

B. Countries

Cuba

I. Introduction

99. The Inter-American Commission on Human Rights has paid special attention to the human rights situation in Cuba and, in the use of its competence, has observed and evaluated the human rights situation in special reports⁵⁸, in Chapter IV of the Annual Report⁵⁹, and through the case system.⁶⁰ In addition, on several occasions it has asked the Cuban State to adopt precautionary measures for the purpose of protecting the life and personal integrity of Cuban citizens.⁶¹

100. On January 31, 1962, the Government of Cuba was excluded from participating in the inter-American system by Resolution VI adopted at the Eighth Meeting of Consultation of Ministers of Foreign Affairs, held in Punta del Este (Uruguay).⁶² On June 3, 2009, during its Thirty-ninth Regular Session held in Honduras, the General Assembly of the Organization of American States (OAS) set aside Resolution VI adopted at the Eighth Meeting of Consultation of Ministers of Foreign Affairs and established that “the participation of the Republic of Cuba in the OAS will be the result of a process of dialogue initiated at the request of the Government of Cuba, and in accordance with the practices, purposes, and principles of the OAS.”

101. The IACHR has recognized that the Cuban State – including the time of exclusion, is “juridically answerable to the Inter-American Commission in matters that concern human rights” since it “is party to the first international instruments established in the American hemisphere to protect human

⁵⁸ IACHR, Special Reports from the following years: 1962; 1963; 1967; 1970; 1976; 1979; 1983. At www.iachr.org

⁵⁹ IACHR, Chapter IV of the Annual Report for the following years: 1990-1991; 1991; 1992-1993; 1993; 1994; 1996; 1997; 1998; 1999; 2000; 2001; 2002; 2003; 2004; 2005; 2006; 2007, 2008, 2009, 2010, 2011 and 2012. at www.iachr.org

⁶⁰ See: IACHR, Merits Report No. 47/96, Case 11,436, Victims of the Tugboat “13 de marzo,” October 16, 1996; IACHR, Merits Report No. 86/99, Case 11,589, Armando Alejandro Jr., Carlos Costa, Mario de la Peña, and Pablo Morales, September 29, 1999; IACHR, Admissibility Report No. 56/04, <http://www.cidh.org/annualrep/2004eng/Cuba.12127eng.htm>, Vladimiro Roca Antúnez *et al.*, October 14, 2004; IACHR, Admissibility Report No. 57/04, <http://www.cidh.org/annualrep/2004eng/Cuba.771.03eng.htm>, Oscar Elías Biscet *et al.*, October 14, 2004; IACHR, Admissibility Report No. 58/04, <http://www.cidh.org/annualrep/2004eng/Cuba.844.03eng.htm>, Lorenzo Enrique Copello Castillo *et al.*, October 14, 2004; IACHR, Merits Report No. 67/06, <http://www.cidh.org/annualrep/2006eng/CUBA.12476eng.htm>, Oscar Elías Biscet *et al.*, October 21, 2006; IACHR, Merits Report No. 68/06, <http://www.cidh.org/annualrep/2006eng/CUBA.12477eng.htm>, Lorenzo Enrique Copello Castillo *et al.*, October 21, 2006. At: www.iachr.org

⁶¹ When it is notified of an IACHR decision, the Cuban State either does not respond or sends a note to the effect that the Inter-American Commission on Human Rights does not have competence -and the Organization of American States does not have the moral authority- to examine issues related to Cuba.

⁶² The complete text of Resolution VI can be found in the “Eighth Meeting of Consultation of the Ministers of Foreign Affairs to serve as Organ of Consultation in Application of the Inter-American Treaty of Reciprocal Assistance, Punta del Este, Uruguay, January 22 to 31, 1962, Meeting Documents,” Organization of American States, OEA/Ser.F/II.8, doc. 68, pages 17-19

rights” and because Resolution VI of the Eighth Meeting of Consultation “excluded the present Government of Cuba, not the State, from participation in the inter-American system.”⁶³

102. Based on the criteria spelled out by the IACHR in 1997 to identify those states whose human rights practices merit special attention, the Commission has considered that the human rights situation in Cuba fits within the first and fifth criteria, insofar as the political rights enshrined in the American Declaration of the Rights and Duties of Man are not observed, and structural situations persist that have a serious and grave impact on the enjoyment and observance of fundamental rights enshrined in the American Declaration.

103. Having evaluated the human rights situation in Cuba, the IACHR decided to include that country in this chapter because, in its view, it meets the criterion under Article 59, paragraph 6(a)(i) of the IACHR’s new Rules of Procedure, which took effect on August 1, 2013. That provision concerns “a serious breach of the core requirements of representative democracy mentioned in the Inter-American Democratic Charter, which are essential means of achieving human rights, including”: “there is discriminatory access to or abusive exercise of power that undermines or denies the rule of law, such as systematic infringement of the independence of the judiciary or lack of subordination of State institutions to the legally constituted civilian authority”. Also, it meets the criterion under Article 59, paragraph 6(c) which refers to “The State has committed or is committing massive, serious and widespread violations of human rights guaranteed in the American Declaration, the American Convention, or the other applicable human rights instrument”. Accordingly, the IACHR will recount the activities carried in 2013 with reference to Cuba, analyze the human rights situation in that country, identify best government practices and make recommendations.

104. The restrictions on the political rights to association, freedom of expression, and dissemination of ideas, the lack of elections, the lack of an independent judiciary, and the restrictions on freedom of movement over decades have come to shape a permanent and systematic situation of violation of the human rights of the inhabitants of Cuba. In the course of 2012, the information available suggests that the general human rights situation has not changed. The above-indicated human rights situations, as well as severe repression and restrictions of human rights defenders persist. Also, the IACHR received information on violence and discrimination against LGTBI persons in Cuba.

105. In preparing this report, the Commission has obtained information from international agencies, civil society organizations, and the Cuban government via the official web site of the Ministry of Foreign Affairs of Cuba. The Commission notes the scarcity of information available on human rights in Cuba from sources both on the island or abroad.

106. On November 19, 2013, the Commission sent this report to the State of Cuba and asked for its observations. The State did not respond.

II. Economic sanctions

107. As regards the economic and trade embargo imposed by the United States on Cuba since 1961 and which continues in force, the IACHR reiterates its position in terms of the impact of such

⁶³ IACHR, *Annual Report 2002*, Chapter IV, Cuba, paragraphs 3-7. See also IACHR, *Annual Report 2001*, Chapter IV, Cuba, paragraphs 3-7. IACHR, *Seventh Report on the Situation of Human Rights in Cuba*, 1983, paragraphs 16-46.

economic sanctions on the human rights of the Cuban population; accordingly, it reiterates that the embargo should end.⁶⁴ Without prejudice to the foregoing, the economic embargo imposed on Cuba does not release the State of its obligation to carry out its international obligations, nor does it excuse the violations of the American Declaration described in this report.

III. Situation of human rights in Cuba

A. Respect and guarantee by the State for the rights to life, liberty, and security of the person

1. The death penalty

108. The Commission observes with concern that Cuban law makes the death penalty the punishment for a significant number of crimes, especially crimes against the security of the State. The language of the law is broad and vague, and the death penalty can be applied even in the most summary proceeding⁶⁵ that does not afford the minimum guarantees necessary for the accused to be able to exercise his right to an adequate legal defense.⁶⁶

109. As was observed in Chapter IV of the Annual report of 2008, the IACHR welcomes the fact that on April 28, 2008 the Council of State decided to commute the death penalty of those sentenced to that grave and irreparable punishment, and sentenced them to life or 30 years in prison instead. However, three people sentenced to death for supposed terrorist crimes would appear not to have had their sentences commuted.

110. The Commission is mindful of the State's comment to the effect that:

97. Since the previous report under the universal periodic review, the courts have not imposed the death penalty. In April 2008, the Council of State decided to commute the death sentences of all prisoners who had received that sentence to 30 years to life imprisonment. That decision was a sovereign act, taken in accordance with Cuba's humanitarian and ethical conduct since 1959. Today, no one is on death row in Cuba.

98. Cuba is philosophically opposed to the death penalty. It is in favour of eliminating it when suitable conditions exist. Cuba has been forced, in the legitimate defence of its national security,

⁶⁴ On October 25, 2011, the United Nations General Assembly adopted for the 20th consecutive year a resolution that rejects the economic and trade embargo by the United States against Cuba since 1962. UN, Resolution. A/RES/66/6 "Necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba."

⁶⁵ Articles 479 and 480 of the Criminal Procedure Law establish the especially expedited summary proceeding:

Article 479: In a case of exceptional circumstances, the Attorney General may propose to the President of the People's Supreme Court and the latter shall decide whether to use the especially expedited summary proceeding to prosecute those crimes that any court has jurisdiction to hear, except for those crimes that are the jurisdiction of the People's Municipal Courts.

Article 480. In especially expedited summary proceedings, the procedures that this law establishes for preliminary proceedings, oral trial and appeals may be reduced to the extent that the court with jurisdiction deems necessary. Title X, Especially Expedited Summary Proceeding. Articles 479 and 480. [Translation ours].

⁶⁶ IACHR, Annual Report 2008, Chapter IV, Cuba, para. 177.

to adopt and enforce severe laws against terrorist activities and crimes designed to destroy the Cuban State or the lives of its citizens, while always adhering to the strictest legality and respecting the most ample guarantees. Cuba understands and respects the arguments of the international movement that advocates the abolition of or a moratorium on the death penalty.

99. Although it is included in criminal legislation, this penalty is very rarely imposed. It may only be imposed by the duly empowered court, in extremely serious cases, concerning the small number of crimes for which it is the prescribed penalty, and is tempered by a wide range of

obligatory requirements and guarantees, in line with the United Nations provisions. Life imprisonment is prescribed for some crimes as an alternative to the death penalty.⁶⁷

111. Having said this, the Commission observes that under Cuban law, a significant number of crimes carry the death penalty, especially crimes against the security of the State. The language of the law is broad and vague.

112. Capital punishment is the penalty for crimes against the security of the State; against peace and international law; against public health; against life and bodily integrity; against the normal conduct of sexual relations; against the normal development of childhood and adolescence; and against property rights. The crimes against the security of the State that carry the death penalty are the following: acts committed against the independence and territorial integrity of the State; those aimed at promoting war or armed action against the State; the provision of armed services against the homeland; providing aid and comfort to the enemy; espionage; insurrection;⁶⁸ sedition; usurpation of political or military control; sabotage; terrorism; hostile acts against a foreign State; genocide; piracy; enrolling in the service of a foreign military force; apartheid⁶⁹ and other acts against the security of the

⁶⁷ UN, (2013) Universal Periodic Review, National report submitted in accordance with Human Rights Council resolution 16/21, annex, paragraph 5, Cuba. Available at: http://www.upr-info.org/IMG/pdf/a_hrc_wg.6_16_cub_1_cuba_e.pdf [Consulted November 6, 2013].

⁶⁸ Article 98: 1. Anyone who takes up arms to achieve any of the following ends shall be sentenced to prison for a period of ten to twenty years or to the death penalty: a) to prevent the higher organs of the State and of Government from discharging their functions, either entirely or partially and even if temporarily; b) to change the economic, political and social order of the socialist State; c) to change, in whole or in part, the Constitution or the form of government it establishes.

2. Any person who commits an act intended to encourage others to take up arms shall face the same punishment if he or she accomplishes his or her ends; if not, the penalty shall be imprisonment for four to ten years.

⁶⁹ Article 120: 1. The penalty shall be imprisonment for ten to twenty years or death for anyone who, in order to establish or maintain one racial group's domination over another and acting in accordance with policies for racial extermination, segregation or discrimination: a) denies members of that group the right to life and the right to liberty through murder, egregious attacks on their physical or mental security or dignity; torture or cruel, inhuman or degrading treatment or punishment; arbitrary detention and unlawful imprisonment; b) imposes on that group legislative or other measures intended to prevent it from participating in the country's political, social, economic, or cultural life and deliberately creates conditions that thwart the group's full development by denying its members their fundamental rights and freedoms; c) divides the population along racial lines by creating reservations and ghettos, prohibiting marriage between members of different racial groups and expropriating their property; d) exploits the labor of the group's members, especially by subjecting them to forced labor.

1. 2. If a person in any way persecutes or harasses organizations and persons who are opposed to apartheid or who struggle against it, he or she shall face imprisonment for ten to twenty years.

2. 3. Responsibility for the acts provided for in the preceding paragraphs shall be irrespective of the country in which the culpable parties act or reside and applies, irrespective of motive, to private citizens, members of organizations and institutions and representatives of the State. [Translation ours]

State. Other capital offenses include: the unlawful production, sale, use, trafficking, distribution and possession of drugs, narcotics, psychotropic substances and others having similar effects;⁷⁰ murder;⁷¹ rape;⁷² violent pederasty;⁷³ corruption of minors;⁷⁴ robbery committed with violence or intimidation.⁷⁵ The death penalty is also the punishment for a significant number of offenses criminalized in broad or vague language that include expressions like “dangerous state.”⁷⁶

113. Furthermore, as previously noted, in Cuba the death penalty can be ordered even in especially expedited summary proceedings. The Commission has written that “[a]lthough Article XVIII of the American Declaration refers to the simple and brief procedure whereby the courts will protect persons from acts of authority that violate any fundamental rights, the requirement of simplicity and brevity cannot be applied to a trial that does not allow the accused to defend themselves with all the guarantees of due process of law, and even more so in cases where the penalty that could be applied is irreversible by nature, that is, death.”⁷⁷

114. According to the information available to the Commission, the last time the death penalty was used in Cuba was in 2003, when Messrs. Lorenzo Enrique Copello Castillo, Bárbaro Leodán Sevilla García and Jorge Luis Martínez Isaac⁷⁸ were executed. However, the death penalty continues to be applied in the especially expedited summary trials. The Commission believes that if capital punishment is an option, then the judicial branch must be an independent one, where judges exercise a high degree of scrutiny and respect the guarantees of due process. Here, the Inter-American Court has written that:

capital punishment is not *per se* incompatible with or prohibited by the American Convention. However, the Convention has set a number of strict limitations to the imposition of capital punishment.⁷⁹ First, the imposition of the death penalty must be limited to the most serious common crimes not related to political offenses.⁸⁰ Second, the sentence must be individualized

⁷⁰ Cuban Criminal Code, Article 190.

⁷¹ Cuban Criminal Code, Article 263.

⁷² Cuban Criminal Code, Article 298.

⁷³ Cuban Criminal Code, Article 299.

⁷⁴ Cuban Criminal Code, Article 310.

⁷⁵ Cuban Criminal Code, Article 327.

⁷⁶ As the Inter-American Court has observed, “[a]mbiguity in describing crimes creates doubts and the opportunity for abuse of power, particularly when it comes to ascertaining the criminal responsibility of individuals and punishing their criminal behavior with penalties that exact their toll on the things that are most precious, such as life and liberty.” See, for example, I/A Court H.R., *Case of Castillo Petruzzi et al.* Judgment of May 30, 1999. Series C No. 52, para. 121.

⁷⁷ IACHR, Merits Report No. 68/06, <http://www.IACHR.org/annualrep/2006eng/CUBA.12477eng.htm>, Lorenzo Enrique Copello Castillo *et al.*, October 21, 2006, para. 96.

⁷⁸ IACHR, Merits Report No. 68/06, <http://www.IACHR.org/annualrep/2006eng/CUBA.12477eng.htm>, Lorenzo Enrique Copello Castillo *et al.* October 21, 2006.

⁷⁹ *Cf. Restrictions to the Death Penalty (Arts 4(2) and 4(4) American Convention on Human Rights)*. Advisory Opinion OC-3/83 of September 8, 1983. Series A. No. 3.

