial resulted in a conviction, and sentences in excess of 25 years were entered against many of the Dissidents.

17. The Dissidents' "trials" violated accepted standards of human rights. The Commission has previously observed "with concern that [international human rights principles and provisions] continue to be disrespected in Cuba's domestic jurisdiction, since the practices of the judicial authorities have not changed, nor have the constitutional provisions and criminal statutes on which they are based." *See 2001 Annual Report, Inter-Am. C.H.R., Ch. IV, ¶ 39.*

18. After sentencing, the Dissidents were imprisoned in jails far from their homes to prevent local community and family support and visitation. Most of the Dissidents remain in deplorable conditions in solitary confinement, and Cuba continues to deny them access to visitors, writing materials, or even medical care.

19. This, too, is nothing new in Cuba. For years, the harsh conditions that prisoners must bear in Cuba's prisons have been one of the Commission's principal concerns. *See 2001 Annual Report, Inter-Am. C.H.R., Ch. IV, ¶ 79.*

20. In its 2002 World Report, Human Rights Watch/Americas described the situation in Cuba's prisons as inhumane:

Whether detained for political or common crimes, inmates were subjected to abusive prison conditions. Prisoners frequently suffered malnourishment and languished in overcrowded cells without appropriate medical attention. Some

endured physical and sexual abuse, typically by other inmates with the acquiescence of guards, or long periods in punitive isolation cells.

See 2001 Annual Report, Inter-Am. C.H.R., Ch. IV, ¶ 80.

21. Cuba's actions are a continuation of its 44-year-old strategy of repression, resulting in multiple condemnations by international entities and one of the worst human rights records in the world. Cuba's political persecution of the Dissidents violates almost every human rights provision of international treaties and conventions recognized in the Inter-American system, primarily the American Declaration and the American Convention. Here, Cuba has violated, among others, the Dissidents': (1) right to free speech and assembly; (2) right to a fair trial; (3) right to humane treatment; and (4) right to be free from arbitrary arrest and detention.

22. The Dissidents are among countless Cuban citizens who have been summarily tried, sentenced, and imprisoned in violation of internationally-recognized human rights standards, as part of Cuba's attempt to silence its critics and destroy the hope of a change to democracy from the current totalitarian, oppressive system. As in 2001, when the Commission issued its Annual Report on Human Rights Developments in Cuba, "the pattern of State repression of all who attempt peacefully to exercise their rights to freedom of expression, association, and assembly persists." *See 2001 Annual Report, Inter-Am. C.H.R., Ch. IV, ¶ 32.*

23. The Commission has previously deemed "censurable the limitations and restrictions imposed by the Cuban State on freedom of expression, assembly, and association, as well as the pressures, systematic harassment, and punishment to which independent journalists who endeavor to exercise their fundamental rights day after day are subjected." *See 2001 Annual Report, Inter-Am. C.H.R., Ch. IV, ¶ 34.*

24. The Commission has the authority to adopt precautionary measures in order to prevent Cuba's continued abuse of the Dissidents.

25. Even now, many of the Dissidents remain in solitary confinement. Based on reports from persons close to the Dissidents, Cuba is subjecting the Dissidents to cruel and humiliating treatment. Their families fear for the Dissidents' lives, safety, and physical integrity. Here, a precautionary measure may stop Cuba from continuing to disregard the Dissidents' human rights.

26. All of the Dissidents are Cuban citizens living in Cuba, over the age of eighteen, and otherwise *sui juris*. The following atrocities illustrate, and are representative of, Cuba's human rights violations against the Dissidents.

Dr. Oscar Elías Biscet

27. Dr. Oscar Elías Biscet is a 41-year-old physician and a prominent human rights activist in Cuba. He is President of the Lawton Human Rights Foundation and has been arrested at least 24 times before his current imprisonment—a result of his political beliefs. Cuba has intimidated, harassed, and persecuted Dr. Biscet for over a decade.

28. During a peaceful protest in support of human rights in 1999, Dr. Biscet displayed a Cuban flag upside down, expressing his belief that Cuba is a country in crisis because of the Cuban government's repressive tactics. On November 3, 1999, Cuba responded to Dr. Biscet's act of free speech by arresting and charging him with "ultraje a los símbolos de la patria" (insulting the symbols of the nation), "desorden público" (public disorder), and "instigación a delinquir" (incitement to commit an offense). Cuba sentenced Dr. Biscet to three years in jail. During his imprisonment, Dr. Biscet was recognized internationally for his human rights activism and was declared a Prisoner of Conscience by Amnesty International.

29. On October 31, 2002, Dr. Biscet was released from Holguín Maximum Security Prison and within days of his release he condemned the harsh, inhumane prison conditions. Dr.

Biscet continued with his peaceful activism and was rearrested with 16 others on December 6, 2002, for attempting to meet and discuss the promotion of human rights in Cuba.

30. In March 2003, Dr. Biscet was arrested again as part of Cuba's crackdown against the Dissidents. As he was arrested, Dr. Biscet sat in the street in protest and chanted, "Long Live Human Rights" and "Freedom for Political Prisoners." He was charged with disturbing the public order and was eventually transferred to the Cuban State Security headquarters on March 29, 2003. Cuba later amended the charges to include unspecified violations of Law 91 of the Cuban Penal Code, which provides criminal sanctions for "subversive activities directed at affecting territorial independence and the integrity of Cuba." Dr. Biscet's home was then searched during the first week of April 2003. Cuban agents confiscated a fax machine and computer to stop his wife, Elsa Morejón, from publicizing Dr. Biscet's plight and summary trial. Dr. Biscet was tried in one day and sentenced to 25 years in jail under Article 91 of the Cuban Penal Code. He was then transported to the Kilometro 5 ½ prison in Pinar del Río, far from his family and friends in Havana.

31. On April 23, 2003, Cuba condemned Dr. Biscet to solitary confinement. He refuses to wear prison uniforms because he believes that he is not a criminal and has been imprisoned only because of his democratic ideals and support for human rights in Cuba. In response, Cuba has taken his clothing, leaving him only in a pair of shorts and slippers. He is now in a three foot by six foot jail cell with no running water. A hole in the ground serves as the toilet. He sleeps on that same floor and does not receive any fresh air or sunlight. Cuba has even taken his Bible and writing materials. He is prohibited from receiving mail, visits, or having contact with the outside world.

Raúl Rivero

32. Raúl Rivero, 57 years old, is an internationally-recognized poet and independent journalist. Formerly the Moscow Bureau Chief for Cuba's official news agency, he later broke with the state-controlled media and, in 1995, founded Cuba Press, an independent news agency in Cuba.

33. Insisting that the only valid source of information in Cuba is the state-controlled media, the Cuban State has declared Cuba Press an "illegal organization" since its inception.

34. Mr. Rivero has long been harassed, detained, and persecuted by Cuba. In January and February of 1996, he was arrested for his participation in the "Concilio Cubano" (the "Cuban Council"), a coalition of pro-democracy and civil society organizations that was eventually quashed by Cuban State Security following a wave of mass arrests later that year. In July 1997, Mr. Rivero was detained for writing a profile of Vladimiro Roca, a then-imprisoned human rights activist who advocated democratic reforms in Cuba. In March 1999, Cuba detained Mr. Rivero and threatened to incarcerate him if he continued with his journalistic work.

35. On March 20, 2003, Mr. Rivero was again arrested. Cuban agents searched his home and confiscated his books and laptop computer—his tools as a journalist. Several weeks passed without formal charges until Mr. Rivero was tried on April 4, 2003. The trial commenced at 9:30 a.m. and was concluded with a conviction and sentence by 3:45 p.m. that same day. Mr. Rivero was charged under Article 91 of the Penal Code and was accused of disseminating false information in his newspaper articles to benefit "foreign sponsors." He was sentenced to 20 years in jail. By May 6, 2003, Cuba had moved Mr. Rivero to the Ciego De Ávila prison, more than 300 miles from his Havana home and condemned him to solitary confinement. On June 23, 2003, Cuba's Supreme Court upheld the brutal sentence imposed on Mr. Rivero.

Marta Beatriz Roque

36. Marta Beatriz Roque, a 57-year-old independent economist, directs the Cuban Institute of Independent Economists—an organization created to investigate and report on the Cuban economy without government censorship. She also heads the Assembly to Promote Civil Society, founded in 2002.

37. Cuba arrested and sentenced Ms. Roque to three and a half years in jail in July 1997 for helping to write “La Patria es de Todos” (“The Homeland Belongs to All”), a declaration advocating peaceful, democratic change in Cuba. Cuba arrested her one month after she gave the declaration to the foreign press, and charged her with sedition and “other acts against state security.” Ms. Roque was released from prison on May 3, 2000, after which she resumed her pro-democracy activities.

38. Once again, on March 20, 2003, Cuba arrested Ms. Roque. At the time of her arrest, Ms. Roque was frail because of a hunger strike undertaken for the release of political prisoners.

39. Cuba charged Ms. Roque with violating Article 91 of the Penal Code for engaging in activities aimed at “subverting the internal order of the Cuban State, provoking its destabilization and the loss of its independence.” Cuba further alleged that Ms. Roque received funds from the United States government for purposes of engaging in such illegal activities. She was summarily convicted and sentenced to 20 years in jail and is now imprisoned at Manto Negro Prison in Havana Province.

