

## CHAPTER IV.B CUBA

### I. INTRODUCTION

1. The Inter-American Commission on Human Rights (“the IACHR” or “the Commission”), exercising its competence with respect to the promotion and protection of human rights in the Americas, has closely monitored the events that took place in late 2015 and in 2016 in Cuba that could be relevant for the full enjoyment of human rights. While noting the adoption of affirmative measures, particularly in terms of economic, social, and cultural rights, the Commission also warned about certain ongoing situations of concern, which remain an obstacle to enjoyment of human rights by people under the jurisdiction of the Cuban state.

2. The persistent restrictions on political rights, the right to association, the right to freedom of expression and thought, the lack of independence of the judiciary, and the restrictions on freedom of movement continue to amount to systematic limitation of the human rights of Cubans. In addition to the foregoing is the increase in severe repression and restrictions on human rights defenders, dissidents, and independent journalists who do not toe the official line. The IACHR also learned of situations of discrimination and violence with respect to LGTBI persons, in addition to contexts of exclusion that are detrimental to Afro descendants, particularly the sub representations in high ranking government positions.

3. This is why, when evaluating the human rights situation in Cuba, the IACHR decided to include the country in this Chapter<sup>1/</sup>, because it considers that it falls within the purview of Article 59(6)(a)(1) of the IACHR’s Rules of Procedure, which refers to:

- a. a serious breach of the core requirements and institutions of representative democracy mentioned in the Inter-American Democratic Charter, which are essential means of achieving human rights, including: [when]:
  - i. 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.

4. It also understood that said situation fits under Article 59(6)(c) of the same Rules of Procedure, which establishes:

- c. 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 instruments.

5. Pursuant to Article 59.5 of the Rules of procedure of the IACHR, in drawing up this report, the Commission was able to use information from international organizations, civil society, and the Cuban Government itself (data from the website of the Ministry of Foreign Affairs of Cuba and other official media outlets). It has also drawn on the information obtained through the other mechanisms of protection of the IACHR, such as the system of petitions and cases and precautionary measures, among others.

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<sup>1</sup> Commissioner Paulo Vannuchi stated his opposition to Chapter IV B of the Annual Report of the IACHR, and therefore voted against it.

6. Once the IACHR receives the information available it analyzes it in the light of inter-American human rights standards, identifies sound government practices, and issues recommendations. It also avails itself of this opportunity to describe its activities in relation to Cuba in 2016.

7. The Commission is aware of the various changes continuously unfolding in the Hemisphere, and the growing challenges States face when it comes to achieving the ideal level of enjoyment of human rights. The IACHR remains at the disposal of all actors, especially the Cuban Government authorities, to provide whatever technical support is required, while aspiring to achieve the greater openness needed to strengthen dialogue and facilitate an inter-American exchange of best practices in the Hemisphere.

8. Lastly, the Commission would like to note the death of Fidel Castro Ruz, the longtime leader of the Cuban Revolution, on November 25, 2016. According to information available in the media, nine days of national mourning were decreed in the wake of his passing.

9. On December 20, 2016 the Commission sent to the State of Cuba a copy of the preliminary draft of this report in accordance with Articles 59(7) and 59(10) of the Rules with a deadline of January 20, 2017 for comments. The State did not respond. On March 14, 2017, the IACHR approved the final version of this chapter.

## **II. PRELIMINARY MATTERS**

### **A. Cuba's situation vis-à-vis the OAS**

10. On January 31, 1962, the Government of Cuba was excluded from participation 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).<sup>2/</sup> On June 3, 2009, during its thirty-ninth regular session held in San Pedro Sula (Honduras), the General Assembly of the Organization of American States (OAS) adopted Resolution 2438, which 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."<sup>3/</sup>

11. It was construed as an encouraging sign that the Seventh Summit of the Americas, held in Panama City, Panama, April 10 and 11, 2015, included the presence of President Raúl Castro Ruz, such that all 35 heads of state and government of the member countries of the Organization of American States were brought together in one place for the first time.<sup>4/</sup> However, during President Castro's inaugural speech to the Seventh Summit of Heads of State and Government of the member states of the Association of Caribbean States (ACS), held in Cuba on June 4, 2016, he said that "[...] the OAS, since its founding, was, is and will be an instrument of imperialist domination and no reform will be able to change its nature nor its history. Therefore, Cuba never will return to the OAS."<sup>5/</sup>

<sup>2</sup> The text of Resolution VI can be found in the "Eighth Meeting of Consultation with Ministers of Foreign Affairs acting as Organ of Consultation in application of the Inter-American Reciprocal Assistance Treaty, Punta del Este, Uruguay, January 22 - 31, 1962, Documents of the Meeting", Organization of American States, OEA/Ser.F/II.8, doc. 68, pages 17-19.

<sup>3</sup> The text of Resolution AG/RES. 2438 (XXXIX-0/09) is found in the "Thirty-Ninth Regular Session, San Pedro Sula, Honduras, June 2 - 4, 2009, Proceedings - Volume I - Certified Texts of the Declarations and Resolutions, "Organization of American States, OEA/Ser.P/XXXIX-0.2, p. 12.

<sup>4</sup> Seventh Summit of the Americas, Panama, 2015. [http://www.summit-americas.org/vii/docs\\_en.htm](http://www.summit-americas.org/vii/docs_en.htm) Available at: [http://www.summit-americas.org/vii/docs\\_en.htm](http://www.summit-americas.org/vii/docs_en.htm).

<sup>5</sup> ACS, press release: [Intervención de Raúl Castro Ruz, Presidente de los Consejos de Estado y de Ministros de la República de Cuba, en la inauguración de la VII Cumbre de la Asociación de Estados del Caribe](#), June 4, 2016.

## B. Cuba's situation vis-a-vis the IACHR

12. The past situation of exclusion of Cuba by the OAS has not kept this Commission from fulfilling its mandate to protect and monitor human rights because it recognizes that the Cuban State is "legally 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 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."<sup>6/</sup> Moreover, with respect to States that have not ratified the American Convention on Human Rights, the States empowered the Commission to "pay particular attention to the observance of the human rights referred to in Articles I, II, III, IV, XVIII, XXV, and XXVI of the American Declaration of the Rights and Duties of Man," as established in Article 20.a of the Statute of the IACHR.

13. In the exercise of its competence the Commission has continued monitoring the human rights situation in Cuba through special reports;<sup>7/</sup> in Chapter IV or its equivalent, of the Annual Report;<sup>8/</sup> through the cases system;<sup>9/</sup> and by adopting precautionary measures for the purpose of protecting the life and personal integrity of Cuban citizens<sup>10/</sup> It should be noted that the Cuban State does not answer the communications or decisions of the IACHR. Nonetheless, it is known that the pronouncements made by the Commission have had a positive impact on the persons on whose behalf they have been issued, such as, for example, the issuance of precautionary measures aimed at protecting the rights to life and personal integrity, the beneficiaries of which have reported having experienced the cessation, sometimes temporary, of the mistreatment, harassment, and attacks that targeted them.<sup>11/</sup>

14. The Commission takes this opportunity to call upon the Cuban State to grant its consent to a first on-site visit by the Commission to Cuba, in order to facilitate the exchange of relevant information showing the progress made and challenges faced with respect to human rights.

## C. Process of normalizing relations between Cuba and the United States

15. The process of normalizing relations between Cuba and the United States, announced on December 17, 2014,<sup>12/</sup> continues. Considerable media coverage was given to President Barack Obama's visit to Cuba on March 21-22, 2016, during which he acknowledged the "extraordinary achievements in education

<sup>6</sup> IACHR: [2002 Annual Report, Chapter IV. Human Rights Developments in the Region. Cuba](#), OEA/Ser.L/V/II.117 Doc. 1 rev. 1, March 7, 2003, paragraphs 3-7; [Seventh Report on the Human Rights Situation in Cuba](#), OEA/Ser.L/V/II.61 Doc.29 rev. 1, October 4, 1983, paragraphs 16-46.

<sup>7</sup> IACHR, Special Reports from the following years: 1962; 1963; 1967; 1970; 1976; 1979; 1983, available at: [www.cidh.org](http://www.cidh.org).

<sup>8</sup> IACHR, Chapter IV or its equivalent of the Annual Report for the following years: 1984-1985, 1985-1986, 1986-1987, 1987-1988, 1988-1989, 1989-1990, 1990-1991, 1991, 1992-1993, 1993, 1994, and uninterruptedly from 1996 to 2015, available at: <http://www.oas.org/en/iachr/reports/annual.asp>.

<sup>9</sup> IACHR: Report on the Merits No. 47/96, Case 11,436, The Tugboat "13 de marzo," October 16, 1996; IACHR, Report on the Merits No. 86/99, Case 11,589, Armando Alejandro Jr., Carlos Costa, Mario de la Peña, and Pablo Morales, September 29, 1999; IACHR, Report on Admissibility No. 56/04, [Petición 12.127](#) Vladimiro Roca Antúnez et al., October 14, 2004; IACHR, Report on Admissibility No. 57/04, [Peticiónes 771/03 y 841/03](#), Oscar Elías Biscet et al., October 14, 2004, and its subsequent pronouncement on the merits at IACHR, Report on the Merits No. 67/06, [Caso 12.476](#), Oscar Elías Biscet et al., October 21, 2006; IACHR, Report on Admissibility No. 58/04, [Petición 844/03](#), Lorenzo Enrique Copello Castillo et al., October 14, 2004; and its subsequent pronouncement on the merits at IACHR, Report on the Merits No. 68/06, [Caso 12.477](#), Lorenzo Enrique Copello Castillo et al., October 21, 2006, available at: [www.cidh.org](http://www.cidh.org).

<sup>10</sup> IACHR, Resolution 37ç16 Precautionary Measure No. 236ç16 Juana Mora Cedeño y otros en Cuba, July, 3, 2016. At: <http://www.oas.org/es/cidh/decisiones/cautelares.asp> (In Spanish).

<sup>11</sup> IACHR, Interviews at the Commission's headquarters on June 9, 2016 with Sirley Avila León, the beneficiary of Precautionary Measure 428-15 and, on June 23, 2016, with Iván Hernández Carrillo, the beneficiary of Precautionary Measure 245-13; Hearing on [Situación de defensores y defensoras de derechos humanos en Cuba](#) [Situation of Human Rights Defenders in Cuba], 149th regular period of sessions, October 29, 2013.

<sup>12</sup> The White House, Press Release, Fact Sheet: Charting A New Course On Cuba, December 17, 2014. Available at: <https://www.whitehouse.gov/the-press-office/2014/12/17/fact-sheet-charting-new-course-cuba>.

and health" and the serious differences between the two countries on such issues as democracy and human rights.<sup>13/</sup> For his part, President Raúl Castro Ruz described the steps taken by the Government of the United States as positive but insufficient. He therefore insisted that the economic blockade be lifted and that Guantánamo Bay be returned.<sup>14/</sup>

16. The Cuba-U.S. Bilateral Commission, established in August 2015, to define the focal issues on the agenda for re-establishing relations between the two countries,<sup>15/</sup> held its third meeting on May 16, 2016, in Havana<sup>16/</sup> and the fourth meeting on September 30, 2016, in Washington, D.C.<sup>17/</sup> Both countries have agreed to hold a fifth meeting in December 2016, in Havana.<sup>18/</sup> The delegations have underscored the progress made with respect to diplomatic ties, thanks to the increase in official high-level visits in both directions; the appointment of Jeffrey DeLaurentis as the United States ambassador to Cuba; the holding of technical meetings on issue of mutual interest; and the signing of bilateral instruments aimed at expanding cooperation between the countries.<sup>19/</sup> Outcomes have included the resumption of direct postal services, the restoration of regular flights and maritime transport, the signing of memorandums of understanding on environmental protection and marine protected areas, maritime navigation safety, cooperation in agriculture, health, the adoption of cooperation agreements to combat drug-trafficking, security clearance for in-flight security officials (air marshalls) on board charter and regular flights, and so on.<sup>20/</sup>

17. Despite President Barack Obama's statement during his remarks at Havana's Grand Theater, in Cuba, that the embargo was "an outdated burden on the Cuban people"<sup>21/</sup> and "was only hurting the Cuban

<sup>13</sup> Ministry of Foreign Affairs of Cuba. Special Section Cuba-United States: Declaración a la prensa del Presidente de Estados Unidos de América, Barack Obama, March 21, 2016, available at: <http://cubaeeuu.cubaminrex.cu/article/declaracion-la-prensa-del-presidente-de-estados-unidos-de-america-barack-obama>.

<sup>14</sup> Ministry of Foreign Affairs of Cuba. Special Section Cuba-United States: Declaración a la prensa del Presidente de Cuba, Raúl Castro Ruz, March 21, 2016, available at: <http://cubaeeuu.cubaminrex.cu/article/declaracion-la-prensa-del-presidente-de-cuba-raul-castro-ruz>.

<sup>15</sup> Ministry of Foreign Affairs of Cuba. Special Section Cuba-United States: Recibe Canciller Cubano al Secretario de Estado de los Estados Unidos, Havana, August 14, 2015, available at: <http://cubaeeuu.cubaminrex.cu/article/recibe-canciller-cubano-al-secretario-de-estado-de-los-estados-unidos>.

<sup>16</sup> Ministry of Foreign Affairs of Cuba. Special Section Cuba-United States: [Press Release issued by the Cuban Delegation to the Third Meeting of the Cuba-U.S. Bilateral Commission](#), May 16, 2016; Celebrarán Cuba y los Estados Unidos tercera reunión de la Comisión Bilateral, May 12, 2016, available at: <http://cubaeeuu.cubaminrex.cu/article/celebraran-cuba-y-los-estados-unidos-tercera-reunion-de-la-comision-bilateral>.

<sup>17</sup> Ministry of Foreign Affairs of Cuba, Comunicado de prensa de la delegación cubana a la cuarta reunión de la Comisión Bilateral Cuba-EE.UU., Washington, September 30, 2016, available at: <http://www.minrex.gob.cu/es/comunicado-de-prensa-de-la-delegacion-cubana-la-cuarta-reunion-de-la-comision-bilateral-cuba-eeuu>.

<sup>18</sup> Ministry of Foreign Affairs of Cuba, Comunicado de prensa de la delegación cubana a la cuarta reunión de la Comisión Bilateral Cuba-EE.UU., Washington, September 30, 2016, available at: <http://www.minrex.gob.cu/es/comunicado-de-prensa-de-la-delegacion-cubana-la-cuarta-reunion-de-la-comision-bilateral-cuba-eeuu>.

<sup>19</sup> Ministry of Foreign Affairs of Cuba, Press Release: [Comunicado de prensa de la delegación cubana a la cuarta reunión de la Comisión Bilateral Cuba-EE.UU.](#), Washington, September 30, 2016; [Press Release issued by the Cuban Delegation to the Third Meeting of the Cuba-U.S. Bilateral Commission](#), May 16, 2016. See also: The White House, [President Obama Announces Another Key Administration Post](#): Jeffrey DeLaurentis – Ambassador to the Republic of Cuba, September 27, 2016; New York Times, [Obama Nominates First Ambassador to Cuba in Over 50 Years](#), September 27, 2016.

<sup>20</sup> Ministry of Foreign Affairs of Cuba. Special Section Cuba-United States: Concluyó visita a los Estados Unidos del Ministro de Salud Pública de Cuba, June 15, 2016, available at: <http://cubaeeuu.cubaminrex.cu/article/concluyo-visita-los-estados-unidos-del-ministro-de-salud-publica-de-cuba>; Anuncia Cuba nuevas disposiciones relacionadas con el tema migratorio, April 22, 2016, available at: <http://cubaeeuu.cubaminrex.cu/article/anuncia-cuba-nuevas-disposiciones-relacionadas-con-el-tema-migratorio>; Office of Missouri Governor Jay Nixon, [Gov. Nixon to lead trade delegation to Cuba next week](#), May 24, 2016; United States Department of Agriculture, News Release No. 0069.16, Agriculture Secretary Vilsack Announces Historic Agreements for U.S.-Cuba Agriculture Sectors, March 21, 2016, available at: <http://www.usda.gov/wps/portal/usda/usdahome?contentid=2016/03/0069.xml>; United States Postal Service, National News: United States Postal Service Resumes Mail Service to Cuba, March 16, 2016, available at: [https://about.usps.com/news/national-releases/2016/pr16\\_010.htm](https://about.usps.com/news/national-releases/2016/pr16_010.htm); U.S. Department of State, U.S.-Cuba Memorandum of Understanding of February 16, 2016, February 16, 2016, available at: <http://www.state.gov/e/eb/rls/othr/ata/c/cu/252525.htm>.

<sup>21</sup> The White House, Office of the Press Secretary, Remarks by President Obama to the People of Cuba, March 22, 2016, available at: <https://www.whitehouse.gov/the-press-office/2016/03/22/remarks-president-obama-people-cuba>.

people instead of helping them" and despite the adoption by the Executive Branch of the United States Government of several measures aimed at lifting some of the restrictions imposed on the island, the embargo is still in effect. On this matter, the IACHR has consistently stated its rejection of the continuation of that economic sanction because of its disproportionate and indiscriminate impact on the general population and has repeatedly called on the United States Congress to lift it.<sup>22/</sup>

18. For the twenty-fifth consecutive time, this time with the support of 191 out of the 193 members of the United Nations, its General Assembly adopted resolution 71/5 of 26 October 2016 on the need to put an end to the economic, commercial and financial embargo against Cuba. For the first time ever, no State opposed the resolution. Only the United States and Israel abstained.<sup>23/</sup>

19. Likewise, on December 17, 2015, the United Nations General Assembly adopted resolution 70/151, Human rights and unilateral coercive measures, in which it:

4. Urges all States not to adopt any unilateral measures not in accordance with international law and the Charter that impede the full achievement of economic and social development by the population of the affected countries, in particular children and women, that hinder their well-being and that create obstacles to the full enjoyment of their human rights, including the right of everyone to a standard of living adequate for his or her health and well-being and his or her right to food, medical care and education and the necessary social services, as well as to ensure that food and medicine are not used as tools for political pressure [...]<sup>24/</sup>

20. In particular, Mr. Idriss Jazairy, the United Nations Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights (hereafter "Special Rapporteur on coercive measures"), has cited Cuba as an example of the adverse impact of unilateral coercive measures on the enjoyment of the right to achieve a decent standard of living and health because they restrict access to medicines, new studies and available technology for health, to food, water treatment chemicals, and electricity.<sup>25/</sup>

21. On October 13, 2016, in the course of a Parliamentary Hearing, the International Relations Commission of the Cuban General Assembly denounced the direct and indirect impact on the Cuban population of the half a century of economic sanctions imposed by the United States.<sup>26/</sup>

22. For his part, the former Attorney general of Cuba, Miguel Ángel García Alzugaray, that in the health sector, the repercussions from the economic embargo could be seen specifically "in the need to purchase medicines, reagents, spare parts for diagnosis and treatment equipment, instruments, and other inputs from far-away markets. Add to that the need to resort to intermediaries, unnecessarily increasing

<sup>22</sup> IACHR: Annual Reports, Chapter IV.B. Situation of Human Rights in the Region, Cuba, [2013](#), par. 107; [2014](#), par. 157, [2015](#), paragraphs. 15, 18-20, available at: [www.cidh.org](http://www.cidh.org); Press Release N°156, [IACHR Welcomes Announcement to Reestablish Relations between the United States and Cuba](#), December 18, 2014.