⁸⁰ *Cf. Case of Hilaire, Constantine and Benjamin et al. v. Trinidad and Tobago. Merits, Reparations and Costs.* Judgment of June 21, 2002. Series C No. 94, para. 106, and *Case of Raxcacó Reyes, Merits, Reparations and Costs.* Judgment of Continues...

in conformity with the characteristics of the crime, as well as the participation and degree of culpability of the accused.⁸¹ Finally, the imposition of this sanction is subject to certain procedural guarantees, and compliance with them must be strictly observed and reviewed.⁸²

115. The IACHR observes a gradual trend in the hemisphere toward abolition of the death penalty⁸³ and, accordingly, appreciates the Cuban State's observation to the effect that it understands and respects the arguments of the international movement that advocates for the abolition of or a moratorium on the death penalty.⁸⁴

2. Right to liberty and security of the person

116. With respect to the right to liberty and security of the person, the American Declaration indicates that every human being has the right to liberty⁸⁵ and no one may be deprived of it except in those cases and as per the forms established by pre-existing laws.⁸⁶ According to the American Declaration, every person who has been deprived of liberty has the right to have the legality of his or her detention ascertained without delay by a court, and to be tried without undue delay, or otherwise to be released.⁸⁷ In addition, every person accused of a crime has the right to be heard impartially and in a public proceeding, to be judged by courts previously established as per pre-existing laws, and to not be subject to cruel, infamous, or unusual punishment.⁸⁸

117. In relation to the right to personal liberty, the IACHR has observed with concern⁸⁹ the continuation on the books and enforcement of criminal statutes in Cuba of the offense called "pre-delictive social dangerousness" ("*peligrosidad social pre-delictiva*"), provided for in the Criminal Code. Article 72 of the statute provides that:

...continuation

September 15, 2005. Series C No. 133, para. 68. See also *Restrictions to the death penalty (Arts. 4(2) and 4(4) American Convention on Human Rights)*, Advisory Opinion OC-3/83 of September 8, 1983. Series A. No. 3.

⁸¹ Cf. *Case of Hilaire, Constantine and Benjamin et al. v. Trinidad and Tobago. Merits, Reparations and Costs*. Judgment of June 21, 2002. Series C No. 94, para 103, 106 and 108, and *Case of Raxcacó Reyes, Merits, Reparations and Costs*. Judgment of September 15, 2005. Series C No. 133, para. 81. See also *Restrictions to the death penalty (Arts. 4(2) and 4(4) American Convention on Human Rights)*, Advisory Opinion OC-3/83 of September 8, 1983. Series A. No. 3., para. 55.

⁸² Cf. *Case of Fermín Ramírez, Merits, Reparations and Costs*. Judgment of June 20, 2005. Series C No. 126, para. 79. See also *Restrictions to the death penalty (Arts. 4(2) and 4(4) American Convention on Human Rights)* Advisory Opinion OC-3/83 of September 8, 1983. Series A. No. 3., para. 55, and *The Right to Information on Consular Assistance in the Framework of the Guarantees of Due Process of Law*. Advisory Opinion OC-16/99 of October 1, 1999. Series A No. 16, para. 135.

⁸³ "Believing that abolition of the death penalty contributes to enhancement of human dignity and progressive development of human rights," *Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty*, adopted and proclaimed by General Assembly resolution 44/128 of 15 December 1989, available at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/2ndOPCCPR.aspx>. [Consulted November 6, 2013].

⁸⁴ UN, (2013) Universal Periodic Review, National report submitted in accordance with Human Rights Council resolution 16/21, annex, paragraph 5* Cuba. Available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G13/106/93/PDF/G1310693.pdf?OpenElement> [Consulted November 6, 2013].

⁸⁵ American Declaration, Article I.

⁸⁶ American Declaration, Article XXV.

⁸⁷ American Declaration, Article XXV.

⁸⁸ American Declaration, Article XXVI.

⁸⁹ IACHR, Annual Report of the Inter-American Commission, 1998, April 16, 1999.

Dangerous state is considered to be the special proclivity one finds in a person to commit crimes, demonstrated by the conduct observed in manifest contradiction with the norms of socialist morality.

118. The definition of “*estado peligroso*” (“dangerous state”) is contained in Article 73(1) of the Criminal Code, which establishes that such a state “is noted when any of the following indicators of dangerousness is observed in the subject: (a) habitual drunkenness or dipsomania; (b) drug addiction; and (c) antisocial conduct.” Article 73(2) provides:

anyone who habitually breaks the rules of social coexistence through acts of violence, or by other provocative acts, violates the rights of others, or who by his or her general conduct violates the rules of social co-existence or disturbs the order of the community, or lives as a social parasite from the work of others, or exploits or practices socially reproachable vices, is considered to be socially dangerous by virtue of such anti-social conduct.

119. Article 75(1) of the Criminal Code provides that “anyone who, although not covered by any of the dangerous states described in Article 73, has ties or relations to persons who are potentially dangerous to society, to other persons, and to the social, economic and political order of the social State and may therefore be inclined to commit crimes, shall be warned by the competent police authority.”

120. If a person engages in one of the forms of conduct defined as dangerous, security measures, both pre- and post-delictive, may be applied to him or her. Article 78 of the Criminal Code provides that the person found to be in a “dangerous state” may be subject to the imposition of therapeutic, re-educational, or surveillance measures by the organs of the National Revolutionary Police. One of the therapeutic measures consists – according to Article 79 – of being confined to care facilities, psychiatric institutions, or detoxification centers.⁹⁰ The re-education measures are applied to allegedly anti-social individuals and consist of confinement in a special establishment for work or study, and handing the person over to a work collective for monitoring and orienting their conduct. These measures are imposed for at least one year and no more than four years.

121. These rules of the Cuban Criminal Code are supplemented by Decree No. 128, issued in 1991, which establishes that the declaration of pre-delictive dangerousness must be decided in a summary proceeding. According to that decree, the National Revolutionary Police puts together a case file that shows the conduct of the “dangerous person” and presents it to the Municipal Prosecutor, who has two days to decide whether to present it to the Municipal Court. If the Municipal Court considers the case file complete, it sets the date for the hearing in which the parties appear. Twenty-four hours after the hearing is held the Municipal Court must hand down its judgment.

122. The Commission considers that the criminal law should punish offenses or even frustrated attempts to commit an offense, but never attitudes or presumptions of an offense.⁹¹ The IACHR is concerned about the use of the criminal law provisions concerning dangerousness, for it is a subjective concept on the part of the person making such a determination, and its vagueness constitutes a factor of juridical insecurity for the population, since it creates the conditions for the authorities to

⁹⁰ IACHR, Annual Report of the Inter-American Commission, 1998, April 16, 1999.

⁹¹ IACHR, Annual Report of the Inter-American Commission, 1998, April 16, 1999.

commit arbitrary acts. The Commission also considers it extremely serious that these provisions – which are *per se* incompatible with the principles established in the American Declaration – are applied using a summary procedure to persons who have not committed any offense but who according to the discretion of the Cuban authorities are considered *dangerous (peligrosas)* to society, and therefore deserving of severe measures of security depriving them of liberty.⁹² In these cases, the State intervenes without limitations and does not hesitate to violate the right to individual liberty.

123. The impairments to the personal liberty of political dissidents in Cuba will be evaluated in the next section.

B. Respect for and guarantee of political rights

124. Political rights are of fundamental importance and are closely related to a set of other rights that make democratic government possible. According to the Inter-American Democratic Charter signed in Lima, Peru, on September 11, 2001, representative democracy constitutes the system recognized and required in the OAS for the stability, peace, and development of the region. The existence of free elections, independent and effective branches of government, and full respect for the freedom of expression, among others, are foundational characteristics of democracy that cannot be evaluated in isolation. From that perspective, fully guaranteeing human rights is not possible with the effective and unrestricted recognition of the rights of persons to constitute and participate in political groupings.

125. The right to vote is one of the essential elements of democracy and one of the means by which citizens freely express their will and exercise the right to political participation. This right means that the citizens can directly and freely, in conditions of equality, choose who will represent them in making decisions on public affairs.⁹³ Political participation in turn through the exercise of the right to be elected presupposes that citizens can run as candidates on equal conditions and that they can hold public office subject to election if they win the required number of votes. The American Convention prohibits the suspension of this right even in states of emergency.⁹⁴

126. One of the main criteria for including Cuba in Chapter IV of the Annual Report is the lack of free elections in keeping with internationally accepted standards, which violates the right to political participation enshrined in Article XX of the American Declaration of the Rights and Duties of Men, which provides:

⁹² IACHR, Annual Report of the Inter-American Commission, 1998, April 16, 1999.

⁹³ IACHR, *Annual Report 1990-1991*, p. 557; IACHR, *Second Report on the Situation of Human Rights in Peru*, 2000, Chapter IV, Political Rights, A.1. See also I/A Court H.R. *Case of Castañeda Gutman v. Mexico*. Preliminary Objections, Merits, Reparations and Costs. Judgment of August 6, 2008. Series C No. 184.

⁹⁴ Article 27 of the American Convention on Human Rights, Suspension of Guarantees, establishes at section 2: “The foregoing provision does not authorize any suspension of the following articles: ...] and 23 (Right to Participate in Government), or of the judicial guarantees essential for the protection of such rights.” See also, I/A Court H.R. *Case of Castañeda Gutman v. Mexico*. Preliminary Objections, Merits, Reparations and Costs. Judgment of August 6, 2008. Series C No. 184 and I/A Court H.R. *The Word “Laws” in Article 30 of the American Convention on Human Rights*. Advisory Opinion OC-6/86 of May 9, 1986. Series A No. 6, para. 34; and *Case of Yatama v. Nicaragua*. Preliminary Objections, Merits, Reparations and Costs. Judgment of June 23, 2005. Series C No. 127, para. 191.

Article XX – Right to vote and to participate in government. Every 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.

127. Article 3 of the Inter-American Democratic Charter defines the elements of democratic government in the following terms:

Essential elements of representative democracy include, *inter alia*, respect for human rights and fundamental freedoms, access to and the exercise of power in accordance with the rule of law, the holding of periodic, free, and fair elections based on secret balloting and universal suffrage as an expression of the sovereignty of the people, the pluralistic system of political parties and organizations, and the separation of powers and independence of the branches of government.

128. The State has affirmed that “Cuba’s democratic system is based on the principle of ‘government of the people, by the people and for the people,’” adding that “[t]he Cuban people participate in the exercise and active control of Government through its political and civil institutions and in the framework of its laws.”⁹⁵ In addition, it has stated that the restrictions provided for by law on the enjoyment of some political rights in Cuba have been the minimum essential for ensuring the right to self-determination, peace, and life of the entire people, as a response to the mounting anti-Cuban aggressiveness of the Empire.⁹⁶

129. The American Declaration and the Inter-American Democratic Charter reflect a broad conception of representative democracy which, as such, rests on the sovereignty of the people, and in which the functions by which power is exercised are performed by persons chosen in free elections representative of the popular will.

130. In the view of the Commission those elements are not present in the Cuban elections, which are characterized precisely by the lack of plurality and independence and the absence of a framework of free access to various sources of information. In light of the international standards noted, the Commission reiterates that the lack of free and fair elections, based on universal suffrage and secret ballot as an expression of popular sovereignty⁹⁷, violates the right to political participation of the Cuban people.

1. Situation of Defenders, Political Dissidents, and Political Repression

131. In 2006, the Commission notified the parties and published, in its Annual Report, Report on the Merits 67/06⁹⁸, in Case 12,476 (Oscar Elías Biscet et al.) regarding the political dissidents who

⁹⁵ National report presented by the State of Cuba; UN, Human Rights Council, Working Group on the Universal Periodic Review, Fourth session, Geneva, February 2 to 13, 2009. A/HRC/WG.6/4/CUB/1; November 4, 2008, para. 8.

⁹⁶ In Chapter 9, “Libro Blanco del 2007,” published at the official website of the Ministry of Foreign Affairs of Cuba.

⁹⁷ Article 3 of the Inter-American Democratic Charter establishes as one of the essential elements of representative democracy the holding of periodic, free, and fair elections based on universal suffrage and secret ballot, as an expression of the sovereignty of the people; and the plural regime of political parties and organizations.

⁹⁸ Notice of Report on the Merits No. 67/06 was given to the Cuban State and the petitioners’ representatives on November 1, 2006. See in IACHR, Press Release No. 40/06, “IACHR announces two reports on human rights violations in Cuba,” of November 1, 2006.

were detained and prosecuted by highly summary procedures in the so-called “Black Spring” of 2003, based on the application of Article 91⁹⁹ of the Cuban Criminal Code, as well as Law 88 on Protection of the National Independence and Economy of Cuba, for acts related to the exercise of fundamental freedoms such as the freedom of thought, conscience, opinion, and expression, as well as the right to peaceful assembly and free association. The sentences ranged from six months to 28 years in prison.

132. In Report 67/06, the IACHR concluded that the Cuban State violated several articles of the American Declaration, including Articles I, II, IV, VI, XX, XXI, XXII, XXV, and XXVI, to the detriment of the victims in the case; Article V in relation to eight of the victims; the violation of Article X to the detriment of 14 victims, and the violation of Article XVIII to the detriment of 73 victims. In addition, the Commission concluded that the State had not violated Articles IX, XI, or XVII of the American Declaration to the detriment of the victims.¹⁰⁰

133. Moreover, the IACHR recommended to the State of Cuba:

1. Order the immediate and unconditional release of the victims in this case, overturning their convictions inasmuch as they were based on laws that impose unlawful restrictions on their human rights.
2. Adopt any measures necessary to adapt its laws, procedures and practices to international human rights law. In particular, the Commission is recommending to the Cuban State that it repeal Law No. 88 and Article 91 of its Criminal Code, and that it initiate a process to amend its Constitution to ensure the independence of the judicial branch of government and the right to participate in government.
3. Redress the victims and their next of kin for the pecuniary and non-pecuniary damages suffered as a result of the violations of the American Declaration herein established.
4. Adopt the measures necessary to prevent a recurrence of similar acts, in keeping with the State’s duty to respect and ensure human rights.¹⁰¹

134. From July 2010 to March 2011, the Government of Cuba released persons who had been deprived of liberty since 2003 in the “Black Spring” (“Primavera Negra”), including the victims of Case 12,476 before the IACHR.¹⁰² Most of the people were released under the condition to be sent to Spain.

135. The IACHR reiterates that the guilty judgments handed down against the political dissidents should be set aside since they were based on laws that imposed illegitimate restrictions on human rights.¹⁰³ In addition, granting conditional release amounting to house arrest (*licencias*

⁹⁹ Article 91 of the Criminal Code of Cuba: “Whoever, in the interest of a foreign State, commits an act with the intent to cause damage to the independence of the Cuban State or the integrity of its territory, shall receive a sentence of between ten and twenty years or a death sentence.”

¹⁰⁰ See complete report at: <http://www.cidh.org>

¹⁰¹ See complete report at: <http://www.cidh.org>

¹⁰² IACHR, Report on the Merits No. 67/06, Case 12,476, Oscar Elías Biscet et al., October 21, 2006.

¹⁰³ IACHR, Report on the Merits No. 67/06, Case 12,476, Oscar Elías Biscet et al., October 21, 2006.

extrapenales) to those who having been released opted to stay in Cuba does not constitute compliance with the recommendations that the IACHR issued in its report on the merits.¹⁰⁴

136. According to the information received, in the course of 2013 the Government continued to carry out what the IACHR has referred to as a tactic of political repression on the basis of systematic arrests for several hours or a few days, threats, and other forms of harassment directed against opposition activists.

137. In 2013, the Government has apparently continued its tactic of short-term arbitrary detentions without a court order, targeting political opponents, human rights activists, and independent journalists, who are usually held *incommunicado* for periods ranging from hours to days, normally at police stations. The IACHR has referred to this situation as a tactic of political repression on the basis of systematic arrests for several hours or a few days, threats, and other forms of harassment directed against opposition activists. In this regard, in 2012, the Committee against Torture expressed concern about the use of ambiguous criminal concepts such as “pre-criminal social dangerousness” to justify the imposition of security measures, restrictions on freedom of movement, intrusive surveillance, physical aggression and other acts of intimidation and harassment allegedly committed by officers of the National Revolutionary Police and members of State security bodies.

138. In 2013, the level of physical assaults, threats, harassment, and acts of repudiation against human rights defenders in Cuba was maintained, particularly those involved in the defense of the rights of persons who have been deprived of liberty for political reasons. According to Amnesty International, the Cuban Government does not recognize monitoring and protection of human rights has a legitimate activity, nor does it grant legal status to local human rights organizations.¹⁰⁵ As noted, the repression of human rights defenders in Cuba takes the form of physical assaults and detentions for short periods of time, ranging from a few hours to several days.