Oscar Manuel Espinosa Chepe

40. Oscar Manuel Espinosa Chepe, 62 years old, is an independent journalist who reports on economic issues. He has worked for the Cuban National Bank and as an economic advisor to the Cuban Embassy in Belgrade, Yugoslavia.

41. Cuba arrested Mr. Chepe during the three-day crackdown in March 2003 and tried him on April 3, 2003. Cuba did not inform Mr. Chepe of the trial; he believed that he was being taken for questioning when he was brought before the court.

42. During the trial, Cuba accused him of owning books "contrary to the socioeconomic process" and also accused him of disseminating "distorted information" about the Cuban economy. He was convicted and sentenced to 20 years in jail under Article 91 of the Cuban Penal Code. Shortly after sentencing, Cuba moved him to a provincial prison in Guantánamo Province, far from his home province of Havana.

43. Since his imprisonment, Mr. Chepe's already-poor health has deteriorated and his liver condition, thoracic hernia, and hypertension have required multiple hospitalizations. Yet, even when admitted to a hospital, Cuba has denied him proper medical care. On June 23, 2003, Cuba's Supreme Court upheld his 20-year prison sentence.

José Daniel Ferrer García

44. José Daniel Ferrer García, 32 years old, is a husband and the father of two children. He is a promoter of the Varela Project and was regional coordinator for the Movimiento Cristiano Liberación (Christian Liberation Movement). In November 2000, Cuba arrested Mr. Ferrer to exclude him from the trials of his fellow opposition members. On January 22, 2002, while collecting signatures for the Varela Project petition, Mr. Ferrer was taken from a bus and beaten by Cuban police officers.

45. In March 2003, Cuba again arrested Mr. Ferrer and tried him in Santiago, Cuba, in April 2003. Cuba charged Mr. Ferrer with violating Article 91 of the Cuban Penal Code and sought the death penalty. He was convicted and sentenced to 25 years in prison. After sentencing, he was taken to Kilometro 5 ½ prison in Pinar del Río Province, on the other end of the island, away from his family in Santiago de Cuba.

46. He was then condemned to solitary confinement and began a hunger strike to protest his imprisonment and designation as a criminal. He has suffered from amoebic dysentery because of poor sanitary conditions in his prison cell. Nevertheless, Cuba has withheld the necessary and proper medical care.

José Luis García Paneque

47. José Luis García Paneque is a husband and father of four children (three daughters, ages 12, 7, and 4; and a son, age 6). He is a physician living in Las Tunas, Cuba, where he is a member of the San Gerónimo Church. In July 2000, he wrote an article titled "Doctors or Slaves?" attacking Cuba's oppression of physicians on the island.

48. Dr. García Paneque suffers from asthma and hypertension. Before March 18, 2003, he had never been arrested.

49. On March 18, 2003, Cuba arrested him in his home. He was taken to jail face-down and in shackles. Eight state security officers arrested him, along with two neighbors who were "witnesses" at the "trial."

50. Cuban state security officers ransacked Dr. García Paneque's home for over six hours. They forced family and guests to leave the house. State agents seized all medicines, religious documents, and books, including publications regarding the Declaración de Derechos

Humanos, which they called “propaganda subversiva.” The State also seized all religious documents, which were referred to as subversive materials at the trial.

51. Dr. García Paneque met with his state-appointed lawyer only once. This meeting took place even before the lawyer was allowed to review the charging document.

52. The charging document, a “petición fiscal conjunta,” also charged four other Dissidents: José Luis González Tanquero (see discussion, below), Alfredo Rodolfo Dominguez Batista, Reynaldo Miguel Labrada Peña, and Luis Enrique Ferrer García.

53. The government file—or “causa”—consisted of over 500 pages; yet the defense attorney was only allowed to view the government’s file for the first time on the night before trial. Even after his brief review, the defense lawyer was denied the opportunity to meet with Dr. García Paneque until the trial commenced.

54. On information and belief, under Cuban law a defense attorney typically has 10 days to review a file if one defendant is involved; for multiple defendants 20 days are permitted. Even under a “proceso sumarísimo,” where all time periods are reduced by half, Cuba should have allowed the defense lawyer ten days to review the file (as the case involved multiple defendants). Here, because the defense lawyer was allowed less than one day to review the case file, Cuba failed to comply even with its own “laws” or procedure.

55. Though the state prosecutor requested a 20-year sentence, without explanation the Cuban court sentenced Dr. García Paneque to 24 years incarceration.

56. On May 17, 2003, without notifying his family, Dr. García Paneque was transferred to La Prisión de Gumajal in Villa Clara, where he was condemned to solitary confinement.

José Luis González Tanquero

57. José Luis González Tanquero was born in Matanzas, Cuba, and has a 6-year-old daughter. His wife is a librarian at an independent library. He and his family have lived in Las Tunas for seven years.

58. Mr. González Tanquero is president of Movimiento Independentista Carlos Manuel de Céspedes.

59. Cuba arrested Mr. González Tanquero on March 19, 2003, in Camagüey, Cuba. The following day, Cuban state security personnel ransacked his home for four hours and seized approximately 150 books and magazines—all of which were deemed “subversive.”

60. Mr. González Tanquero was represented by the same attorney who contemporaneously represented Dr. García Paneque. As with Dr. García Paneque, Mr. González Tanquero’s defense attorney was only allowed to view the government’s file for the first time on the night before trial. Even after his brief review, the defense lawyer was denied the opportunity to meet with Mr. González Tanquero until the trial commenced. The family received no notice of the trial.

61. The Cuban court sentenced Mr. González Tanquero to 20 years in prison, just as the state prosecutor requested. He is now in solitary confinement.

José Ramón Gabriel Castillo

62. José Ramón Gabriel Castillo, a former university professor, was born on April 3, 1957. He is married to Blanca Rosa Echevarría, whose daughter Mr. Gabriel Castillo has raised since she was one year old.

63. In 1997, Mr. Gabriel Castillo established the Instituto Independiente de Cultura y Democracia. More recently, Mr. Gabriel Castillo has dedicated himself to promoting “La Carta

Universal de Derechos Humanos” through the arts by collecting paintings and poems regarding human rights abuses. He also writes for a publication titled “Reflejos.”

64. On March 18, 2003, in front of his wife and daughter, Cuba arrested Mr. Gabriel Castillo in his home. The arrest was an elaborate military display involving many state security police officers.

65. After the arrest, Cuban agents ransacked Mr. Gabriel Castillo’s home, as well as that of his parents. From his home they seized two computers and two video cameras; they also took letters from family members and money.

66. His defense attorney, Daisy Sánchez, based his defense on the rights guaranteed by the Carta Universal de Derechos Humanos, which the Cuban court rejected. Cuba sentenced Mr. Gabriel Castillo to 20 years imprisonment.

67. On May 3, 2003, Mr. Gabriel Castillo’s family attempted to visit him in prison, only to learn that Cuba had moved him to Santa Clara the day before. He has been condemned to solitary confinement there ever since.

68. Cuba has imprisoned Mr. Gabriel Castillo before for promoting the Carta Universal de Derechos Humanos. He was incarcerated from November 1993 through July 1995.

Available Evidence

69. The Dissidents themselves possess the greatest information and evidence of Cuba’s human rights violations. CABA strongly urges the Commission to interview the Dissidents in connection with its investigation of the violations detailed in this Petition.

70. CABA reasonably fears for the lives and safety of other persons in Cuba who may provide additional evidence against Cuba in connection with Cuba’s violation of the Dissidents’ human rights. Therefore, to protect them from retaliation by Cuba, CABA will provide the

Commission with the identity of available witnesses upon request and upon a guarantee of confidentiality.

71. Cuba is in exclusive possession of the charging documents, government files, transcripts and evidence, judgments, and other documentary evidence relating to the arrest, summary trials, and incarceration of the Dissidents.

72. Nevertheless, the entire World has borne witness to the human rights abuses committed by Cuba against the Dissidents. The crackdown has been aptly chronicled in the international media, and has been described as the worst abuse of human rights in the region in over 20 years. *See, e.g., "Composite Exhibit A"*.

VI. HUMAN RIGHTS VIOLATED

73. The numerous arrests, summary trials, and incarceration of the Dissidents violate the following human rights guaranteed to all persons, as enshrined in the articles of the American Declaration and the American Convention:

Right to Liberty; Right to be Free from Arbitrary Arrest

74. Article I of the Declaration provides that, "[e]very human being has the right to life, liberty and the security of his person."

75. Similarly, Article 7 of the American Convention declares that, "Every person has the right to personal liberty and security. . . . No one shall be subject to arbitrary arrest or imprisonment."

76. The Commission has noted that "[a]ny lawful deprivation of liberty must be ordered and executed by a competent authority and must be carried out in accordance with the substantive and procedural requirements of domestic law *and of the American Convention.*"

Joaquin Ortega, et al. v. Guatemala, Case 10.586, Report No. 39/00, Inter-Am. C.H.R., OEA/Ser.L/V/II.106 Doc. 3 rev. at 772 (1999) (emphasis added).