<sup>23</sup> United Nations General Assembly, Resolution 71/5 - Necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba, A/RES/71/5, 26 October 2016. See also: UN News Centre, [ONU aprueba resolución contra bloqueo a Cuba sin votos en contra por primera vez en la historia](#), 26 October 2016; New York Times, [U.S. Abstains in U.N. Vote Condemning Cuba Embargo](#), October 26, 2016; ABC NEWS, [US Says It Will Abstain on UN Vote on Cuba Embargo](#), October 26, 2016; BBC Mundo [Sin precedentes: ¿qué significa que Estados Unidos se abstenga de apoyar su propio embargo a Cuba en la Asamblea General de la ONU?](#), October 26, 2016; El Tiempo, ['Política de aislamiento a Cuba no ha funcionado' dice Estados Unidos](#), October 26, 2016.

<sup>24</sup> United Nations General Assembly, Resolution 70/151-Human rights and unilateral coercive measures, A/RES/70/151, 7 March 2016.

<sup>25</sup> United Nations General Assembly Report of the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights, Idriss Jazairy. Human rights and unilateral coercive measures, A/70/345, 28 August 2015.

<sup>26</sup> National Assembly of the People's Power of the Republic of Cuba, Noticias: Celebrada Audiencia Parlamentaria "El Pueblo de Cuba contra el Bloqueo", October 13, 2016, available at: <http://www.parlamentocubano.cu/index.php/noticias/>.

health sector costs and sometimes putting off treatment for patients."<sup>27/</sup>As examples to illustrate his point, the former Attorney General cites the plight of the "William Soler" Pediatric Cardiology Center, which after being classified as a "rejected hospital" by the Office of Foreign Assets Control (OFAC), was subjected to strict conditions that made it impossible for the firms NuMED, AGA Medical and Boston Scientific to continue supplying the devices that are used in diagnostic and treatment processes using interventional catheterization.<sup>28/</sup> In the former Attorney General's words, every person's right to food is also impaired by the need to "[...] relocate markets for importing inputs for the foods industry, with the resulting higher costs for the additional expenses of maritime shipping and the burdensome exchange rates due to the prohibition of using the US dollar in commercial transactions, among other reasons."<sup>29/</sup>

23. In the time frame covered by this Chapter, the economic sanctions imposed by the United States on Cuba allegedly prevented, for example, the purchase by the "Dr. José Rafael Estrada Gonzalez" Neurology and Neurosurgery Institute of the Medtronic brain stimulating systems needed to treat Cuban patients with Parkinson's disease and other neurological conditions. Another example was another business response to Cuban interest in purchasing medical equipment needed to study the peripheral nervous system and to train a specialist. The company allegedly told the Cuban authorities in February 2016 that it was not authorized to market its products to the island.<sup>30/</sup> There are also reports in the food sector of higher "prices for seeds, fertilizers, spare parts for agricultural machinery and other inputs that have to be imported from geographically remote markets."<sup>31/</sup>As regards sports, the National Institute of Sports and Physical Education (INDER) reportedly cannot purchase, directly from the United States "[...] sports equipment of various brand for baseball and softball, or some of the equipment for archery, even though those items are required under the official rules of International Federations,"<sup>32/</sup> due to the fact that obtaining them from third countries raises the cost by 20 to 30 percent.

24. The Commission agrees with the United Nations Special Rapporteur on unilateral coercive measures when he points out that "[...] if the human rights impact of unilateral coercive measures on the most vulnerable groups is egregious and if there is no perceptible progress towards the achievement of the proclaimed target, the legitimacy of these measures will be called into question even if a good legal case can be made in support of the action."<sup>33/</sup> That is why the IACHR takes this opportunity to insist to the United States Congress that it lift the embargo imposed on Cuba and its population.

25. Notwithstanding the above, the Commission finds that the economic embargo imposed on Cuba does not exempt the State from complying with its international obligations nor does it excuse the non-

<sup>27</sup> Office of the Attorney General of the Republic of Cuba, Publications: El genocida bloqueo económico comercial y financiero Norteamericano contra Cuba: Un crimen de lesa humanidad, Lic. Miguel Angel García Alzugaray, February 27, 2016, S/P, available at: <http://www.fgr.cu/es/el-genocida-bloqueo-economico-comercial-y-financiero-norteamericano-contra-cuba-un-crimen-de-lesa>.

<sup>28</sup> Office of the Attorney General of the Republic of Cuba, Publications: El genocida bloqueo económico comercial y financiero Norteamericano contra Cuba: Un crimen de lesa humanidad, Lic. Miguel Angel García Alzugaray, February 27, 2016, S/P, available at: <http://www.fgr.cu/es/el-genocida-bloqueo-economico-comercial-y-financiero-norteamericano-contra-cuba-un-crimen-de-lesa>.

<sup>29</sup> Office of the Attorney General of the Republic of Cuba, Publications: El genocida bloqueo económico comercial y financiero Norteamericano contra Cuba: Un crimen de lesa humanidad, Lic. Miguel Angel García Alzugaray, February 27, 2016, S/P, available at: <http://www.fgr.cu/es/el-genocida-bloqueo-economico-comercial-y-financiero-norteamericano-contra-cuba-un-crimen-de-lesa>.

<sup>30</sup> Ministry of Foreign Affairs of Cuba, Cuba Vs Bloqueo, REPORT BY CUBA: on Resolution 70/5 of the United Nations General Assembly, entitled "Necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba," June 2016, pp. 13-14), available at: <http://www.cubavsbloqueo.cu/sites/default/files/InformeBloqueo2016ES.pdf>.

<sup>31</sup> Ministry of Foreign Affairs of Cuba, Cuba Vs Bloqueo, REPORT BY CUBA: on Resolution 70/5 of the United Nations General Assembly, entitled "Necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba," June 2016, pp. 14-15), available at: <http://www.cubavsbloqueo.cu/sites/default/files/InformeBloqueo2016ES.pdf>.

<sup>32</sup> Ministry of Foreign Affairs of Cuba, Cuba Vs Bloqueo, REPORT BY CUBA: on Resolution 70/5 of the United Nations General Assembly, entitled "Necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba," June 2016, p. 16, available at: <http://www.cubavsbloqueo.cu/sites/default/files/InformeBloqueo2016ES.pdf>.

<sup>33</sup> United Nations Human Rights Council. Report of the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights, Idriss Jazairy, 10 August 2015.

observance of the American Declaration of the Rights and Duties of Man (hereinafter “American Declaration”) described in this Chapter.

### **III. HUMAN RIGHTS SITUATION IN CUBA**

26. Having examined the information received, the Commission will now present the most relevant human rights-related events reported from late 2015 to date, in particular with a view to pointing out the obstacles that stand in the way of the full enjoyment of the rights provided for in the Charter and more specifically in the American Declaration, which the Cuban State is committed to respect in relation to all persons under its jurisdiction, and also to recognizing the progress that has been made in this regard.

#### **A. General human rights situation**

27. As regards the human rights situation in Cuba, the Commission has constantly pointed out that the restrictions on political rights, the right to association, the right to freedom of expression and dissemination of thought, the lack of independence of the judicial branch, and the restrictions on the freedom of movement and residence have, for decades, constituted a permanent and systematic violation of the human rights of its inhabitants.

28. In the course of 2016, available information suggests that the scenario to which attention has already been drawn has not changed substantially. In fact, the IACHR reaffirms what it wrote last year, when civil society complained that the announcements of a normalization of relations between the United States and Cuba were accompanied by an exacerbation of the repression against the Cuban population perceived as being in opposition because of its critical stance vis-a-vis government policies.<sup>34</sup> That scenario is substantiated by the increase in the number of arbitrary arrests documented in-situ by civil society organizations, as will be shown below. Add to that, the context of harassment and threats and the criminalization of human rights defenders, independent journalists, activists, and social leaders. At the same time, all of the above stood in stark contrast to the resolute political determination to ensure the proper development and wellbeing of all children and to exemplary indicators showing the gradual achievement of economic, social, and cultural rights.

29. No official crime statistics in Cuba are available. The most recent figures reported by the United Nations Office on Drugs and Crime (UNODC) date back to 2011, when 534 intentional homicides were registered: 4.7 per 100,000 inhabitants.<sup>35/</sup>

#### **B. Particular human rights situations**

- **Right to vote and to participate in government**

30. One of the main criteria for including Cuba in Chapter IV of the Annual Report has been the lack of the fundamental elements and institutions of representative democracy accepted by the peoples of the Americas when they signed the Inter-American Democratic Charter, a criterion established in Article 59.6.a.i of the Rules of Procedure of the IACHR. Accordingly, the IACHR has been critical of the lack of conditions needed for genuine political participation by sectors representing various schools of thought in Cuba. Dissidents and their attempt to express their views and find ways of participating in the running of the country end up being drowned out by the existence of a single party, the ban on association for political purposes, and the constant harassment of those who criticize the Government.

31. In the year under review, the Commission was apprised of the holding of the Seventh Congress of the Communist Party of Cuba from April 16 to 19. On that occasion, economic and social actions

<sup>34</sup> IACHR, Hearing on the General Human Rights Situation in Cuba, March 19, 2015, 154th regular session. Video of the session available at: <http://www.oas.org/es/cidh/multimedia/sesiones/154/default.asp>.

<sup>35</sup> UNODC, Intentional homicide, counts and rates per 100,000 population: Americas-Caribbean-Cuba, available at: <https://www.unodc.org/unodc/en/data-and-analysis/statistics.html>.

designed to ensure the continuity of the socialist project initiated with the Revolution were outlined and discussed. They were set forth in two documents, namely Conceptualization of the Cuban Economic and Social Model of Socialist Development and the National Economic and Social Development Plan through to 2030: A Proposed Vision of the Nation, Strategic Goals and Sectors. The documents were submitted "for consultation with Party activists, the Young Communist League, representatives of mass organizations and broad segments of society" from June 14 to September 20, 2016.<sup>36/</sup> According to announcements made at the Tenth Plenum of the Central Committee of the PCC on February 23, 2015, it would be during the aforementioned Seventh Congress that the National Assembly of People's Power would be asked to modify the electoral process in preparation for the 2018 general elections.<sup>37/</sup>

32. Prior to the Seventh Congress of the PCC, on April 14, 2016, the organizations known as Cubalex, Mesa de Diálogo de la Juventud Cubana and Partido por la Democracia Pedro Luis Boitel Abraham presented a proposed amendment to the electoral system.<sup>38/</sup> Those organizations told the Commission that the proposal had been ignored and they announced that they would continue insisting on far-reaching changes that would guarantee the right to take part in free elections, the right to freedom of expression, assembly and association, the right to equality before the law and to nondiscrimination.<sup>39/</sup> According to several digital media, other groups had allegedly also submitted proposals.<sup>40/</sup>

33. During the Seventh Congress of the PCC, President Raúl Castro Ruz, who was reelected First Secretary of the Party Central Committee and President of the Councils of State and Ministers, announced that he would hand over the position of President when his second mandate concludes in 2018. At the same time, the Congress reaffirmed the existence of "a single Party, that of Martí, Baliño, Mella, and Fidel, which guarantees the unity of all Cubans."<sup>41/</sup>

<sup>36</sup> Granma, [Un debate por el futuro de Cuba](#), June 14, 2016; Cubanet, [El Partido Comunista abre un "proceso de consulta" popular](#), June 15, 2016.

<sup>37</sup> Granma, [Efectuado X Pleno del Comité Central del Partido Comunista de Cuba](#), February 23, 2015.

<sup>38</sup> The groups focused on three proposals, namely: 1) **The right to elect and be elected:** Elimination of the candidacy commissions and candidate nomination assemblies largely made up of people who identify strongly with the Government, and the establishment, instead, of an electoral authority to which any Cuban citizen can submit her or his candidacy for any elective public office. Candidates shall be able to campaign on an equal footing with all other candidates. "The law shall uphold the democratic principle permitting alternation of the parties in power." 2) **Restrictions on freedom of expression, assembly, and association:** Guaranteeing citizens their right to organize by forming movements, parties, or associations through which they can put forward proposals, promote debate, and observe electoral processes. 3) Independence of the electoral authorities and List of Registered Voters. Establishment of a permanent, impartial, and professionally qualified electoral authority responsible for conducting transparent electoral processes and voter registration. Registered Voter data may only be used for electoral purposes. Cubalex, *Reforma al Sistema Electoral y a la Ley de Asociaciones y su Reglamento [Reform of the Electoral System, the Associations Act, and its Implementing Regulations]*, 2016.

<sup>39</sup> IACHR. Interview, on June 23, 2016, at IACHR Headquarters, with Jorge Luis "Antunez" Garcia Perez, Frente Patriótico de Resistencia; Antonio Rodiles, Estado de SATS; Laritza Diversent, Cubalex; Carlos Amel Oliva Torres, UNPACU; Bernardo de Quesada Salomón, Pastor in the Movimiento Iglesia Apostólica; Eliecer Ávila, Somos +; Kirenia Nunez, Mesa de Dialogo de la Juventud Cubana; Steve Maikel Pardo, Journalist, Cuba Independiente y Democrática; Juana Mora, Arco Iris Libre de Cuba, and representatives of the NGO *The International Institute on Race, Equality and Human Rights*.

<sup>40</sup> Diario de Cuba: [El MCL pide a la Asamblea Nacional elecciones multipartidistas](#), July 12, 2016; [La Asamblea Nacional 'estudia' la petición de plebiscito de las más de 10.000 firmas entregadas por el MCL y Cuba Decide](#), March 30, 2016; [AlternativaCuba2018, Solicitud de modificaciones a la Ley Electoral de la República de Cuba de 1992](#), September 11, 2015.

<sup>41</sup> CubaDebate: [Concluyó el Congreso del Partido de los comunistas cubanos: Electo nuevo Buró Político y Secretariado \(+ Fotos y Video\)](#), April 19, 2016; [Resolución sobre el Informe Central al VII Congreso del Partido Comunista de Cuba](#), April 18, 2016.



34. By adopting the Inter-American Democratic Charter the OAS member States recognize that representative democracy is the system of government with which the stability, peace, and development of the region<sup>42/</sup> can be attained, this being fundamental in order to achieve the full exercise of fundamental rights.<sup>43/</sup> Article 3 of that Charter states:

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.

35. The right to political participation, enshrined in Article XX of the American Declaration, establishes:

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.

36. Both the Declaration and the 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 people chosen in free elections that are representative of the popular will in a context of free expression and circulation of ideas, even those critical of the government.

37. The Commission has already underscored the importance of the full exercise of political rights, which, together with other rights, make it possible for a democratic and plural system to function appropriately. The exercise of political rights encompasses a wide range of activities that, individually or collectively, help to shape the course of public affairs. The right to elect and be elected is a core feature of democracy and one of the ways in which citizens freely express what they want and exercise their right to political participation. This right implies that citizens can decide directly and freely elect, on an equal footing, those who will represent them in decisions taken with regard to public affairs. At the same time, political participation through exercise of the right to be elected presupposes that citizens are able to stand for office on an equal footing and can hold elective office if they receive the requisite number of votes.

38. Here, the Commission notes that Article 1 of the Constitution of the Republic of Cuba defines the State as “as a unitary and democratic Republic”<sup>44/</sup>; its sovereignty “is vested in the people, from which all the power of the State emanates. That power is exercised directly or through the Assemblies of People’s Power and other organs of the State derived from them, in the manner and according to the rules set by the Constitution and the laws.”<sup>45/</sup> The Article 43 of the Constitution enshrines the right of all citizens to have access to positions and employment in the State and the public administration, without discrimination, based on their merits and capabilities, and it adds at Article 68(a) of the same instrument that all the representative organs of power of the State are elective and renewable.

<sup>42</sup> Inter-American Democratic Charter Twenty-eighth special session. Adopted at the first plenary session, held on September 11, 2001. Lima, Peru. Available at: [http://www.oas.org/charter/docs/es/resolucion1\\_es.htm](http://www.oas.org/charter/docs/es/resolucion1_es.htm).

<sup>43</sup> Inter-American Democratic Charter, Background, Article 7. Twenty-eighth special session. Adopted at the first plenary session, held on September 11, 2001. Lima, Peru. Available at: [http://www.oas.org/charter/docs/es/resolucion1\\_es.htm](http://www.oas.org/charter/docs/es/resolucion1_es.htm).

<sup>44</sup> Constitution of the Republic of Cuba, Article 1, proclaimed on February 24, 1976, and its subsequent amendments approved by the National Assembly of People’s Power. Available at: <http://www.parlamentocubano.cu/index.php/constitucion-de-la-republica-de-cuba/>.

<sup>45</sup> Constitution of the Republic of Cuba, Article 3, proclaimed on February 24, 1976, and its subsequent amendments approved by the National Assembly of People’s Power. Available at: <http://www.parlamentocubano.cu/index.php/constitucion-de-la-republica-de-cuba/>.

39. Law No. 72 of 1992, the Electoral Law, regulates the procedures for electing the delegates to the municipal and provincial assemblies, and the legislators to the National Assembly of People's Power<sup>46/</sup>. In particular, the right of the citizens to vote and to be elected is regulated in Chapters II and III of Title I, on The Right to Vote.<sup>47/</sup> Law No. 89 of 1999, Law on revoking the popular mandate, regulates the possible renewal of the mandate conferred, provided for in Article 68 of the Constitution.

40. In the past, the State has said that "Cuba's democratic system is based on the principle of 'government of the people, by the people and for the people,' adding that the "the Cuban people participate in the exercise and active control of Government through its political and civil institutions and in the framework of its laws."<sup>48/</sup> In addition, it has said that the restrictions imposed by law on the enjoyment of some political rights in Cuba have been the minimum essential for enjoying the protection of the right to self-determination, peace, and life of the whole people, as a response to the growing anti-Cuban aggressiveness of the Empire.<sup>49/</sup>

41. Taking into account the State position, and even though the electoral legislation does not expressly require a political affiliation to the Cuban Communist Party, in practice there is no evidence of genuine participation of sectors representing differing schools of thought. Dissident voices are drowned out by the overwhelming presence of a single party, which in the words of the Constitution "organizes and guides the common effort toward the goals of the construction of socialism and progress toward a communist society."<sup>50/</sup> Add to that, the prohibition of association for political purposes and the constant harassment faced by those who think differently.