139. Various human rights organizations have called attention to the rise in acts of repression, suspicious deaths of civic movement leaders, and the use of physical and psychological violence against human rights defenders. In that regard, the Christian Liberation Movement presented a report on the suspicious circumstances surrounding the deaths of Oswaldo Payá and Harold Cepero and called for a stop to threats against opposition members, particularly citing the fact that family members of Oswaldo Payá Sardiñas continue to receive death threats.¹⁰⁶

140. Specifically, the Commission has received information confirming the same pattern as that identified in Chapter IV of the 2012 Annual Report, which typically featured alleged physical assaults, arbitrary detentions, and restrictions on the peaceful exercise of the right to freedom of assembly of human rights defenders, political dissidents, and women defenders belonging to the Ladies in White group. In this regard, on October 28, 2013 the Commission decided to grant precautionary measures (PM-264-13) for the members of the Ladies in White organization, and asked the Republic of

¹⁰⁴ IACHR, Report on the Merits No. 67/06, Case 12,476, Oscar Elías Biscet et al., October 21, 2006.

¹⁰⁵ Amnesty International, *Annual Report 2013*

¹⁰⁶ Directorio Democrático Cubano, *Press Release: CUBA: organizaciones alertan sobre muertes y creciente violencia del régimen de La Habana previo a revisión de Cuba en la ONU* [CUBA: Organizations warn of killings, increasing violence by Havana regime ahead of UN Cuba review]. April 30, 2013.

Cuba to adopt “the measures necessary to safeguard the life and personal integrity of the members of the Ladies in White organization.” Given the circumstances, the Commission was of the view that a number of factors converged in this matter –having to do with the situation of a specific group of women who are human rights defenders and who were said to be in the custody of the State for short-term detentions- that warranted the immediate adoption of special measures of protection to avert the various types of dangers to which they are said to be constantly exposed and to enable them to conduct their activities safely.

141. The Commission wishes to underscore the importance of the work of human rights defenders in the region. It has consistently highlighted the importance of the work done by persons dedicated to promoting, monitoring and legally defending human rights and the organizations with which many of them are affiliated. The Commission therefore considers that the acts of violence and other attacks committed against human rights defenders not only violate the guarantees that attend every human being, but also attack the pivotal role that human rights defenders play in society and leave all those whom they strive to protect defenseless.

142. The Commission received information alleging that the State was systematically expelling human rights defenders and members of their families from universities and refusing to admit them to university-level education programs. The IACHR is compelled to reiterate that education is a human right and an essential enabler of the enjoyment of other rights.

143. The IACHR was also informed of an alleged practice on the part of the State whereby health clinics refuse to treat persons involved in the work of defending human rights, even in those cases where the condition of the human rights defender is extremely serious.¹⁰⁷ The IACHR recalls that the right of every person, without discrimination, to physical, mental and moral integrity is protected under the American Convention on Human Rights. The right to personal integrity in the area of health is closely related to the right to health, since adequate and timely health services are one of the principal means of guaranteeing the right to personal integrity.

144. The Commission received information that states that on March 7, 2013, Yris Pérez Aguilera, President of the Rosa Parks Women's Movement for Civil Rights was beaten up by government agents in Santa Clara, leaving her unconscious. A press release by the *Directorio Democrático Cubano* offers the following account: “According to witnesses to the assault, after dragging her by her hair from the patrol car in which they were traveling, supposedly to put her in another vehicle, he flung her to the asphalt several times, causing Yris to strike her head against the sidewalk, knocking her unconscious.”¹⁰⁸

145. The Commission also received information from the Independent Trade Union Coalition of Cuba (CSIC) about acts of repression and police brutality committed against Iván Hernández Carrillo, an independent trade unionist and member of the “Group of 75 of the black spring of March 2003,” when he sought to show solidarity with the Ladies in White Movement on Sunday, July 14, in the municipality of Colón, Matanzas Province. Five plainclothes policemen attacked the trade unionist in

¹⁰⁷ Information supplied during the 149th Session of the Inter-American Commission on Human Rights, *Hearing No. 27, Situation of Human Rights Defenders in Cuba, Hearing No. 28, Human Rights Situation of the “Ladies in White” in Cuba*, October 29, 2013. Video available at: <http://www.oas.org/es/cidh/multimedia/sesiones/149/2martes29a.asp>

¹⁰⁸ Directorio Democrático Cubano, *Press Release: Cuba: Yris Pérez Aguilera brutally beaten during March in Santa Clara, hospitalized*. March 7, 2013,

broad daylight, striking him repeatedly in the stomach and on his back while stabbing him in the left shoulder with a pointed object. During the assault one of the agents whispered to Mr. Sernández Carrillo, “We are just waiting for the orders to kill you all.” Subsequently, Mr. Hernández Carrillo was arrested and driven in a jeep to a remote location where he was released.¹⁰⁹

146. On October 29, 2013, during the IACHR’s 149th regular session, the requesting organizations told the IACHR of cases of human rights defenders who have died in Cuba under circumstances that were never investigated. The Commission was told of cases like that of dissident Orlando Zapata Ramayo, who was allegedly killed while on a hunger strike in prison, and the cases of other human rights defenders who were killed in Cuban hospitals while in the custody of the Cuban security forces.¹¹⁰

147. For her part, Iris Tamara Pérez Aguilera, a human rights defender and wife of Jorge Luís García Pérez Antúnez, also a human rights defender, told the IACHR that because of her work, she had been the victim of physical assaults that left her unconscious in 2013. A beating she received from agents of the Political Police in early 2013 had serious consequences; she was unable to walk for three months; throughout her ordeal she was denied medical assistance. The Commission was also informed that the case of Damaris Moya Portielis is one of the cruelest. She was thrown on the floor while they forced a pen into her vagina. She was later arbitrarily detained; they threatened to rape her six-year-old daughter, whom she could not send to school. As a result of these events, she had to go on a hunger strike to demand protection for her daughter, whom she could not send to school. The human rights defenders who testified before the Commission also reported cases of other human rights defenders who had been the victims of beatings and arbitrary detention by the Political Police, and other forms of abuse, destruction of their property and video cameras, and acts of repression to retaliate for their peaceful activities.¹¹¹

148. On October 29, 2013, another hearing was held on the human rights situation of the “Ladies in White” in Cuba. That hearing was attended by Berta Soler, Magaly Norvis and Sayli Navarro, members of the Ladies in White, and by Laritza Diversent and Yasert Rojas, members of Cubalex. There, the speakers explained that members of the Ladies in White are usually portrayed in the media as representing foreign interests and as tools by which to slander and defame Cuba. They pointed out that in the last six months the repression against the Ladies in White became more intense. The events in the province of Holguín, Villa Clara and Matanzas were particularly disturbing, especially those in the municipalities of Cárdenas and Colón.¹¹²

¹⁰⁹ Independent Trade Union Coalition of Cuba (CSIC), Press Release of July 16, 2013 [Document in the Archive of the Executive Secretariat]

¹¹⁰ IACHR, *Hearing on the Situation of Human Rights Defenders in Cuba*. 149th Session of the IACHR. Washington, D.C., October 29, 2013. Available at: <http://www.oas.org/es/cidh/audiencias/Hearings.aspx?Lang=en&Session=132&page=2> [Consulted on November 6, 2013].

¹¹¹ IACHR, *Hearing on the Situation of Human Rights Defenders in Cuba*. 149th Session of the IACHR. Washington, D.C., October 29, 2013.

¹¹² IACHR, *Hearing on the Human Rights Situation of the “Ladies in White” in Cuba*. 149th Session of the IACHR. Washington, D.C., October 29, 2013. Available at: <http://www.oas.org/es/cidh/audiencias/Hearings.aspx?Lang=en&Session=132&page=2> [Consulted on November 6, 2013].

149. The Ladies in White also told the IACHR that the Rapid Response Brigades, which they said were organizations sponsored by the Cuban government, stage “acts of repudiation” [*mítines de repudio*] to prevent them from getting to church and/or participating in peaceful marches. The acts of repudiation staged by members of these brigades are not spontaneous; instead, those involved are summoned and at times even forced to attend the “acts” by the regime’s Political Police. They also maintained that during these acts of repudiation, civilians and members of the security services beat up members of the Ladies in White, inflicting broken bones, torn muscles, sprains, abrasions and other physical injuries; the victims are then refused medical treatment. The members of the Ladies in White are subsequently detained and transported to prisons or are left to fend for themselves in unpopulated areas far from their homes, with no personal identification documents or money and exposed to dangers of all kinds. They also pointed out that at the time of their arrest, no record is made of their admittance to the police station or how long they remained there, and no record of the arrest is made.¹¹³

150. The IACHR also received information to the effect that the Ladies in White are usually taken directly to cells with neither hygienic facilities nor privacy. Their jailers force them to strip and to bend over to check whether they have any recording or other devices in their genitals. Recently, a group of more than 10 women from Havana were forcibly stripped and, in the presence of various officials from State Security and agents of the National Police, were carefully searched. These women were beaten and threatened that a long, semi-flexible object with a bulb at the tip would be introduced into their vagina.¹¹⁴

151. Organizations dedicated to the defense of human rights have told the IACHR that family members of human rights defenders in Cuba tend to be victims of intimidation and threats from State authorities, as a form of repression and punishment for the work their family members do.¹¹⁵ In the case of the Ladies in White, they testified that the majority are mothers whose children are treated differently by the National Education System. For example, their children are required to receive Communist indoctrination and can be expelled from school if they refuse. One of the reports the Commission received concerned the daughter of one of the Ladies in White who was 14 when she finished her basic secondary school studies, but was not allowed to pursue pre-university studies on the grounds that her mother was a counter-revolutionary.¹¹⁶ The Commission was also informed that the sons and daughters of political dissidents are expelled from university because of the work their parents do. These acts of repression are also evident in the difficulty that adults have in finding jobs or becoming integrated into social life in Cuba.¹¹⁷

152. According to civil society organizations, the case of Sonia Garro Alfonso, a member of the Ladies in White group (an opposition movement consisting of female relatives of jailed dissidents)

¹¹³ IACHR, *Hearing on the Situation of Human Rights Defenders in Cuba*. 149th Session of the IACHR. Washington, D.C., October 29, 2013.

¹¹⁴ IACHR, *Hearing on the Situation of Human Rights Defenders in Cuba*. 149th Session of the IACHR. Washington, D.C., October 29, 2013.

¹¹⁵ IACHR, *Hearing on the Situation of Human Rights Defenders in Cuba*. 149th Session of the IACHR. Washington, D.C., October 29, 2013.

¹¹⁶ IACHR, *Hearing on the Situation of Human Rights Defenders in Cuba*. 149th Session of the IACHR. Washington, D.C., October 29, 2013.

¹¹⁷ IACHR, *Hearing on the Situation of Human Rights Defenders in Cuba*. 149th Session of the IACHR. Washington, D.C., October 29, 2013.

and founder of the Independent Afro-Cuban Foundation, a civil society organization,¹¹⁸ is illustrative of deprivations of liberty of this type, given that she has been held in pretrial detention accused of the crimes of “public disorder” and “attempted murder” since March 18, 2012, when she was arrested along with her husband, Ramón Alejandro Muñoz González, also a political dissident, in an operation carried out by members of the ant-riot forces, police, and state security agents, at their home in Havana. Mrs. Garro has reportedly been in detention for more than a year, which exceeds the statutory limit of six months established by Cuban law for keeping a person in custody while under investigation. She has been refused medical assistance on several occasions and the authorities are allegedly obstructing her, her family, and human rights organizations from having information about her state of health, given that they are not allowed access to the medical records at the prison where she is interned.¹¹⁹

153. During the hearing on the human rights situation of the “Ladies in White” in Cuba, the Commission received additional information about the case of Mrs. Sonia Garro Alfonso, a member of the Ladies in White imprisoned since March 18, 2012. Her health had deteriorated since entering prison and prison officials were said to be denying her the medical care that her health problems required. At the time of the hearing, the Commission was informed that Mrs. Garro Alfonso was suffering from a number of health problems, such as malignant arterial hypertension and kidney problems; also, her body was covered with sores caused by a bacteriological infection.¹²⁰

154. On October 31, 2013, two days after the hearing and just one day before the trial against Sonia Garro Alfonso, her husband Ramón Alejandro Muñoz González and another dissident Eugenio Hernández Hernández was slated to begin, the Cuban government decided to postpone it. It is public knowledge that postponement of trials of dissidents is nothing unusual. In this case, the court did not make public the reasons for its decision, nor did it set a new trial date.¹²¹

155. For their part, Amnesty International¹²² and Human Rights Watch¹²³ have published reports to the effect that in Cuba, arbitrary detentions for short periods of time are a routine practice in the case of peaceful demonstrators, independent journalists and human rights activists, and is a way of restricting their liberty for having exercised their freedom of expression, their right of assembly, their freedom of association and their freedom of movement. According to the Cuban Commission for Human Rights and National Reconciliation (hereinafter “CCDHRN”), between January and October 2013 it documented at least 4,540 persons either temporarily detained or facing trial on political grounds. By month, this figure breaks down as follows: January: 364, February: 504, March: 354, April: 366, May:

¹¹⁸ On November 8, 2012, the IACHR granted precautionary measures (MC-354-12) to Sonia Garro in order to protect the life and well-being.

¹¹⁹ Cubalex, *Informe sobre la situación discriminación contra las mujeres en Cuba* [Report on the Situation of Discrimination against Women in Cuba]. 2013 [in the Commission archive].

¹²⁰ IACHR, *Hearing on the Human Rights Situation of the “Ladies in White” in Cuba*. 149th Session of the IACHR. Washington, October 29, 2013.

¹²¹ *Diario de Cuba, El régimen suspende el juicio contra Sonia Garro* [Regime postpones trial of Sonia Garro]. October 31, 2012. Available [in Spanish] at: http://www.diariodecuba.com/derechos-humanos/1383238672_5741.html [Consulted on November 6, 2013].

¹²² See, Amnesty International, *Annual Report. Cuba 2013*. Available at: <http://www.amnestyusa.org/research/reports/annual-report-cuba-2013>.

¹²³ See, Human Rights Watch, *World Report 2013*. Available at: <http://www.hrw.org/world-report/2013/country-chapters/112973?page=2> [Consulted November 6, 2013].

375, June: 180, July: 233, August: 547, September: 708 and October: 909. According to this organization, the 909 detentions for political reasons documented during October 2013 is one of the highest figures for one month in the last two decades. The CCDHRN has maintained that, in addition to the disturbing increase in the number of detentions, there has also been an unwarranted uptick in violence by police and para-police (rapid response brigades) and brutal physical assaults against dissidents engaged in peaceful demonstration. The IACHR observes with concern that the figures for 2013 indicate a clear trend toward increasing political repression in Cuba throughout 2013.¹²⁴

156. The CCDHRN has reported that in 2013, the many repressive actions organized, encouraged or allowed by the Secret Political Police continue to be a matter of grave concern.¹²⁵ The Commission has been told by human rights defenders that government sympathizers continue to stage “acts of repudiation” in front of human rights organizations and the homes of the Ladies in White.¹²⁶

157. Hunger strikes remain a recurring method of putting pressure on the Cuban government. The Secretariat received information that on May 10, 2013, the political dissident Osvaldo Rodríguez Acosta went on hunger strike at Este Combined Prison, demanding a review of the case against him, his eldest son, and his wife, and requesting that he and his son be held in the same prison while his case was being reviewed. The Secretariat also received information about the critical health of Mr. Luis Enrique Santos Caballero, who was close to death as a result of a hunger strike that he began on May 24, 2013, demanding a home Mr. Santos Caballero and Mrs. Ramona Maday García Ruiz, his wife, were evicted by state security agents from their home in the city of Santa Clara in reprisal for being activists in the pro-democracy movement in Cuba. According to information available to the Secretariat, as of July 16, 2013, after 53 days, Mr. Santos Caballero was still on hunger strike.¹²⁷

C. Right to Due Process of Law and Judicial Independence

158. The IACHR has consistently mentioned in its reports on Cuba the lack of independence and impartiality of courts and the absence of the right to a fair trial and to due process in prosecution of persons sentenced to death, as well as persons considered to be political dissidents, a particularly serious situation due to the use of summary proceedings in these instances.