77. Here, the arbitrary arrest and imprisonment of the Dissidents—for expressing their beliefs and speaking out against the government—fails to comport with established human rights standards recognized by the Convention and the Declaration. It is only the most recent example of Cuba’s systematic and arbitrary deprivation of liberty of those who oppose the repressive, totalitarian regime.

78. In 2001, the Commission noted that “[t]he problem of arbitrary detention and imprisonment for political motives . . . [has] been one of the Commission’s foremost concerns with respect to Cuba.” *See 2001 Annual Report*, Inter-Am. C.H.R., Ch. IV, ¶ 79.

79. The Office of the Rapporteur for Freedom of expression confirmed in 2001, and the Commission noted, that “numerous sections of [Cuba’s] Penal Code are used to suppress journalists and others who speak out against the government. Many of the offenses, which subject the accused to prison terms, are vaguely defined so as to apply to a wide range of speech.” *See 2001 Annual Report*, Inter-Am. C.H.R., Ch. IV, ¶ 27.

80. Moreover, as Human Rights Watch/America noted in its World Report 2002: “Cuba’s restrictions on human rights were undergirded by the country’s legal and institutional structure. The rights to freedom of expression, association, assembly, movement and of the press were strictly limited under Cuban law. . . . The authorities also imprisoned . . . individuals who had committed *no illegal act*, relying upon laws penalizing ‘dangerousness’” *See 2001 Annual Report*, Inter-Am. C.H.R., Ch. IV, ¶ 20 (emphasis added).

81. The Commission has found that such arbitrary arrests, as here, without legal justification, are a violation of Article XXV of the Declaration. *See Ovelario Tames v. Brazil*,

Right to Humane Treatment; Right to the Preservation of Health and to Well-being

82. Article 5 of the American Convention declares as follows:

1. Every person has the right to have his physical, mental, and moral integrity respected.

2. No one shall be subjected to torture or to cruel, inhuman, or degrading punishment or treatment. All persons deprived of their liberty shall be treated with respect for the inherent dignity of the human person.

83. Additionally, Article XI of the American Declaration provides that “[e]very person has the right to the preservation of his health through the sanitary and social measures relating to food, clothing, housing and medical care, to the extent permitted by public and community resources.”

84. The condition of the Dissidents’ incarceration, specifically, solitary confinement, lack of exercise, lack of food, unsanitary and cramped housing of as many as four prisoners in a six foot by nine foot cell, lack of medicine and medical treatment, and other generally horrible conditions of Cuban prisons, violates these rights.

85. Indeed, by 2001 the Commission had already received abundant information on the prison situation in Cuba, which described: “the persistence of overcrowding, scarcity and low quality of the food, deficient medical care, beatings, use of solitary confinement for punishment—with shuttered doors and no light—the mixing of common prisoners with those jailed for political reasons, and of convicts and those in pre-trial detention, limited family visits, etc.” *See 2001 Annual Report*, Inter-Am. C.H.R., Ch. IV, ¶ 80.

86. Moreover, the Commission has expressly noted, in an Analysis of Article 5 of the American Convention, that isolation of incarcerated persons and denial of access to communication constitutes cruel and inhumane treatment. *See Americo Zavala Martinez v. Peru*,

Case 10.820, Report No. 44/00, Inter-Am. C.H.R., OEA/Ser.L./V/II.106 Doc. 3 rev. at 1105 (1999). *See also, Manuel Pacotaype Chaupin, Martin Cayllahua Galindo, Marcelo Cabans Tucino and Isaias Huaman Vilco v. Peru*, Case 10.908, Report No. 47/00, Inter-Am. C.H.R., OEA/Ser.L./V/II.106 Doc. 3 rev. at 1175 (1999).

87. Because the condition of the Dissidents' incarceration in Cuba is, at best, deplorable, their rights to humane treatment continue to be violated by Cuba.

Right to Freedom of Thought, Expression and Dissemination of Ideas

88. Article 13 of the American Convention provides that, "Everyone has the right to freedom of thought and expression. This right includes freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing, in print, in the form of art, or through any other medium of one's choice."

89. The Commission, in analyzing Article 13 of the American Convention, has noted the importance of freedom of expression:

Freedom of expression is universal and its concept embraces the juridical faculty which assists all persons, individually or collectively considered, to express, transmit and disseminate their thoughts; parallel and correlative thereto, the freedom to inform oneself is also universal, and it involves the collective right of persons to receive such information as others may impart to them without any interferences that may distort it.

See Victor Manuel Oropeza v. Mexico, Case 11.740, Report No. 130/99, Inter-Am. C.H.R., OEA/Ser.L./V/II.106 Doc. 3 rev. at 1058 (1999). For further analysis articulated by the Commission, *see also, Rodolfo Robles Espinoza and Sons v. Peru*, Case 11.317, Report No. 20/99, Inter-Am. C.H.R., OEA/Ser.L./V/II.95 Doc. 7 rev. at 787 (1998).

90. Furthermore, Article 12 of the Convention states that the Freedom of Conscience and Religion "includes freedom to maintain or to change one's religion or beliefs, and freedom

to profess or disseminate one's religion or beliefs, either individually or together with others, in public or in private."

91. Similarly, Article IV of the Declaration declares that "[e]very person has the right to freedom of investigation, of opinion, and of the expression and dissemination of ideas, by any medium whatsoever."

92. Cuba has violated these rights by arresting, summarily trying, and incarcerating the Dissidents for either expressing their beliefs or publishing views that are critical of the government.

93. As Human Rights Watch/America noted in its World Report 2002: "By criminalizing enemy propaganda, the spreading of 'unauthorized news,' and insult to patriotic symbols, the government curbed freedom of speech under the guise of protecting state security."

94. Notably, in 2001, Amnesty International sent a communication to Cuba stating that, "[t]he growing number of people jailed for the peaceful exercise of their right to freedom of expression clearly shows how far the government is willing to go to weaken the peaceful opposition and eliminate dissent." *See 2001 Annual Report, Inter-Am. C.H.R., Ch. IV, ¶ 21.*

Right to Assembly; Right to Freedom of Association

95. Article XXI of the American Declaration grants "[e]very person the right to assemble peaceably with others in a formal public meeting or an informal gathering in connection with matters of common interest of any nature."

96. Article XXII of the Declaration recognizes that "[e]very person has the right to associate with others to promote, exercise and protect his legitimate interests of a political, economic, religious, social, cultural, professional, labor union or other nature."

97. Likewise, Article 16 of the American Convention provides that, "Everyone has

the right to associate freely for ideological, religious, political, economic, labor, social, cultural, sports, or other purposes.”

98. Here, the Dissidents were gathering to discuss, promote, and further the potential for democratic governance as well as discuss other social, economic, cultural, and professional matters. For this they were arrested, tried, and incarcerated in violation of their fundamental human rights.

Right to Protection of Honor, Dignity, Privacy and Family Life; Inviolability of the Home

99. Article 11 of the American Convention states as follows:

1. Everyone has the right to have his honor respected and his dignity recognized.

2. No one may be the object of arbitrary or abusive interference with his private life, his family, his home, or his correspondence, or of unlawful attacks on his honor or reputation.

3. Everyone has the right to the protection of the law against such interference or attacks.

100. Article V of the Declaration provides that “[e]very person has the right to the protection of the law against abusive attacks upon his honor, his reputation, and his private and family life.”

101. Furthermore, Article IX of the American Declaration guarantees to “[e]very person . . . the right to the inviolability of his home.”

102. Cuba’s actions, including sending armed guards to search the Dissidents’ homes, violates these articles.

Right to Vocation

103. Article XIV of the American Declaration provides “[e]very person has the right to work, under proper conditions, and to follow his vocation freely, insofar as existing conditions of

employment permit.”

104. Here, Cuba has violated the Dissidents’ rights to follow their calling as journalists, writers, and political commentators.

Right to Vote and to Participate in Government

105. Article XX of the American Declaration embraces the idea that “[e]very person having legal capacity is entitled to participate in the government of his country, directly or through his representatives, and to take part in popular elections, which shall be by secret ballot, and shall be honest, periodic and free.”

106. Many of the Dissidents were involved with the Varela Project, which seeks change towards a democratic form of government; it is this drive for democracy that has resulted in their arrest, trial, and incarceration.

107. The Commission stated, in connection with the interpretation of Article XX of the Declaration, that participation by citizens in government is necessary in the formation of a democracy and that it is the right of the people to govern and determine their destiny. *See Walter Humberto Vasquez Vejarano v. Peru*, Case 11.166, Report No. 48/00, Inter-Am. C.H.R., OEA/Ser.L/V/II.106 Doc. 3 rev. at 1200 (1999). This significant emerging right to democracy and democratic governance is enjoyed in every state in the hemisphere except Cuba, where the State systematically deprives pro-democracy advocates of their basic human rights.