42. The Commission is aware that "a State's right to develop its domestic life freely has a counterpart in the form of its obligation to respect the rights of the individual. [...] A proper interpretation of the principle of nonintervention, therefore, is the protection of the right of States to self-determination, provided that the State conducts itself in such a way that the rights of the individual are respected."<sup>51/</sup> For that reason, the Commission is aware that under international law there is no single model for an electoral system, and in particular, for how citizens exercise the right to vote and to be elected,<sup>52/</sup> for these must be designed "according to their historical, political, social and cultural needs, which may vary from one country to another and even within one country, at different historical moments."<sup>53/</sup> Thus, the discretion that States have to design their electoral systems finds its limits in the principles of legality, necessity, and proportionality, otherwise one would run the risk of rendering the essential core of the right illusory.<sup>54/</sup>

43. Observing the persistent lack of plurality and independence and absence of a framework for free access to various sources of information, this Commission considers that undue restrictions continue to

<sup>46</sup> Law No. 72, Electoral Law, adopted on October 29, 1992. Available at: <http://elecciones.discovercubaus.com/wp-content/uploads/2015/04/LEY-NO-72-LEY-ELECTORAL-TÍTULO-PRELIMINAR.pdf>.

<sup>47</sup> Law No. 72, Electoral Law, adopted on October 29, 1992. Available at: <http://elecciones.discovercubaus.com/wp-content/uploads/2015/04/LEY-NO-72-LEY-ELECTORAL-TÍTULO-PRELIMINAR.pdf>.

<sup>48</sup> National report submitted by the State of Cuba; United Nations, 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.

<sup>49</sup> In Chapter 9, "Libro Blanco del 2007," posted on the official web page of the Ministry of Foreign Affairs of Cuba.

<sup>50</sup> Constitution of the Republic of Cuba, Article 5, proclaimed on February 24, 1976, and its subsequent amendments approved by the National Assembly of People's Power. Available at: <http://www.parlamentocubano.cu/index.php/constitucion-de-la-republica-de-cuba/>.

<sup>51</sup> IACHR, Annual Report 1990-1991, Chapter V, Areas in which Steps Need To Be Taken Towards Full Observance of the Human Rights Set Forth In the American Declaration of the Rights and Duties of Man and the American Convention on Human Rights. III. Human Rights, Political Rights, and Representative Democracy in the inter-American system. OEA/Ser.L/V/II.79.rev.1. Doc. 12, February 22, 1991, available at: <http://www.oas.org/en/iachr/reports/annual.asp>.

<sup>52</sup> I/A Court HR. *Case of Castañeda Gutman v. Mexico*. Preliminary Objections, Merits, Reparations, and Costs. Judgment of August 6, 2008. Series C No. 184, par. 162.

<sup>53</sup> I/A Court HR. *Case of Castañeda Gutman v. Mexico*. Preliminary Objections, Merits, Reparations, and Costs. Judgment of August 6, 2008. Series C No. 184, par. 166.

<sup>54</sup> I/A Court HR. *Case of Yatama v. Nicaragua*. Judgment of June 23, 2005. Series C No. 127, par. 206.

be in place that limit the right to political participation of the Cuban people. The Commission continues to heed the announcements of electoral reforms and will examine them in due course from the point of view of the democratic standards agreed upon by the States of the region and inter-American human rights standards.

- **Activism and dissidence**

44. In the period covered by this report, the obstacles that dissidents, human rights defenders, and independent journalists face when they say what they think, or defend and promote respect for human rights have persisted. Harassment and threats, followed by attacks and brief arbitrary detentions, seek to discourage demonstrations criticizing the Government and the work of defending and promoting fundamental rights and to maintain a homogenized line of thought and expression.

- a. **Right to liberty, security and personal integrity and to protection against arbitrary arrest.**

45. Ever since its 1992-1993 Annual Report,<sup>55</sup>/the Commission has been observing with great concern the use of summary arbitrary arrests as a means of harassing human rights defenders, independent journalists, activists, trade union leaders, and anyone else openly voicing criticism of the Cuban Government. That notwithstanding, this Commission is particularly alarmed by the sudden increase in summary arbitrary detentions in the year under review, accompanied by a surge in the violence with which they are carried out.

46. In the last quarter of 2015, the Cuban Commission for Human Rights and National Reconciliation (*Comisión Cubana de Derechos Humanos y Reconciliación Nacional* - CCDHRN) documented 1,093 detentions on political grounds in October, 1,447 in November, and 930 in December, whereby most of those detained were members of the group Damas de Blanco (Ladies in White).<sup>56</sup>/ According to records kept by the *Observatorio Cubano de Derechos Humanos*, in 2015, there were 8,314 summary arbitrary detentions,<sup>57</sup>/ followed by 6,094 more in just the first half of 2016:<sup>58</sup>/ a 46.6 percent increase. The *Observatorio Cubano de Derechos Humanos* also reported 500 more detentions in July,<sup>59</sup>/ 907 in August, and 494 in September 2016, making a grand total of 7,995 detentions carried out in the first nine months of 2016, most of them directed against women.<sup>60</sup>/

47. Given the lack of official data regarding the above-mentioned summary arbitrary detentions, the IACHR, pursuant to the powers vested in it by Article 18.d of its Statute, requested the State of Cuba to provide information about them in a communication dated August 2, 2016. However, no reply has been received.

48. In the hearing on the situation of human rights defenders in Cuba, held during its 157th regular period of sessions, the Commission was notified of the detention of members of civil society organization on December 10, 2015, during a demonstration convened to celebrate international human rights day and the subsequent confiscation and burning of copies of the Universal Declaration of Human

<sup>55</sup> IACHR, Annual Report 1992-1993, Chapter IV "Status of Human Rights in Several Countries," Cuba. III. Methods of Harassment used against Human Rights Activists, OEA/Ser.L/V/II.83, Doc. 14, March 12, 1993, available at: <http://www.oas.org/en/iachr/reports/annual.asp>.

<sup>56</sup> Damas de Blanco, [Informe: Damas de Blanco y UNPACU, los grupos más reprimidos en diciembre](#), January 7, 2016.

<sup>57</sup> Observatorio Cubano de Derechos Humanos, [Informe del Observatorio cubano de derechos humanos, 2015](#), January 2, 2016.

<sup>58</sup> In the first two weeks of June, 249 detentions were documented: 190 women and 59 men, during which 19 people were beaten. Observatorio Cubano de Derechos Humanos: [6.094 detenciones arbitrarias en Cuba desde que comenzó el 2016](#), June 16, 2016; [El Observatorio Cubano de Derechos Humanos denuncia 5.845 detenciones arbitrarias desde enero y alerta sobre el aumento de allanamientos](#), June 2, 2016; TodosMarchamos, [La CCDHRN denuncia más de 5.000 arrestos políticos hasta abril](#), 2016.

<sup>59</sup> Observatorio Cubano de Derechos Humanos, [Cuba: entre golpizas a opositores y aumento de impuestos. Denuncia del OCDH](#), September 2, 2016.

<sup>60</sup> Observatorio Cubano de Derechos Humanos, [7.995 Detenciones Arbitrarias desde enero 2016](#), October 3, 2016.

Rights by State security agents<sup>61/</sup>. That warranted a public call by the Office of the United Nations High Commissioner for Human Rights (OHCHR) to the Cuban authorities to halt the harassment of civil society activists.<sup>62/</sup>

49. Before and during the visit of United States President Barack Obama to the island in March 2016, civil society organizations reported an intensification of State actions designed to minimize their impact. They allege that one example had to do with Berta Soler Fernández, leader of the *Damas de Blanco* movement. Others involved Daniel Ferrer, a former political prisoner and leader of UNPACU; Antonio González Rodiles, director of the Estado de Sats project; Danilo Maldonado Machado ‘El Sexto’, a graffiti artist, winner of the Oslo Freedom Forum's Vaclav Havel 2015 international award; and Iván Hernández Carrillo, a journalist and Secretary General of the Confederation of Independent Workers of Cuba, who were all detained prior to Obama's visit,<sup>63/</sup> and independent journalist Lázaro Yuri Valle Roca, who was violently detained on March 20, 2016, when he was covering the Sunday march of the *Damas de Blanco* in Miramar, Havana. His whereabouts were unknown for several days.<sup>64/</sup> According to the CCDHRN, 498 arrests were made just during the visit, many of them accompanied by acts of violence.<sup>65/</sup>

50. In addition to the *Damas de Blanco* movement, formed in 2003 by the wives, mothers, and children of men and women imprisoned in Cuba for reasons they consider unjust,<sup>66/</sup> other groups and movements have joined the **#TodosMarchamos por la libertad de los presos políticos** campaign. This is one of the initiatives of the *Foro Por los Derechos y Libertades*, in which marches are organized every Sunday in different cities in Cuba. In connection with these marches, the Commission has consistently received information documenting the systematic practice of summary arbitrary detentions.

51. Despite being beneficiaries of precautionary measures granted by this Commission, the women in the *Damas de Blanco* movement have documented more than 1,600 summary arbitrary detentions between January and October of this year.<sup>67/</sup> They report, for instance, that mothers demonstrating with their young children are detained with them for up to 24 hours, with their children unable to attend school for the duration of the detention.<sup>68/</sup>

52. The Commission observes that the increase in the number of presumed summary arbitrary detentions has been accompanied by the use of -- sometimes excessive and disproportionate force -- by State security agents. The above comments are based on information received by the Commission that the detentions are carried out with the detainees being beaten, having their arms and legs twisted, and with very

<sup>61</sup> IACHR, Hearing on the [Situation of Human Rights Defenders in Cuba](#), 157th regular period of sessions, April 8, 2016; Request for a thematic hearing on the situation of the *Damas de Blanco* (Ladies in White) group in Cuba for the 157th period of sessions, H January 20, 2016. See also: El Nuevo Herald, [Más de 150 detenidos en Cuba en el día de los derechos humanos](#), December 10, 2015; Diario de Cuba: [El régimen detiene a ocho Damas de Blanco antes de una marcha](#), December 10, 2015; [Berta Soler denuncia ‘robos’ de dinero y recursos a activistas y Damas de Blanco](#), December 22, 2015.

<sup>62</sup> OHCHR, UN Human Rights Chief urges Cuba to halt harassment of civil society activists, December 15, 2015, available at: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16882&LangID=E>.

<sup>63</sup> Americana Economía, [Berta Soler, líder de las Damas de Blanco, tras su reciente detención en Cuba: “Con los dictadores no se puede tener relaciones”](#), March 21, 2016; El País, [Nuevas detenciones de disidentes cubanos a pocas horas de la llegada de Obama](#), March 20, 2016; Univisión Noticias, [Disidentes detenidos en Cuba antes de la llegada de Obama](#), March 20, 2016; Agencia EFE, [Jacobson, preocupada por la detención de Berta Soler y Daniel Ferrer en Cuba](#), March 9, 2016.

<sup>64</sup> Directorio Democrático Cubano, Press Release: Cuban protesters who interrupted Bob Ley's ESPN live shot from Havana rallied for release of missing journalist (Press release: Manifestantes Cubanos que interrumpieron el programa en vivo de Bob Ley en ESPN reclamaban la liberación de un periodista desaparecido), March 23, 2016.

<sup>65</sup> Diario Las Américas, [Denuncian 498 arrestos políticos en Cuba durante visita Obama](#), April 4, 2016; Excelsior, [Denuncian 498 arrestos políticos en Cuba durante visita de Obama](#), April 4, 2016.

<sup>66</sup> Damas de Blanco.org, [Quiénes Somos](#), March 29, 2010; Damas de Blanco.com, [¿Quiénes son las Damas de Blanco?](#), April 1, 2003.

<sup>67</sup> Access was not obtained to all the Sunday reports on repression. Damas de Blanco.org, Derechos humanos: Informes semanales de represión contra el Movimiento Damas de Blanco, posted at: <http://damasdeblanco.org/index.php/derechos-humanos>.

<sup>68</sup> Damas de Blanco.org, Informe semanal de represión contra el Movimiento Damas de Blanco, September 18, 2016.

tight-fitting handcuffs and shackles.<sup>69/</sup> There are also denunciations of piercings of detainees' bodies with unknown objects and beatings during detention, as recounted by Antonio González Rodiles and Iván Hernández Carrillo,<sup>70/</sup> for both of whom precautionary measures had been granted by this Commission.<sup>71/</sup> Their account matches similar reports of similar incidents documented in the past.

53. Other situations denounced have included the alleged detention of people for up to 72 hours in closed police vehicles, exposed to the high temperatures found on the island, without being allowed access to water, food, or showers. According to information in the public domain, on August 9, 2016, Leticia Ramos, a human rights defender, member of the *Damas de Blanco*, beneficiary of Precautionary Measures 264/13,<sup>72/</sup> and a participant in the hearings held during the Commission's 157th regular period of sessions, was detained by police for more than three hours in a totally closed vehicle before being taken to her home and threatened with criminal proceedings if she attempted to leave it. There she was kept under State surveillance until at least August 12, 2016, a situation that, along with other adverse scenarios, prompted a public pronouncement of concern by the Commission.<sup>73/</sup> The Commission was also told of the case of two members of *Damas de Blanco* (Ivoiny Moralobo Melo and María Josefa Acon Sardiña), and of Servilio Villegas Merrero, a member of the Frente de Acción Cívica Orlando Zapata Tamayo (FACOZT), all of whom had been kept for several hours in police patrol cars out in the sun<sup>74/</sup>.

54. Theft of belongings (documents, money, tools, material needed for work and/or clothing) followed by abandonment of the victims in remote spots has also been practiced by State security personnel, as publicly denounced by Raúl Luis Risco Pérez who stated that, on January 21, 2016, when he was on his way to UNPACU headquarters in Santiago de Cuba to make arrangements for the opening of a new media outlet of the *Instituto Cubano para la Libertad de Prensa* and to conduct a workshop on criminal law and criminal proceedings, he had been detained, had had his belongings confiscated, and had been returned to Havana.<sup>75/</sup> Something similar is alleged to have happened to Egberto Ángel Escobedo Morales, a former political prisoner and member of the *Foro por los Derechos y las Libertades* and of the *Frente Nacional de Resistencia Cívica Orlando Zapata Tamayo*, who was stopped and sent back by the Revolutionary National Police (PNR) in the province of Camagüey, for allegedly distributing documents containing President Barack Obama's speech in Cuba.<sup>76/</sup>

55. Likewise, the Commission has received complaints of people being subjected to lengthy interrogations, during which they receive serious threats to their or family members' lives or bodily integrity.

<sup>69</sup> IACHR. Interviews, on June 23, 2016, at IACHR Headquarters, with Jorge Luis "Antunez" Garcia Perez, Frente Patriótico de Resistencia; Antonio Rodiles, Estado de SATS; Laritza Diversent, Cubalex; Carlos Amel Oliva Torres, UNPACU; Bernardo de Quesada Salomón, Pastor in the Movimiento Iglesia Apostólica; Eliecer Ávila, Somos +; Kirenia Nunez, Mesa de Dialogo de la Juventud Cubana; Steve Maikel Pardo, Journalist, Cuba Independiente y Democrática; Juana Mora, Arco Iris Libre de Cuba, and representatives of the NGO *The International Institute on Race, Equality and Human Rights*. See also: Damas de Blanco Cuba.org, [Informe del cuadragésimo séptimo \(47\) domingo represivo del \(DSE\) contra el Movimiento Damas de Blanco y la Campaña #Todos Marchamos, reactivada en este año 2016](#), March 27, 2016.

<sup>70</sup> IACHR. Interviews, on June 23, 2016, at IACHR Headquarters, with Jorge Luis "Antunez" Garcia Perez, Frente Patriótico de Resistencia; Antonio Rodiles, Estado de SATS; Laritza Diversent, Cubalex; Carlos Amel Oliva Torres, UNPACU; Bernardo de Quesada Salomón, Pastor in the Movimiento Iglesia Apostólica; Eliecer Ávila, Somos +; Kirenia Nunez, Mesa de Dialogo de la Juventud Cubana; Steve Maikel Pardo, Journalist, Cuba Independiente y Democrática; Juana Mora, Arco Iris Libre de Cuba, and representatives of the NGO *The International Institute on Race, Equality and Human Rights*; and Iván Hernández Carrillo, beneficiary of Precautionary Measure 245-13.

<sup>71</sup> IACHR: Precautionary Measure 245-13, [Resolution 5/2013](#), Matter of Iván Hernández Carrillo regarding the Republic of Cuba, October 28, 2013; Precautionary Measure 420-12, Antonio G. Rodiles, December 18, 2012.

<sup>72</sup> IACHR Resolution 6/2013, Precautionary Measure N° 264/13, [Ladies in White regarding the Republic of Cuba](#), October 28, 2013.

<sup>73</sup> IACHR, Press release 127/2016, [IACHR Concerned over Treatment of Human Rights Defenders in Cuba](#), September 6, 2016.

<sup>74</sup> Damas de Blanco.org, Informe semanal de represión contra el Movimiento Damas de Blanco, September 18, 2016.

<sup>75</sup> Radio República, [Arrestado, maltratado y deportado, periodista independiente en Cuba Raul Luís Risco Pérez, Pinar del Río, Cuba](#), YouTube video, Radio República, January 25, 2016.

<sup>76</sup> Directorio Democrático Cubano: La Semana en la vida de la resistencia cubana recibidas desde Cuba, January 29, 2016; Press release: Deportado ex- preso político Egberto Ángel Escobedo Morales de su provincia natal, April 26, 2016.

Such was the case of Juana Mora Cedeño, Director of the *Arco Iris Libre de Cuba* (ALCU) organization and Coordinator of the *Alianza Manos* network, and Mario José Delgado González, Director of *Fundación Cubana Cristiana LGBTIQ Divina Esperanza*, who, on March 25, 2016, after giving a talk on human rights and sexual diversity at the home of a member of the *Candidatos por el Cambio* roundtable, were allegedly detained, harassed, interrogated, threatened and accused of fostering counterrevolutionary activities. The circumstances were deemed by the Commission *prima facie* to meet the requirements of being serious, urgent, and irreparable in such a way as to impair the rights to life and personal integrity, so that it decided, on July 3, 2016, to grant precautionary measures in favor of both Juana Mora Cedeño and Mario José Delgado González.<sup>77/</sup>

56. The Commission has also been informed of use of the criminal system to criminalize the activities of human rights defenders, journalists, and activities. Thus, the Commission was notified that repeatedly detained persons sometimes end up being included in summary criminal proceedings that may lead to prison sentences for "pre-criminal dangerousness" (*peligrosidad predelictiva*), as will be illustrated in greater detail below. For instance, a complaint was received that, on January 13, 2016, María Cristina Labrada was detained and threatened with being given a longer prison sentence if she continued taking part in the **#TodosMarchamos por la libertad de los presos políticos**<sup>78/</sup> campaign. Likewise, the *Observatorio Cubano de Derechos Humanos* reported the pre-trial detention imposed in June of this year on 11 human rights activists (working for (*Damas de Blanco*, *Unión Patriótica de Cuba* (UNPACU), and *Frente de Acción Cívica Orlando Zapata Tamayo* (FACOTZ), and other organizations), who are currently awaiting trial. They are: Xiomara de las Mercedes Cruz Miranda, Yaquelin Heredia Morales, Miguel Borroto Vázquez, Mario Alberto Hernández Leyva, Leudis Reyes Cuza, Maykel Mediaceja Ramos, David Fernández Cardoso, Lazaro Mendosa García, Yuneth Cairo Reigada, Marietta Martínez Aguilera, and Aurelio Andrés González Blanco<sup>79/</sup>.