159. In its Chapter IV Reports on Cuba from prior years, including 2012, the IACHR reiterated that the death penalty remaining on the books as punishment in a significant number of broadly-worded or vague criminal offenses, for example “Status of threat”¹²⁸ and criminal proceedings continuing to take

¹²⁴ Report of the Cuban Commission for Human Rights and National Reconciliation. Some Acts of Political Repression in October 2013. Available [in Spanish] at: <http://observacuba.org/wp-content/uploads/pdfs/2013/overview-octubre2013-ocdh.pdf> [Consulted November 6, 2013].

¹²⁵ Report of the Cuban Commission for Human Rights and National Reconciliation, Some Acts of Political Repression in June 2013.

¹²⁶ Amnesty International, *Annual Report. Cuba 2013*.

¹²⁷ Hunger striker Luis Enrique Santos Caballero in “critical” condition. Available at: <http://pedazosdelaisla.wordpress.com/category/luis-enrique-santos-caballero/> [Consulted November 6, 2013].

¹²⁸ As has been noted by the Inter-American Court, “ambiguity in describing crimes creates doubts and the opportunity for abuse of power, particularly when it comes to ascertaining the criminal responsibility of individuals and punishing their criminal behavior with penalties that exact their toll on the things that are most precious, such as life and liberty.” See, for example, IA Ct. of HR, Case of Castillo Petruzzi et al, Judgment of May 30, 1999, Series C. N° 52, par. 121.

place without sufficient due process guarantees, -summary proceedings, lack of trusted defense counsel and jurors of dubious independence and impartiality standing in judgment- is tantamount to a violation of international human rights protection instruments. It may lead to the application of disproportionate punishments and enormous discretion, which could do away with any chance of an effective defense of the individual appearing before the authorities.¹²⁹ Allegedly there has been no change in this situation in 2013 vis-à-vis that of prior years.

D. Right to residence and movement

1. Restrictions on the right to residence and movement within Cuba

160. As regards the right of residence, in its Annual Report 2012, the Commission emphasized the restrictions that impede the full exercise of this right of every person to reside freely within the territory of Cuba, particularly in the city of Havana.¹³⁰ As of Decree 217 of 1997 on internal migration regulations to Havana, restrictions were established to reside freely in this city for people who come from other parts of the country, might try domiciled, reside or live permanently in a house located in Havana, or those who come from other municipalities and try to domiciliate, reside or live permanently in a house located in the municipalities of Old Havana, Central Havana, Cerro and Diez de Octubre were required to request permission to administrative authorities to reside in the capital.¹³¹ The decree in question imposed fines and the obligation to return to the place of origin for those who contravene its provisions.

161. Therefore, people interested in residing in the City of Havana had to apply for permission to permanently reside there and if they did in violation of domestic law risked fines and deportation to their place of origin. Although it is not a crime to be in Havana, Decree 217 has resulted in the police arresting and deporting to their places of origin to those persons who do not comply with the provisions of the Decree. When a person who has already been deported is deported again they may be subjected to pre-criminal security measures.¹³² According to Human Rights Watch and human rights organizations, Decree 217 is often used to prevent political dissidents from traveling to Havana and taking part in rallies and demonstrations, as well as a mechanism to persecute dissidents from other parts of Cuba who live in Havana.¹³³

¹²⁹ According to the Cuban State, application of the death penalty is of an exceptional nature and only for the commission of the most serious offenses. The Cuban Criminal Code establishes that:

Article 29.1. The punishment of death is of an exceptional nature, and only is applied by the court in the most serious cases of the commission of the crimes for which it is established.

2. The punishment of death may not be imposed on persons under 20 years of age nor on women who are pregnant when they commit the offense or when the sentence is handed down.

3. The punishment of death is executed by firing squad.

¹³⁰ See IACHR, *Annual Report 2012, Chapter IV, Cuba*.

¹³¹ Council of Ministers, Decree No. 217 of 1997, April 22, 1997. Available at: <http://www.gacetaoficial.cu/html/regulacionesmigratoriasparaC.H.html> [Consulted November 6, 2013].

¹³² Cubalex, *Informe sobre la situación discriminación contra las mujeres en Cuba* [Report on the Situation of Discrimination against Women in Cuba]. 2013 [document in the Commission archive].

¹³³ Human Rights Watch, *World Report 2013*.

162. Article 5 of Decree No. 217 of 1997 was amended by Decree No. 293 of 2011, by which an exception is made for the requirement to go through the authorization procedure for certain persons from other provinces who request to make a permanent move to the city of Havana¹³⁴, which includes: (a) the spouse, children, parents, grandparents, grandchildren, and siblings of the person authorized; (b) the minor children of the spouse of the person authorized; (c) the persons found legally incompetent; (d) the nuclear family of the person to whom real property is assigned as a matter of the interest of the state or society. The Commission values the reform; nonetheless, it observes that restrictions that have a detrimental impact on the right to residence and movement continue in place.

163. In this regard, the Commission would reiterate the recommendation it made in its 2012 Annual Report to the effect that the Cuban State should repeal Decree 217 of 1997, as well as its supplemental provisions, and adopt the measures necessary to guarantee to all persons the rights to freely determine their place of residence and freedom of movement in Cuban territory.

2. Restrictions on the right of Cuban nationals to leave and enter Cuba

164. Since 1983, the Commission has addressed the lack of constitutional protection of the right to freedom of movement in Cuba, which is an obstacle for its enjoyment. Under the Migration Act, Law No. 1312 of 1976, to leave or enter the country, the Cubans and required a current passport and an exit permit, granted by the Minister of Interior¹³⁵. On October 16 2012, the Decree-Law No. 302 was published in the Official Gazette of the Republic of Cuba. This Decree-Law was promulgated by the State Council and amended the 1976 Migration Act. This reform entered into force on January 14, 2013. The main changes introduced to the Migration Act are the partial suppression of the requirement for permission to leave the territory, the extension of the period required for a Cuban national who has traveled abroad to considered as an emigrant, the which went from 11 to 24 months, the elimination the need for a letter of invitation from the host country as well as the possibility that girls and boys can travel temporarily, once have the authorization of their parents or legal guardians. Before this reform, girls and children Cubans could only leave the country permanently.

165. Although the Decree-Law No. 302 of 2012 reflects progress with regards the Migration Act, the Commission has noted that Decree-Law establishes a number of assumptions by which certain Cuban nationals who reside in Cuba cannot obtain a passport or may not leave the country when for reasons of "national defense and security so require", for "lack of authorization established under rules designed to preserve the skilled workforce for the economic, social and country's scientific-technical and for the safety and protection of official information", "[w]hen for other reasons of public interest, as determined by the authorities", among other reasons. In its 2012 Annual Report, the Commission noted that the generality of terms confer a broad discretion to the Cuban authorities to allow or not the exit of Cuban nationals, in particular those who express anti-government views.

166. According to the Cuban Commission for Human Rights and National Reconciliation, as of June 2013, the Government continued to authorize foreign travel for political dissidents, "with the obvious intention of sending out false signs of change, given that the widespread, institutionalized violation of the right of all Cubans, without exception, to come and go freely from the island persists, as

¹³⁴ Council of Ministers, Decree No. 293 of 2011, published in the Gaceta Oficial of November 16, 2011.

¹³⁵ Council of Ministers, Law 1312 (Migration Law), September 20, 1976, Article 1.

does the right of all Cubans to move freely throughout the country and establish themselves in any of its provinces without fear of being detained and deported under arrest, as has happened to several tens of thousands of citizens at least in the past 15 years.¹³⁶

167. A In turn, the Commission noted that the situation of the Cuban people traveling abroad on private business and stayed out of Cuba for more than 11 months lost permission to return to the country¹³⁷ and therefore their quality as residents in the island. The 11 months term changed to 24 months from the entry into force of Decree-Law No. 302 of 2012¹³⁸. The restriction of the term to be abroad stays and involves sanctions for exceeding it. Among them there are restrictions on access to free services such as health, education, the right to social security, the right to vote and right to property. These provisions also have a direct impact on the right to the protection of family life of those persons, who are deprived of joining relatives who remain in Cuba. In addition to the above, this situation poses additional obstacles to Cuban migrants who are in an irregular situation, since they cannot return to their country of origin and also have an immigration status that impede them regularly reside in the country in which they are residing.

E. State observance and guarantee of the exercise of freedom of expression¹³⁹

168. At the hearing on the “Situation of the right to freedom of expression in Cuba,” held on March 11, 2013 during the Commission’s 147th session, the Commission received reports of multiple explosions at media outlets and journalists being trailed, assaulted and threatened. It also received reports on the criminal penalties given to dissidents and opponents of the Government because of their exercise of freedom of expression, and specifically about the fact that many journalists are in preventive detention. The petitioner organizations highlighted the case of independent journalist Calixto Ramón Martínez Arias, who had reportedly been in preventive detention and awaiting trial since September 16, 2012, for the alleged crime of *desacato* of the figures of Fidel and Raúl Castro, after he did some investigative reporting on a donation of medications that was deteriorating at the International Airport, and in alleged retaliation for having reported a cholera outbreak in the eastern part of the country. The petitioners also mentioned the case of Sonia Garro, an activist in the Ladies in White [*Damas de Blanco*] movement and the beneficiary of precautionary measures ordered by the Commission. She reportedly has spent a year in preventive detention, and still no trial date has as yet been set. They also reported about the situation of other journalists and media workers who have been the victims of aggression and arrest for having exercised their freedom of expression. They added that there were currently some 70 political prisoners in the country, at least half of whom are awaiting trial. Their situation is made all the worse by the terrible prison conditions, the lack of food and the alleged torture of detainees.¹⁴⁰

¹³⁶ Report of the Cuban Commission for Human Rights and National Reconciliation, *Algunos Actos de Represión Política en el mes de junio de 2013* [Some acts of political repression in June 2013].

¹³⁷ Consejo de Ministros, Decreto Ley N° 302, 16 de Octubre de 2012, artículo 24.1 literal f).

¹³⁸ Consejo de Ministros, Decreto Ley N° 302, 16 de Octubre de 2012, artículo 9.2. El Decreto-Ley N° 302 de 2012 permite solicitar prórrogas de estancia en el exterior en caso de que se excedan los 24 meses, las cuales serán otorgadas por un consulado cubano.

¹³⁹ The Inter-American Commission tasked the Office of the Special Rapporteur for Freedom of Expression with preparation of this section of the report.

¹⁴⁰ IACHR. 147 Period of Sessions. March 11, 2013. Hearing on the Situation of Freedom of Expression in Cuba. Available for consultation at: <http://www.oas.org/es/cidh/audiencias/Hearings.aspx?Lang=en&Session=131>; IACHR. April 5, Continues...

169. According to the information provided, the existence of a legal framework that runs contrary to international standards on freedom of expression,¹⁴¹ the concentration of media outlets in the hands of the State, and the constant restriction, suppression, and criminalization of critical speech have perpetuated a climate of intimidation that makes it impossible to freely exercise freedom of expression, and have led to significant self-censorship among dissidents voices. The petitioners pointed out that under Law 88 of 1999, at least twenty-five journalists have been sentenced to prison, some for as long as 20 years. They also observed that the Government heavily polices demonstrations, which are always under surveillance and are allowed according to the impact that might have.¹⁴²

170. For the petitioner organizations, the small changes that Cuban society has experienced with respect to freedom of expression are due to developments on communications technologies. However, there are significant barriers to internet access, which is not readily available; connection speeds are slow and rates high for the average salary in Cuba. On this last point, they explained that one hour of internet access costs one third the salary of a professional in Cuba, which induces the creation of a parallel market for the internet. They emphasized the fact that Cuba has no privately owned internet service for citizens, who are able to access the internet only at public places, state offices, embassies, foreign or mixed companies, or some local companies, some academic centers or cybercafés, and that such access is off limits to dissidents. According to what was reported, the majority of the media outlets in Cuba are State owned and the few private media outlets that do exist have limited circulations. Most are owned by the Catholic Church or are internet-based media dedicated to discussion outside the island, but not on the island.¹⁴³

171. Finally, the petitioners asked the Commission to urge the State to (i) amend the laws that restrict freedom of expression in Cuba, so that they conform to international standards on the subject; (ii) stop criminalizing citizens who merely want to express, inform and organize themselves

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2013. [Press Release 23/13. IACHR Wraps Up Its 147th Session](#); and [Annex to the Press Release Issued at the Close of the 147th Session](#).

¹⁴¹ Here, the petitioners mentioned, *inter alia*, Article 53 of the Constitution of Cuba, which recognizes the right to freedom of expression. The petitioners stated that this right is recognized only to the extent that it serves the purposes of socialist society. That article of the Constitution also states that “the press, radio, television, cinema, and other mass media are the property of the State or society and can never be privately owned. This is a means to ensure that they serve the working people and the interests of society exclusively.” They also mentioned Law 88 on Protection of the National Independence and Economy of Cuba of February 16, 1999, allegedly known as the Gag Rule. They contend that this law can be used to sentence citizens to up to 20 years in prison if their actions are deemed to have subverted or attempted to subvert national order. According to the petitioners, simply questioning the supremacy of the Communist party would qualify as subversion. Under the law, any citizen can face punishment if, by whatever means, he or she collaborates with foreign radio or television broadcasters, newspapers, magazines or other media. Government of Cuba. [Constitución de la República de Cuba](#). February 24, 1976; Cuba. Ley No.88 de Protección de la independencia nacional y la economía de Cuba. February 16, 1999. Available for consultation at: <http://ruleoflawandcuba.fsu.edu/law-88.cfm>.

¹⁴² IACHR. 147 Period of Sessions. March 11, 2013. Hearing on the Situation of Freedom of Expression in Cuba. Available for consultation at: <http://www.oas.org/es/cidh/audiencias/Hearings.aspx?Lang=en&Session=131>; IACHR. April 5, 2013. [Press Release 23/13. IACHR Wraps Up Its 147th Session](#); and [Annex to the Press Release Issued at the Close of the 147th Session](#).

¹⁴³ IACHR. 147 Period of Sessions. March 11, 2013. Hearing on the Situation of Freedom of Expression in Cuba. Available for consultation at: <http://www.oas.org/es/cidh/audiencias/Hearings.aspx?Lang=en&Session=131>; IACHR. April 5, 2013. [Press Release 23/13. IACHR Wraps Up Its 147th Session](#); and [Annex to the Press Release Issued at the Close of the 147th Session](#).

peacefully, and to stop the repression targeted at them; (iii) guarantee the conditions necessary for unfettered practice of journalism and allow the existence of media outlets not owned by the State; and (iv) facilitate citizens' unrestricted access to the internet.¹⁴⁴

172. Subsequently, the IACHR received information indicating that journalist Calixto Ramón Martínez Arias, a correspondent for *Centro de Información Hablemos Press*, was released on April 9. He had been in the custody of the National Police since September 2012. According to what was reported, no official charges were even filed against the journalist, although he was reportedly accused of the crime of *desacato* of the figures of Fidel and Raúl Castro. He was never formally tried. During his detention, Martínez Arias went on a hunger strike to protest the terrible conditions in prison and to demand his freedom.¹⁴⁵

173. During the IACHR's 149 Period of Sessions, a public hearing was held on October 29, 2013 on the human rights situation of the Ladies in White in Cuba. At the hearing, the petitioners explained that the members of that movement, which emerged in March 2003 after the events known as the "Black Spring", are the victims of constant aggression, harassment, detentions and "acts of repudiation" by alleged State agents. The petitioners alleged that their situation was unsafe, a problem compounded by the impunity that attended the attacks against them. They also said they were victims of repression that included beatings, arrests, threats or restrictions on their children's access to school; but it also involved discriminatory mistreatment based on their gender, race, sexual identity and orientation, health and other factors. They focused particularly on the situation of one of their leaders, Sonia Garro, who had been in custody since March 18, 2012, charged of "alleged assault, disturbing the peace, and attempted homicide". Her co-defendant was her husband, activist Ramón Alejandro Muñoz. The petitioners explained that Garro's health was poor and that she was reportedly not receiving the proper medical care; she had also reportedly said that she feared for her life inside the prison, where she was afraid to eat the food.¹⁴⁶ Garro had allegedly been severely beaten in two occasions by one of the agents in charge of caring for the inmates inside the prison.¹⁴⁷ Finally, the petitioners reported that the hearing in the trial against Garro was scheduled for November 1, 2013 and that she could be facing a

¹⁴⁴ IACHR. 147 Period of Sessions. March 11, 2013. Hearing on the Situation of Freedom of Expression in Cuba. Available for consultation at: <http://www.oas.org/es/cidh/audiencias/Hearings.aspx?Lang=en&Session=131>; IACHR. April 5, 2013. [Press Release 23/13. IACHR Wraps Up Its 147th Session](#); and [Annex to the Press Release Issued at the Close of the 147th Session](#).