108. In its World Report 2002, Human Rights Watch/America condemned Cuba’s repressive policies: “The Cuban government’s intolerance of democracy and free expression remained unique in the region. A one-party state, Cuba restricted nearly all avenues of political dissent. Although dissidents occasionally faced criminal prosecution, the government relied more frequently on short-term detentions, house arrest, travel employment, and other forms of

harassment.” *2001 Annual Report, Inter-Am. C.H.R., Ch. IV, ¶ 20.*

109. In addition to these violations of the Dissidents’ substantive rights, Cuba has also violated the Dissidents’ procedural rights.

Right to Due Process of Law; Right to a Fair Trial

110. Article 8 of the American Convention declares as follows:

1. Every person has the right to a hearing, with due guarantees and within a reasonable time, by a competent, independent, and impartial tribunal, previously established by law, in the substantiation of any accusation of a criminal nature made against him or for the determination of his rights and obligations of a civil, labor, fiscal, or any other nature.

2. During the proceedings, every person is entitled, with full equality, to the following minimum guarantees:

prior notification in detail to the accused of the charges against him . . .

adequate time and means for the preparation of his defense . . .

the right of the accused to defend himself personally or to be assisted by legal counsel of his own choosing, and to communicate freely and privately with his counsel.

111. Article XXVI of the American Declaration recognizes that “[e]very person accused of an offense has the right to be given an impartial and public hearing, and to be tried by courts previously established in accordance with pre-existing laws and not to receive cruel, infamous or unusual punishment.”

112. The Commission defines due process as a set of provisions set forth in positive law whose purpose is to guarantee the justice, equity, and rectitude of the judicial proceedings in which an individual may be involved. *See 2001 Annual Report, Inter-Am. C.H.R., Ch. IV, ¶ 38.*

113. Additionally, the Commission has explained the parameters of due process rights, in particular the right to counsel, as an obligation of the state to allow a defendant the right to obtain, contact, and consult with their counsel. *See Leroy Lamey et al. v. Jamaica, Case 11.826,*

114. Here, Cuba has deprived the Dissidents of their due process rights as guaranteed by the American Declaration and the American Convention. Nearly 80 Dissidents were arrested, tried, and convicted in summary, secret trials, and sentenced to lengthy prison terms. The Dissidents were singled out for their beliefs, and the law was arbitrarily applied. Adequate notice of the charges was insufficient and in many cases non-existent. Representation by defense counsel was rendered inadequate and meaningless. And reporters and the general public were not allowed to attend any proceedings.

115. The Commission has previously recognized and condemned such human rights abuses by Cuba:

Publicity in trials against persons accused of "counter-revolutionary activities" is another of the guarantees of due process enshrined in Article XXVI of the American Declaration that is violated in Cuba. According to the information provided, the hearing rooms are full of police and State Security agents who block access by journalists and persons other than the family members. In addition, as regards the time given the accused and his attorney to prepare the defense, a large share of the complaints received indicate that they did not have access to the case file with sufficient lead time. It has also been noted that the attorney's intervention is limited mainly to the trial phase, and that this is basically due to the fact that the defense counsel meet with the accused one hour before the trial, and in many cases at the moment of the trial.

See 2001 Annual Report, Inter-Am. C.H.R., Ch. IV, ¶ 47.

116. Moreover, the Commission has repeatedly noted that the lack of separation of powers in Cuba fails to guarantee judicial independence in the administration of justice:

Subordinating the administration of justice to the political authorities provoked considerable insecurity and fear in the citizenry, which is aggravated by the weak procedural guarantees, especially in trials of peaceful opponents to the regime and human rights activists. It is clear that as regards political trials, the courts continue judging with ideological and political criteria, not by the use of proper judicial procedures. It should be noted that the lack of judicial independence, bolstered by constitutional provisions that make ideological or political references, violate the principle of equality before the law

See 2001 Annual Report, Inter-Am. C.H.R., Ch. IV, ¶ 51.

117. Although the courts that heard the cases are presumably established in accordance with pre-existing Cuban laws, the trials failed to meet the most basic standards set out by international or even regional norms for an independent judiciary.

118. The legal procedures that exist in Cuba fail to comport with the basic requirements of human rights observance. Persons deprived of their liberty are being so deprived without the right to counsel, or the right to be heard by an independent judiciary. Both the judiciary and state-designated counsel, if any, exist only to serve the ends of the Cuban State. Moreover, those same courts are entrusted to evaluate the validity of the violations of the Dissidents' rights. As a direct result, they lack independence and are simply tools of the Cuban State. Thus, they fail to meet the basic requirements of international human rights.

119. As the Commission concluded in 2001:

The administration of justice continues to be subordinated *de facto* and *de jure* to the political authorities, which has a detrimental impact on the observance, in practice, of the right to justice and due process. This creates a negative climate of uncertainty and fear among the citizenry, which is reinforced by the weak procedural guarantees, especially in trial of peaceful opponents to the regime or human rights activists. The Commission also considers that as there is no separation of powers in Cuba that guarantees the independence of the administration of justice, the right of the accused to a fair trial is seriously violated, and, accordingly, it is possible to violate other fundamental rights of the human person, such as the rights to life and individual liberty, and freedom of expression, assembly, and association.

2001 Annual Report, Inter-Am. C.H.R., Ch. IV, Section VII (Conclusions) ¶ 3.

Right to Recourse for Violations of Human Rights

120. Article 25 of the American Convention provides as follows:

Everyone has the right to simple and prompt recourse, or any other effective recourse, to a competent court or tribunal for protection against acts that violate his fundamental rights recognized by the constitution or laws of the state

concerned or by this Convention, *even though such violation may have been committed by persons acting in the course of their official duties.*

Emphasis added.

121. Additionally, Article XVIII of the American Declaration states that “[e]very person may resort to the courts to ensure respect for his legal rights. There should likewise be available to him a simple, brief procedure whereby the courts will protect him from acts of authority that, to his prejudice, violate any fundamental constitutional rights.”

122. The Commission, in its analysis of Article 25 of the American Convention, which parallels Article XXV of the American Declaration, has said that all people have the right to be heard by a tribunal when any of their rights have been violated and to obtain a judicial investigation by a competent, impartial, and independent tribunal. *See Leroy Lamey et al. v. Jamaica*, Case 11.826, Report No. 49/01, Inter-Am. C.H.R., OEA/Ser.L/V/II.111 Doc. 20 rev. at 996 (2000). *See also, Carlos Manuel Prada Gonzalez and Evelio Antonio Bolano Castro v. Colombia*, Case 11.710, Report No. 63/01, Inter-Am. C.H.R., OEA/Ser.L/V/II.111 Doc. 20 rev. at 781 (2000).

123. Further, the Court provides for remedies to the victims of human rights violations:

Under the Convention, State Parties have an obligation to provide effective judicial remedies to victims of human rights violations (Art. 25), remedies that must be substantiated in accordance with the rules of due process (Art. 8 (1)), all in keeping with the general obligation of such States to guarantee the free and full exercise of the rights recognized by the Convention to all persons subject to their jurisdiction (Art. 1).

See Samuel Alfonso Catalan Lincoleo v. Chile, Case 11.771, Report No. 61/01, Inter-Am. C.H.R., OEA/Ser.L/V/II.111 Doc. 20 rev. at 818 (2000). *See also, Case No. 10.588 Isabella Velasquez and Francisco Velasquez*, Case No. 10.608 *Ronal Homero Mota et al.*, Case No. 10.796 *Eleodoro Polanco Arevalo*, Case No. 10.856 *Adolfo Rene and Luis Pacheco Del Cid*, and

Case No. 10.921 *Nicolas Matoj et al. v. Guatemala*, Report 40/00, Inter-Am. C.H.R., OEA/Ser.L/V/II.106 Doc. 3 rev. at 853 (1999).

124. Here, the legal rights guaranteed by these articles were not protected by the Cuban courts. Cuba failed to provide a forum that would or could protect the Dissidents from acts of authority that violated their substantive enumerated rights.

VII. EXHAUSTION OF DOMESTIC REMEDIES

125. As required by Article 46(1)(a) of the Convention, the Commission may admit a petition if the remedies under domestic law have been pursued and exhausted in accordance with the principles of international law. Here, the sentences imposed on the Dissidents have been approved by Cuba's Supreme Court. Thus, no further avenue of appeal remains within the Cuban legal system.

126. Notwithstanding, Article 46(2)(a) of the Convention establishes that these provisions shall not apply when "the domestic legislation of the state concerned does not afford due process of law for the protection of the right or rights that have allegedly been violated."

127. Likewise, Article 37 of the Commission's regulations does not require the exhaustion of domestic remedies here because Cuba's laws "[do] not afford due process of law for protection of rights that have allegedly been violated." *See Inter-American Commission on Human Rights Regulations*, Article 37.

128. It is clear from the actions of the Cuban State that the summary trials were designed to prevent the Dissidents from having adequate legal representation, minimum due process guarantees, and fair trials. Because the laws of Cuba do not afford due process of law to protect the human rights that were violated, the Dissidents are unable to seek domestic relief or

remedies. The Court has stated that “[t]he absence of domestic remedies leaves the victim of human rights violations defenseless and, therefore, justifies international protection.” *See Diniz Bento Da Silva v. Brazil*, Case No. 11.517, Report No. 23/02, Inter-Am. C.H.R., OEA/Ser.L/V/II.117 Doc. 1 rev. 1 (2002). Accordingly, international protection is not only appropriate here, but necessary.