57. On September 23, 2016, State security personnel allegedly raided the offices of the Cubalex organization, based on a search warrant that, it was alleged, did not meet legal requirements. Before the raid, all communications to and from the offices had been cut, as were the cell phone lines of the organization's members. During the search, according to the information received by the Commission, the following objects were confiscated: five computers, including a server; four laptops, three printers, mobile phones, and confidential documents and archives relating to several cases being handled by the office. In addition, Cubalex members were reportedly interrogated and five of them -- four women and a man -- had been forced to strip for a body search. Several members of the organization were arrested. Activist Dayán Alfredo Pérez Noriega was released, while independent lawyer Julio Alfredo Ferrer Tamayo is allegedly still being held in a prison in Havana. The search and confiscation was said to be part of a tax investigation involving allegedly illicit economic activities.<sup>80/</sup>

58. Representative of the organization state that the Cuban Government is attempting to break up Cubalex by using what is known as the "Law against Flowerpots" [*Ley contra los macetas*] (Decree law No. 149/1994), which establishes "exemplary measures against those who steal, speculate with, or divert State resources, engage in black market activities, and other forms of enrichment that do harm to society." On

<sup>77</sup> IACHR, Resolution 37/2016, Precautionary Measure No. 236-16, [Matter of Juana Mora Cedeño et al. Cuba](#), July 3, 2016.

<sup>78</sup> IACHR, Hearing on the [Situation of Human Rights Defenders in Cuba](#), 157th regular period of sessions, April 8, 2016. See also, Diario de Cuba, "[El régimen amenaza con la cárcel a una Dama de Blanco si continúa su activismo en #TodosMarchamos](#)," January 13, 2016, (most recently accessed on: August 29, 2016).

<sup>79</sup> Observatorio Cubano de Derechos Humanos: [6.094 detenciones arbitrarias en Cuba desde que comenzó el 2016](#), June 16, 2016.

<sup>80</sup> CubaNet. September 29, 2016. [Instituto checo denuncia vejaciones a CUBALEX](#); Martí Noticias. September 24, 2016. [Asaltan consultoría Cubalex, de abogada cubana que se reunió dos veces con Obama](#); 14 y medio. September 23, 2016. [La policía irrumpe en la sede de Cubalex](#); IACHR. Special Rapporteurship for Freedom of Expression. October 13, 2016. [Press release R149/16. IACHR and the Office of the Special Rapporteur express concern for retaliation actions of the Cuban State against an organization dedicated to defending freedom of expression](#). CubaNet. September 29, 2016. [Instituto checo denuncia vejaciones a CUBALEX](#); Martí Noticias. September 24, 2016. [Asaltan consultoría Cubalex, de abogada cubana que se reunió dos veces con Obama](#); 14 y medio. September 23, 2016. [La policía irrumpe en la sede de Cubalex](#); IACHR. Special Rapporteurship for Freedom of Expression. October 13, 2016. [Press release R149/16. IACHR and the Office of the Special Rapporteur express concern for retaliation actions of the Cuban State against an organization dedicated to defending freedom of expression](#).

September 23, 2016, the Office of the Attorney General is said to have initiated an administrative tax investigation at the headquarters of Cubalex that could have criminal consequences for members of the organization.<sup>81/</sup>

59. Similarly, human rights defenders, journalists, activists, and social leaders complain of stepped up levels of violence in the civilian population's acts of repudiation against them, in which they have their limbs twisted, bones broken, and injuries caused by bites and blows, all with the alleged acquiescence of the State authorities.<sup>82/</sup>

60. According to information received, hunger strikes are still one way of putting pressure on the Cuban government. This method was used by Cuban opposition figure Guillermo "Coco" Fariñas, who went on a hunger and thirst strike for 54 days to protest the State's harassment policies described above.<sup>83/</sup> On August 27, 2016, he was rushed to the Arnaldo Milián Castro hospital in Santa Clara after losing consciousness for the fourth time since he began the hunger strike.<sup>84/</sup> Finally, on September 12, 2016, Fariñas put an end to his hunger strike after hearing that the European Parliament was having thoughts about the agreement signed with the Cuban Government.<sup>85/</sup>

61. In light of this information, the Inter-American Commission considers that the situation as regards the right to liberty, security and personal integrity has not changed substantially from the circumstances reported in the 2015 Annual Report. That being so, it is essential that the State adopt measures conducive to guaranteeing and respecting those rights for human rights defenders, journalists, activists, and other social leaders. The IACHR issues a reminder that States have an obligation to prevent threats, attacks, and harassment against those groups, and take all the necessary actions to safeguard and promote the conditions so as to make their work possible.

**b. Minimum due process guarantees**

62. In its reports the IACHR has repeatedly addressed the absence of minimum judicial guarantees of due process in the prosecution of persons in Cuba. The negative impact of this situation is disproportionately affecting activists and dissidents.

63. The right of everyone to due process of law, established in Article XXVI of the American Declaration, is one of the rights that the member states instructed the Commission to pay particular attention to, with respect to its observance by States that are not parties to the American Convention. (See Article 20.a of the Commission's Statute). Article XXVI of the American Declaration reads:

Every accused person is presumed to be innocent until proved guilty.

<sup>81</sup> Cubalex, [Cubalex denuncia acciones del Estado cubano para criminalizar su trabajo en defensa de los derechos humanos](#), November 3, 2016; Cubanet, [Cubalex: El régimen intenta proscribir la ONG mediante la "Ley contra los macetas"](#), November 3, 2016.

<sup>82</sup> IACHR. Interviews, on June 9, 2016, at IACHR Headquarters, with Sirley Avila León, beneficiary of Precautionary Measure 428-15, and, on June 23, 2016, with Jorge Luis "Antunez" Garcia Perez, Frente Patriótico de Resistencia; Antonio Rodiles, Estado de SATS; Laritza Diversent, Cubalex; Carlos Amel Oliva Torres, UNPACU; Bernardo de Quesada Salomón, Pastor in the Movimiento Iglesia Apostólica; Eliecer Ávila, Somos +; Kirenia Nunez, Mesa de Dialogo de la Juventud Cubana; Steve Maikel Pardo, Journalist, Cuba Independiente y Democrática; Juana Mora, Arco Iris Libre de Cuba, and representatives of the NGO The International Institute on Race, Equality and Human Rights; and Iván Hernández Carrillo, beneficiary of Precautionary Measure 245-13. See also: Diario de Cuba, [Una Dama de Blanco y su familia, heridos después de recibir una golpiza en Holguín](#), May 10, 2016.

<sup>83</sup> Breitbart, [Rather Than Demand to End State Violence, Advocates Demand End to Cuba's Dissident's Hunger Strike](#) September 5, 2016; Cubanet, [Guillermo Fariñas es hospitalizado tras pérdida de conocimiento](#), August 27, 2016.

<sup>84</sup> Cubanet, [Guillermo Fariñas es hospitalizado tras pérdida de conocimiento](#), August 27, 2016.

<sup>85</sup> Agencia EFE, [El opositor cubano Guillermo Fariñas deja la huelga de hambre y sed tras 54 días](#), September 12, 2016; ABC, [El opositor cubano Guillermo Fariñas deja la huelga de hambre tras 54 días](#), September 12, 2016; 14ymedio, [Guillermo Fariñas abandona la huelga de hambre](#), September 12, 2016. See also, BBC Mundo, [Cuba: el misterioso engaño que llevó al disidente Guillermo Fariñas a levantar su huelga de hambre a los 54 días](#), September 15, 2016.

Every person accused of an offense has the right to be given an impartial and public hearing, and to be tried by courts previously established in accordance with pre-existing laws, and not to receive cruel, infamous or unusual punishment.

64. As regards the judicial guarantee regarding the independence of the courts from the other public authorities, the Commission has already referred to Article 121 of the Constitution of Cuba, which provides: "The tribunals constitute a system of State organs, structured with functional independence from any other, and subordinate hierarchically to the National Assembly of the People's Power and the Council of State."<sup>86/</sup> The powers of the Council of State include "issuing general instructions to the courts through the Governing Council of the People's Supreme Court."<sup>87/</sup> In the view of the Commission, the subordination of the courts to the Council of State, presided over by the Head of State, represents direct dependence of the judicial branch on the dictates of the executive branch. The IACHR has considered that this dependence on the executive does not provide for an independent judiciary capable of providing guarantees for the enjoyment of human rights.<sup>88/</sup>

65. The IACHR has also repeated its reproach of the death penalty as a punishment in a significant number of broad or vague statutory crimes, such as the "state of dangerousness," which could be invoked in very summary proceedings<sup>89/</sup> that do not offer the minimum guarantees required for the accused to exercise the right to an adequate legal defense.<sup>90/</sup> The Commission has also noted a similar vagueness in the description of the statutory crime called "pre-criminal social dangerousness," set forth in Article 72 of the Criminal Code, and related conduct. In addition to the foregoing is what is provided for in Decree No. 128, which once again prescribes a summary procedure for prosecuting persons whose conduct fits within the vague statutory definition. In this respect, the organs of the inter-American human rights system have agreed that "[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 affect the right to life or liberty."<sup>91/</sup>

66. Even though the death penalty has not been carried out since 2003, the Commission considers that keeping it in the Criminal Code in the conditions described in previous years' reports poses a latent threat to those persons who, inter alia, do not share the official understanding of the system of government and, therefore, the Commission issues an appeal to the State to abolish it, in line with the trend observed in the Hemisphere.<sup>92/</sup>

<sup>86</sup> Constitution of the Republic of Cuba, Article 121, proclaimed on February 24, 1976, and its subsequent amendments approved by the National Assembly of People's Power. Available at: <http://www.parlamentocubano.cu/index.php/constitucion-de-la-republica-de-cuba/>.

<sup>87</sup> Constitution of the Republic of Cuba, Article 90.h, proclaimed on February 24, 1976, and its subsequent amendments approved by the National Assembly of People's Power. Available at: <http://www.parlamentocubano.cu/index.php/constitucion-de-la-republica-de-cuba/>.

<sup>88</sup> IACHR. Guarantees for the Independence of Justice Operators. OEA/Ser.L/V/II Doc. 44, December 5, 2013, par. 32. Available at: <http://www.oas.org/es/cidh/defensores/docs/pdf/Justice-Operators-2013.pdf>.

<sup>89</sup> The Law on Criminal Procedure establishes the very summary procedure at Articles 479 and 480:

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. Law on Criminal Procedure. Special proceedings. Title X. Especially expedited summary proceedings. Articles 479 and 480.

<sup>90</sup> IACHR. 2008 Annual Report, Chapter IV, Human Rights Developments in the Region, Cuba, OEA/Ser.L/V/II.134 Doc. 5 rev. 1, February 25, 2009, par. 177, available at: <http://www.oas.org/en/iachr/reports/annual.asp>.

<sup>91</sup> I/A Court HR. *Case of Castillo Petruzzi et al. Vs. Peru*, Judgment of Sunday, May 30, 1999, Series C No. 52, par. 121.

<sup>92</sup> IACHR. The Death Penalty in the Inter-American Human Rights System: From Restrictions to Abolition, OEA.Ser.L/V/II. Doc. 68, December 31, 2011, available at: <http://www.oas.org/en/iachr/docs/pdf/deathpenalty.pdf>.



- **Restrictions on the right of residence and movement**

67. As regards the right to residence, the Commission continues to receive complaints regarding deportations (refoulement) of Cubans who violate the residence restrictions on Cuban soil imposed by Decree Law 217 of 1997,<sup>93/</sup> and amended in 2011 by Decree 293.<sup>94/</sup> The restrictions are said to be designed to prevent people gathering or engaging in political activism in Havana.

68. Through Decree 2017 of 1997,<sup>95/</sup> on Internal Migration Regulations for the City of Havana and Breaches Thereof, restrictions were imposed on persons who:

[...] coming from other parts of the country, are seeking to become domiciled in, reside in, or share housing arrangements permanently in a dwelling situated in the city of Havana, or those who, being from other municipalities, seek to domicile themselves, reside, or share housing arrangements in a dwelling situated in the municipalities of La Habana Vieja, Centro Habana, Cerro, and Diez de Octubre [...]<sup>96/</sup>

Decree 217 therefore required an authorization from the President of the Council of the Municipal Administration, after the requirements set forth in Article 2 of that Decree have been met, on pain of fines and of being returned to the place of origin. Decree No. 293 of 2011, Amending Decree No. 217, exempted the following persons from compliance with those requirements:

- (a) The spouse, children, parents, grandparents, grandchildren, and siblings of the primary family member authorized to live in Havana.
- (b) The minor children of the non-authorized spouse.
- (c) Persons declared legally incompetent.
- (d) The core family group of the person who is assigned a real property due to state or social interest.<sup>97/</sup>

69. Despite the easing of such restrictions, civil society organizations continue to inform this Commission of cases in which they are arbitrarily applied to individuals or groups critical of the Government. During the period under review, the Commission was made aware of what happened to Carlos Amel Olivia Torres, a member of Unión Patriótica de Cuba (UNPACU), whose home was searched without a legal warrant on May 24, 2016. Money, documents and work tools were seized and Mr. Torres himself was deported from Havana to Santiago de Cuba.<sup>98/</sup> A similar incident occurred on July 1, 2016, following his return from

<sup>93</sup> Council of Ministers, Decree No. 217, Regulaciones Migratorias Internas para la Ciudad de La Habana y sus contravenciones [Internal Migration Regulations for the City of Havana and Breaches Thereof], of April 22, 1997. Available at: <http://www.gacetaoficial.cu/html/regulacionesmigratoriasparaC.H.html>.

<sup>94</sup> Council of Ministers, Decree No. 293, Regulaciones Migratorias Internas para la Ciudad de La Habana y sus contravenciones [Internal Migration Regulations for the City of Havana and Breaches Thereof], published in the Official Gazette (*Gaceta Oficial*), Special Edition No. 39 of November 16, 2011, and available at: [http://www.cubadebate.cu/wp-content/uploads/2011/11/go\\_x\\_039\\_2011.pdf](http://www.cubadebate.cu/wp-content/uploads/2011/11/go_x_039_2011.pdf).

<sup>95</sup> Council of Ministers, Decree No. 217, Regulaciones Migratorias Internas para la Ciudad de La Habana y sus contravenciones [Internal Migration Regulations for the City of Havana and Breaches Thereof], of April 22, 1997. Available at: <http://www.gacetaoficial.cu/html/regulacionesmigratoriasparaC.H.html>.

<sup>96</sup> Council of Ministers, Decree No. 217, Regulaciones Migratorias Internas para la Ciudad de La Habana y sus contravenciones [Internal Migration Regulations for the City of Havana and Breaches Thereof], of April 22, 1997, published in the Official Gazette of the Republic of Cuba and available at: <http://www.gacetaoficial.cu/html/regulacionesmigratoriasparaC.H.html>.

<sup>97</sup> Council of Ministers, Decree No. 293, Regulaciones Migratorias Internas para la Ciudad de La Habana y sus contravenciones [Internal Migration Regulations for the City of Havana and Breaches Thereof], published in the Official Gazette (*Gaceta Oficial*), Special Edition No. 39 of November 16, 2011, and available at: [http://www.cubadebate.cu/wp-content/uploads/2011/11/go\\_x\\_039\\_2011.pdf](http://www.cubadebate.cu/wp-content/uploads/2011/11/go_x_039_2011.pdf).

<sup>98</sup> IACHR. Interviews, on June 23, 2016, at IACHR Headquarters, with Jorge Luis "Antunez" Garcia Perez, Frente Patriótico de Resistencia; Antonio Rodiles, Estado de SATS; Laritza Diversent, Cubalex; Carlos Amel Oliva Torres, UNPACU; Bernardo de Quesada Salomón, Pastor in the Movimiento Iglesia Apostólica; Eliecer Ávila, Somos +; Kirenia Nunez, Mesa de Dialogo de la Juventud Cubana; Steve Maikel Pardo, Journalist, Cuba Independiente y Democrática; Juana Mora, Arco Iris Libre de Cuba, and representatives of the NGO *The International Institute on Race, Equality and Human Rights*. See also: Diario de Cuba, [La UNPACU denuncia tres nuevos 'asaltos' del régimen a viviendas y 'detenciones contra activistas'](#), May 28, 2016.

Washington, D.C., after having had an interview with staff of the Executive Secretariat of this Commission and after attending other forums and visiting other organizations. On July 13, 2016 he announced that he had begun a hunger strike in protest at the arbitrary confiscations.<sup>99/</sup>

70. As regards the right to move about freely, since 1983, when it published its seventh report on the human rights situation in Cuba,<sup>100/</sup> the Commission has raised the issue of the lack of constitutional protection for the right to movement in Cuba, which represents an obstacle to its effective enjoyment. The framework law on the subject, Law No.1312 of September 20, 1976, the Law on Migration,<sup>101/</sup> has been amended twice, the most recent amendment being introduced by Decree law No. 327 of January 3, 2015, which amended four provisions of the Law on Migration relating to the issuance of a Cuban passport.<sup>102/</sup>

71. At the time, the Commission highlighted the progress implied by the first amendment to the Law on Migration contained in Decree Law No. 302 of October 16, 2012, which partially eliminated the requirement for authorization to leave the territory. The time that must elapse before a Cuban national who has traveled abroad can come to be considered an émigré was extended from 11 to 24 months; the requirement of a letter of invitation from the destination country was eliminated; and children were afforded the possibility of temporary travel once they are authorized for it by their parents or legal representatives. Nevertheless, as the Commission has already pointed out, aforementioned Decree-Law No. 302 establishes a series of conditions by which certain Cuban nationals who reside in Cuba cannot obtain a current passport or may not leave the country when reasons of “defense and national reasons so advise”<sup>103/</sup>; for “[l]acking the established authorization, pursuant to provisions aimed at preserving the skilled work force for the economic, social, and technical-scientific development of the country, as well as for the security and protection of official information”<sup>104/</sup>; “[w]hen for other reasons of public interest it is so determined by the designated authorities.”<sup>105/</sup>. In its annual reports the Commission has insisted that the general nature of certain terms confers a broad discretion on the Cuban authorities to allow or not the exit of Cuban nationals.