¹⁴⁵ Martí Noticias. April 10, 2013. [Liberan en Cuba a Calixto Ramón Martínez Arias](#) [Calixto Ramón Martínez Arias released in Cuba]; Directorio Democrático Cubano. April 10, 2013. [Victoria de la Resistencia Cubana: liberan a Calixto Ramón Martínez](#) [A Victory for the Cuban Resistance: Calixto Ramón Martínez is released]; El Nuevo Herald. April 11, 2013. [Liberan a periodista disidente cubano Calixto R. Martínez](#) [They release Cuban dissident journalist Calixto R. Martínez]; Committee to Protect Journalists (CPJ). April 10, 2013. [CPJ welcomes release of Cuban journalist](#); PEN International. February 22, 2013. [News: CUBA: Two journalists jailed, one writer sentenced to five years in prison](#); Martí Noticias. January 30, 2013. [Amnistía Internacional pide libertad de periodista cubano](#) [Amnesty International Asks for Cuban Journalist's Release]; eEconomista.es. December 7, 2012. [La SIP exige a Cuba liberación de periodista en huelga de hambre](#) [The IAPA demands that Cuba release journalist on hunger strike].

¹⁴⁶ IACHR. 149 Period of Sessions. October 29, 2013. Hearing on the Human Rights Situation of the "Ladies in White" in Cuba. Available for consultation at: <http://www.oas.org/es/cidh/audiencias/Hearings.aspx?Lang=en&Session=132>

¹⁴⁷ IACHR. 149 Period of Sessions. October 29, 2013. Hearing on the Human Rights Situation of the "Ladies in White" in Cuba. Available for consultation at: <http://www.oas.org/es/cidh/audiencias/Hearings.aspx?Lang=en&Session=132>; ProCubaLibre/Cubanet. August 13, 2013. [Golpean a Sonia Garro en prisión](#); Centro de Información Hablemos Press. August 8, 2013. [Sonia Garro es golpeada por carceleras](#); Cárceles en Cuba/Cuba Noticias. August 26, 2013. [Golpeada brutalmente Sonia Garro](#).

sentence of 10 years in prison. They asked that the Commission make a statement on the matter and, most especially, that it ask the Cuban Government to ensure that the guarantees of due process would be observed at trial.¹⁴⁸

174. On this last point, the IACHR received information indicating that on October 31, the hearing scheduled for November 1 in the trial of Sonia Garro, her husband Ramón Alejandro Muñoz and dissident Eugenio Hernández Hernández, who could be facing 10, 14 and 11 years, respectively, had been postponed. According to what was reported, the court has not given any reason for the postponement and did not set a new trial date.¹⁴⁹ The IACHR was also informed of the show of force staged by police agents at José Martí International Airport when the leader of the Ladies in White, Berta Soler, returned to Cuba. She attended the IACHR's public hearing and was returning to the country to be present for the hearing held in the trial of Sonia Garro. More than a dozen members of the movement were reportedly detained.¹⁵⁰

175. The IACHR is troubled by the facts reported and, as it has on other occasions, must point out that in Cuba, there are no guarantees of any kind to ensure exercise of the right to freedom of expression.

1. Detention, attacks and threats against defenders, journalists, members of the opposition and demonstrators

176. In 2013, the IACHR received information concerning multiple short-term arrests, detentions, harassment and threats against journalists, activists, human rights defenders and opponents of the government, all because they had expressed their views and been critical of the government. Some of these incidents also occurred in the context of peaceful demonstrations and protest activities against the national government and were the work of state security forces. Some of the principal cases reported are summarized below.

177. The IACHR received information concerning various acts of harassment and detention of members of the Ladies in White group. According to the information available, the Ladies in White had complained that on Sunday, January 6, 14 of their members had reportedly been detained in various provinces across the country to prevent them from attending mass.¹⁵¹ They also reported that on January 18, three Ladies in White had been stopped and assailed by State security agents as they were

¹⁴⁸ IACHR. 149 Period of Sessions. October 29, 2013. Hearing on the Human Rights Situation of the "Ladies in White" in Cuba. Available for consultation at: <http://www.oas.org/es/cidh/audiencias/Hearings.aspx?Lang=en&Session=132>

¹⁴⁹ Diario de Cuba. October 31, 2012. [El régimen suspende el juicio contra Sonia Garro](#) [Regime postpones Sonia Garro's trial]; Martí Noticias. October 31, 2013. [Suspenden juicio a Sonia Garro](#) [Sonia Garro's trial postponed]; El Nuevo Herald. November 1, 2013. [Suspenden juicio a activistas cubanos y aumentan arrestos de disidentes](#) [Trial of Cuban dissidents postponed and more dissidents arrested]; Cubanet. September 16, 2013. [Sonia Garro y Ramón Muñoz serán llevados a juicio](#) [Sonia Garro and Ramón Muñoz will stand trial.]

¹⁵⁰ Centro de Información Hablemos Press. November 1, 2013. [Detienen a Damas de Blanco que intentaban recibir a su líder](#) [Ladies in White waiting to welcome leader are detained]; Martí Noticias. October 31, 2013. [Suspenden juicio a Sonia Garro](#) [Sonia Garro's trial postponed].

¹⁵¹ ACI Prensa. January 8, 2013. [Cuba: Detienen catorce Damas de Blanco en primer domingo de 2013](#) [14 Ladies in White detained on first Sunday of 2013]; CatInfor. January 9, 2013. [Cuba: Detienen catorce Damas de Blanco en primer domingo de 2013](#) [Cuba: 14 Ladies in White detained on first Sunday in 2013].

on their way to church.¹⁵² On January 21, nine members of the Ladies in White movement were reportedly detained by agents of State Security as they were on their way to attend a literary tea at the organization's headquarters in Havana.¹⁵³ They also reported that on January 27, 36 women who are members of the Ladies in White movement were arrested in various parts of the country, in many instances to prevent them from attending religious services.¹⁵⁴ According to reports, on February 13 and 14 some 30 Ladies in White were detained and some were beaten as an event to mark the birthday of a deceased activist and founder of the movement, Laura Pollán, was wrapping up.¹⁵⁵ On February 24, at least 54 members of the Ladies in White were detained as they were leaving a mass held in Havana to commemorate the anniversary of the death of Orlando Zapata Tamayo and four members of the Brothers to the Rescue.¹⁵⁶ On March 18, members of the movement were reportedly beaten in the municipality of Palma Soriano, province of Santiago de Cuba, after participating in a literary tea held to mark the anniversary of the events of March 2003, known as the "Black Spring".¹⁵⁷ On March 27, 16 Ladies in White were detained, forced to board a bus and taken to two isolated places, where they were held for some five hours.¹⁵⁸ Similarly, on April 7, supposed police agents had detained at least 58 members of the Ladies in White as they were on their way to church in the province of Santiago de Cuba and held them for some three hours. Five Ladies in White were reportedly detained in the Province of Santa Clara, and another five in Holguín.¹⁵⁹ The available information indicates that on April 13, three activists in the group were reportedly detained in the province of Santiago de Cuba by supposed officers with the Revolutionary National Police (PNR) and the State Security Department (DSE), to prevent them

¹⁵² Centro de Información Hablemos Press. January 22, 2013. [Damas de Blanco golpeadas cuando se dirigían a santuario](#) [Ladies in White beaten on the way to church]; Misceláneas de Cuba. January 24, 2013. [Damas de Blanco golpeadas cuando se dirigían a santuario](#) [Ladies in White beaten as they head for church].

¹⁵³ Centro de Información Hablemos Press. January 22, 2013. [Damas de Blanco golpeadas cuando se dirigían a santuario](#) [Ladies in White beaten on the way to church]; Ladies in White Association. January 22, 2013. [Arrestan a Damas de blanco](#) [Ladies in White arrested]; Martí Noticias. January 21, 2013. [Arrestan a Damas de blanco](#) [Ladies in White arrested].

¹⁵⁴ Centro de Información Hablemos Press. January 28, 2013. [Incremento del hostigamiento y arrestos contra las Damas de Blanco](#) [Harassment and arrests of Ladies in White increasing].

¹⁵⁵ M.A.R. por Cuba. February 14, 2013. [MAR por Cuba denuncia maltrato a Damas de Blanco](#) [MAR por Cuba denounces mistreatment of Ladies in White]; ACI Prensa. February 14, 2013. [Cuba: Detienen a Berta Soler junto a treinta Damas de blanco](#) [Cuba: Berta Soler and thirty other Ladies in White detained]; Asociación Damas de Blanco. February 14, 2013. [Las Damas de Blanco rememoran a su fundadora Laura Pollán](#) [Ladies in White Commemorate Founder Laura Pollán]; Hazte Oír. February 15, 2013. [La dictadura cubana acosa y detiene a treinta Damas de blanco](#) [Cuban dictatorship harasses and detains thirty Ladies in White].

¹⁵⁶ Cuba Democracia y Vida. February 24, 2013. [CUBA AUDIO: Arrestan violentamente a más de 50 Damas de blanco](#) [CUBA AUDIO: More than 50 Ladies in White brutally arrested]; Martí Noticias. February 24, 2013. [Arrestan a más de 50 Damas de blanco](#) [More than 50 Ladies in White Arrested]; Asociación Damas de Blanco. February 24, 2013. [Asamblea Nacional se estrena con arrestos y represión en las calles](#) [National Assembly begins with arrests and repression on the streets].

¹⁵⁷ Centro de Información Hablemos Press. March 20, 2013. [Golpean y arrestan a Damas de Blanco en Santiago de Cuba](#) [Ladies in White Beaten and Arrested in Santiago de Cuba]; Pedazos de la Isla. March 19, 2013. [Pedradas contra Damas de Blanco en Palma Soriano, vecinos salen para defenderlas](#) [Rocks thrown against Ladies in White in Palma Soriano, neighbours go to their aid].

¹⁵⁸ Centro de Información Hablemos Press. March 27, 2013. [Ómnibus del terror y la vileza](#) [An Omnibus of Terror and Villainy]; Voz desde el destierro. March 27, 2013. [Cuba: Ómnibus del terror y la vileza contra las Damas de Blanco](#) [Cuba: An Omnibus of Terror and Villainy against the Ladies in White].

¹⁵⁹ Centro de Información Hablemos Press. April 8, 2013. [Detienen a cincuenta Damas de Blanco en Santiago de Cuba](#) [Fifty Ladies in White Detained in Santiago de Cuba]; Martí Noticias. April 7, 2013. [Detienen a Damas de Blanco](#) [Ladies in White Detained].

from attending mass the following day.¹⁶⁰ On April 28, a number of Ladies in White were reportedly beaten and insulted outside and inside a church, as they were attending mass, by persons presumably connected to the government.¹⁶¹ On Sunday, July 14, some twelve Ladies in White were reportedly assailed by alleged security forces after attending mass in the province of Matanzas.¹⁶² According to reports from members of the Ladies in White movement and the Cuban Patriotic Union [*Unión Patriótica de Cuba*] (UNPACU), on August 17 and 18, 2013, there were some 20 episodes in which members were detained, and multiple acts of harassment committed against them in Santiago de Cuba, Holguín, Havana, Matanzas and Pinar del Río. The available information indicates that nationwide, some 17 Ladies in White were detained on August 18.¹⁶³ On September 8, during the celebration of the feast of the Virgen de la Caridad del Cobre, multiple members of the Ladies in White were detained and beaten nationwide, as were other activists and opponents of the government as they returned from Sunday mass. According to what was reported, similar incidents of violence and detentions of members of the movement occurred on Sunday, September 22.¹⁶⁴ On Sunday, October 20, several activists were detained in a police operation staged at the end of a religious service at the Church of Santa Rita de Casia in Havana. Among those detained were members of the Ladies in White. That same day, more than 30 members of the group were said to have been detained in various provinces across the country.¹⁶⁵

¹⁶⁰ Centro de Información Hablemos Press. April 17, 2013. [Arrestan a Dama de Blanco en Santiago de Cuba](#) [Ladies in White Arrested in Santiago de Cuba]; Misceláneas de Cuba. April 18, 2013. [Arrestan a Dama de Blanco en Santiago de Cuba](#) [They Arrest Ladies in White in Santiago de Cuba].

¹⁶¹ Unión Patriótica de Cuba (UNPACU)/YouTube. 28 de abril de 2013. Publicado por Ana Belkis Ferrer Garcia. [Damas de Blanco en la Iglesia Nuestra Señora del Rosario 284-13](#) [Ladies in White in the Church of Nuestra Señora del Rosario]; ACI Prensa. April 29, 2013. [VIDEO: Damas de Blanco: Agentes del gobierno cubano las golpean dentro de una iglesia](#) [VIDEO: Ladies in White: Agents of the Cuban Government Beat Them Inside a Church].

¹⁶² Martí Noticias. July 14, 2013. [Agreden a Damas de Blanco](#) [Ladies in White Assailed]; Observatorio Cubano de Derechos Humanos. July 15, 2013. [Acción Urgente contra represión de activistas de UNPACU y Damas de Blanco](#) [Urgent Action against repression of activists from UNPACU and Ladies in White]; Asociación Damas de Blanco. July 15, 2013. [Detenidos y golpeados activistas y Damas de Blanco en Matanzas](#) [In Matanzas, activists and Ladies in White detained and beaten].

¹⁶³ ABC.es/EFE. August 19, 2013. [Nueva oleada represiva contra la disidencia en Cuba](#) [New wave of repression against dissent in Cuba]; Martí Noticias/EFE. August 19, 2013. [Disidentes denuncian detenciones en Cuba](#) [Dissidents denounce detentions in Cuba]; Asociación Damas de Blanco. August 18, 2013. [Represión contra Damas de Blanco en Cuba](#). [Repression against Ladies in White in Cuba].

¹⁶⁴ Centro de Información Hablemos Press. September 9, 2013. [Damas de Blanco y opositores acompañaron a la Virgen en La Habana](#) [Ladies in White and opposition members accompanied the Virgin in Havana]; Instituto Cubano por la Libertad de Expresión y Prensa (ICLEP). September 8, 2013. [Prosiguió este 8 de septiembre el hostigamiento contra las damas de blanco y sus acompañantes](#) [This September 8 the harassment of Ladies in White and those with them continued]; Red Latinoamericana y del Caribe para la Democracia (RedLad). September 2013. [Agresión contra Guillermo Fariñas y Damas de Blanco en Cuba](#) [Assault on Guillermo Fariñas and Ladies in White in Cuba]; Pro Cuba Libre. September 23, 2013. [Matanzas: Damas de Blanco denuncian otro domingo de arrestos, golpes y 'actos de repudio'](#) [Matanzas: Ladies in White denounce another Sunday of arrests, beatings and "acts of repudiation"]; Asociación Damas de Blanco. September 9, 2013. [Cientos de activistas y Damas de Blanco acuden a las iglesias en el día de la Caridad](#) [Hundreds of activists and Ladies in White go to Church during the day of the Caridad]; Asociación Damas de Blanco. September 23, 2013. [Matanzas: Damas de Blanco denuncian otro domingo de arrestos, golpes y 'actos de repudio'](#) [Killings: Ladies in White denounce another Sunday of arrests, beatings and acts of repudiation].

¹⁶⁵ Misceláneas de Cuba. October 22, 2013. [Alrededor de 180 Damas de Blanco desfilaron este domingo en todo el país](#) [Around 180 Ladies in White marched this Sunday nationwide]; Asociación Damas de Blanco. October 20, 2013. [Arrestadas Damas de blanco y opositores](#) [Ladies in White and members of the opposition arrested].

