

B. Countries

CHAPTER IV  
CUBA

I. INTRODUCTION

149. The Inter-American Commission on Human Rights has paid special attention to the human rights situation in Cuba and, in the use of its competence, has observed and evaluated the human rights situation in special reports<sup>260</sup>, in Chapter IV of the Annual Report<sup>261</sup>, and through the case system.<sup>262</sup> In addition, on several occasions it has asked the Cuban State to adopt precautionary measures for the purpose of protecting the life and personal integrity of Cuban citizens.<sup>263</sup>

150. On January 31, 1962, the Government of Cuba was excluded from participating in the inter-American system by Resolution VI adopted at the Eighth Meeting of Consultation of Ministers of Foreign Affairs, held in Punta del Este (Uruguay).<sup>264</sup> On June 3, 2009, during its Thirty-ninth Regular Session held in Honduras, the General Assembly of the Organization of American States (OAS) set aside Resolution VI adopted at the Eighth Meeting of Consultation of Ministers of Foreign Affairs and established that “the participation of the Republic of Cuba in the OAS will be the result of a process of dialogue initiated at the request of the Government of Cuba, and in accordance with the practices, purposes, and principles of the OAS.”

151. The IACHR has recognized that the Cuban State – including in the time of exclusion – is “juridically answerable to the Inter-American Commission in matters that concern human rights” since it “is party to the first international instruments established in the American hemisphere to protect human 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>265</sup>

<sup>260</sup> IACHR, Special Reports from the following years: 1962; 1963; 1967; 1970; 1976; 1979; 1983. At [www.iachr.org](http://www.iachr.org)

<sup>261</sup> IACHR, Chapter IV of the Annual Report for the following years: 1990-1991; 1991; 1992-1993; 1993; 1994; 1996; 1997; 1998; 1999; 2000; 2001; 2002; 2003; 2004; 2005; 2006; 2007, 2008, 2009, 2010, 2011, 2012 and 2013. at [www.iachr.org](http://www.iachr.org)

<sup>262</sup> See: IACHR, Merits Report No. 47/96, Case 11,436, Victims of the Tugboat “13 de marzo,” October 16, 1996; IACHR, Merits Report No. 86/99, Case 11,589, Armando Alejandro Jr., Carlos Costa, Mario de la Peña, and Pablo Morales, September 29, 1999; IACHR, Admissibility Report No. 56/04, <http://www.cidh.org/annualrep/2004eng/Cuba.12127eng.htm>, Vladimiro Roca Antúnez *et al.*, October 14, 2004; IACHR, Admissibility Report No. 57/04, <http://www.cidh.org/annualrep/2004eng/Cuba.771.03eng.htm>, Oscar Elías Biscet *et al.*, October 14, 2004; IACHR, Admissibility Report No. 58/04, <http://www.cidh.org/annualrep/2004eng/Cuba.844.03eng.htm>, Lorenzo Enrique Copello Castillo *et al.*, October 14, 2004; IACHR, Merits Report No. 67/06, <http://www.cidh.org/annualrep/2006eng/CUBA.12476eng.htm>, Oscar Elías Biscet *et al.*, October 21, 2006; IACHR, Merits Report No. 68/06, <http://www.cidh.org/annualrep/2006eng/CUBA.12477eng.htm>, Lorenzo Enrique Copello Castillo *et al.*, October 21, 2006. At: [www.iachr.org](http://www.iachr.org)

<sup>263</sup> When it is notified of an IACHR decision, the Cuban State either does not respond or sends a note to the effect that the Inter-American Commission on Human Rights does not have competence -and the Organization of American States does not have the moral authority- to examine issues related to Cuba.