72. At the same time, the Commission finds that the restriction by which staying abroad for 24 months may subject a Cuban to émigré status continues to be an unreasonable restriction on the exercise of the right to residence and movement. While one does not cease to be a Cuban national, the impossibility of returning to Cuba or of exercising one’s rights as a Cuban national means that one cannot enjoy an effective nationality. These provisions also have a direct impact on the right to the protection of family life of these persons, who are deprived of the ability to re-unite with their family members who remain in Cuba. In addition to the foregoing, this situation presents obstacles to Cuban migrants who are in an irregular migratory situation since they cannot return to their country of origin nor do they have a migratory situation that enables them to reside regularly in the country they are in.

<sup>99</sup> UNPACU, [Carlos Amel Oliva. Líder juvenil de UNPACU se inicia en huelga de hambre](#), YouTube video, UNPACU, July 13, 2016; Cubanet, [Líder juvenil de UNPACU se declara en huelga de hambre](#), July 14, 2016.

<sup>100</sup> IACHR, Situation of Human Rights in Cuba, Seventh Report. OEA/Ser.L/V/II.61. Doc.29 rev. 1, October 4, 1983, available at: <http://www.cidh.org/countryrep/Cuba83sp/indice.htm>.

<sup>101</sup> Council of Ministers, Law No. 1312, Law on Migration, September 20, 1976, Article 1, available at: <http://www.gacetaoficial.gob.cu/html/leymigracion.html>.

<sup>102</sup> Council of State, Decree law No. 327, of January 31, 2015, Amending Law No. 1312, "Law on Migration", of September 20, 1976, published in the Official Gazette's Special Edition No. 23 of June 17, 2015.

<sup>103</sup> Council of State, Article 23.d of Decree Law No. 302, of October 11, 2012, Amending Law No. 1312, "Law on Migration", of September 20, 1976. published in the Official Gazette's Special Edition No. 44 of June 17, 2015. <http://www.acnur.org/t3/fileadmin/Documentos/BDL/2012/8950.pdf?view=1>.

<sup>104</sup> Council of State, Article 23.d of Decree Law No. 302, of October 11, 2012, Amending Law No. 1312, "Law on Migration", of September 20, 1976. published in the Official Gazette's Special Edition of October 16, 2012, 2015 and available at <http://www.acnur.org/t3/fileadmin/Documentos/BDL/2012/8950.pdf?view=1>.

<sup>105</sup> Council of State, Article 23.d of Decree Law No. 302, of October 11, 2012, Amending Law No. 1312, "Law on Migration", of September 20, 1976. published in the Official Gazette's Special Edition of October 16, 2012, 2015 and available at <http://www.acnur.org/t3/fileadmin/Documentos/BDL/2012/8950.pdf?view=1>.

73. Despite the above, the Commission has observed that the easing of migration regulations has resulted in a greater presence of representatives of the island's civil society at a number of international human rights forums and, with that, greater access to relevant information collected in situ. Nevertheless, practically simultaneously, more complaints have been received of the reprisals human rights defenders and activists are subjected to when leaving and/or returning to Cuba. This appears to be what happened to Laritza Diversent, Director of the Cubalex Information Center and beneficiary of Precautionary Measure 96/15,<sup>106</sup>/who was detained on August 12, 2016, for approximately two hours upon her return from Geneva, where she had presented a report on freedom of expression to the United Nations Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression<sup>107</sup>; and to Iván Hernández Carrillo, Secretary General of the Confederation of Independent Workers of Cuba and beneficiary of Precautionary Measure 245-13,<sup>108</sup>/who, on July 31, 2016, upon his return to Havana, Cuba, from an authorized trip abroad (which included a visit to this Commission's headquarters), was violently beaten and detained at the airport until the following day<sup>109</sup>; and to Leticia Ramos, a member of *Damas de Blanco* and the beneficiary of Precautionary Measure 264-13,<sup>110</sup> who was allegedly prevented from traveling to Puerto Rico to attend the Second Cuban National Gathering in Puerto Rico,<sup>111</sup>/ in addition to having previously been stopped, on July 2, 2016, from traveling to Panama, together with Iván Hernández Carrillo, to take part in a human rights event organized by the United Nations.<sup>112</sup>/ As part of the pattern of harassment of human rights defenders in Cuba, detention is followed by physical and verbal attacks, and threats, as well as the confiscation of materials relating to their work as defenders. The ever more frequent incidents of this nature reported to the Commission warranted the publication, on September 6, 2016,<sup>113</sup>/ of its concern over the treatment meted out to human rights defenders in Cuba. In that statement, the Commission reminded the Cuban State of its international organization not to interfere with the exercise of human rights and fundamental freedoms and to take reasonable steps to prevent threats, attacks, and harassment against human rights defenders.

74. One phenomenon that continues to be of concern to the Inter-American Commission has to do with the constant increase in the exit of Cuban nationals from Cuba. According to the UNHCR, the number of migrants and refugees from Cuba has increased. In 2014, there were 6,502 Cuban refugees,<sup>114</sup>/ and 6,862 in 2015.<sup>115</sup>/ In this attempt to reach the United States or other countries, Cuban migrants expose themselves to huge risks by traveling in vessels that are not in good navigational condition through dangerous maritime routes. A number of media have reported on the numerous and dramatic incidents at sea in the year under review.<sup>116</sup>/

<sup>106</sup> IACHR, Resolution 13/2015, Precautionary Measure No. 9615, [Matter of Juana Mora Cedeño et al. Cuba](#), April 22, 2015.

<sup>107</sup> Reportedly, this was not an isolated incident, because, earlier, in April 2016, Laritza Diversent had also been detained without explanation before embarking on a flight to the United States with a view to, among other activities, taking part in an IACHR hearing during its 157th regular period of sessions. Customs confiscated some of the material she brought back with her. *Institute on Race, Equality and Human Rights*, Actualizaciones sobre situaciones de defensoras de derechos humanos, Cuba, August 22, 2016, p. 2.

<sup>108</sup> IACHR Resolution 5/2013, Precautionary Measure N° 245/13, [Matter of Iván Hernández Carrillo regarding the Republic of Cuba](#), October 28, 2013.

<sup>109</sup> IACHR, Press release 127/2016, [IACHR Concerned over Treatment of Human Rights Defenders in Cuba](#), September 6, 2016.

<sup>110</sup> CIACHR Resolution 6/2013, Precautionary Measure N° 264/13, [Ladies in White regarding the Republic of Cuba](#), October 28, 2013.

<sup>111</sup> IACHR, Press release 127/2016, [IACHR Concerned over Treatment of Human Rights Defenders in Cuba](#), September 6, 2016. See also: Martí Noticias, [Cuba impide a disidentes viajar a evento en Puerto Rico](#), August 11, 2016.

<sup>112</sup> Diario de Cuba, [La policía política detiene a la Dama de Blanco Leticia Ramos y le impide viajar fuera del país](#), July 3, 2016.

<sup>113</sup> IACHR, Press release 127/2016, [IACHR Concerned over Treatment of Human Rights Defenders in Cuba](#), September 6, 2016.

<sup>114</sup> Office of the United Nations High Commissioner for Refugees (UNHCR), *Asylum Trends 2015*. Geneva, 2015. Table 2. Available at: <http://http://www.unhcr.org/statistics/unhcrstats/551128679/asylum-levels-trends-industrialized-countries-2015.html>.

<sup>115</sup> UNHCR Global Trends in 2015: Geneva, 2015. Table 2. Available at: <http://http://www.unhcr.org/statistics/unhcrstats/551128679/asylum-levels-trends-industrialized-countries-2015.html>.

<sup>116</sup> CubaNet. [Desaparecidos al menos diez grupos de balseiros cubanos](#), May 26, 2016; [Rescatan a balseiros cubanos tras una semana a la deriva en Golfo de México](#), May 4, 2016; [Encuentran a 7 balseiros cubanos heridos de bala](#), March 27, 2016; [EEUU busca a](#)

75. The IACHR wishes to insist on the importance of guaranteeing for all people in Cuba, free from undue interference, the right to residence and movement contemplated in Article VIII of the American Declaration, which establishes that "Every person has the right to fix his residence within the territory of the state of which he is a national, to move about freely within such territory, and not to leave it except by his own will." For that reason, the Commission once again calls upon the Cuban State to allow its inhabitants to freely choose their place of residence, freedom of movement in Cuban territory, and liberty to leave and enter the country, and to abstain from continuing to cause the situations depicted in this section.

- **Lesbian, gay, bisexual, transgender and intersex persons (LGBTI)**<sup>117/</sup>

76. The situation in Cuba as regards the rights of LGBTI persons is complex judging by the information received by the IACHR, because, although domestically some progress has been made and certain rights are recognized,<sup>118/</sup> the information provided by civil society organizations indicates the persistence still in 2016 of surveillance, interrogations, harassment, threats, and detentions of human rights defenders who do their jobs as professionals promoting and defending the human rights of LGTBI persons in Cuba. According to civil society organizations these acts are part of an overall pattern of State repression of human rights defenders in Cuba.<sup>119/</sup>

77. In this regard, the IACHR was told that on March 25, 2016, Ms. Juana Mora Cedeño, Director of the *Arco Iris Libre de Cuba* organization and Coordinator of the *Alianza Manos* network, and Mr. Mario José Delgado González, Director of *Fundación Cubana Cristiana LGBTIQ Divina Esperanza*, were detained by two Cuban State Security agents for meeting at the home of a member of the *Candidatos por el Cambio* roundtable after giving a presentation to members and human rights activities of that project on the subject of sexual diversity.<sup>120/</sup> The IACHR was told that during their interrogation they were shouted at and threatened by the officers and accused of being involved in activities fostering counterrevolution.<sup>121/</sup>

78. Regarding these events, civil society organizations told the IACHR that those actions were a kind of reprisal against Mora Cedeño and Delgado González for their participation in the public hearing held in connection with the 156th period of sessions of the IACHR on [The human rights situation of LGTB persons in Cuba](#); their involvement in technical training workshops focusing on human rights, sexual diversity and gender identity, and the use of regional and international mechanisms designed to protect human rights; and for Ms. Mora Cedeño's presence at the Cuban civil society meeting with President Barack Obama on March 22, 2016.<sup>122/</sup> Given the seriousness of these events, on July 3, 2016, the IACHR decided to grant precautionary measures on behalf of Ms. Juana Mora Cedeño and Mr. Mario José Delgado González, because their situation was serious and urgent and their lives and personal integrity were at risk due to their defense of the rights of LGTBI persons in Cuba.

79. Among the positive developments, the IACHR singles out the holding, on April 8, 2016, of the Love and Rights (*Amor y derecho*) workshop in Havana. Participants included sociologist Andrea García, the specialist from the United Nations Development Programme (UNDP) regional office, Juana Cooke, and

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[cubano perdido en aguas de Florida](#), February 17, 2016; [Un cubano muerto y cuatro sobrevivientes a naufragio son llevados a Panamá](#), February 12, 2016. Martí Noticias, [Univisión tras la pista del naufragio de 26 balseiros cubanos](#), May 10, 2016.

<sup>117</sup> The IACHR uses the acronym LGBT when referring to lesbian, gay, bisexual, and transgender persons. When reference is made to lesbian, gay, bisexual, transgender and intersex persons, the IACHR uses the acronym LGBTI. For the period under review, the IACHR did not receive specific information regarding the human rights situation of intersex persons in connection with Cuba.

<sup>118</sup> *Ciber Cuba Noticias*, [¿Una revolución LGBT en Cuba?](#), July 14, 2016.

<sup>119</sup> IACHR, Resolution 37/2016, Precautionary Measure No. 236-16, [Matter of Juana Mora Cedeño et al., Cuba](#), July 3, 2016.

<sup>120</sup> IACHR, Resolution 37/2016, Precautionary Measure No. 236-16, [Matter of Juana Mora Cedeño et al., Cuba](#), July 3, 2016.

<sup>121</sup> IACHR, Resolution 37/2016, Precautionary Measure No. 236-16, [Matter of Juana Mora Cedeño et al., Cuba](#), July 3, 2016, par.

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<sup>122</sup> IACHR, Resolution 37/2016, Precautionary Measure No. 236-16, [Matter of Juana Mora Cedeño et al., Cuba](#), July 3, 2016, par.

3.E.

members of *Red Trans Cuba*.<sup>123/</sup> A statement was made at the forum to the effect that transgender persons would receive medical care, despite "expressions of discrimination and prejudice." It was also pointed out that, once they completed secondary education, trans adolescents allegedly do not go on to do higher studies because of harassment and discrimination. LGTBI groups called for adoption of the preliminary draft Family Code, which is pending adoption by the National Assembly of the People's Power and which is said to allow same sex unions. Likewise, in May 2016, el the National Sex Education Center (Cenesex) organized the "Ninth Cuban Meeting against Homophobia and Transphobia"<sup>124/</sup>, which called for workplaces free from homophobia and transphobia<sup>125/</sup>. According to information in the public domain, the one-day meeting included lectures, workshops, and panel discussions that addressed issues relating to activism and public policies, sexual and reproductive rights, and the legal debates over sexual orientation and gender identity.<sup>126/</sup>

80. In its report entitled [Violence against LGBTI persons in the Americas](#), the Inter-American Commission established that States have a duty to apply due diligence in order to prevent, investigate, punish, and redress human rights violations, including killings and other acts of violence.<sup>127/</sup> The IACHR also determined that:

States have specific obligations to protect human rights defenders and the defense of human rights, including the duty to: provide the necessary means for human rights defenders to conduct their activities freely; protect them when they are subject to threats in order to ward off any attempt on their life or safety; refrain from placing restrictions that would hinder the performance of their work; and conduct serious and effective investigations of any violations against them, thus preventing impunity.<sup>128/</sup>

81. In Cuba there is a pattern of repression by the State against human rights defenders, which means that defenders of the rights of LGBTI persons find themselves unable to do their job of defending them. What is more, defenders of LGTBI persons' rights are constantly subjected to threats and harassment when they do go about their work of defending and promoting those rights, especially when they participate in events denouncing violations of the human rights of LGTBI persons in Cuba.

82. The Inter-American Commission urges the Cuban State to adopt comprehensive measures to guarantee that defenders of the human rights of LGBTI persons can freely go about their work of defending and promoting the human rights of lesbian, gay, bisexual and transgender persons. Likewise, the IACHR calls upon the State to put in place mechanisms for reporting and for effective investigation of acts of harassment and hostility against defenders of the rights of LGBTI persons, thereby preventing such acts from going unpunished. Finally, the Commission recommended the establishment of opportunities for dialogue between the State and defenders of the human rights of LGBTI persons to as to achieve deeper understanding of their needs and the particular security risks they face and, based on that understanding, to provide comprehensive solutions to those situations and risks.

<sup>123</sup> UNDP, [Las emociones son estratégicas en la lucha por los derechos de poblaciones trans](#), April 11, 2016.

<sup>124</sup> Ciber Cuba, [El Cenesex inició ayer en la Habana su "9na Jornada contra la homofobia y la transfobia](#), May 11, 2016.

<sup>125</sup> Escambray, [Jornada cubana contra la homofobia y la transfobia: respetar la diversidad en los espacios laborales](#), May 4, 2016.

<sup>126</sup> Escambray, [Jornada cubana contra la homofobia y la transfobia: respetar la diversidad en los espacios laborales](#), May 4, 2016.

<sup>127</sup> IACHR, Report on [Violence against LGBTI persons in the Americas](#), OAS/Ser.L/V/II.rev.2 Doc. 36, November 12, 2011, par. 385.

<sup>128</sup> IACHR, [Violence against LGBTI persons in the Americas](#), OAS/Ser.L/V/II.rev.2 Doc. 36, November 12, 2011, par. 355.

- **Children**

83. As regards protection of the rights of children and adolescents, the Cuban State has demonstrated strong political will to guarantee all children's appropriate development and wellbeing. Attention is drawn to a whole set of provisions, programs, and resources that the State devotes to guaranteeing children's right to health care and education throughout the country. Cuba exhibits some of the region's best indicators in these fields. The State has managed to achieve universal basic primary health care, universal vaccination, a low mortality rate among children under five years of age, and pre-natal care that includes an average of 10 medical check-ups for each pregnant woman. Cuba is also the first country in the world to have been certified as free from mother-to-child transmission of HIV and congenital syphilis. According to UNICEF, all (100 percent) of births are registered and 99.9 percent of babies are born in a health facility, with the assistance of qualified personnel. The State prioritizes early childhood development with education and health programs. Through formal and non-formal methods, early childhood education and health care coverage is 96 percent. The primary school net enrollment rate is 99.1 percent, while the gross enrolment rate for secondary school is 96.4 percent. Gender parity indices are high at all levels of education and there are programs guaranteeing education for children with disabilities.

84. The Cuban State has demonstrated its commitment to maintaining these achievements with respect to children's rights despite being in a process of updating its economic model. Cuba has 11.2 million inhabitants, 2.3 million of them (21 percent) under the age of 18.

85. One matter of concern, as regards the protection of children in Cuba, is that Cuban legislation still defines a child as any person up to the age of 16. The special protection afforded children under the American Convention and the American Declaration and under the United Nations Convention on the Rights of the Child does not extend to persons aged between 16 and 18 in Cuba, despite that fact that the Convention on the Rights of the Child defines everyone up to the age of 18 as a child. This regulation has implications with respect to marriage, the age of criminal responsibility, tougher protection certain situations (such as the exploitation of children in prostitution and pornography, and "corruption of minors" offenses), and protection against child labor, especially forms of it, like nighttime work, that may impair their integrity and development.

86. One of the areas of concern is the protection of children against all forms of economic and sexual exploitation, especially in the tourism industry. While the Penal Code punishes the use of children in prostitution and pornography (Article 310.1, Corruption of Minors), as well as the sale of children (Article 316.1), these provisions only cover children under the age of 16. Adolescents aged 16 to 18 who are used and exploited in prostitution may be held in "re-education centers", where they may not be guaranteed treatment appropriate to victims or appropriate services to ensure their recovery, reinsertion into society, and rehabilitation.

87. Adolescents aged 16 to 18 at odds with the law are treated like adults, even though they may be given moderate sentences. They are not tried by courts specializing in juvenile justice issues and they are held in often overcrowded prisons along with adults. Children under the age of 16 are not considered criminally responsible and their cases are examined by administrative authorities (minors' councils). Here, the main cause of concern is that children under 15 can be held in institutional establishments (Comprehensive Training Schools), even if they have committed minor offenses, without the legal guarantees required in criminal proceedings, as has been pointed out with concern by the United Nations Committee on the Rights of the Child. Thus, the Cuban State needs to guarantee that the deprivation of a child's liberty is in accordance with law, used as a measure of last resort reserved for very serious crimes and ordered by specialized courts for as short a time as possible. Children must also be held separate from adults.