178. On January 30, police agents reportedly detained journalists Yusmila Reyna Ferrera and Hergues Frandín, and searched their residences in La Maya, province of Santiago de Cuba.¹⁶⁶

179. On February 5, independent journalist Héctor Julio Cedeño Negrín was allegedly beaten and arrested as he was taking pictures of inspectors said to have been committing acts of violence. The journalist was accused of an alleged “assault” against the police officer who detained him and reportedly spent 12 days in custody, during which time he went on a hunger strike.¹⁶⁷ Following his release, the journalist said that he was informed that he was still under investigation, under house arrest and had to check in with a police station periodically.¹⁶⁸

180. On February 11, 2013, supposed agents of the National Police searched the homes of Pedro Luis González Díaz and Bernardo León Martínez in Pinar del Río. The two were activists and members of the political opposition. The police were looking for copies of the document “The Citizen Demand for Another Cuba” [*Demanda Ciudadana por otra Cuba*]. Both activists were held for several hours.¹⁶⁹

181. Ángel Santiesteban Prats, a writer and author of a blog critical of the government called “Los hijos que nadie quiso” has reportedly been imprisoned since February 28, 2013, after a Havana provincial court sentenced him in early 2012 to five years in prison for the supposed crimes of “trespassing and battery.”¹⁷⁰ On January 28, 2013, the People’s Supreme Court reportedly denied his appeal and confirmed his conviction. Santiesteban maintained that the charges against him had been trumped up and were politically motivated.¹⁷¹

¹⁶⁶ Centro de Información Hablemos Press. January 31, 2013. [Sigue detenido el periodista independiente Héctor Julio Cedeño \(audio\)](#) [The leader and general coordinator of the Oasis program detained]; Martí Noticias. January 31, 2013. [Detienen a periodistas independientes en Santiago de Cuba \(audio\)](#) [Independent journalists detained in Santiago de Cuba].

¹⁶⁷ Centro de Información Hablemos Press. February 8, 2013. [Sigue detenido el periodista independiente Héctor Julio Cedeño \(audio\)](#) [Independent journalist Héctor Julio Cedeño still in custody]; Martí Noticias. February 9, 2013. [Reportero que captó abusos a cuentapropistas es trasladado al vivac](#) [Reporter who photographed abuses of self-employed workers is moved to tent]; Cuba Democracia y Vida. February 6, 2013. [CUBA: Detenido el periodista Independiente Héctor Julio Cedeño Negrín por tomar fotografías](#) [Independent journalist Héctor Julio Cedeño Negrín arrested for taking photographs]; Knight Center for Journalism in the Americas. February 12, 2013. [Cuban journalist jailed after photographing inspectors, declares hunger strike](#); Martí Noticias. February 18, 2013. [Liberan a comunicador de Hablemos Press](#) [Hablemos Press Journalist released]; Net for Cuba. February 20, 2013. [Liberan al periodista independiente cubano Héctor Julio Cedeño Negrín](#) [Cuban independent journalist Julio Cedeño Negrín released].

¹⁶⁸ Martí Noticias. February 18, 2013. [Liberan a comunicador de Hablemos Press \(audio\)](#) [Hablemos Press journalist released]; Net for Cuba. February 20, 2013. [Liberan al periodista independiente cubano Héctor Julio Cedeño Negrín](#) [Cuban independent journalist Héctor Julio Cedeño Negrín released]; Centro de Información Hablemos Press/YouTube. February 19, 2013. [Declaraciones del periodista Héctor Julio Cedeño](#) [Journalist Héctor Julio Cedeño statements].

¹⁶⁹ Centro de Información Hablemos Press. February 14, 2013. [Registros y detenciones en Pinar del Río en busca de Demanda ciudadana](#) [Search for ‘Citizen Demand’ lead to household searches and detentions in Pinar del Río]; Comisión de Derechos Humanos y Reconciliación Nacional. March 4, 2013. [Cuba: Algunos actos de represión política en el mes de febrero de 2013](#) [Cuba: some acts of political repression in February 2013].

¹⁷⁰ Havana Times. December 10, 2012. [Cuban Writer Angel Santiesteban Gets 5-Year Prison Sentence](#); Cubaencuentro. December 8, 2012. [Escritor cubano, condenado a cinco años de prisión](#) [Cuban writer sentenced to five years in prison]; Committee to Protect Journalists (CPJ). February 28, 2013. [Authorities must explain conviction of Cuban writer](#); Reporters Without Borders. April 29, 2013. [Call for release of blogger held for past two months](#).

¹⁷¹ Cubaencuentro. December 30, 2012. [Escritor cubano apela su sentencia en la Isla](#) [Cuban writer appeals his sentence on the island]; Café Fuerte. January 31, 2013. [Tribunal Supremo ratifica sentencia contra el escritor Angel Santiesteban](#) [Supreme Court confirms sentence of writer Angel Santiesteban]; El Nuevo Herald. February 13, 2013. [Supremo ratifica](#)

182. On March 7, human rights defender Yris Pérez Aguilera, president of the Movimiento Femenino por los Derechos Civiles Rosa Parks was reportedly detained and beaten by police during a demonstration. The activist was taken to a hospital unconscious as a result of the beating.¹⁷²

183. Also in March 2013, journalist Alberto Gil Triai Casales was reportedly held, verbally abused and threatened with death by State Security Force agents as he was on his way to an event organized in the home of a political activist.¹⁷³

184. On March 14, agents of State Security and the National Police allegedly assaulted members of the opposition political party Movimiento Opositores por una Nueva República, supposedly to prevent them from holding a meeting.¹⁷⁴

185. On March 2013, there was a break-in at the home of activist and member of the political opposition Martha Beatriz Roque, by persons supposedly linked to an association of former revolutionary fighters. The assailants reportedly beat up Roque and a number of her friends who were at her home at the time.¹⁷⁵

186. On March 26, journalists, human rights defenders and members of the political opposition were reportedly detained by police to stop them from attending a meeting of an independent civil society group attended by various opposition militants and activists.¹⁷⁶

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[sentencia contra escritor cubano y disidente Santiesteban](#) [Supreme Court confirms sentence of Cuban writer and dissident Santiesteban]; *Havana Times*. February 5, 2013. [Cuba Supreme Court Reaffirms Ruling Against Opposition Writer](#); Committee to Protect Journalists (CPJ). [Authorities must explain conviction of Cuban writer](#); *Reporters Without Borders*. April 29, 2013. [Call for release of blogger held for past two months](#).

¹⁷² *Diario de Cuba*. March 7, 2013. [Disidentes: La activista Yris Pérez Aguilera pierde el conocimiento por una fuerte golpiza de la Policía](#) [Dissidents: Activist Yris Pérez Aguilera loses consciousness from heavy police beating]; Directorio Democrático Cubano. March 7, 2013. [Cuba: golpean brutalmente a Yris Pérez Aguilera durante marcha en Santa Clara y es hospitalizada](#) [Cuba: Yris Pérez Aguilera brutally beaten during march in Santa Clara and is hospitalized]; M.A.R. por Cuba. March 18, 2013. [Desde Cuba: Llamado a campaña de solidaridad con Yris Pérez Aguilera para que se le brinde asistencia médica](#) [From Cuba: Call for campaign of solidarity with Yris Pérez Aguilera to demand that she receive medical care].

¹⁷³ Centro de Información Hablemos Press. March 15, 2013. [Agreden a periodista en San Miguel del Padrón](#) [Journalist in San Miguel del Padrón assailed]; Uncommon Sense. March 16, 2013. [Cuban secret police threaten to kill independent journalist Alberto Gil Triai Casales](#).

¹⁷⁴ Centro de Información Hablemos Press. March 19, 2013. [Violenta represión policial para impedir reunión](#) [Violent police repression to stop meeting]; Blogs de Cuba. March 19, 2013. [Violenta represión policial para impedir reunión](#) [Brutal police repression to stop meeting].

¹⁷⁵ M.A.R. por Cuba. March 28, 2013. [Martha Beatriz Roque acosada](#) [Martha Beatriz Roque accused]; Martí Noticias. March 29, 2013. [Golpeada, atropellada y lesionada Marta Beatriz Roque](#) [Marta Beatriz Roque beaten, trampled and injured]; Comisión Cubana de Derechos Humanos y Reconciliación Nacional. April 2, 2013. [Cuba: algunos actos de represión política en el mes de marzo de 2013](#) [Cuba: some acts of political repression in March 2013].

¹⁷⁶ Centro de Información Hablemos Press. April 1, 2013. [Detenidos periodistas y opositores que intentaban participar en una reunión](#) [Journalists and members of opposition who attempt to participate in a meeting detained]; Martí Noticias. March 27, 2013. [Impiden asistencia de opositores a reunión de nuevo proyecto disidente](#) [Members of opposition prevented from attending meeting of new dissident Project].

187. On April 10, two young members of the Republican Party of Cuba, which opposes the government, were reportedly detained by National Police on accusations of *desacato* and resistance.¹⁷⁷

188. On April 16, agents of State Security and the National Police arrested a number of political activists when they were trying to attend a course on human rights that was to be given in the home of Hugo Damián Prieto Blanco, leader of the group Frente de Línea Dura y Boicot Orlando Zapata. According to what was reported, agents surrounded the house and prevented people from entering.¹⁷⁸

189. On April 13, six activists with the Liberal Party were reportedly detained and beaten by agents of the Revolutionary National Police (PNR) and the Department of State Security (DSE), after circulating pamphlets containing the Universal Declaration of Human Rights.¹⁷⁹

190. Agents from the State Security Department reportedly made death threats against activist and member of the opposition Jorge Luis Santana Reyes, allegedly for organizing political meetings in his home that were critical of the government. According to what was reported, the security forces arrested and interrogated those who were attending an activity held in his home to commemorate the “Black Spring.” Furthermore, on April 21, police agents reported invaded Santana Reyes’ home yet again after a meeting of members of the Red Cubana de Comunicadores Comunitarios. According to reports, Santana Reyes was allegedly held for over 4 hours.¹⁸⁰

191. On May 22, *Centro de Información Hablemos Press* journalist Gerardo Younel Avila Perdomo was reportedly detained and questioned. According to the photo journalist, he was subjected to pressure and threats, but remained silent. He was reportedly released after 10 hours.¹⁸¹

192. On May 30, independent journalist Manuel Guerra Pérez was allegedly detained. According to what the journalist reported, officials interrogated him and threatened him in connection with his journalism, and expressed a particular interest in articles published by *Cubanet* in which the journalist had criticized the government.¹⁸²

¹⁷⁷ Centro de Información Hablemos Press. April 17, 2013. [Dos jóvenes Republicanos acusados de Desacato y Resistencia](#) [Two Republican youths accused of contempt and resistance]; CubaNet. April 12, 2013. [Arrestan a dos jóvenes del Partido Republicano](#) [Two Republican Party youth arrested].

¹⁷⁸ Centro de Información Hablemos Press. April 18, 2013. [Detenidos activistas ante curso sobre Derechos Humanos](#) [Activists trying to attend human rights course detained]; Misceláneas de Cuba. April 18, 2013. [Arrestan a activistas que por asistir a curso sobre derechos humanos](#) [Activists arrested as they attempt to attend human rights course].

¹⁷⁹ Centro de Información Hablemos Press. April 16, 2013. [Declaraciones DD HH: Propaganda enemiga en Cuba](#) [Human Rights Declarations: Enemy propaganda in Cuba]; Misceláneas de Cuba. April 17, 2013. [Declaraciones DD HH: Propaganda enemiga en Cuba](#) [Human Rights Declarations: enemy propaganda in Cuba].

¹⁸⁰ Centro de Información Hablemos Press. March 27, 2013. [Policías amenazan de muerte a opositor](#) [Police threaten member of opposition with death]; Misceláneas de Cuba. April 24, 2013. [Detenido por no cooperar](#) [Detained for not cooperating].

¹⁸¹ Cuba Libre Digital. May 26, 2013. [La dictadura castrista detiene a periodista independiente para chantajearlo](#) [The Castro Dictatorship detains independent journalist for blackmailing it]; Centro de Información Hablemos Press. May 25, 2013. [Detienen a un foto-reportero de Hablemos Press por 10 horas](#) [Photo-journalist from Hablemos Press detained for 10 hours].

¹⁸² Cubanet. May 31, 2013. [Manuel Guerra Pérez, periodista independiente, arrestado, interrogado y amenazado](#) [Manuel Guerra Pérez, independent journalist, arrested, interrogated and threatened]; Desde Cuba Hector Julio Cedeño. [Detienen al periodista Manuel Guerra Pérez](#) [Journalist Manuel Guerra Pérez detained].

193. The IACHR received information indicating that on June 1 in the city of Bayamo, members of the group called Pastors for Change had been beaten and detained as they were preaching in a market. According to what was reported, the assailants were in civilian dress. However, they used government vehicles in the operation. Similarly, on August 30, 14 members of the group had been violently repressed to prevent them from participating in a vigil in the city of Bayamo. On September 7, group member Felipe Yulier Espinosa Rodríguez had reportedly denounced that police agents had opened a case file on him for the alleged crime of “pre-criminal social threat”.¹⁸³

194. On Sunday, September 1, over 70 persons in different provinces across the country were reportedly detained. According to what was reported, during the Sunday activities of the Ladies in White movement, a number of members of the group, together with other members of the opposition, were reportedly arrested by agents of the State.¹⁸⁴

195. On September 10, journalist Guillermo Fariñas was detained by individuals presumed to be State agents after participating in a peaceful demonstration of over 200 drivers of horse-drawn carriages protesting a tax hike. According to what was reported, during his detention Fariñas was beaten and mistreated. Some hours later the journalist was set free, but no reason for his detention was given.¹⁸⁵

196. Similarly, on September 26 members of the Opposition Movement for a New Republic were detained in Santiago de las Vegas, municipality of Rancho Boyeros, as they were circulating copies of the so-called “Citizen Demand for Another Cuba” [*Demanda Ciudadana por otra Cuba*], an initiative whose objective is to get the State to ratify international human rights covenants.¹⁸⁶

197. The IACHR was informed that in the month of September, the number of detentions and assaults against members of the opposition and peaceful dissidents in the country rose, particularly in the case of members of the Ladies in White movement and the Patriotic Union of Cuba (UNPACU). In

¹⁸³ Diario de Cuba. June 1, 2013. [Detenidos y golpeados ocho miembros de Pastores por el Cambio que predicaban en un mercado de Bayamo](#) [Eight members of Pastors for Change who preached in a Bayamo market detained and beaten]; Centro de Información Hablemos Press. September 3, 2013. [Golpean a Pastores por el Cambio en la Plaza de la Patria](#) [Pastors for Change Beaten in Plaza de la Patria]; Centro de Información Hablemos Press. September 9, 2013. [Integrante de Pastores por el Cambio golpeados y con un expediente de Peligrosidad Social + Audio y Fotos](#) [Member of Pastors for Change beaten and with and investigation for Social Dangerousness Opened + Audio and Photos].

¹⁸⁴ Centro de Información Hablemos Press. September 5, 2013. [Más de 70 detenciones arbitrarias en menos de 24 horas](#) [Over 70 arbitrary detentions in less than 24 hours]; Voz desde el destierro. September 5, 2013. [Aumenta la represión en Cuba: Más de 70 detenciones arbitrarias en menos de 24 horas](#) [Repression in Cuba on the rise: More than 70 arbitrary detentions in less than 24 hours]; Asociación Damas de Blanco. September 2, 2013. [Damas de Blanco se fortalecen, pese a represión](#) [Ladies in White get strengthened, even though repression].

¹⁸⁵ El País. September 11, 2013. [Detenido en Cuba el disidente Guillermo Fariñas](#) [Dissident Guillermo Fariñas detained]; Red Latinoamericana y del Caribe para la Democracia (RedLad). September 2013. [Agresión contra Guillermo Fariñas y Damas de Blanco en Cuba](#) [Assault on Guillermo Fariñas and Ladies in White in Cuba]; Martí Noticias. September 11, 2013. [Fariñas presentará denuncia ante fiscalía militar en Cuba](#) [Fariñas will file complaint with the office of the military prosecutor in Cuba].

¹⁸⁶ Centro de Información Hablemos Press. September 26, 2013. [Arrestan a activistas del Movimiento Nueva República](#) [Activists with the New Republic Movement arrested]; Voz desde el destierro. September 27, 2013. [Represión en Cuba: Arrestan a activistas del Movimiento Nueva República](#) [Repression in Cuba: Activists with the New Republic Movement arrested]; CaféFuerte. June 12, 2012. [Documento: Demanda ciudadana por otra Cuba](#) [Document: Citizen Demand for Another Cuba].