<sup>264</sup> The complete text of Resolution VI can be found in the “Eighth Meeting of Consultation of the Ministers of Foreign Affairs to serve as Organ of Consultation in Application of the Inter-American Treaty of Reciprocal Assistance, Punta del Este, Uruguay, January 22 to 31, 1962, Meeting Documents,” Organization of American States, OEA/Ser.F/II.8, doc. 68, pages 17-19

<sup>265</sup> IACHR, *Annual Report 2002*, Chapter IV, Cuba, paragraphs 3-7. See also IACHR, *Annual Report 2001*, Chapter IV, Cuba, paragraphs 3-7. IACHR, *Seventh Report on the Situation of Human Rights in Cuba*, 1983, paragraphs 16-46.

152. Having evaluated the human rights situation in Cuba, the IACHR decided to include that country in this chapter because, in its view, it meets the criterion under Article 59, paragraph 6(a)(i) of the IACHR's new Rules of Procedure, which took effect on August 1, 2013. That provision concerns "a serious breach of the core requirements of representative democracy mentioned in the Inter-American Democratic Charter, which are essential means of achieving human rights, including": "there is discriminatory access to or abusive exercise of power that undermines or denies the rule of law, such as systematic infringement of the independence of the judiciary or lack of subordination of State institutions to the legally constituted civilian authority". Also, it meets the criterion under Article 59, paragraph 6(c) which refers to "The State has committed or is committing massive, serious and widespread violations of human rights guaranteed in the American Declaration, the American Convention, or the other applicable human rights instrument". Accordingly, the IACHR will recount the activities carried in 2014 with reference to Cuba, analyze the human rights situation in that country, identify best government practices and make recommendations.

153. The restrictions on the political rights to association, freedom of expression, and dissemination of ideas, the lack of elections, the lack of an independent judiciary, and the restrictions on freedom of movement over decades have come to shape a permanent and systematic situation of violation of the human rights of the inhabitants of Cuba. In the course of 2014, the information available suggests that the general human rights situation has not changed. The above-indicated human rights situations, as well as severe repression and restrictions of human rights defenders persist. Also, the IACHR received information on violence and discrimination against LGTBI and persons with disabilities in Cuba.

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

155. On January 6, 2015, the Commission sent this report to the State of Cuba and asked for its observations. The State did not respond.

## II. ECONOMIC SANCTIONS

156. On December 17, 2014, the Governments of the United States and of Cuba announced their decision to adopt several bilateral measures, including the re-establishment of diplomatic relations, which had been suspended since 1961. Other measures announced include the facilitation of an expansion of travel from the United States to Cuba, as well as authorization of expanded sales and exports of certain goods and services. By press release date December 19, 2014, the IACHR welcomed the announcement as a sign of strengthening of relations between two Member States of the OAS, and hopes that such measures will benefit the population of both countries.<sup>266</sup>

157. The IACHR also indicated that it hopes that the recent decision by the Cuban Government is followed by more measures to open up the country to international presence, including by human rights monitoring bodies, with a view to concrete advances in the protection of its inhabitants. As regards the United States, the IACHR reiterates its position that the economic embargo imposed by this country on Cuba has a negative impact on the human rights of the Cuban population; accordingly, it again calls on the U.S. Congress to lift the embargo, which could happen in the context of the renewed dialogue between both countries. Without prejudice to the foregoing, the economic embargo imposed on Cuba does not release the State of its obligation to carry out its international obligations, nor does it excuse the violations of the American Declaration described in this report.

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<sup>266</sup> IACHR, IACHR welcomes Announcement to Reestablish Relations between the United States and Cuba, December 19, 2014. Available at: [http://www.oas.org/en/iachr/media\\_center/PReleases/2014/156.asp](http://www.oas.org/en/iachr/media_center/PReleases/2014/156.asp).