- **Afro descendants**

88. The IACHR welcomes the Cuban Government's support of the actions contemplated in connection with the International Decade for People of African Descent and its participation in the Regional Event for the Decade, which took place in Brazil in March 2014. There the situation in the Hemisphere was

reviewed and proposals made for new actions in the coming years. In the period under review in this report, a Plan of Action was drawn up for the international year of persons of African descent, along with a national program that includes awareness-raising activities and exchanges on the subject of racial discrimination and its impact on society. In addition, during Cuba's chairmanship of the Community of Latin American and Caribbean States (CELAC), a decision was adopted to establish a CELAC working group on persons of African descent.<sup>129/</sup>

89. The IACHR would also like to speak about the lack of information available in 2016 regarding the human rights situation for people of African descent, and women of African descent in particular. Accordingly, the Inter-American Commission has expressed its concern about the situation of structural inequality faced by the people of African descent in the region, especially the plight of women, adolescents, and girls of African descent, because of institutional norms and practices that prevent them from fully exercising their human rights. This Commission recently pointed out that women of African descent are among the region's most marginalized social groups, warning that one of the main challenges they face is institutional violence at the hands of public and judicial authorities.<sup>130</sup>The IACHR therefore urges the Cuban state to diligently and promptly collect information on the human rights situation facing people of African descent, especially women of African descent, and to inform the IACHR about policies and measures adopted to address their needs.

90. As regards differences in access to housing for persons of African descent, the State has fostered policies conducive to broadening access by the least privileged to homes or opportunities to access resources allocated to home construction or improvement. The Cuban State told the United Nations Committee on the Elimination of Racial Discrimination that work was being done on changing the persistence of historical patterns in housing and the structure of housing arrangements in urban districts that were due to inherited forms of inequality, not to ongoing racial segregation.<sup>131/</sup>

91. Without prejudice to the initiatives mentioned in the foregoing paragraphs, it should be noted that in recent years, civil society organizations have expressed their concern at the racial discrimination encountered by persons of African descent, which they say is reflected in social inequality and in the abridgment of their civil, political, economic, social, and cultural rights.<sup>132/</sup>Accordingly, the United Nations Committee on the Elimination of Racial Discrimination noted the existence of deeply rooted negative prejudice and stereotypes, together with a sexist dimension.<sup>133/</sup>

92. For instance, in connection with the visit by the United States President, Barack Obama, in 2016, the Commission took note of public information on the racism and racial exclusion encountered by persons of African descent in Cuba, especially as regards the exercise of their political rights. According to information in the public domain, ongoing curtailment of political rights, the right of assembly, to freedom of expression and the dissemination of thought have limited the legal establishment of organizations working to

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<sup>129</sup> United Nations, Committee on the Elimination of Racial Discrimination, [Consideration of reports submitted by States parties under article 9 of the Convention](#), CERD/C/CUB/19-21, September 9, 2016, para. 253.

<sup>130</sup> IACHR, Press Release N° 040/16: IACHR Urges States to Adopt Measures to Protect the Rights of Afro-Descendent Women, March 21, 2016.

<sup>131</sup> United Nations, Committee on the Elimination of Racial Discrimination, [Consideration of reports submitted by States parties under article 9 of the Convention](#), CERD/C/CUB/19-21, September 9, 2016, para. 125.

<sup>132</sup> IACHR, [Annual Report 2014](#), para. 311.

<sup>133</sup> United Nations, Committee on the Elimination of Racial Discrimination, [Concluding observations - Cuba](#), CERD/C/CUB/CO/14-18, April 8, 2011, para. 14.

eliminate racial discrimination.<sup>134/</sup> Likewise, in terms of political participation, Cubans of African descent are hugely underrepresented in the highest offices of the State.<sup>135/</sup>

93. Regarding this last matter, on June 13, 2016, the United Nations High Commissioner for Human Rights, Zeid Ra'ad Al Husein, told the Human Rights Council during its 32nd session that in his capacity as coordinator of the International Decade for People of African Descent, he was worried about the persistently low level of political representation of Afro descendants in Latin America and the Caribbean. In particular, he pointed out that there are approximately 150 million persons of African descent in the region, or about 30 percent of the population. In the case of Cuba, they constitute more than 10 percent of the population. Nevertheless, their representation at the highest level of government, including ministerial cabinet positions, is well below that. According to the High Commission, this lack of representation at the highest levels of power affects the whole of society. Parliaments, jobs in the public and private sectors, schools, courts, the media are all segments of society in which the voices of Afro descendants carry little weight. He therefore urged Cuba and other States to take steps to reflect the diversity of their populations in decision-making bodies, including giving consideration to affirmative action policies<sup>136/</sup>. In addition, Cubans of African descent have reported widespread discrimination against them by State Security personnel<sup>137/</sup>

94. In light of this information, the Inter-American Commission considers that the Cuban States must heed the situation of persons of African descent and it encourages the State to continue its effort to put an end to prejudices and stereotypes, especially through awareness raising campaigns and public education programs in the educational sector and in the workplace.

- **Persons deprived of liberty**

95. In the course of this year, the Commission continued receiving worrisome information about serious human rights violations of persons deprived of liberty in Cuba. Conditions of confinement in Cuban prisons continue to be characterized by overcrowding, the negligent lack of medical care, inadequate hygiene and health conditions, inappropriate food, forced labor, solitary confinement or lack of communication and denial of visits, cruel, inhuman, and degrading treatment, the lack of judicial oversight of arrests, and the wide margin of discretion on the part of the police.<sup>138/</sup>

96. A telling example of the conditions of detention described above is the El Caguayo-Cuba prison in the province of Santiago de Cuba, in which all the inmates have HIV. According to a public complaint disseminated via social networks by Yoel Acosta Gámez, medical, health and dietary conditions are deficient, due to the lack of doctors specializing in the treatment of HIV patients. The prison uses medical students to make up for the shortfall. The prison is also allegedly infested with mosquitoes and cockroaches, due to a shortage of fumigation liquids. The report goes on to say that although the prison is supposed to hold a maximum of 96 inmates, it currently has 142.<sup>139/</sup>

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<sup>134</sup> Interpress service, Agencia de noticias. [El dilema de tener o no tener ONG antiracista](#) en Cuba, August 4, 2016.

<sup>135</sup> [Devyn Spence Benson](#) about her forthcoming book, *Antiracism in Cuba: The Unfinished Revolution* (University of North Carolina Press, April 2016).

<sup>136</sup> United Nations, High Commissioner for Human Rights, [Hate is being mainstreamed - global update by the High Commissioner.](#), June 13, 2016.

<sup>137</sup> Freedom House, [Freedom in the World 2016 - Cuba](#).

<sup>138</sup> Human Rights Watch, [World Report 2016](#), 2016, p. 202; Martí Noticias, [Cárceles cubanas: las segundas más hacinadas de la región](#), June 2, 2016. The press release refers to the complaint made by the International Committee of the Red Cross in Panama in June 2016, in which it refers to Cuba as the country with the second highest (prison) overcrowding in Central America and the Caribbean and to UNDP statistics indicating that Cuba has the largest number of people in prison as a percent of its population. Ver también; Martí Noticias, [Opositores excarcelados relatan tormentos de la cárcel en Cuba](#), January 21, 2016; Hablemos Press, [Severas condiciones higiénico-sanitarias en cárcel cubana](#), May 4, 2016.

<sup>139</sup> UNPACU, [Reporte desde prisión para enfermo con VIH sida El Caguayo](#), YouTube video, UNPACU, May 5, 2016; Hablemos Press, [Severas condiciones higiénico-sanitarias en cárcel cubana](#), May 4, 2016.



97. In this respect, the Commission recalls that every person deprived of liberty has the right to be treated humanely, with unrestricted respect for his or her inherent dignity, and for his or her rights and fundamental guarantees. This implies that the State, as guarantor of the rights of persons under its custody, not only has the special duty to respect and ensure their life and integrity, but must also ensure minimum conditions compatible with their dignity.<sup>140/</sup> Treating every person deprived of liberty with humanity and respect for their dignity is a universal norm that should be applied without any distinction whatsoever, and that cannot depend on the material resources of the State.<sup>141/</sup>

98. At the same time, the IACHR notes that hunger strikes are still being used as a way to bring pressure to bear on the Cuban Government, to call for release from prison, and/or to demand better conditions. Thus, as reported by various media outlets, following are some of the activists who started hunger strikes in Cuban detention centers: a) Vladimir Morera Bacallao,, a member of the *Movimiento Cubano Reflexión* group, on October 9, 2015, in the Guamajal prison, in the province of Villa Clara; b) Felipe Martínez Companioni and Alexander Palacios Reyes, members of the *Movimiento Pro Democrático Pedro Luís Boitel*, on December 1, 2015, in the Cerámica Roja pre-trial detention center, in the province of Camagüey; c) Jorge Ramírez Calderón, an independent trade unionist and activist of the *Confederación de Trabajadores Independientes de Cuba* (CTIC), on December 18, 2015, in the Pre prison in the city of Santa Clara; d) Misael Canet Velázquez, an activist in *Frente Nacional de Resistencia Orlando Zapata Tamayo* (Frente OZT), on December 22, 2015 in the Kilo-8 prison, in the province of Camagüey, and e) Mario Alberto Hernandez Leiva, Vice President of *Movimiento Opositor para una Nueva República* and member of *Movimiento Democracia*, on March 21, 2016, in the Combinado del Este prison, Havana.<sup>142/</sup>

99. In addition, the IACHR draws attention to statements by Human Rights Watch in its World Report 2016 to the effect that prisoners continue to lack an effective mechanism for filing complaints and those who criticize the Government or resort to hunger strikes or other forms of protest are placed in solitary confinement for lengthy periods of time, have their family visits restricted, and are denied medical care.<sup>143</sup> Furthermore, the same international organization points out that persons deprived of their liberty are forced to work 12-hour days and are punished if they fail to meet their output quotas.<sup>144/</sup>

100. In light of the foregoing, the IACHR considers that prison conditions, compared to what was indicated in its 2015 Annual Report,<sup>145/</sup> have not changed substantially, and that this situation represents a high cost in terms of negative impacts on the life and integrity of the persons deprived of liberty in the Cuban State. Therefore, it is essential that the State adopt measures aimed at ensuring conditions of detention compatible with the relevant international standards.

<sup>140</sup> IACHR, *Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas*. (Principle 1).

<sup>141</sup> IACHR; [Report on the Human Rights of Persons Deprived of Liberty in the Americas](#), OEA/Ser.L/V/II. Doc. 64, December 31, 2011, par. 61 and IACHR, *Report on Terrorism and Human Rights*, OEA/Ser.L/V/II.116. Doc. 5 rev. 1 corr., adopted on October 22, 2002, (Hereinafter: "Report on Terrorism and Human Rights"), par. 147.

<sup>142</sup> Archivo Cuba, ALERTA sobre Vladimir Morera Bacallao, preso político cubano en huelga de hambre, January 5, 2016; Directorio Democrático Cubano, Press release: Presos políticos cubanos en huelga de hambre por su libertad, December 8, 2015; Preso político cubano Misael Canet Velázquez en huelga de hambre hace 27 días en celda tapiada, January 19, 2016; and Preso político Mario Alberto Hernandez en huelga de hambre en prisión cubana, March 24, 2016; Confederación de Trabajadores Independientes de Cuba (CTIC), Urgente Communique, January 14, 2016.

<sup>143</sup> Human Rights Watch, [World Report 2016](#), 2016, p. 205.

<sup>144</sup> Human Rights Watch, [World Report 2016](#), 2016, p. 205.

<sup>145</sup> IACHR, 2015 Annual Report, Chapter IV.B, Human Rights Developments in the Region, Cuba, paragraphs 80-85), available at: [www.cidh.org](http://www.cidh.org).

- **Freedom of expression**<sup>146/</sup>

101. During 2016, the IACHR and its Special Rapporteurship continued to receive worrisome information about illegitimate restrictions on the independent press in Cuba and about State actions designed to use the criminal justice system to inhibit or punish criticism of government policy. Particularly worrisome is the increase in arbitrary detentions, threats, hostile acts, and censorship to the detriment of journalists and activists who disseminate ideas, opinions, and information that is critical of the ruling party. All of which is carried out within a legal framework that offers no protection for the practice of independent journalism.

102. According to the information available, use of the Internet and the development of digital media have begun to open up new opportunities to circulate information and ideas in ways beyond the control of the authorities. Nevertheless, access to digital media is still hampered by the Cuban population's low level of connectivity and by the blocking or banning of critical news outlets. In that context, the IACHR and its Special Rapporteurship recall the importance of ensuring that the initiatives to guarantee Internet connectivity in Cuba, announced following the restoration of diplomatic ties between the United States and Cuba in December 2014, also guarantee full respect for human rights, especially the right to freedom of expression.

- a. **Violence triggered by the exercise of freedom of expression and impunity**

103. Nongovernmental organizations have complained of an increase in hostile acts, threats, intimidation, detention, and house arrests, against journalists, activists, human rights defenders and members of the opposition on account of their statements and positions criticizing the official line. They have also pointed to selective and deliberate persecution of media and independent organizations responsible for gathering and disseminating citizens' views on matters of national interest. They have also reported curtailments of the right to demonstrate, excessive use of force in connection with demonstrations, and impunity thereafter.<sup>147/</sup>

104. According to information received by the IACHR and its Special Rapporteurship, in 2016 the civil and political rights situation in Cuba remains worrisome.<sup>148/</sup> State Security agencies have allegedly maintained a policy of harassing journalists, activists associated with cultural activities, human rights defenders, and political dissidents. Cuban agents are said to be deploying various tactics to prevent these people from acting freely, such as arbitrary -- mainly brief -- detentions, deportations to other parts of the country, citations to appear at police stations, searches of activists' homes, and the confiscation of tools they need to go about their work. Most of these cases reportedly involve no prior judicial proceedings and the offenses most frequently invoked to imprison opponents of the Cuban Government are contempt or failure to obey a public authority (*desacato*), pre-criminal dangerousness, resisting arrest, disobedience or assault/obstruction (*atentado*).<sup>149/</sup>

105. The Office of the Special Rapporteur for Freedom of Expression has documented multiple cases in which journalists and activists have been detained in 2016 in its Annual Report for this year on the Situation of Freedom of Expression in the Hemisphere.<sup>150/</sup> In these cases, the detainees worked for the

<sup>146</sup> This section of the report was prepared by the Office of the Special Rapporteur for Freedom of Expression. This Chapter is a summary of the Annual Report on the situation of freedom of expression in the Hemisphere by the Office of the Special Rapporteur for Freedom of Expression of the IACHR.

<sup>147</sup> Arco Iris Libre de Cuba, Centro de Información Hablemos Press, Centro de Información Legal Cubalex, Mesa de Diálogo de la Juventud Cubana and Plataforma Femenina Nuevo País.. July 2016. Situation of the Right to Freedom of Opinion and Expression in Cuba. Available at: <https://www.scribd.com/document/320954748/Situacion-del-Derecho-a-la-Libertad-de-Opinion-y-Expresion-en-Cuba>.

<sup>148</sup> Radio HRN. April 26, 2016. *La disidencia cubana presenta una lista con los nombres de 93 presos políticos*; Diario de Cuba. April 25, 2016. *La CCDHRN calcula que el número de presos políticos en Cuba ha aumentado hasta los 93*.

<sup>149</sup> Diario las Américas. March 25, 2016. *Divulgan lista actualizada de los condenados por motivos políticos en Cuba*.

<sup>150</sup> The Office of the Special Rapporteur for Freedom of Expression refers here to its annual report documenting the allegedly arbitrary and brief detention of, among others, the following Cuban journalists or activists when exercising their right to freedom of association and expression: Yenisei Boza Garridos, Egberto Escobedo, María Cristina Labrada, Elio Delgado Valdés, Jaqueline Heredia, Rosa Escalona Gómez, Aliuska Gómez García, Carlos Chiong Ramos, Óscar Ramos Madán, Raúl Ramírez Puig, Nidia Dallet Urgelles,

following publications and/or organizations: *Damas de Blanco*; *CubaNet*; *Comisión de Atención a Presos Políticos y Familiares* (Cappf); the *Hablemos Press* agency; *Instituto Cubano por la Libertad de Expresión y Prensa* (Iclep); *Unión Patriótica de Cuba* (UNPACU); the #*Otro18* platform; *Foro por los Derechos y Libertades* (Foro Dyl); the “Voz Santiaguera” independent newsletter; the *Periodismo de Barrio* group; and the #*TodosMarchamos* platform. Apart from the brief detentions, other journalists are reported to be under house arrest. They include, for instance, those working for *CubaNet.org*: Augusto César San Martín, Manuel Días Mons, Osniel Carmona, and Elio Delgado.<sup>151/</sup>

106. According to *Instituto Cubano por la Libertad de Expresión y Prensa* (Iclep), its journalists are being watched, harassed, detained, and threatened with imprisonment or even death threats.<sup>152/</sup> On January 21, Raúl Risco Perez, Executive Director of the organization, was reportedly released after having being detained for several hours at the First Police Unit in Santiago de Cuba, for having coordinated publication of one of the organization's documents.<sup>153/</sup>

107. Furthermore, in 2016, in connection with U.S. President Barack Obama's official visit in March, there was an increase in harassments, threats, acts of intimidation, detentions, and house arrests directed against journalists, activists, human rights defenders, and opponents of the Government.<sup>154/</sup> According to the *Asociación Pro Libertad de Prensa*, since March 16, 2016 the organization had been document various acts of aggression by the -- always plainclothes -- political police and members of other police bodies, against independent journalists.<sup>155/</sup> Likewise, Roberto de Jesús Guerra, Director of the independent *Hablemos Press* agency, was reportedly detained on the street and taken to the Fourth Unit of the PNR in Havana, together with Dutch journalist Erick Mauta and his cameraman<sup>156/</sup>. On that same day, activist and independent blogger Lázaro Yuri Valle Roca was reportedly arrested and held for five days after having attempted to cover a protest march by Las Damas de Blanco.<sup>157/</sup>

108. The IACHR and its Special Rapporteurship also received information to the effect that the Cuban Government would continue to pursue an arbitrary policy with respect to the entry into the country of Cubans or foreign nationals in some way connected to journalism, freedom of expression, and the defense of human rights. On March 19, just hours after President Obama's visit, five Cuban journalists coming from Costa Rica were stopped when they arrive at the airport in Havana.<sup>158/</sup> In June, Cuban activist Ana Margarita Perdigón Brito, who reportedly had worked for independent publications, such as *CubaNet*, allegedly had to return to Miami after the Government refused her entry into Cuba.<sup>159/</sup> In January 2016, two journalism

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Roberto de Jesús Guerra, Julio Aleaga Pesant, Carlos Amel Oliva, Eliosbel Garriga, Leovanis Correoso, Elaine Díaz, and Maykel González Vivero, Raúl Risco Pérez.

<sup>151</sup> Diario de Cuba: March 21, 2016. [La Asociación Pro Libertad de Prensa denuncia detenciones y amenazas a periodistas](#).

<sup>152</sup> CubaNet. June 3, 2016. [ICLEP advierte sobre aumento de represión a sus periodistas](#); Instituto Cubano por la Libertad de Expresión y Prensa. June 3, 2016. [Press release](#).