September alone, there were some 700 cases of detentions, and hundreds of cases of assaults, “acts of repudiation” and harassment against dissidents, reportedly by agents of the State.¹⁸⁷

198. On October 10, 2013, State agents reportedly arrested *Misceláneas de Cuba* correspondent Mario Echevarría Driggs, as he was covering a demonstration in front of the National Capitol. Similarly, on October 11, journalists David Águila Montero –director of the *Agencia Social de Periodistas Independientes* (ASPI)- and William Cácer Díaz -a correspondent for *Centro de Información Hablemos Press*- were reportedly detained. According to what was reported, the journalists were allegedly released on October 14, together with two other correspondents from *Centro de Información Hablemos Press*, Denis Noa Martínez and Pablo Morales Marchán, who had been detained on October 13.¹⁸⁸

199. The Inter-American Commission is reminded that Principle 9 of the IACHR’s Declaration of Principles states that “[t]he murder, kidnapping, intimidation of and/or threats to social communicators, as well as the material destruction of communications media violate the fundamental rights of individuals and strongly restrict freedom of expression. It is the duty of the state to prevent and investigate such occurrences, to punish their perpetrators and to ensure that victims receive due compensation.”

200. As the United Nations Special Rapporteur on the Protection and Promotion of the Right to Freedom of Opinion and Expression and the Special Rapporteur for Freedom of Expression of the OAS Inter-American Commission have stated, the State “has the duty to ensure that journalists and media workers reporting on public demonstrations are not arrested, threatened, assaulted, or limited in any manner in their rights as a result of practicing their profession. Their work materials and tools must not be destroyed or confiscated by the authorities.” Furthermore, “the authorities must not stigmatize or stereotype demonstrators and their demands. They must refrain from making generalizations based on isolated events or the conduct of particular groups.”¹⁸⁹

201. The IACHR is also reminded that “[t]he rights of freedom of assembly and freedom of expression, guaranteed by the American Convention on Human Rights and the International Covenant on Civil and Political Rights, are fundamental, and guaranteeing them is a vital condition to the existence and proper functioning of a democratic society. A State may impose reasonable limitations on

¹⁸⁷ ABC.es. October 3, 2013. [Más de 700 detenciones en Cuba por motivos políticos solo en septiembre](#) [In September alone, more than 700 detentions in Cuba for political reasons]; El Nuevo Herald. October 3, 2013. [Aumentan las detenciones y golpizas a los disidentes cubanos](#) [Detentions and beatings of Cuban dissidents on the rise]; Centro de Información Hablemos Press. *Informe de Septiembre del 2013* [September 2013 Report]. Available for consultation at: <http://www.cubanet.org/wp-content/uploads/2013/10/I-Informe-de-Hablemos-Press-en-Septiembre-del-2013.pdf>; Comisión Cubana de Derechos Humanos y Reconciliación Nacional. October 2, 2013. [Cuba: Algunos actos de represión política en el mes de septiembre 2013](#) [Cuba: Some acts of political repression in September 2013].

¹⁸⁸ *Reporters Without Borders. October 15, 2013. Five Dissident Journalists Freed after Short Detention; Inter-American Press Association (IAPA). 2013 General Assembly – Denver, United States; Centro de Información Hablemos Press. October 12, 2013. Comunicado de Prensa: Tres periodistas detenidos en La Habana* [Press release: three journalists detained in Havana released]; *Knight Center for Journalism in the Americas. October 18, 2013. Cuban authorities release five dissident journalists after brief detention.*

¹⁸⁹ United Nations (UN) Special Rapporteur on the Protection and Promotion of the Right to Freedom of Opinion and Expression and Special Rapporteur for Freedom of Expression of the OAS Inter-American Commission on Human Rights. September 13, 2013. [Joint Declaration on Violence against Journalists and Media Workers in the Context of Protests.](#)

demonstrations for purposes of ensuring that they are conducted peacefully, or to disperse those that turn violent, provided that such limits are governed by the principles of legality, necessity, and proportionality. In addition, the breaking-up of a demonstration must be warranted by the duty to protect individuals, and authorities must use the measures that are safest and least harmful to the demonstrators. The use of force at public demonstrations must be an exception, used under strictly necessary circumstances consistent with internationally recognized principles.”¹⁹⁰

2. Censorship or confiscation of journalistic materials

202. In December 2012, Cuban customs reportedly confiscated a package sent to the organization Taller Libertario Alfredo López [Alfredo López Libertarian Workshop], which contained copies of the Venezuelan newspaper *El Libertario*. According to what the organization reported, in January Cuban authorities informed it of the Retention and Modification Act and the Confiscation Resolution, documents that allegedly made a record of the censorship measure. They also indicated that the authority’s account of the events, as it appeared in the documents, claimed that in the package “were found 17 newspapers whose content is inimical to the general interests of the nation, whereupon they were confiscated.”¹⁹¹

3. Other relevant situations

203. On Monday, April 22, journalist Eliocer Cutiño Rodríguez, a correspondent with the *Centro de Información Hablemos Press*, was reportedly fired from his job with a State-owned company. On April 19 and 22, journalist José Leonel Silva Guerrero, also a correspondent for *Centro de Información Hablemos Press*, was summoned to appear before the chief of State Security in Holguín and was threatened with jail. According to the news agency, these were acts of government repression targeting its members.¹⁹²

204. Members of religious organizations complained of having been intimidated by State officials, accused of belonging to “counterrevolutionary” churches and warned of possible reprisals for their religious affiliations.¹⁹³

205. The IACHR is concerned by the Cuban State’s September 19 response to the recommendations made by the United Nations Human Rights Council as a result of the Universal Periodic Review. In the official document that the Cuban State presented to the Council, it rejected a

¹⁹⁰ United Nations (UN) Special Rapporteur on the Protection and Promotion of the Right to Freedom of Opinion and Expression and Special Rapporteur for Freedom of Expression of the OAS Inter-American Commission on Human Rights. September 13, 2013. [Joint Declaration on Violence against Journalists and Media Workers in the Context of Protests](#).

¹⁹¹ *Havana Times*. January 14, 2013. [Confiscan periódicos a anarquistas cubanos](#) [Newspapers sent to Cuban anarchists confiscated]; *Knight Center for Journalism in the Americas*. January 15, 2013. [Cuban customs agents seize Venezuelan newspaper critical of Chávez and Castro](#).

¹⁹² Centro de Información Hablemos Press. April 23, 2013. [Represión contra corresponsales de Hablemos Press](#) [Repression against *Hablemos Press* correspondents]; Misceláneas de Cuba. April 25, 2013. [Represión contra corresponsales de Hablemos Press](#) [Repression against *Hablemos Press* correspondents].

¹⁹³ Centro de Información Hablemos Press. March 18, 2013. [Incremento de la represión contra religiosos](#) [Repression against clergy on the rise]; Blogs de Cuba. March 18, 2013. [Incremento de la represión contra religiosos](#) [Anti-clerical repression increasing].

group of suggested recommendations on the grounds that they were “politically biased and are built on false premises put forward in an attempt to discredit Cuba.” Most of those recommendations had to do with exercise of the right to freedom of expression and the right of association. Among the recommendations that Cuba did not support are the following: “[r]emove restrictions on freedom of expression notably concerning the connection to the Internet”; “[r]econsider all the laws that criminalize or restrict the right to freedom of expression and the right of internet freedom”; and “[l]ift the restrictions that hinder free expression and ensure that human rights defenders and independent journalists are not victims of intimidations or arbitrary prosecutions and detentions”, and others.¹⁹⁴

206. The Inter-American Commission would again point out that Principle 1 of the IACHR’s Declaration of Principles provides that “[f]reedom of expression in all its forms and manifestations is a fundamental and inalienable right of all individuals. Additionally, it is an indispensable requirement for the very existence of a democratic society,” while Principle 5 states that “[r]estrictions to the free circulation of ideas and opinions, as well as the arbitrary imposition of information and the imposition of obstacles to the free flow of information violate the right to freedom of expression.” Principle 13, for its part, affirms that “[t]he means of communication have the right to carry out their role in an independent manner. Direct or indirect pressures exerted upon journalists or other social communicators to stifle the dissemination of information are incompatible with freedom of expression.” Similarly, the State has a duty to adopt the legislative and other measures necessary to ensure a pluralist and diverse media, including laws that prevent public or private monopolies.

207. The Inter-American Commission is recommending to the Cuban State that it review and amend its domestic laws regulating freedom of expression, to bring them in line with international standards on this subject. Accordingly, it is particularly urging the State to adopt adequate measures to prevent violence against journalists, including public censure of any act of aggression and adequate measures to train public officials, especially the police and security forces; to take the measures necessary to prevent violence against journalists covering public demonstrations and against demonstrators, to establish reasonable limits, dictated by the principles of legality, necessity and proportionality, to ensure that the demonstrations are peaceful, as well as to conduct serious, impartial and effective investigations into attacks, threats and acts of intimidation committed against journalists and others working in the media.

208. Similarly, it is recommending the State to promote the repeal of laws that criminalize *desacato*, no matter what form it takes, since such laws are contrary to inter-American standards and restrict public discourse, an essential element to enable democracies to function; to promote amendment of the laws criminalizing defamation to eliminate the use of criminal proceedings to protect honor and reputation when information of interest to the public is disseminated regarding public

¹⁹⁴ United Nations General Assembly. September 19, 2013. A/HRC/24/16/Add.1. Human Rights Council. 24th session. Universal Periodic Review. Report of the Working Group on the Universal Periodic Review. Cuba. Annex 1: [Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review](#); United Nations General Assembly. July 8, 2013. A/HRC/24/16. Human Rights Council. 24th session. Universal Periodic Review. [Report of the Working Group on the Universal Periodic Review](#); *Diario de Cuba*. September 20, 2013. [La Habana rechaza las recomendaciones de la ONU sobre libertad de expresión](#) [*Havana rejects UN recommendations on freedom of expression*]; Knight Center for Journalism in the Americas. September 30, 2013. [Cuba rejects UN recommendations on freedom of expression](#); *Cuba en Miami*. September 20, 2013. [Cuba rechaza recomendaciones de la ONU en materia de libertad de expresión](#) [*Cuba rejects UN recommendations on freedom of expression*]; *Martí Noticias*. September 21, 2013. [¿Qué recomendaciones del EPU rechazó Cuba en Ginebra?](#) [*Which UPR recommendations did Cuba reject in Geneva?*]

officials or candidates for public office; to encourage democratic debate through public statements, practices and policies that promote tolerance and respect for all persons as equals and irrespective of their thinking or ideas; to repeal any provision that allows prior censorship by any organ of the State, and any preconditions that may imply censorship of freedom of expression, such as prerequisites as to veracity, timeliness and impartiality in reporting; to refrain from exercising public power to punish or reward media and journalists for their editorial line or coverage of certain news, whether through discriminatory and arbitrary placement of government advertising or other indirect means aimed at blocking the communication and circulation of ideas and opinions; to promote effective laws, policies and practices that allow access to information and equal participation of all sectors of society so that their needs, opinions and interests are taken into account when crafting and adopting decisions; to adopt legislative and other measures necessary to guarantee pluralism, including laws that prevent public or private monopolies; and to adjust the institutional frameworks so as to prevent the possibility that state powers might be used to reward or punish the media, according to their editorial line and instead use them to encourage pluralism and diversity in public discourse.

4. Recommendations

209. The Inter-American Commission is recommending to the Cuban State that it review and amend its domestic laws regulating freedom of expression, to bring them in line with international standards on this subject. Accordingly, it is particularly urging the State to:

- Adopt adequate measures to prevent violence against journalists, including public censure of any act of aggression and adequate measures to train public officials, especially the police and security forces.
- Take the measures necessary to prevent violence against journalists covering public demonstrations and against demonstrators, and establish reasonable limits, dictated by the principles of legality, necessity and proportionality, to ensure that the demonstrations are peaceful.
- Conduct serious, impartial and effective investigations into attacks, threats and acts of intimidation committed against journalists and others working in the media.
- Promote the repeal of laws that criminalize contempt (*desacato*), no matter what form it takes, since such laws are contrary to inter-American standards and restrict public discourse, an essential element to enable democracies to function.
- Promote amendment of the laws criminalizing defamation to eliminate the use of criminal proceedings to protect honor and reputation when information of interest to the public is disseminated regarding public officials or candidates for public office.
- Encourage democratic debate through public statements, practices and policies that promote tolerance and respect for all persons as equals and irrespective of their thinking or ideas.

- Repeal any provision that allows prior censorship by any organ of the State, and any preconditions that may imply censorship of freedom of expression, such as prerequisites as to veracity, timeliness and impartiality in reporting.
- Refrain from exercising public power to punish or reward media and journalists for their editorial line or coverage of certain news, whether through discriminatory and arbitrary placement of official advertising or other indirect means aimed at blocking the communication and circulation of ideas and opinions.
- Promote effective laws, policies and practices that allow access to information and equal participation of all sectors of society so that their needs, opinions and interests are taken into account when crafting and adopting decisions.
- Adopt legislative and other measures necessary to guarantee pluralism, including laws that prevent public or private monopolies.
- Adjust the institutional frameworks so as to prevent the possibility that state powers might be used to reward or punish the media, according to their editorial line and instead use them to encourage pluralism and diversity in public discourse.

F. Women

210. So far in 2013, as in 2012, the Secretariat has received information about abuses committed against women human rights defenders in Cuba. Various civil society organizations have drawn attention to abuses committed by police and paramilitary forces against the Ladies in White.¹⁹⁵

211. The Secretariat has also received information that Afrodescendant women are more vulnerable to being victims of different forms of violence. According to Cubalex, the situation of Afrodescendant women is critical because they are traditionally victims of discrimination on three levels: by reason of their sex, race, and extreme poverty. Afrodescendant women generally live in fringe zones, usually located in periurban districts with high crime and poverty rates, often popularly referred to as "black neighborhoods."¹⁹⁶

212. Cubalex has expressed concern that there is no legal framework for combating violence against women in Cuba and that nothing is done to eliminate this problem, including domestic and sexual violence.¹⁹⁷

¹⁹⁵ Cubalex, *Informe sobre la situación discriminación contra las mujeres en Cuba* [Report on the Situation of Discrimination against Women in Cuba]. 2013 [document in the Commission archive].

¹⁹⁶ Cubalex, *Informe sobre la situación discriminación contra las mujeres en Cuba* [Report on the Situation of Discrimination against Women in Cuba]. 2013 [document in the Commission archive].

¹⁹⁷ Cubalex, *Informe sobre la situación discriminación contra las mujeres en Cuba* [Report on the Situation of Discrimination against Women in Cuba]. 2013 [document in the Commission archive].

G. Children

213. The situation of children has not changed in relation to 2012. As was noted in the 2012 Annual Report, contrary to the Convention on the Rights of the Child, which establishes 18 years as the age of majority, on the island majority is reached at the age of 16 and, therefore, that is also the minimum age for marriage and criminal liability.

214. As a result, the Committee on the Rights of the Child expressed its concern in 2011 because, as established in the Cuban Criminal Code, adolescents from 16 to 18 years of age would not be protected against crimes of corruption of minors (use of children in prostitution and pornography) and the sale of children. On the contrary, the State informed the Committee that when adolescent girls, who are older than 16 years of age, exhibit antisocial behavior and also engage in prostitution, “measures of re-educational security” can be imposed on them, “which can be confinement in a rehabilitation center” inasmuch as they represent a “manifest threat to society,”¹⁹⁸ instead of providing them with reintegration, rehabilitation and recovery services, in keeping with the special protection they deserve.

G. Children

215. Additionally, the Human Rights Committee expressed its concern with regard to children born of Cuban mothers and fathers who are outside of the island and don’t fall under any category to be able to pass on their nationality pursuant to Article 29 of the Cuban Constitution.¹⁹⁹ Consequently, these children are at risk of remaining stateless.²⁰⁰ Moreover, the Committee expressed concern over travel restrictions for Cuban nationals, which would result in the involuntary separation of a number of Cuban families and thereby restrictions of the rights of children to live with their parents.²⁰¹

¹⁹⁸ Committee on the Rights of the Child, *Reply of Cuba to the list of issues concerning additional and updated information (CRC/C/CUB/Q/2) related to the second periodic report of Cuba (CRC/C/CUB/2)*, CRC/C/CUB/Q/2/Add. 1, April 27, 2011, par. 139.