VIII. VICTIMS’ LIVES, INTEGRITY OF HEALTH IS IN JEOPARDY

129. Because of the dismal conditions of incarceration imposed on the Dissidents, their health and, indeed, their very lives are in jeopardy.

130. In particular, CABA points to the precarious health conditions of Marta Beatriz Roque, Oscar Manuel Espinosa Chepe and José Daniel Ferrer García, as set forth above in more detail, which require immediate medical attention and treatment.

131. The Commission has previously taken precautionary measures to protect the life, well-being, and humanity of Cuban prisoners. *See 2001 Annual Report*, Inter-Am. C.H.R., Ch. IV, ¶15. It has expressed that Cuba is “legally accountable before the Inter-American Commission as regards human rights.” *Id.*, ¶ 7. Therefore, the Commission has the authority and power to consider and issue the precautionary measures requested here.

IX. RELIEF REQUESTED

132. On behalf of the Dissidents, CABA seeks, without limitation, the following relief:

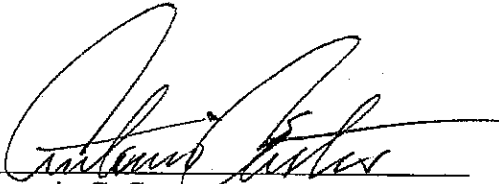
- a. the immediate release of the Dissidents;
- b. proper medical care and attention for the Dissidents by international humanitarian organizations;

- c. humane treatment of the Dissidents by Cuba, in accordance with recognized standards of human rights;
- d. on-site monitoring by the Commission and other international organizations to ascertain the condition of the Dissidents and ensure that Cuba does not continue to violate the Dissidents' human rights;
- e. nullification of the judgments and sentences of the Dissidents, or, in the alternative, that the Dissidents be tried by an independent judiciary in a disinterested forum outside of Cuba, with due consideration to the Dissidents' rights to due process and to a fair trial;
- f. that the Commission adopt precautionary measures to protect the life and personal integrity of the Dissidents and the witnesses in the case;
- g. that the Commission address itself to the Court to request precautionary, provisional measures regarding the Dissidents and the witnesses;
- h. censure of the Cuban State for its violation of the Dissidents' human rights; and
- i. all other available measures to ensure an immediate end to Cuba's violation of the Dissidents' human rights.

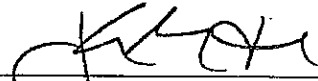
X. **PETITION FILED WITH THE UNITED NATIONS COMMISSION ON HUMAN RIGHTS OR ANY OTHER INTERNATIONAL ORGANIZATION**

None.

Respectfully submitted this 18th day of September, 2003, by CABA, through the undersigned legal representatives:



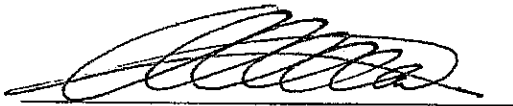
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Exhibit A



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Cuba urged to end crackdown

Criticism is mounting on Cuba's crackdown on the country's opposition - stealthily undertaken, some suggest, while the world's attention is fixed on Iraq.



The US has strongly condemned this week's arrests

Police have searched the homes of dissidents and journalists across the island, making 72 arrests and seizing computers, typewriters and books.

Two prominent critics of the communist Cuban regime, economist Marta Beatriz Roque and journalist Raul Rivero, are among those detained.

Former United States President Jimmy Carter has implored the government to respect the constitutional rights of its citizens - while urging the US Government to act to deflate "rising tensions" between it and its neighbour.

The US has expressed outrage at the arrests, calling the round-up an "appalling act of intimidation".

Human rights groups around the world have also condemned the arrests, along

with Robert Menard, secretary-general, Reporters Without Borders (Paris)

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with European envoys in Havana, who said the crackdown could damage Cuba's chances of being admitted to a European Union economic assistance programme.

The Cuban authorities accuse their detainees of plotting against Cuba with the top US representative in Havana, James Cason - a charge vehemently denied by Washington.

Ms Roque, who led a hunger strike to demand the release of political prisoners, and Mr Rivero, an independent journalist, are some of the most prominent activists rounded up.

"He is only a man who writes, he is not a politician", Mr Rivero's wife was quoted as saying by the Associated Press.

One report said those detained also included Hector Palacios, a leading organiser of reform efforts known as the Varela Project.

Carter concerns

Mr Carter's worries were expressed through a statement issued by his Carter Center for policy studies.

"I am deeply concerned about reports of detentions of Cuban citizens known for supporting the Varela Project, promoting human rights, and practicing independent journalism," the statement reads.

"I call on the Cuban government to respect [their constitutional] rights and to refrain from detaining or harassing citizens who are expressing their views peacefully.

"I also am troubled by the rising tension between the Cuban government and the US Interests Section in Havana. I urge my own government to work with the Cuban Government to deflate those tensions and establish a relationship of mutual respect."

Last year, Mr Carter made the headlines when he became the first current or former US president to visit Cuba since Fidel Castro came to power in 1959.

Despite making criticisms about human rights violations and the political system, he was allowed to address the Cuban population directly and left on friendly terms.


'Vendetta'

The arrests follow a souring of relations between Washington and Havana, after Mr Cason's arrival as the new head of Cuba's US Interest Section in September.

Mr Cason is currently the focus of something approaching a personal vendetta by the Cuban Government, the BBC's Havana correspondent, Stephen Gibb, says.

The two neighbours have not had formal diplomatic relations for more than 40 years, but the US does have a limited diplomatic presence in Havana.

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CUBA

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Cuba

Massive crackdown on dissent

In the aftermath of the wave of mass arrests that began on 18 March 2003 in Cuba, Amnesty International is concerned that 77 people may be prisoners of conscience, detained for the non-violent exercise of their rights to freedom of expression and association. In what has been labelled by dissident groups as the biggest crackdown in a decade, at least five dozen people from different provinces across the country have been detained in a major police operation. Those detained include journalists, owners of private libraries and pro-democracy members of illegal opposition parties, including promoters of the Proyecto Varela.(1) All of the detainees remain imprisoned without charge, and the whereabouts of some of them is unknown.

According to reports, security agents searched homes across the island detaining people and confiscating computers, fax machines, typewriters, books and papers. Annex 1 of this document is a list of all the known detainees, compiled by the *Comisión Cubana de Derechos Humanos y Reconciliación Nacional* (CCDHRN), Cuban Commission for Human Rights and National Reconciliation, a national human rights organization. Among the detained are several former prisoners of conscience including economist María Beatriz Roque Cabello, who was sentenced for three years and six months imprisonment in 1997 for 'other acts against State Security,' 'otros actos contra la seguridad del estado,' independent journalist Raúl Rivero Castañeda; and leading organizer of the Proyecto Varela, Héctor Palacios Ruiz. At least two members of the CCDHRN, Marcelo Cano Rodríguez and Marcelo López Bañobre, have also been detained.

Those detained could face up to 20 years in prison under harsh legislation introduced in 1999. In an unprecedented event, the Cuban Government announced their detention on national television and accused them of being linked to 'actividades conspirativas,' acts of conspiracy, through their

more

Annual report entries:
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1999, 1998, 1997

contact with James Cason, the Head of the US Interests Section in Havana (see *Background* section below for more information). The official communiqué stated that they would be 'brought to trial,' *'sometidas a los tribunales de justicia'* and that the laws against 'complicity with the enemy,' *'complicidad con el enemigo'*, were still 'fully in force,' *'plenamente vigentes'*, and could be used. Felipe Pérez Roque, Cuban Foreign Affairs Minister, later confirmed from Geneva that those detained 'se enfrentarán a los cargos previstos por las leyes cubanas para quienes han colaborado con una potencia extranjera en contra de su patria,' (2) 'will be subjected to the appropriate charges under Cuban law for those who have collaborated with a foreign power against their homeland.'

In addition to the detentions, other high profile opposition figures have been harassed. Plainclothes security agents were posted outside the homes of Oswaldo Payá Sardiñas, leader of a citizens' initiative on democratic change; former prisoner of conscience Elizardo Sánchez Santacruz, of the CCDHRN, a prominent human rights organisation in Cuba that is illegal but tolerated by the authorities; and former prisoner of conscience Vladimiro Roca Antúnez, son of the late Cuban Communist Party leader Blas Roca.

This crackdown comes only a few months after a mass arrest of activists in December 2002, when Oscar Eijas Biscet González, president of the unofficial *Fundación Lawton de Derechos Humanos*, Lawton Human Rights Foundation, was detained with 16 other dissidents after they attempted to meet in Havana to discuss human rights. In addition, in February 2002 numerous known dissidents were arrested in sweeps by state officials following an incident in which a busload of youths crashed into the Mexican Embassy in Havana, apparently in search of asylum.(3)

Recommendations

Amnesty International seeks immediate information from the Cuban authorities regarding the recent detention of all concerned, the charges against them and the legal grounds on which they will be tried. The organisation believes that the detainees may be prisoners of conscience, detained solely for exercising their rights to freedom of expression, assembly and association. Please see Annex 1 for a full list of names.