<sup>153</sup> CubaNet. January 23, 2016. [Liberado bajo amenazas director ejecutivo de ICLEP](#); Martí Noticias. January 23, 2016. [Disidente es deportado a su provincia por “abastecer a la contrarrevolución”](#).

<sup>154</sup> The Cuban Human Rights and National Reconciliation Commission (CCDHRN). March 2016. *Cuba Algunos actos de represión política en el mes de marzo de 2016*. Available at: <https://informaticuba.files.wordpress.com/2016/04/overview-marzo-2016.pdf>.

<sup>155</sup> Diario de Cuba: March 21, 2016. [La Asociación Pro Libertad de Prensa denuncia detenciones y amenazas a periodistas](#); Cuba Prensa Libre. March 19, 2016. [Retiene a periodistas cubanos en aeropuerto de La Habana](#).

<sup>156</sup> Diario de Cuba: March 21, 2016. [La Asociación Pro Libertad de Prensa denuncia detenciones y amenazas a periodistas](#); CubaNet. March 21, 2016. [Asociación Pro Libertad de Prensa denuncia represión a periodistas](#).

<sup>157</sup> Comité para la Protección de Periodistas (CPJ), March 25, 2016. [Encarcelan durante cinco días a bloguero cubano que intenta cubrir una protesta](#); Martí Noticias. March 24, 2016. [Liberan a Yuri Valle Roca tras ser acusado de “atentado”](#).

<sup>158</sup> According to the information received by the Commission, the five journalists were: Magalys Norvis Otero, Neobel García Borniel, Yanelis Rodríguez Morejon, Yampier Pérez, and Ernesto Morales. Diario de Cuba: March 21, 2016. [La Asociación Pro Libertad de Prensa denuncia detenciones y amenazas a periodistas](#); Cuba Prensa Libre. March 19, 2016. [Retiene a periodistas cubanos en aeropuerto de La Habana](#).

<sup>159</sup> El Nuevo Herald. July 21, 2016. [Cuba utiliza el permiso de entrada como chantaje hacia los emigrados](#); Ciber Cuba. Undated. [Detienen y devuelven a EEUU a una exiliada cubana que viajó a la Isla](#); CubaNet. June 29, 2016. [Detenida y devuelta a EEUU exiliada cubana que viajó a la isla](#).

students at the University of São Paulo (USP) reportedly had to return to Brazil before the planned end to the visit to Cuba due to an interview they had conducted with Ailer González, wife of regime critic and member of the Estado de Sats project, Ailer González.<sup>160/</sup>

109. The Commission received worrisome information regarding the plight of journalists and the situation with respect to freedom of expression in Cuba at a public hearing conducted during its 157th regular period of sessions on the "Situation of Human Rights Defenders in Cuba." It was told during the hearing that three *Hablemos Press* journalists were still in jail and that the harassment of activists, journalists and opponents of the regime had increased in 2016. It was told, among other things, that thus far in 2016, 34 journalists from different media had been victims of physical and verbal assault by police and Cuban State Security agents. Furthermore, it was told that the Government had been blocking access from within Cuba to the *Hablemos Press* website since 2011. According to the information provided, the State agents and police had been making use of authority granted to them under the Criminal Code to impose an administrative fine of up to 3,000 pesos (by comparison, the average wage in Cuba is around 350 pesos),<sup>161/</sup> without having to go through any judicial body or proceeding. The Commission further received troubling information about the use of violence to curtail the right to assembly and the use of arbitrary detentions to prevent the freedom of movement of the members of the above-mentioned organizations. Thus, members of the *Mesa de diálogo de la Juventud Cubana* had repeatedly been deprived of their right to meet, move around freely, and exercise freedom of expression. The Commission was further informed that members of the intelligence apparatus would visit homes on a daily basis and summon members of the *Cubalex* organization to interviews at police stations, where officers threatened their personal and emotional security and that of their next of kin, especially minors.<sup>162/</sup> Additional information was submitted about government actions against members of the Damas de Blanco movement involved in the *#Todosmarchamos* campaign.<sup>163/</sup> Some speakers at the hearing mentioned curtailment of the right of association by denying legal recognition to organizations such as *Cubalex* and *Mesa de diálogo de la Juventud Cubana*, which was reportedly awaiting State recognition of its status as an organization.<sup>164/</sup>

110. In September, the State radio station Radio Sagua is said to have terminated journalist Maykel González's contract for have done work for independent media, such as *Diario de Cuba*. The journalist had been admonished earlier when he had denounced what he called "the 'homophobia' of the Population and Housing Census" conducted in 2012. According to González, he had been punished for criticizing an event which the country had prioritized. Furthermore, he said there was "a 'crusade' against journalists who had established ties with non-official media."<sup>165/</sup>

111. According to publicly known information, on November 26, artist Danilo Maldonado, known as "El Sexto", was arrested in Havana for the crime of damage to property. Maldonado painted a graffiti on a wall of the Hotel Habana Libre, following the announcement of the death of Fidel Castro, which read "He's gone" [*Se fue*] and published a video on his Facebook page celebrating his death. According to the available information, at the close of this report, the artist remained in custody, even though the crime of which he was accused would be punishable by a fine and not detention.<sup>166</sup>

<sup>160</sup> Martí Noticias. January 18, 2016. [Expulsan de Cuba a dos estudiantes brasileños por entrevistar a esposa de opositor](#); CubaNet. January 19, 2016. [Expulsan de Cuba a dos estudiantes brasileños por entrevistar a opositora](#).

<sup>161</sup> IACHR, Hearing on the [Situation of Human Rights Defenders in Cuba](#), 157th regular period of sessions, April 8, 2016.

<sup>162</sup> IACHR, Hearing on the [Situation of Human Rights Defenders in Cuba](#), 157th regular period of sessions, April 8, 2016.

<sup>163</sup> IACHR, Hearing on the [Situation of Human Rights Defenders in Cuba](#), 157th regular period of sessions, April 8, 2016.

<sup>164</sup> IACHR, Hearing on the [Situation of Human Rights Defenders in Cuba](#), 157th regular period of sessions, April 8, 2016.

<sup>165</sup> *Diario de Cuba*: September 5, 2016. [Radio Sagua cierra el contrato al periodista Maykel González por colaborar con medios como DDC](#); *Ciber Cuba*. Undated. [Maykel González Vivero, la nueva víctima de la censura periodística en Cuba](#).

<sup>166</sup> Instituto Cubano por la Libertad de Expresión y Prensa. December 2, 2016. [El jueves Human Rights Watch demandó la libertad del artista plástico. El martes lo hizo Amnistía Internacional](#); *Ciber Cuba*. No date. [La madre de El Sexto denuncia que el artista ha](#)

112. During the 159<sup>th</sup> Ordinary Period of Sessions of the Inter-American Commission, at the public hearing on the “Situation of Human Rights Defenders in Cuba”, the IACHR received worrisome information regarding an intensification of general repression in Cuba directly related to the work of international denunciation that Cuban organizations have carried out before international bodies. In this sense, the petitioners reported that three people who were present at the hearings of the 157<sup>th</sup> Period of Sessions of the IACHR in April have suffered from increased repression. They indicated that five Cuban civil society organizations have suffered reprisals in recent months due to the presentation in Geneva in August of a Report on the Situation of Freedom of Opinion and Expression in Cuba to the Office of the United Nations Special Rapporteur on Promotion and Protection of the Right to Freedom of Opinion and Expression. The reprisals were characterized, among other things, by restrictions on travel, arbitrary arrests, torture and other cruel, inhumane and degrading treatment, constant surveillance; also attempts to accuse activists of alleged crimes contemplated in the criminal code, such as defamation, harassment and even death threats. The petitioners stated that *Hablemos Press* had throughout the year been the target of 72 arrests of reporters. Additionally, 16 of the 46 reporters that *Hablemos Press* had on its payroll had to stop working due to reprisals. They observed that other Cuban media outlets, such as *Prensa Libre* and *Palenque Visión*, among others, had also suffered from arrests of their reporters. According to the reports, the human rights activists had also been victims of harassment, arrests for prolonged periods and monitoring of their communications, among other restrictions on their labors.<sup>167</sup>

113. In that same vein, information was also provided about diverse restrictions that hinder progress regarding freedom of the press, such as legal provisions, fear of reprisals and limited and costly access to the Internet. In this regard, the above-mentioned report: *Connecting Cuba: More Space for Criticism but Restrictions slow press freedom progress*, published in September of 2016, contains recommendations to the Cuban Government and to the Organization of American States, including a call for the government to implement legal reforms and modify the restrictive legal framework that prohibits private property in press outlets. The petitioners submitted recommendations to the IACHR, such as, for example, requesting authorization for the Special Rapporteur for Freedom of Expression of the IACHR to carry out a mission to Cuba to assess the situation of freedom of expression and of the press and publicly communicate his findings and recommendations. The Special Rapporteur, Edison Lanza, among other things, regretted the absence of the State because it would have permitted a dialogue about the situations presented during the hearing, and expressed his solidarity with respect to the situation of persecution, stigmatization and harassment that they are experiencing for defending human rights and freedom of expression. He also affirmed that the situation of freedom of expression in Cuba is the backbone of a solution and the rebuilding of democracy, which would include all parties.<sup>168</sup>

114. The Inter-American Commission reiterates that Principle 9 of the Declaration of Principles on Freedom of Expression of the IACHR provides 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”. Furthermore, as established by the United Nations Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression and by the Special Rapporteurship for Freedom of Expression of the Inter-American Commission on Human Rights of the Organization of American States (OAS), the State has the duty to ensure that journalists and media workers reporting on public

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*sido secuestrado por el régimen*; Amnesty International. November 29, 2016. [Cuban graffiti artist arrested again](#); Yoani Sánchez/Twitter. November 30, 2016. [#Cuba El grafitero El Sexto sigue detenido por esta pintada: “se fue” por #LaMuerteDeFidelCastro](#); El Nuevo Herald. December 2, 2016. [En huelga de hambre disidente cubano detenido por celebrar muerte de Castro](#); Diario de Cuba. December 7, 2016. [Freedom House condena el arresto del grafitero Danilo Maldonado](#); Freedom House. December 6, 2016. [Cuba: Dissident Arrested for Facebook Video Mocking Fidel Castro](#).

<sup>167</sup> IACHR. 159 Period of Sessions. Hearing “Situation of Human Rights Defenders in Cuba”. December 1, 2016. Available for consultation at: <https://www.youtube.com/watch?v=3uDnLrjZhW4>

<sup>168</sup> IACHR. 159 Period of Sessions. Hearing “Situation of Human Rights Defenders in Cuba”. December 1, 2016. Available for consultation at: <https://www.youtube.com/watch?v=3uDnLrjZhW4>

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 shall not be destroyed or confiscated by the authorities." Likewise, "Moreover, 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."<sup>169/</sup>

115. In light of the above, the IACHR urges the Cuban Government to adopt the necessary measures to guarantee the free exercise of journalism and the safety of those exposed to special risk for exercising their right to freedom of expression, regardless of whether the threats come from State agents or private individuals. In addition, the IACHR urges the State of Cuba not only to guarantee diligent, impartial, and effective investigations into the acts referred to in the foregoing paragraphs, but also to guarantee that those responsible are tried by impartial and independent courts, by removing the legal impediments to the investigation and punishment of those crimes.

#### **b. Subsequent liabilities**

116. The IACHR and its Special Rapporteurship have maintained that Cuba's rules on *desacato* (contempt of public authorities) are incompatible with the inter-American human rights system, because they lend themselves to abuse as a means to silence unpopular ideas and opinions, thereby repressing the debate that is critical to the effective functioning of democratic institutions."<sup>170/</sup> They have also asserted that citizens have a right to "criticize and scrutinize the attitudes of officials in so far as they relate to public office."<sup>171/</sup> During 2016, the IACHR and its Special Rapporteurship continued to receive troubling information about the use to which Cuba puts criminal law, that is to say both substantive and procedural law, and the crime of *desacato* as ulterior liability mechanisms to the detriment of journalists and activists who disseminate ideas, opinions and information that is critical of the ruling party. In that connection, too, the Commission noted dismissals used as sanctions in administrative proceedings for criticizing the Government and the use of ordinary offenses as a way of getting at the aforementioned persons.

117. On June 27, resolution No. 20 of 2016, issued by the "Support Unit" of the central level of the Ministry of Culture of Cuba (Minicult) reportedly punished Yanelys Núñez Leyva by definitively dismissing her from her job at the *Revolución y Cultura* magazine, an official organ of Minicult, for offering an interview to CubaNet, an action that was characterized as an "ill-intentioned act of communication" that "tarnishes" the image "of the system, agency, or country." CubaNet is a portal on life in Cuba that seeks to provide alternative journalism by offering space to civil society. In addition, Núñez Leyva was allegedly banned from working for a State cultural institution for four years, after which she would have to "prove" her "ideological rehabilitation." The journalist coauthors -- with the artist Luis Manuel Otero Alcántara -- the "Museum of Dissidence in Cuba", a website said to bother State Security officials.<sup>172/</sup>

118. On September 29, the National Ethics Committee of *Unión de Periodistas de Cuba* (Upec) reportedly ratified the dismissal of journalist José Ramírez Pantoja from Radio Holguín. The journalist is said to have been fired on July 11 after having transcribed in his personal blog the words of the Deputy Director of the pro-Government newspaper Granma who had allegedly warned of possible protests in Cuba if power cuts resumed.<sup>173/</sup> According to reports, Pantoja had been punished to five years separation from the job, after

<sup>169</sup> United Nations (UN) 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 on Human Rights. September 13, 2013. [Joint declaration on violence against journalists and media workers in the context of protests.](#)

<sup>170</sup> Report on the Compatibility of 'Desacato' Laws with the American Convention on Human Rights.OEA/Ser. L/V/II.88, doc. 9 rev., February 17, 1995, p. 223 (Spanish version).

<sup>171</sup> Report on the Compatibility of 'Desacato' Laws with the American Convention on Human Rights.OEA/Ser. L/V/II.88, doc. 9 rev., February 17, 1995, p. 218 (Spanish version).

<sup>172</sup> CubaNet. July 19, 2016. [La censura tiene nombres y apellidos](#); CubaNet. May 14, 2016. [La disidencia tiene un museo en La Habana.](#)

<sup>173</sup> CubaNet. August 3, 2016. [Despiden a periodista radial por publicar advertencia de protestas en Cuba](#); Martí Noticias. August 3, 2016. [Expulsan a periodista por reproducir palabras de subdirectora de Granma](#); El Nuevo Herald. August 27, 2016. [Periodista expulsado](#)

which he could return to it, "provided that his attitude was compatible with UPEC's code of ethics."<sup>174/</sup> On October 19, the People's Municipal Court of Holguín apparently upheld the decision.<sup>175/</sup>

119. In January it transpired that the People's Supreme Court turned down the appeal for annulment and upheld the judgment of the Provincial Court of Havana, which had sentenced independent attorney Julio Alfredo Ferrer Tamayo, an advisor to the Legal Information Center *Cubalex*, to three years in prison for allegedly forging public documents regarding title to his home. The Commission was told that the sentence was illegal because he was allegedly accused of an act that was not a crime - filing a private application to obtain title to his home. Reportedly, Ferrer Tamayo had already been detained for six months for contempt of three judges of the Supreme Court's Division on Crimes against State Security. According to information in the public domain, the punishment was allegedly a reprisal for having demanded that the authorities respect national laws and due process with respect to himself, his wife, and his clients.<sup>176/</sup>

120. The Inter-American Commission recalls that Principle 1 of the Declaration of Principles of the IAVHR establishes that "Freedom 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. Furthermore, Principle 5 establishes that "Restrictions 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." For its part, Principle 13 asserts that "The 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."

121. Consequently, the IACHR reiterates to the Cuban Government that it should work to repeal all laws establishing the offense of "desacato", in any shape or form, because those rules are contrary to inter-American standards and restrict public discussion, which is essential for democracy to function. Likewise, it reiterates that the Cuban State should promote the amendment of laws on criminal defamation to protect reputation and people's honor when information is disseminated on matters of public interest, on government officials or candidates to public office; encourage democratic debate through declarations, practices, and public policies that foster tolerance and respect for all others, on an equal footing, regardless of their thoughts or ideas.

### c. Freedom of Expression and the Internet

122. Access to the Internet and digital communications is a prerequisite for the effective online exercise of freedom of expression. The Internet is a tool that permits the fulfillment of other rights and public participation, in addition to facilitating access to goods and services. With respect to this matter, the IACHR and its Special Rapporteurship continued to receive information that the Cuban State has not given up its policy of control and hostility toward the critical press on the Internet and still blocks content that the regime decides to censure. Along those lines, on August 25, 2016, the Director for United States affairs of the Cuban Ministry of Foreign Affairs, Josefina Vidal, reportedly said that a meeting organized by the Office of Cuba

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[se pronuncia en medio de vendaval en la prensa oficial cubana](#); 14 y Medio. September 30, 2016. [Una comisión de ética rechaza la apelación del periodista expulsado de Radio Holguín](#); CubaNet. September 29, 2016. [La UPEC suspende a periodista radial holguinero](#); CubaNet. Friday, July 1, 2016. [Subdirectora del Granma advierte peligro de otro "maleconazo"](#).

<sup>174</sup> 14 y Medio. September 30, 2016. [Una comisión de ética rechaza la apelación del periodista expulsado de Radio Holguín](#).

<sup>175</sup> Martín Noticias. October 24, 2016. [Tribunal de Holguín ratifica expulsión de periodista](#); Blog verdadecuba. October 22, 2016. [La nota que nunca quise publicar / JRP](#).

<sup>176</sup> Diario de Cuba: January 30, 2016. [El Tribunal Supremo confirma condena a tres años de cárcel contra el abogado independiente Julio Ferrer Tamayo](#). Cubalex. March 10, 2016. [El caso del abogado Julio Ferrer explicado en tres etapas](#); Cubalex. February 2, 2016. [Abogado de Cubalex bajo amenaza de encarcelamiento](#).