¹⁹⁹ Article 29 of the Cuban Constitution establishes: Cuban citizens by birth are:

- a) those born on national territory, except for the children of foreigners who are serving their government or international organizations. The law establishes the formal requirements for the case of children of non permanent foreign residents in the country;
- b) those born abroad of a Cuban mother or father, who are serving on an official mission;
- c) those born abroad of a Cuban mother or father, having fulfilled the formal requirements established by law;
- ch) those born outside national territory, of a native-born mother or father of the Republic of Cuba, who have lost Cuban citizenship, provided that it is claimed as provided by law;
- d) foreigners who, by their own merit attained in the struggle for the liberation of Cuba, were considered Cuban citizens by birth.

²⁰⁰ Committee on the Rights of the Child, *Consideration of Reports submitted by States parties under Article 44 of the Convention, Concluding observations: Cuba*, CRC/C/CUB/CO/2, August 3, 2011, par. 30.

²⁰¹ Committee on the Rights of the Child, *Consideration of Reports submitted by States parties under Article 44 of the Convention, Concluding observations: Cuba*, CRC/C/CUB/CO/2, August 3, 2011, par. 41.

H. Lesbians, Gays, Bisexuals, Trans, and Intersex (LGBTI)

216. In 2013 and 2012, the Commission received information regarding progress and challenges in the protection of the rights of lesbian, gay, bisexual, transsexual, and intersex (LGBTI) persons in Cuba. The IACHR has received information regarding the efforts made by the National Center for Sex Education (CENESEX), a state entity that works on the issues of sexual diversity with a view to promoting and protecting the rights of LGBTI persons.

217. As regards progress, the IACHR was informed that in 2008 the Ministry of Public Health approved regulations permitting transsexual persons to undergo free sex reassignment surgery, completely covered by the State.²⁰² However, the IACHR has received information to the effect that any transgender person wishing to benefit is first required to sign a document professing their support for and commitment to the government's ideology.²⁰³

218. November 2012 saw the election of the first transsexual delegate to the Municipal Assembly of People's Power in the municipality of Caibarién. Adela Hernández -registered at birth as José Agustín Hernández González- age 48, was elected as a municipal delegate, a landmark event without precedent in Cuban history.²⁰⁴

219. In 2012 and 2013, the Commission also learned about situations of violence toward LGBTI persons in Cuba.²⁰⁵ In 2013, the IACHR received information about the murder of Ivonne, a transgender woman allegedly killed by her husband, and of Nelson Linares, a gay man, who allegedly died while in state custody.²⁰⁶

220. In 2012, the IACHR was informed about situations of discrimination against unofficial LGBTI organizations and activists, which it disclosed in its 2012 annual report.²⁰⁷ In 2013, as the IACHR

²⁰² IPS, Inter Press Service in Cuba, *Mujeres y personas LGBT, a la saga de los derechos sexuales*

[Women and LGBT persons, the sexual rights saga], March 9, 2013, available at: http://www.ipscuba.net/index.php?option=com_k2&view=item&id=6741:mujeres-y-personas-lgbt-a-la-saga-de-los-derechos-sexuales&Itemid=42

²⁰³ Private meeting of the IACHR with Cuban activists, 2013.

²⁰⁴ Caribbean news, First Transgender elected official makes history in Cuba, November 23, 2012, http://www.caribbean360.com/index.php/news/cuba_news/637918.html#ixzz2D4EIPC4R.

²⁰⁵ On January 4, 2012, in the municipality of Guaimaro in the province of Camagüey, an 18 year-old transgender woman, Jessica – registered at birth as Luis Leidel – was allegedly beaten by police agents without any motivation. According to the information received by the IACHR, Jessica was subsequently taken to a police station, where she was once again beaten and left in a cell in which she died due to the blows received. Carsten Balzer and Jan Simon Hutta, Transmurder Monitoring Project, a project of Transrespect versus Transphobia Worldwide, “List of 265 reported murdered trans persons from November 15th, 2011 to November 14th, 2012 (in chronological order)”, available at: <http://www.transrespect-transphobia.org/uploads/downloads/TMM/TvT-TMM-TDOR2012-NameList-en.pdf>

²⁰⁶ Private meeting of the IACHR with Cuban activists, 2013.

²⁰⁷ See IACHR, *Annual Report 2012, Chapter IV, Cuba*. In May 2012, the Observatorio Cubano de los Derechos LGBT (OBCUD LGBT) denounced situations of repression against them from the start of the Fifth Campaign against Homophobia in Cuba (V Jornada contra la Homofobia en Cuba). Some members of OBCUD LGBT were kidnapped, locked up, and interrogated in jails by state security officers so that they would not participate in the activities organized by the National Center for Sex Education (CENESEX) in the framework of that campaign on May 11, 2012. The organization noted that such repression was due to its maintaining a position different from that of the governmental entity CENESEX, and that they have publicly indicated that

continued to receive information about other activists who are being discriminated against for not being politically aligned with CENESEX.²⁰⁸ In addition, November 18, 2012, the Proyecto Cubano Shui Tuix alleged that police authorities were harassing the LGBTI population in Havana, including shutting down and imposing excessive controls in bars and restaurants where LGBTI persons socialize.²⁰⁹

221. In May 2013, the director of CENESEX received an award from the *Equality Forum*, an organization that defends the human rights of LGBTI persons in the United States.²¹⁰ Moreover, in October 2013, she received the “Grand Prix” award at the Tenth Annual Gala Arc-en-Ciel, “for her contribution to the rights of sexual minorities in Cuba.”²¹¹ However, LGBTI activists not affiliated with the government's political position criticize CENESEX, saying that the measures adopted by the State are not necessarily to protect the rights of those persons in Cuba but, rather, a campaign to win international support and “clean” the Cuban Government’s image tarnished by the crimes and abuses committed in the period when the Military Units to Help Production (UMAP) were active.²¹² They also say that “the homosexual community in Cuba is a marginalized community that suffers stigma and persecution, without a public forum ... Homophobia is institutionalized.”²¹³

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they would “made a special appeal to” (“emplazarían”) Mariela Castro, director of CENESEX, if they were to encounter her. This organization indicates that it has attempted to “legalize its situation” to win legal recognition of its status as an organization at the domestic level. Nonetheless, they allege that the State and the CENESEX do not recognize them. In August 2012, the OBCUD LGBT distributed a bulletin entitled “Verdad y Memoria” (“Truth and Memory”) that seeks to vindicate the rights of the LGTBI persons who in 1960 were taken to the Military Units to Help Production (UMAP) where, according to the organization, they were arbitrarily detained and tortured because of their sexual orientation and gender identity. Observatorio Cubano de Derechos LGBT, Verdad y Memoria, Boletín Semanal sobre las Unidades Militares de Ayuda a la Producción (UMAP), No. 1, August 2012. Available at: <http://www.cubanet.org/wp-content/uploads/2012/08/Folleto-2-hojas1.pdf>. Observatorio Cubano de Derechos LGBT, communiqué of May 14, 2012. Available at: <http://observacuba.org/denuncia-del-observatorio-cubanos-de-derechos-lgbt/>. Observatorio Cubano de Derechos LGBT, Dossier OBCUD LGTB, April 28, 2012. Available at: <http://observacuba.org/dossier-obcud-lgtb/>.

²⁰⁸ Private meeting of the IACHR with Cuban activists, 2013.

²⁰⁹ Cubaencuentro, *Proyecto LGBT cubano denuncia acoso policial al colectivo y cierre de locales en La Habana* [Cuban LGBT Project charges police harassment of the community and closure of locales in Havana], November 20, 2012, available at: <http://www.cubaencuentro.com/cuba/noticias/proyecto-lgbt-cubano-denuncia-acoso-policial-al-colectivo-y-cierre-de-locales-en-la-habana-281675>.

²¹⁰ Martí Noticias, *Participará Mariela Castro en evento LGBT en Filadelfia* [Mariela Castro to attend LGBT event in Philadelphia], April 30, 2013, available at: <http://www.martinoticias.com/content/article/22058.html>.

²¹¹ Cf. Embassy of Cuba in Canada, “*Recibe Mariela Castro Espin el premio internacional Grand Prix en la 10ma Gala Anual del premio Arc-en-Ciel*”, en Montreal, 19 de octubre de 2013 [“Mariela Castro Espin wins International Grand Prix at the 10th Annual Gala Arc-en-Ciel in Montreal, October 19, 2013] available at: <http://www.cubadiplomatica.cu/canada/ES/Inicio/tabid/2370/ctl/Details/mid/4062/ItemID/33140/Default.aspx>; Diario de Cuba, “Grupo gay canadiense condecora a Mariela Castro por ser ‘pionera de los derechos humanos en Cuba’” [Canadian gay group honors Mariela Castro for being a “pioneer of human rights in Cuba”], October 21, 2013, available [in Spanish] at: http://www.diariodecuba.com/cuba/1382390464_5596.html

²¹² Martí Noticias, *Mariela Castro con agenda diferente a comunidad LGBT* [Mariela Castro with different agenda from the LGBTI community], July 2, 2013, available at: <http://www.martinoticias.com/content/article/24036.html>.

²¹³ El Nuevo Herald, *Disidentes cubanos piden el apoyo a proyectos de defensa homosexuales en Cuba* [Cuban dissidents asked for help from homosexual defense projects in Cuba], July 30, 2013, available at: <http://www.elnuevoherald.com/2013/07/23/1532776/disidentes-cubanos-piden-el-apoyo.html>.

222. Civil society complains that there are absolutely no laws in Cuba to protect the rights of LGBTI persons.²¹⁴ The director of CENESEX notes that despite the absence of laws in this area, Cuba can rely on a political will that has facilitated the implementation of a national sex education program, which is helping to change the patriarchic, homophobic mindset.²¹⁵ CENESEX has also said that there is a lack of sufficiently sensitized staff in the country's health, criminal law, legal, and social assistance institutions.²¹⁶

223. According to press releases referring to official data dialogue in 2012, in Cuba there are around 57,300 people deprived of their liberty. Cuba has five maximum-security prisons and another 195 penitentiaries, of which 40 are closed facilities.

224. At a hearing held during its 147th regular session, the IACHR continued to receive worrying information about the situation of persons deprived of liberty in Cuba. In that regard, it was reported that Cuba has one of the highest incarceration rates in the region, with some 531 people deprived of liberty for every 100,000 inhabitants, making a total of around 60,000 inmates distributed among the country's more than 250 jails.

225. It was reported that persons deprived of their liberty in Cuba hasta continuously subjected to torture and cruel, inhuman, and degrading treatment, including beatings, hangings, and being forced into awkward postures (such as the *shakira* or *cangrejo* [crab]; prolonged isolation in punishment cells in subhuman conditions; denial of water and food as a punishment; deliberate transfer to places far from the prison's home; cancellation or arbitrary postponement of visits; lack of basic medical attention and contemptuous treatment by medical staff; provision of food in a state of decomposition and misappropriation of food by the prison authorities; lack of clean water for drinking and washing; severe overcrowding; isolation, psychological pressure, and even deprivation of water for inmates who decide to go on hunger strike; and the use of different methods of torture of detainees under questioning. This generalized situation of repression, assaults, and arbitrary acts against prisoners, as well as the lack of judicial protection and mechanisms for making complaints has resulted in high levels of suicide and self-inflicted harm by inmates, including mutilation, castration, self-injury, and even injecting themselves with fecal matter.

226. The Inter-American Commission has also continued to receive information about appalling sanitary and hygiene conditions, as well as lack of proper medical attention in Cuban prisons. Thus, for instance, it emerged that in July this year at least three inmates died in a cholera outbreak at Granma provincial jail, known as Las Mangas, in Havana.²¹⁷ Furthermore, in April the IACHR granted

²¹⁴ OBCUB LGBT, *Carta abierta de activistas LGBT a diputados cubanos* [Open letter from LGBT activists to Cuban congresspersons], <http://www.cubonet.org/wp-content/uploads/2013/02/Carta-abierta.pdf>.

²¹⁵ Cubasi.cu, *Mariela Castro destaca en Brasil avances en Cuba en derechos humanos y sexuales* [Mariela Castro in Brazil highlights progress in human and sexual rights in Cuba], April 7, 2013, available at: <http://www.cubasi.cu/cubasi-noticias-cuba-mundo-ultima-hora/item/16046-mariela-castro-destaca-en-brasil-avances-de-cuba-en-derechos-humanos-y-sexuales>.

²¹⁶ IPS, Inter Press Service in Cuba, *Mujeres y personas LGBT, a la saga de los derechos sexuales* [Women and LGBT persons, the sexual rights saga], March 9, 2013, available at: http://www.ipscuba.net/index.php?option=com_k2&view=item&id=6741:mujeres-y-personas-lgbt-a-la-saga-de-los-derechos-sexuales&Itemid=42.

²¹⁷ This fact was brought to the attention of the IACHR in an e-mail from the organization "Hablemos Press" and subsequently corroborated in several media outlets.

precautionary measures (MC-34/13) in favor of Josvany Melchor Rodríguez, an inmate at Prison 1580, who has a mental disability and other serious health problems that had not been properly treated.

J. Afrodescendants

227. In 2013, the Commission received information regarding the human rights situation faced by the Afro-Cuban population as it relates to closure of cultural and mutual benefit associations which had developed in Cuba and fought in different ways for the rights of Afrodescendants, “legal” preclusion from creating independent organizations in light of emerging circumstances, the ban on holding meetings to exchange ideas and seek solutions, a negative public trial which led to the prohibition of their most deeply rooted cultural and religious practices and traditions, closure of their own print media outlet, denial of access to regional and national media outlets, among other things.

228. Information in the possession of the Commission indicates that persons of African and Asian descent on the island suffer persistent police harassment and violation of their rights. So-called police profiling allows law-enforcement agents to detain a citizen at any time in a public place, for no reason. Such detentions are based on nothing more than a subjective practice stemming from culturally entrenched racial prejudice that mainly affects Afrodescendants, which tells them that they have just committed a crime or are about to do so. For its part, the Dangerousness Law likewise allows a person to be arrested under subjective assumptions.

229. According to the information received, in light of the growing anti-racist pro-civil rights movement and the level of awareness among the population of an issue that affects everyone equally, the government’s reaction was to unleash its mechanisms of repression against peaceful endeavors of independent movements, forcibly preventing them from engaging in their activities, or frequently denying activists entry to official forums where intellectual discussions on the topic are held, keeping those who are truly affected by the problem from voicing their own opinion.

230. Persons of African descent are particularly affected by the housing problem. Most of them live in periurban districts where the sanitation and living conditions are precarious in the extreme and the official assistance even worse.

231. In sum, the Cuban Afrodescendant population is in a situation of extreme vulnerability and suffers various forms of discrimination that deprive them of their most basic civil, political, economic, social, and cultural rights.

V. Recommendations

232. Taking into consideration all the foregoing, the Commission once again states that the restrictions on political rights, the freedom of expression and the dissemination of ideas, the lack of elections, the lack of independence of the judiciary, and the restrictions on the right to residence and movement add up to a permanent situation of violation of the fundamental rights of Cuban citizens in Cuba and urges the State to make the reforms needed in keeping with its international human rights obligations.

1. The Commission urges the State of Cuba to bring its procedural laws into line with the applicable international standards on due process so that persons who go before the courts for the

determination of their rights and responsibilities can enjoy minimum legal guarantees to mount a defense. In particular, it should void the convictions of the victims in case 12,476.

2. In addition, the Commission urges the State of Cuba to adopt the legislative and other measures necessary to ensure that the death penalty is not applied in violation of the principles of due process and a fair trial conducted before a competent, independent, and impartial court previously established by law.

3. The IACHR also urges the Cuban State to eliminate the provisions on “dangerousness” and “special proclivity of a person to commit crimes” found in the Criminal Code.

4. The Commission urges the Cuban State to adopt measures to prevent and eradicate the different forms of harassment of those who exercise the right to association and assembly for humanitarian and trade union purposes, and against those who are dedicated to defending and promoting human rights.

5. The Commission also recommends to the Cuban State that it adopt the measures necessary to ensure its citizens the right to freely determine their place of residency, freedom of movement in Cuban territory, and the freedom to leave and enter the country.