In addition Amnesty International urges the Cuban authorities to immediately and unconditionally release all prisoners of conscience in Cuba: This includes the 15 previously named by the organisation,(4) as well as of anyone else who is detained or imprisoned solely for having peacefully exercised their rights to freedom of expression, association or assembly. Please see Annex 2 for a full list of those that AI has been able to confirm as prisoners of conscience.

Amnesty International calls on the authorities to reform the Cuban legislation which helps to "legitimise" the ongoing incarceration of prisoners of conscience by outlawing the exercise of fundamental freedoms.

Background

Proyecto Varela

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. In March 2002 project organisers reported having collected the 10,000 signatures constitutionally required to hold a referendum.

Whilst 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, Oswaldo Payá has not been detained or harassed in connection with his activities. Over recent months he has gained increasing recognition in the international community. In December 2002 he received the European Union's prestigious human rights award, the Sakharov Prize, named after the late Soviet dissident. In February of this year he carried out a tour of 10 countries, during which he met the Pope, U.S. Secretary of State Colin Powell and the heads of government of Spain, Mexico and the Czech Republic.

Law 88

In February 1999 Cuba's National Assembly passed tough legislation (Law 88), called 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. The law calls for seven to 15 years' imprisonment for passing information to the United States that could be used to bolster anti-Cuban measures such as the US economic blockade. This would rise to 20 years if the information is acquired surreptitiously. The legislation also bans the ownership, distribution or reproduction of 'subversive materials' from the US government, and proposes terms of imprisonment of up to five years for collaborating with radio and TV stations and publications deemed to be assisting US policy.

Relations with the European Union/Cotonou Agreement

This recent wave of mass arrests began just over a week after the European Commission officially opened its first diplomatic office in Havana on 10 March 2003. This was a positive step in on-going relations between Cuba and the EU. The EU recently welcomed Cuba's decision to apply for the Cotonou Agreement; outlined the important strategic partnership between the EU and Cuba in terms of trade, foreign investment, tourism development co-operation; praised Cuba's achievements in sectors such as health and education; and emphasised expectations for a continuous political dialogue, stronger economic ties and enhanced development.

However a declaration of 26 March by the Presidency on behalf of the European Union concerning the arrest of opposition members in Cuba stated '*violations of fundamental civil and political rights will be monitored very closely by the European Union and they will continue to influence the Union's relations with Cuba.*' (5)

The Cotonou Agreement is an economic assistance pact between the European Union and African, Caribbean and Pacific (ACP) nations. Cuba was formally admitted to the group of ACP states on 14 December 2000 as the group's 78th member, after having held observer status since May 1998. However, it is the only ACP member which has not signed trade and aid agreements with the EU. The Cotonou Agreement would potentially triple European aid to Cuba. EU members have been divided over Cuba's entry into the Cotonou Agreement, which clearly sets out that a party signing the agreement needs to pay full respect to human rights and fundamental freedoms, as laid down in international conventions. In addition, well known dissidents within Cuba had petitioned the European Union to deny Havana entry into the Cotonou agreement on human rights grounds.

Cuba and the UN Commission on Human Rights

This wave of arrests began the day after the 59th session of the UN Commission on Human Rights began in Geneva, Switzerland. Since 1992 a resolution critical of Cuba's record has been passed annually, with the exception of 1998. In 2002 Uruguay presented a draft resolution on Cuba's human rights record before the Commission which was supported by a wide range of Latin American countries. Mexico, which for the past decade had not voted in favour of the resolutions condemning Cuba's record, was among those to vote in favour of the resolution.

Relations with the USA/US Interests Section

Cuba and the USA do not have diplomatic relations. However, since 1977 the US has had an Interests Section based at the Swiss Embassy in Havana; Cuba has an Interests Section in Washington. In 2002 James Cason was named head of the US Interests Section but was accused of undiplomatic behaviour by the Cuban government after he made a high-profile visit to a meeting of dissidents and spoke with international journalists gathered there. Cason has met with opposition members around the island and in the week before the mass arrests allowed a group of dissident journalists to use his official residence for a meeting, leading to sharp criticism from Fidel Castro. In addition to these tensions, the Cuban government has become increasingly disturbed by the imprisonment and solitary confinement of five Cubans convicted in the US of spying on Cuban exile groups in Florida. Their sentences range from 15 years to life.

Annex 1

List of all known detainees arrested since 18 March 2003.

Nelson AGUILAR RAMIREZ
Pedro Pablo ALVAREZ RAMOS
Pedro ARGÜELLES MORAN
Victor Rolando ARROYO CARMONA

Miajili BARZAGA LUGO
Margarito BROCHE ESPINOSA
Marcelo CANO RODRIGUEZ
Juan Roberto DE MIRANDA HERNANDEZ
Carmelo DIAZ FERNANDEZ
Eduardo DIAZ FLEYTAS
Antonio DIAZ SANCHEZ
Alfredo DOMINGUEZ BATISTA
Oscar ESPINOSA CHEPE
Efrén FERNANDEZ FERNANDEZ
Adolfo FERNANDEZ SAINZ
José Daniel FERRER CASTILLO
Luis Enrique FERRER GARCIA
Alfredo Felipe FUENTES
Orlando FUNDORA ALVAREZ
José Ramón GABRIEL CASTILLO
Próspero GAINZA AGUERO
Miguel GALVAN GUTIERREZ
Julio César GALVEZ RODRIGUEZ
Edel José GARCIA DIAZ
José Luis GARCIA PANEQUE
Ricardo GONZALEZ ALFONSO
Diosdado GONZALEZ MARRERO
Léster GONZALEZ PENTON
Alejandro GONZALEZ RAGA
Jorge Luis GONZALEZ TANQUERO
Leonel GRAVE DE PERALTA ALMENARES
Iván HERNANDEZ CARRILLO
Normando HERNANDEZ GONZALEZ
Juan Carlos HERRERA ACOSTA
Regis IGLESIAS RAMIREZ
José Ubaldo IZQUIERDO HERNANDEZ

Rolando JIMENEZ POSADA
Reinaldo LABRADA PEÑA
Librado LINARES GARCIA
Marcelo LOPEZ BAÑOBRE
Héctor Fernando MACEDA GUTIERREZ
José Miguel MARTINEZ HERNANDEZ
Mario Enrique MAYO
Luis MILAN FERNANDEZ
Rafael MILLET LEYVA
Nelson MOLINET ESPINO
Angel Juan MOYA ACOSTA
Félix NAVARRO RODRIGUEZ
Jorge OLIVERA CASTILLO
Pablo PACHECO AVILA
Héctor PALACIO RUIZ
Arturo PEREZ DE ALEJO RODRIGUEZ
Omar PERNET HERNANDEZ
Horacio Julio PIÑA BORREGO
Fabio PRIETO LLORENTE
Alfredo PULIDO LOPEZ
Arnaldo RAMOS LAUSIRIQUE
Bias Giraldo REYES RODRIGUEZ
Raúl RIVERO CASTAÑEDA
Alexis RODRIGUEZ FERNANDEZ
Omar RODRIGUEZ SALUDES
Marta Beatriz ROQUE CABELLO
Omar RUIZ HERNANDEZ
Claro SANCHEZ ALTARRIBA
Miguel SIGLER AMAYA
Guido SIGLER AMAYA
Ariel SIGLER AMAYA
Ricardo SILVA GUAL

Fidel SUAREZ CRUZ
Manuel UBALS GONZALEZ
Oswaldo Alfonso VALDES
Julio Antonio VALDES GUERRA
Miguel VALDES TAMAYO
Héctor Raúl VALLE HERNANDEZ
Manuel VAZQUEZ PORTAL
Antonio Augusto VILLARREAL ACOSTA
Orlando ZAPATA TAMAYO

Annex 2

List of confirmed Amnesty International Prisoners of Conscience current at March 2003.

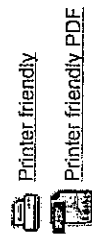
Yosvany AGUILAR CAMEJO
José AGUILAR HERNANDEZ
Bernardo Rogelio AREVALO PADRON
Oscar Elias BISCET GONZALEZ
Leonardo BRUZON AVILA
Francisco Pastor CHAVIANO GONZALEZ
Rafael CORRALES ALONSO
Carlos Alberto DOMINGUEZ GONZALEZ
Emilio LEYVA PEREZ
Eddy Alfredo MENA GONZALEZ
Carlos OQUENDO RODRIGUEZ
Ricardo RAMOS PEREIRA
Lázaro Miguel RODRIGUEZ CAPOTE
Néstor RODRIGUEZ LOBAINA
Jorge Enrique SANTANA CARREIRA

(1) A petition for a referendum on fundamental freedoms. (See Background section below for more information.)