Broadcasting (OCB) in Miami on the use of the Internet in Cuba was an attempt to foster "internal subversion."<sup>177/</sup>

123. It is worth recalling that access to the infrastructure and devices needed to search for, receive, and share information and ideas on the web in Cuba remains under State control via the State-owned company Empresa de Telecomunicaciones de Cuba S.A (Etecsa). This limits the cultural expressions, access to information, and the discussion of ideas to which Cubans have access via radio, Internet, and the press. The available information suggests that barely 5 percent of the population can connect to the Internet from home,<sup>178/</sup> in a context in which Internet connections are costly.<sup>179/</sup> Likewise, only about two million people in a population of 11 million are said to have a mobile phone, so that access to the Internet is still not possible for a majority of Cubans.<sup>180/</sup> Reportedly, in 2016, Etecsa was planning to install 500,000 new mobile phone lines and expected to reach 46 percent telephone density in an effort to improve communications in Cuba. It was also said to be planning to introduce "roaming."<sup>181/</sup> The Commission was also told that Etecsa and T-Mobile USA had concluded negotiations for the international exchange of voice mail and data between Cuba and the United States for T-Mobile customers traveling to Cuba.<sup>182/</sup> As regards Internet service, the State-owned enterprise reportedly stated that for the past year it had focused on setting up collective public access areas (navigation/browsing rooms and wifi hotspots).<sup>183/</sup>

124. Despite the limitations, incipient areas of independent online journalism are beginning to open up in Cuba, thanks to the use of USBs, flash drives, CDs, external hard disks, and other devices. According to journalist Yoani Sánchez, through these tools, Cubans have begun to be virtual citizens in a country in which we haven't yet been able to be real citizens."<sup>184/</sup> Furthermore, as the Committee for the Protection of Journalists (CPJ) wrote in a recent report, "journalists, ranging from the most critical -- those known as dissidents -- to those who have just graduated in journalism, the documentary film-makers and the bloggers who back the revolution, are opening up new outlets for freedom of expression and innovative journalism that until recently appeared to be off-bounds."<sup>185/</sup>

125. As the United Nations (UN) Special Rapporteur on Freedom of Opinion and Expression, the Organization for Security and Co-operation in Europe (OSCE), the Organization of American States (OAS), and the African Commission on Human and Peoples' Rights (ACHPR) stated in their Joint Declaration of 2011,<sup>186/</sup>

<sup>177</sup> El Nuevo Herald. August 26, 2016. [Cuba acusa de 'subversión' reunión en Miami sobre uso de internet en la isla](#); In Cuba Today. August 26, 2016. [Cuba calls Miami conference on internet freedom an act of 'subversion'](#); In Cuba today. August 23, 2016. [Miami acogerá conferencia sobre la libertad de internet en Cuba](#).

<sup>178</sup> El País. March 21, 2016. [Obama anuncia que Google extenderá Internet en Cuba para dar más voz a la gente](#); ABC. April 1, 2016. [Cuba pretende conectar a la mitad de su población a internet antes de 2020](#); Yusanby Post. March 31, 2016. [EEUU asegura que Cuba se ha comprometido a conectar a Internet a un 50% de la población en 2020](#); 14 y Medio. March 30, 2016. [El 50% de los hogares tendrá Internet en 2020, según el Gobierno cubano](#).

<sup>179</sup> Infobae. May 7, 2016. [Internet en Cuba: lenta y cara, pero cada vez más masiva](#); CubaNet. February 8, 2016. [ETECSA, un monopolio capitalista en Cuba](#).

<sup>180</sup> ABC. April 1, 2016. [Cuba pretende conectar a la mitad de su población a internet antes de 2020](#); Yusanby Post. March 31, 2016. [EEUU asegura que Cuba se ha comprometido a conectar a Internet a un 50% de la población en 2020](#).

<sup>181</sup> CubaNet. February 20, 2016. [ETECSA anuncia que instalará 500 mil nuevas líneas móviles en 2016](#).

<sup>182</sup> Juventud Rebelde. May 9, 2016. [Etecsa y T-Mobile firman acuerdos de interconexión directa](#); Granma. May 9, 2016. [Nota de prensa de Etecsa](#).

<sup>183</sup> CubaNet. February 20, 2016. [ETECSA anuncia que instalará 500 mil nuevas líneas móviles en 2016](#); 14 y Medio. February 19, 2016. [Cuba anuncia incremento de 500.000 nuevas líneas móviles en 2016](#).

<sup>184</sup> The Knight Center. April 16, 2016. [ISOJ 2016: Yoani Sánchez explica cómo la tecnología ha hecho más libres a los cubanos](#).

<sup>185</sup> Comité para la Protección de Periodistas (CPJ), September 28, 2016. [Conectar a Cuba: Más espacio para crítica, pero restricciones frenan avance de libertad de prensa](#); Comité de Protección de Periodistas (CPJ). September 21, 2016. [El CPJ divulgará informe especial sobre la libertad de prensa en Cuba](#).

<sup>186</sup> United Nations Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Representative for Freedom of the Media of the Organization for Security and Cooperation in Europe, the Special Rapporteur for Freedom of Expression of the Organization of American States, and the Special Rapporteur for Freedom of Expression and Access to



"Mandatory blocking of entire websites, IP addresses, ports, network protocols or types of uses (such as social networking) is an extreme measure – analogous to banning a newspaper or broadcaster – which can only be justified in accordance with international standards, for example where necessary to protect children against sexual abuse." In addition they recalled, inter alia, that "Content filtering systems which are imposed by a government or commercial service provider and which are not end-user controlled are a form of prior censorship and are not justifiable as a restriction on freedom of expression."

126. In light of the above, the Commission urges the Cuban State to expand connectivity to the Internet without restrictions, thereby promoting universal access to it and ensuring effective enjoyment of the right to freedom of expression. Likewise, the IACHR reiterates to the Cuban Government that it should guarantee that provisions regulating access to the Internet in Cuba meet international standards for protecting freedom of expression and thought, including the right to privacy and the right to seek, receive and disseminate ideas and information.

- **Economic, Social, and Cultural Rights**

127. The Cuban authorities have continued implementing actions for the promotion and implementation of economic, social, and cultural rights.

128. According to information provided by the Cuban State to the Committee on the Elimination of Racial Violence (CERD), the Government has striven to achieve a situation in which no family lacks a comfortable home. To that end, it plans, organizes, and promotes the construction and renovation of homes by State micro-brigades, enterprises, and entities, and farming and livestock cooperatives, as well as through the population's own efforts. According to the State, 95.6 percent of families own their own homes.<sup>187/</sup>

129. In health, according to the State, Cuba has one doctor for every 130 inhabitants, one dentist/stomatologist for every 671, and a nurse for every 123 inhabitants. The practicing physician's ratio is 7.7 per 1,000 inhabitants. In the terms of health care services per inhabitant, they include an average of 7.4 visits to the doctor and 2.3 visits to the dentist. Cuba has eliminated 14 communicable diseases and nine illnesses have ceased to be health problems, since their incidence has fallen to less than 0.1 per 100,000 inhabitants. Mortality rates due to infectious and parasitic diseases now account for 1.3 percent of all deaths. IN addition, as WHO acknowledged in 2015, Cuba was the first country in the world to have eliminated mother-to-child transmission of HIV/AIDS and syphilis.<sup>188/</sup>

130. Commemorating World Food Day, the Food and Agriculture Organization's representative in Cuba, Theodor Friedrich, underscored the part Cuba had played in the eradication of hunger and the struggle for rural women's rights. While pointing out that nearly 800 million people in the world continue to suffer food insecurity and 160 million children under the age of 5 have stunted growth because of it, he paid tribute to Cuba's role in the region with respect to attending to the needs of rural women and drew attention to the implementation by the Ministry of Agriculture of an innovative gender strategy that underscores women's role in that sector.<sup>189/</sup>

131. In recent years, more opportunities for self-employment have been opened up, which, according to the State, has directly benefited most activities by satisfying both the needs of the population

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Information of the African Commission on Human and Peoples' Rights, June 1, 2011: [Joint Declaration on Freedom of Expression and the Internet](#).

<sup>187</sup> United Nations, Committee on the Elimination of Racial Discrimination, [Consideration of reports submitted by States parties under article 9 of the Convention](#), CERD/C/CUB/19-21, September 9, 2016, para. 120.

<sup>188</sup> United Nations, Committee on the Elimination of Racial Discrimination, [Consideration of reports submitted by States parties under article 9 of the Convention](#), CERD/C/CUB/19-21, September 9, 2016, paragraphs 126-135; World Health Organization, [La OMS confirma los logros alcanzados por los países en la eliminación de la transmisión materno-filial del VIH y la sífilis](#), June 8, 2016; Pan American Health Organization, [Hoja informativa: Transmisión materno-infantil del VIH y sífilis](#), last updated on November 30, 2015; Excelsior, [Cuba elimina la transmisión de madre a hijo del VIH y de la sífilis](#), August 16, 2016.

<sup>189</sup> Cuba Debate, [Reconoce FAO papel de Cuba frente a erradicación del hambre](#), October 16, 2016.

and economic development. Self-employment has had a positive impact on the supply of consumer goods and services, notably in the food preparation and sales sector and in transportation. In its report to the United Nations Committee on the Elimination of Racial Discrimination, the Cuban State pointed out that the Labor Code recognizes the right of workers to voluntarily form associations and trade unions, since neither the aforementioned Code nor the laws that complement it establish restrictions on the formation of trade unions.<sup>190</sup> / According to the annual report published by Human Rights Watch, however, despite the updating of its Labor Code in 2014, Cuba continues to violate International Labour Organization conventions that, particularly as regards freedom of association, have upheld collective bargaining, wage protection and payment, and the ban on forced labor.<sup>191</sup> / While, technically speaking, Cuban legislation authorizes the formation of independent trade unions, in practice Cuba allows only one confederation of trade unions controlled by the State, the *Central de Trabajadores de Cuba*.<sup>192</sup> /

132. The IACHR has also received information indicating that it persists the prohibition of independent trade unions and that the conditions under which workers may be hired by joint ventures would not comply with ILO Conventions, which Cuba has ratified. In this regard, the Foundation for Human Rights in Cuba (FDHC), has indicated that "the 'mixed companies' in Cuba do not select, hire or pay workers directly, this is done through another State company, which acts as an intermediary receiving payments from the foreign investor, and converting the payment in local currency so as to pay the worker an infinitely lower fraction in Cuban non-convertible pesos. According to the FDHC on the bases of this arrangement, the State enterprise confiscates about 80 to 96% of the foreign investor pays for the worker and in the selection and hiring of the worker, intermediary state enterprises (such as ACOREX) use criteria which are discriminatory under political grounds."<sup>193</sup> /

133. On April 18, 2016, the UNDP reported that an estimated 500 families from the community of Santa María, in the municipality of Consolación del Sur, province of Pinar del Rio, enjoyed access to water not only for collective use, but also to supply a nearby organic permaculture farm and a worm-farming (Vermicompost) project, which would contribute to the sustainable production of vegetables for human consumption.<sup>194</sup> / In May this year, the United Nations Food and Agriculture Organization (FAO), along with the local branch of the Ministry of Agriculture and the grazing land/fodder project (*Estación Experimental de Pastos y Forrajes - EEPF*), began implementing a technology transfer project in agriculture, food security, nutrition, and sustainable management of natural resources, for research and production centers in the province of Las Tunas, with a view to increasing meat and dairy output.<sup>195</sup> /

134. In light of the above information, the IACHR encourages Cuba to continue promoting and effectively protecting economic, social, and cultural rights.

#### IV. RECOMMENDATIONS

135. The Commission welcomes the progress made by the Cuban Government toward normalization of relations with the United States of America. Furthermore, it applauds the actions taken to foster economic, social, and cultural rights in Cuba and underscores the constant assistance that the Cuban people provide to countries of the region in health, education, culture and international cooperation in

<sup>190</sup> United Nations, Committee on the Elimination of Racial Discrimination, [Consideration of reports submitted by States parties under article 9 of the Convention](#), CERD/C/CUB/19-21, September 9, 2016, para. 120.

<sup>191</sup> Human Rights Watch, [World Report 2016](#), p. 205.

<sup>192</sup> Human Rights Watch, [World Report 2016](#), p. 205.

<sup>193</sup> Sin Censura: Labor rights are not according to the ILO in Cuba. <https://cubasincensura.wordpress.com/2016/10/31/los-derechos-laborales-no-están-acordes-a-la-oit-en-cuba/> Cuba / October 31, 2016. Also see Press Release, Campaign for labor rights in Cuba. Available at <http://webstc.org/1027CAMPANA-FDHC-STC.pdf> October, 27, 2016.

<sup>194</sup> PNUD, [Dispone de agua potable otra comunidad rural cubana](#), April 18, 2016.

<sup>195</sup> FAO, [Apoya la FAO seguridad alimentaria en Las Tunas](#), May 24, 2016.

natural disasters and other humanitarian emergencies. It invites all States in the Hemisphere to replicate these sound practices.

136. At the same time, the IACHR laments the little official information provided and the State's traditional indifference to this regional human rights body. Moreover, the Commission notes with great concern that, after taking into account the recommendations made in each Chapter IV of past years and judging by the information gathered this year, it cannot observe improvement in aspects such as violations of the rights to liberty and personal integrity; arbitrary restrictions on the right to vote and participate in government; freedom of expression and dissemination of thought; the lack of an independent judiciary; undue limitations to the right to residence and movement; and so on.

137. The Commission wishes to state its interest in a rapprochement and respectful dialogue with the Cuban State and the people of Cuba, with a view to providing such specialized technical assistance with human rights as is needed and fostering the observance and defense of those rights.

138. Accordingly, pursuant to its mandate, the Commission urges the Cuban State:

- In relation to the right to vote and participate in government:
  1. To adopt the legislative and other measures necessary to ensure an electoral system which will be inclusive and ensure the free circulation of ideas and thought, making possible the free political participation of all Cuban citizens on an equal footing.
- As for social activists and dissident people:
  2. To adopt adequate mechanisms of prevention to avoid acts of harassment, threats, and attacks carried out by state authorities, or with their acquiescence, to the detriment of dissidents, activists, human rights defenders, journalists, and other media workers. It is recommended to include, as necessary measures, public condemnation of all acts of aggression, educating and training public officials and especially the police and security forces; taking the measures necessary to prevent violence in the context of public demonstrations; establishing reasonable limits, governed by the principles of legality, necessity, and proportionality, to ensure that they unfold peacefully; and conduct serious, impartial, and effective investigations into the attacks, threats, and acts of intimidation committed to the detriment of the above-indicated persons;
  3. To bring its procedural rules into line with international standards of due process so that persons before the courts for a determination of their rights and responsibilities have minimum legal guarantees for presenting their defense;
  4. To abolish the death penalty from the Criminal Code and other related laws, or at least place a moratorium on its application, while adopt the legislative or other measures necessary to ensure that the death penalty not be imposed in proceedings in which the guarantees of due process are not observed in a fair trial before a court that is competent, independent, and impartial, previously established by law, and where there are allegations that the defendant has engaged in conduct subject to criminal sanction set forth in ambiguous or vague provisions;

5. To eliminate the use of the concepts of “dangerousness” (*“peligrosidad”*) and “special proclivity of a person to commit crimes” (*“especial proclividad en que se halla una persona para cometer delitos”*), contained in the Criminal Code.
  - As regards the right of residence and movement:
6. To adopt the measures necessary to ensure its citizens the right to freely determine their place of residence, freedom of movement in Cuban territory, and the freedom to exit and enter the country;
7. To ensure that, in the exercise of their right to freedom of movement, human rights defenders are not subjected to unwarranted obstacles, have their right not to disclose their sources of information respected; and are not subjected to the confiscation or destruction of their working tools and materials.
  - As regards LGTBI persons:
8. To adopt comprehensive measures to ensure that persons defending the human rights of LGBT persons can freely go about their work of defending and promoting the human rights of lesbian, gay, bisexual, and transgender persons;
9. To implement mechanisms for denouncing and effectively investigating acts of harassment and aggression against persons who defend the rights of LGBTI persons and to foster the measures needed to put an end to impunity;
10. To create opportunities for dialogue between the State and defenders of the human rights of LGBTI persons with a view to achieving an in-depth understanding of their security needs and the risks they face.
  - As regards children and adolescents:
11. To review national laws so as to bring them into line with the Convention on the Rights of the Child, especially the Family Code, the Children and Young People's Code, and the Criminal Code, all of which pre-date the entry into force of the Convention on the Rights of the Child. While many programs and interventions in practice are already consistent with the Convention, still pending is a comprehensive updating of laws and regulations so as to guarantee legal protection of children's rights in accordance with international standards;
12. To adopt the definition of "child" established in the Convention on the Rights of the Child, that is to say, grant the special protection recognized under international human rights law for all Cuban children and adolescents until they reach 18 years of age;
13. To review norms, policies, and practices to ensure that they afford effective protection for children and adolescents against all forms of exploitation, especially labor and sexual exploitation, and provide appropriate care for victims;
14. To bring the juvenile justice system into line with international human rights standards.
  - As regards persons deprived of their liberty:
15. To adopt and implement comprehensive public policies designed to ensure that persons deprived of their liberty are held in decent conditions consistent with the principle that people must be treated with respect for their dignity. In particular, to take steps to: a) reduce overcrowding; b) prevent, diagnose, and provide timely treatment for diseases; c) attend to

- groups of inmates at special risk; d) restrict the use of solitary confinement, in accordance with international standards; and e) guarantee adequate food;
16. To promote a policy to ensure and prevent committing acts of torture or inflicting cruel, inhuman, and degrading punishment; to that end, public awareness campaigns should be conducted, repudiating torture and the culture of violence and impunity;
  17. To adopt the measures needed to ensure that those who denounce or file complaints of torture are protected from reprisals.
    - As regards Afro descendant persons:
  18. Design public policies that adequately address the problems faced by persons of African descent, in particular, with regard to their low rate of political representation, participation in education programs, including higher education, and representation at different levels in the public and private sector labor market; and
  19. Diligently collect information on the human rights situation facing people of African descent, particularly women of African descent, and inform the IACHR about policies and measures adopted to address their needs.
    - As regards the right to freedom of expression:
  20. To adopt the necessary measures to guarantee the free exercise of journalism and the safety of those exposed to special risk for exercising their right to freedom of expression, regardless of whether the threats come from State agents or private individuals;
  21. To guarantee diligent, impartial, and effective investigations into acts of violence against the exercise of freedom of expression; and to guarantee that those who perpetrate acts of violence against the exercise of freedom of expression are tried by impartial and independent courts, by removing current legal obstacles to the investigation and punishment of said crimes;
  22. To promote the repeal of laws establishing the offense of "desacato", in any shape or form, because those rules are contrary to inter-American standards and restrict public discussion, which is essential for democracy to function;
  23. To promote the amendment of laws on criminal defamation to protect reputation and people's honor when information is disseminated on matters of public interest, on government officials or candidates to public office; encourage democratic debate through declarations, practices, and public policies that foster tolerance and respect for all others, on an equal footing, regardless of their thoughts or ideas;
  24. To expand connectivity to the Internet without restrictions, thereby promoting universal access to it and ensuring effective enjoyment of the right to freedom of expression;
  25. To guarantee that the provisions governing access to the Internet in Cuba respect international standards for protecting freedom of expression and thought, including the right to privacy and the right to seek, receive and disseminate ideas and information, without prior censorship or prior demands for veracity, timeliness, and impartiality of information;
  26. To promote legislation and effective policies and practices to allow access to public information and to adopt legislative and other measures to guarantee pluralism, including laws to prevent public or private monopolies in the media.

- Regarding Economic, Social, and Cultural Rights:

27. To continue the measures fostering economic, social, and cultural rights, in addition to considering the possibility of ratifying treaties on economic, social, and cultural rights to which Cuba is not yet party.