- (2) "Castro aprovecha la crisis de Irak," El Pais, 23 March 2003.
- (3) See "CUBA: Continued detentions following mass arrests in February and December 2002," AI Index AMR 25/001/2003, 27 February 2003.
- (4) See "CUBA: Continued detentions following mass arrests in February and December 2002," AI Index AMR 25/001/2003, 27 February 2003; "CUBA: New prisoners of conscience and possible prisoners of conscience," AI Index 25/008/2002, 6 November 2002; and "CUBA: The situation of human rights in Cuba," AI Index 25/002/2002, 20 May 2002.
- (5) Brussels, 26 March 2003, press statement ref: 7735/03 (Presse 93) P 39/03.
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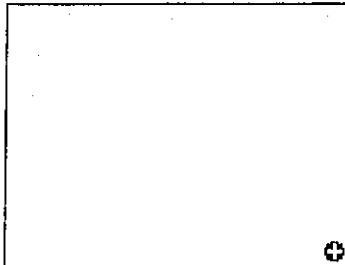
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Dozens Of Cuban Dissidents Sentenced

HAVANA, April 7, 2003



Two dissidents' wives comfort each other after learning about their husbands' sentences (Photo: AP)

(AP) The first dissidents tried in a massive crackdown on Cuba's opposition must serve between 15 and 25 years in prison after being convicted of collaborating with American diplomats to undermine the socialist state, family members said Monday.

Prosecutors originally sought life sentences for at least a dozen of the 80 defendants, but no such sentences were among those announced Monday.

Opposition political party leader Hector Palacios, among those originally recommended for a life sentence, received a 25-year sentence, said his wife, Gisela Delgado.

"This is an injustice," Delgado said after leaving the courthouse. "We are as Cuban as members of the Communist Party."

"This is an injustice. We are as Cuban as members of the Communist Party."

Gisela Delgado

Independent journalist Raul Rivero received the 20-year sentence sought by prosecutors, family members said.

The communist government accuses the dissidents of being in the pay of Washington and collaborating with U.S. diplomats here to harm Cuba and its economy.

The last of the summary trials, which began Thursday, were expected to end Monday, with all sentences to come before the end of this week.

Among those tried Monday was Dr. Oscar Elias Biscet, a physician who has been held since being arrested during a December protest. Prosecutors sought a 25-year sentence.

Biscet was released from prison in October after serving nearly three years for displaying three national flags upside down in an act of civil disobedience.

The crackdown has been condemned by international human rights groups and press organizations. The U.S. State Department called the proceedings a "kangaroo court."

Those arrested in last month's crackdown include more than two dozen journalists, leaders of independent labor unions and opposition political parties, and pro-democracy activists involved in a reform effort known as the Varela Project.

The crackdown ended several years of relative government tolerance for the

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opposition. It began when Cuban officials criticized the head of the American mission in Havana, James Cason, for actively supporting the island's opposition.

By Anita Snow

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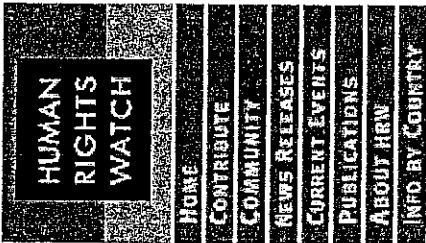


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Crackdown Against Dissidents in Cuba

Testimony of José Miguel Vivanco Executive Director Americas Division, Human Rights Watch House Committee on International Relations Washington, April 16 2003

Vice Chairman Smith, Members of the Committee:

I am honored to appear before you today. Thank you for your invitation to address the committee regarding the crackdown against dissidents in Cuba.

I know the Committee is most interested in an exchange of views, so my remarks will be brief. I would like to submit, for the record, my written testimony.

Human Rights Watch has monitored human rights conditions in Cuba for more than fifteen years. Although severe restrictions on basic civil and political rights have been a constant in Cuba during this period, the current crackdown, both in its scale and in its intensity, far surpasses the violations we have documented in the past.

Over the past month, the Cuban government has carried out a full-scale offensive against nonviolent dissidents, independent journalists, human rights advocates, independent librarians and others brave enough to challenge the government's monopoly on truth. By its sweeping nature, the crackdown seems intended not only to repress dissident voices, but to deny the very possibility of an independent civil society.

"The denial of basic civil and political rights is inscribed in Cuban law. The country's domestic legislation tightly restricts the rights to free speech, association, assembly and the press; its courts lack independence and impartiality; and its criminal procedures violate defendants' rights to due process of law."

José Miguel Vivanco Executive Director Americas Division Human Rights Watch

Key Sections

- Anatomy of a Crackdown The Crackdown in Context U.S. Policy Cuba and the U.N. Commission on Human Rights

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But while the current wave of repression is extraordinary for its scope and intensity, there is nothing unusual, by Cuban standards, about the means by which it has been imposed. The denial of basic civil and political rights is inscribed in Cuban law. The country's domestic legislation tightly restricts the rights to free speech, association, assembly and the press; its courts lack independence and impartiality; and its criminal procedures violate defendants' rights to due process of law.

The machinery of repression has been well maintained; what has varied is the government's interest in employing it.

Anatomy of a Crackdown

The current crackdown began on March 18, as the world's attention was focused on the impending war in Iraq. Within the space of a few days, state security agents arrested dozens of people, searching their homes, and, in many cases, confiscating fax machines, computers, books, typewriters and personal papers. State-run television accused the detainees of "provocations" and "subversive activities."

Prosecutions began in early April. In four days of trials, from April 3-7, 75 defendants were tried and convicted; none were acquitted. Trials were held in thirteen courtrooms across the country, from Havana to Pinar del Rio, and from Camaguey to Guantanamo. The courts employed a so-called facilitated procedure, which, under articles 479 and 480 of Cuba's code of criminal procedure, is supposed to be applied only in "exceptional circumstances."

In due process terms, the trials were a sham. Defendants in many cases did not see their lawyers before trial, and lawyers had only the most limited time to prepare a defense. Trials were closed to outside observers, such as the U.S. and European diplomats and international journalists who tried to attend; only close family members were allowed inside.

The defendants included some of Cuba's most prominent and well-respected journalists, dissidents, and independent thinkers. Among them were:

- **RAUL RIVERO** -- Poet, writer, and journalist, Rivero, age 57, is the founder and editor of CubaPress, an independent news service. Serving as Prensa Latina's Moscow correspondent from 1973 to 1976, Rivero later headed the science and culture service of the state news agency. He abandoned official journalism in 1991, dismissing it as a "fiction about a country that does not exist."
- **MARTA BEATRIZ ROQUE CABELLO** - An economist, and the director of the Cuban Institute of Independent Economists, Roque, age 56, had previously served nearly three years in prison. Along with three other dissidents, she was prosecuted after publishing an analytic paper titled "The Homeland Belongs to All," which discussed Cuba's human rights situation and called for reforms. She is a recipient of the 2002 Heinz R. Pagels Human Rights of Scientists Award of the New York Academy of Sciences.
- **DR. OSCAR ELIAS BISCET GONZALEZ** -- The president of the Lawton Human Rights Foundation, an independent organization, Biscet, age 42, received a three-year prison sentence in February 2000 for protests that included turning the Cuban flag upside-down and carrying anti-abortion placards. Incarcerated from November 1999 until late October 2002, he was rearrested little more than a month after his release.

- **HECTOR PALACIOS RUIZ** - A dissident since the late 1980s, Palacios, age 62, founded the Democratic Solidarity Party in 1993. Palacios is one of the leaders of the Varela Project, a high-profile effort seeking democratic reform.

The central charge against the defendants was that they worked with U.S. diplomats to undermine the Cuban government and damage the country's national interests. Defendants were prosecuted under the Law for the Protection of Cuban National Independence and the Economy (Ley de Protección de la Independencia Nacional y la Economía de Cuba, Ley 88), which took effect in March 1999, and the Law Reaffirming Cuban Dignity and Sovereignty (Ley de Reafirmación de la Dignidad y Soberanía Cubanas), which took effect in December 1996. The Cuban government justifies both provisions as a response to the Helms-Burton law, the U.S. legislation that hardened the trade embargo against Cuba.

Cuban government spokesmen condemned the defendants as "mercenaries" in the pay of the United States. But rather than proving conspiratorial actions, the government penalized the defendants for holding dissident views and disseminating unwelcome information.

In the end, the 75 defendants received sentences ranging from 6 to 28 years of imprisonment, with an average sentence of more than 19 years. The cumulative total of the sentences was a mind-boggling 1,454 years. Notably, the Cuban courts have not imposed such draconian sentences on such large numbers of people in more than two decades.

Last Friday, in a further display of contempt for the rule of law, the Cuban government executed three men who had tried to hijack a passenger ferry. The three were put to death a mere nine days after their arrests, sufficient time for the government to hold summary trials and for the Council of State, Cuba's highest executive body, to rubber-stamp the verdicts.

The Crackdown in Context

The broad range of Cubans arrested and tried - from journalists to economists to librarians to human rights activists - attests to the flowering of civil society in Cuba. In general, despite occasional waves of repression, the clear trend over the past decade in Cuba has been toward a relative increase in tolerance for dissident activities and a reduction in the number of political prisoners.

Over the past year, in particular, Cuba's dissident community has demonstrated growing ambition, while gaining increased international prominence. The organizers of the Varela Project, led by dissident Oswaldo Payá Sardinias, presented an important symbolic challenge to the government's intransigence in the area of political rights. On May 10, the organizers delivered a petition to the National Assembly -- Cuba's unicameral legislature -- containing more than eleven thousand signatures. Relying on constitutional protections for the right to petition, the Varela Project asked the government to hold a referendum on a broad array of civil and political rights, including competitive elections, freedom of the press, and an amnesty for political prisoners.

In December 2002, the European Union awarded Payá its prestigious Sakharov Prize for Freedom of Thought. And a few months later Payá was allowed to leave the country on a world tour in which he met the Pope, Secretary of State Colin Powell, and several heads of state.

Within Cuba, the Varela Project gained unprecedented attention with the visit of former President Jimmy Carter. During a public address on May 14 at the University of Havana, which was broadcast live on Cuban television, Carter made direct reference to the

Varela Project, urging the Cuban authorities to institute democratic reforms.

U.S. Policy

Despite visits to Cuba by former President Carter and other prominent American political figures, the current crackdown takes place in a context of worsening U.S.-Cuba relations.

A number of developments have contributed to this trend:

- In June 2001, five Cuban nationals were convicted of spying after a trial held in Miami, and in December 2001 they were sentenced to long terms of imprisonment. The case has become a cause celebre in Cuba, where the men are seen as victims of a political witchhunt.
- In May 2002, just prior to Carter's visit to the island, Under Secretary of State for Arms Control John R. Bolton accused Cuba of developing a limited capacity for germ warfare research. Assistant Secretary of State Otto Reich reprised these claims in October.
- In recent months, tensions between the U.S. Interests Section and the Cuban government have increased, with Cuban officials directly criticizing the head of the Interests Section for his vocal support of dissidents.
- A string of hijackings has sharpened Cuban anger over U.S. immigration rules.

In light of the current crackdown, U.S. policymakers might be tempted to freeze relations with Cuba and, in particular, to end efforts toward lifting restrictions on trade with and travel to the island. But to do so would be a mistake.

It is time for members of Congress to come to grips with the failure of U.S. policy toward Cuba. The current crackdown, rather than eliciting an even more headline response, should make the defects of our current approach all the more obvious. Lacking any engagement with Cuba, the United States is almost powerless to influence the current situation.

In the view of Human Rights Watch, there are serious flaws in the more than forty-year-old policy of isolation and embargo. First, it is an all-or-nothing approach aimed at overthrowing the Castro government, which does not allow for any relaxation in response to measurable improvement in Cuban human rights practices. It therefore does nothing to encourage such improvements, instead providing Castro with a convenient justification for their repressive policies.

Second, the embargo is indiscriminate, hurting the Cuban population as a whole. By eliciting a nationalistic response from Cubans, it helps the government shift blame for the country's problems.

Third, the embargo alienates Washington's potential allies in the effort to bring about change in Cuba. For the past eleven years, it has been condemned in the General Assembly of the United Nations by an overwhelming margin. Resentment of the embargo dissuades other governments from being more vocal about Cuba's poor human rights conditions. We are seeing this phenomenon

right now, at the U.N. Commission on Human Rights: many countries, despite the massive display of repression in Cuba, are hesitant to support a resolution on Cuba.

Finally, the embargo's travel ban, which only contains narrow exceptions for journalists, people with relatives in Cuba, and certain other groups, violates the rights of U.S. citizens by limiting their ability to share information and ideas with Cubans. As the visit of former President Jimmy Carter exemplified, U.S. visitors may be the emissaries of democratic values and ideas, enriching Cuba's relatively closed society.

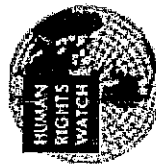
If the goal is to improve human rights conditions in Cuba, then the embargo should be ended gradually, and the US should opt for a concerted effort with its allies - Latin America, Canada, and the EU-to implement a middle ground policy between ineffective isolation and unprincipled engagement.

Cuba and the U.N. Commission on Human Rights

Finally, I would like to draw your attention to the U.N. Commission on Human Rights, which is currently meeting in Geneva. Tomorrow, the Commission will vote on a resolution on human rights in Cuba. Human Rights Watch supports a strong resolution condemning Cuba for its poor human rights record.

But even aside from the resolution is the question of Cuba's continued membership on the commission. Cuba's two-year term as a member of the commission expires this year, and it is seeking another term on the U.N. body. At the end of April, member states will choose the commission's new and returning members. Because Latin American countries are proposing a slate of candidates, including Cuba, that is the same size as the number of commission seats allotted the region, Cuba is almost certain to be returned to the U.N. body.

Human Rights Watch believes that, in the wake of a crackdown of the scope and severity now seen in Cuba, the country's reelection to the United Nations' most high-profile human rights body would be a bitter defeat for the human rights ideal.



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Cuba attacks dissent with prison

Prosecutors accuse many of collaborating with American diplomats

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In an attempt to suffocate a growing opposition movement, Fidel Castro's government sentenced some of Cuba's most prominent critics Monday to as much as 27 years in prison for allegedly collaborating with U.S. diplomats to undermine the socialist system.

At least 43 defendants were sentenced Monday in the culmination of a whirlwind process of arrest, trial, conviction and punishment that began less than three weeks ago with a series of lightning detentions.

Those arrested include more than two dozen independent journalists, leaders of independent labor unions and opposition political parties, as well as activists involved in a democratic reform effort known as the Varela Project.

Among those sentenced Monday were independent journalist Raúl Rivero and economist Martha Beatriz Roque, both of whom drew 20-year terms in prison.

In Miami on Monday, the top U.S. diplomat in Havana said the crackdown on political dissidents was a symptom of instability that

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could provoke another massive exodus across the Florida Straits.

"The continued disintegration of Cuban society generates instability throughout the region and creates the threat of a mass migration to the United States," said James Cason, who heads the U.S. Interests Section in Cuba.

The punitive roundup ended a decade of relative tolerance by the Cuban government.

During that period, the opposition movement that began with a few dozen members has grown to thousands of supporters across the island. That came to an abrupt end last month when Cuban officials criticized Cason, accusing him of actively supporting the movement.

Cason, in town to deliver a speech at the University of Miami, denied Cuban government accusations that the United States gives money to dissidents. He said U.S. funds are used for programs, books, radios and other materials designed to support peaceful civic activity.

He defended the work carried out in Havana as standard diplomatic practice.

Cason also scoffed at Cuba's contention that U.S. diplomats are acting in a "subversive" and "provocative" manner. He said threats by Castro to shut down the U.S. Interests Section are fueling a desire for Cubans to flee the island illegally.

"I try to do the things in Cuba that [Cuban diplomats] are doing in the United States," Cason said, adding that, while U.S. diplomats aren't allowed to give speeches or meet with government officials in Cuba, Cuban counterparts in Washington are free to hold such meetings.

Cason also blamed Castro's government for a growing atmosphere of desperation on the island. "They keep squeezing down on people . . . and creating tensions," Cason said. "It's not looking good."

Monday's sentences spurred reaction from Washington officials who denounced the "sham" proceedings.

"The Castro government is persecuting journalists for acting like journalists; they're persecuting economists for acting like economists, and peaceful activists for seeking a solution to Cuba's growing political and economic crisis," said Philip Reeker, State Department spokesman. "The regime's actions, we believe, are an appalling act of intimidation. . . . And the international community is united in its condemnation of this most egregious act of political repression in decades, where once again, Cuba is isolating itself certainly from the rest of this hemisphere."

The arrests have been condemned by the European Union, various nations, human-rights groups and press organizations. The United Nations Human Rights Commission also is expected to include the issue in a resolution that is expected to be voted on later this month.

Among those originally recommended for life imprisonment was opposition political party leader Héctor Palacios. He received 25 years, instead, said his wife, Gisela Delgado.

' AN INJUSTICE'

"This is an injustice," Delgado said after leaving the courthouse. "We are as Cuban as members of the Communist Party."

In many trials, undercover government agents -- some appearing in military uniforms -- who infiltrated opposition ranks revealed their true identities to testify against dissidents.

Cason said journalists were being punished for having such books as *Who Moved My Cheese?* by Spencer Johnson, and others written by Groucho Marx and Stephen King.

Another handed a 20-year sentence was Oscar Espinosa Chepe, who wrote critical articles about the Cuban economy for Internet sites run by exile groups in Miami.

A list of sentences confirmed thus far by the nongovernmental Cuban Commission on Human Rights and National Reconciliation in Havana showed the most severe punishment thus far was 27 years for independent journalist Omar Rodríguez Saludes. A familiar figure in the dissident community, Rodríguez Saludes often rode his bicycle to news conferences, a camera dangling by a strap from his neck.

The remaining trials were expected to end soon, with all sentences being announced before the end of this week.

Cason said the government might try to cripple the opposition movement further by offering defendants exile in lieu of serving out their sentences in Cuban prisons.

Among those being tried in Havana on Monday was Dr. Oscar Elías Biscet, a dissident physician jailed since December after his arrest during a protest in nearby Matanzas province. Prosecutors are seeking a 25-year sentence.

EARLIER SENTENCE

He already served three years for displaying national flags upside down in an act of civil disobedience.

Cason acknowledged that the anti-dissident drive "is clearly a setback" but said others "will carry the torch" and continue to push for change.

"I can pledge that the United States stands ready to assist the Cuban people when asked and will continue to do so in the future," he added.

This report was supplemented with material from The Associated Press.



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