### III. SITUATION OF HUMAN RIGHTS IN CUBA

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

##### 1. The death penalty

158. The Commission observes with concern that Cuban law makes the death penalty the punishment for a significant number of crimes, especially crimes against the security of the State. The language of the law is broad and vague, and the death penalty can be applied even in the most summary proceeding<sup>267</sup> that does not afford the minimum guarantees necessary for the accused to be able to exercise his right to an adequate legal defense.<sup>268</sup>

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

160. The Commission is mindful of the State's comment in its report submitted to the Universal Periodic Review to the effect that:

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

98. Cuba is philosophically opposed to the death penalty. It is in favour of eliminating it when suitable conditions exist. Cuba has been forced, in the legitimate defense of its national security, to adopt and enforce severe laws against terrorist activities and crimes designed to destroy the Cuban State or the lives of its citizens, while always adhering to the strictest legality and respecting the most ample guarantees. Cuba understands and respects the arguments of the international movement that advocates the abolition of or a moratorium on the death penalty.

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

<sup>267</sup> Articles 479 and 480 of the Criminal Procedure Law establish the especially expedited summary proceeding:

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

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

<sup>268</sup> IACHR, *Annual Report 2008*, Chapter IV, Cuba, para. 177.

Life imprisonment is prescribed for some crimes as an alternative to the death penalty.<sup>269</sup>

161. In 2013, while speaking in Santiago de Chile with members of the Community of Latin American and Caribbean States (CELAC), President Raul Castro justified the use of the death penalty on the island. He declared that “Our laws allow the death penalty. This action has been suspended, but it’s on the books, because one time we suspended it and all this did was to stimulate acts of aggression and sabotage.”<sup>270</sup>

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

163. Capital punishment is the penalty for crimes against the security of the State; against peace and international law; against public health; against life and bodily integrity; against the normal conduct of sexual relations; against the normal development of childhood and adolescence; and against property rights. The crimes against the security of the State that carry the death penalty are the following: acts committed against the independence and territorial integrity of the State; those aimed at promoting war or armed action against the State; the provision of armed services against the homeland; providing aid and comfort to the enemy; espionage; insurrection;<sup>271</sup> sedition; usurpation of political or military control; sabotage; terrorism; hostile acts against a foreign State; genocide; piracy; enrolling in the service of a foreign military force; apartheid<sup>272</sup> and other acts against the security of the State. Other capital offenses include: the unlawful production, sale, use, trafficking, distribution and possession of drugs, narcotics, psychotropic substances and others having similar effects;<sup>273</sup> murder;<sup>274</sup> rape;<sup>275</sup> violent pederasty;<sup>276</sup> corruption of minors;<sup>277</sup> robbery

<sup>269</sup> UN, (2013) Universal Periodic Review, National report submitted in accordance with Human Rights Council resolution 16/21, annex, paragraph 5, Cuba. Available at: [http://www.upr-info.org/IMG/pdf/a\\_hrc\\_wg.6\\_16\\_cub\\_1\\_cuba\\_e.pdf](http://www.upr-info.org/IMG/pdf/a_hrc_wg.6_16_cub_1_cuba_e.pdf) [Consulted November 6, 2013].

<sup>270</sup> Diario La Nación, Cuba: el presidente Raúl Castro justificó la pena de muerte, lunes 28 de enero de 2013. Disponible en: <http://www.lanacion.com.ar/1549737-cuba-el-presidente-raul-castro-justifico-la-pena-de-muerte>; Diario El Mundo: Raúl Castro justifica la pena de muerte en Cuba, 28 de enero de 2013. Disponible en: <http://www.elmundo.es/america/2013/01/28/noticias/1359394662.html>

<sup>271</sup> Article 98: 1. Anyone who takes up arms to achieve any of the following ends shall be sentenced to prison for a period of ten to twenty years or to the death penalty: a) to prevent the higher organs of the State and of Government from discharging their functions, either entirely or partially and even if temporarily; b) to change the economic, political and social order of the socialist State; c) to change, in whole or in part, the Constitution or the form of government it establishes.

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

<sup>272</sup> Article 120: 1. The penalty shall be imprisonment for ten to twenty years or death for anyone who, in order to establish or maintain one racial group’s domination over another and acting in accordance with policies for racial extermination, segregation or discrimination: a) denies members of that group the right to life and the right to liberty through murder, egregious attacks on their physical or mental security or dignity; torture or cruel, inhuman or degrading treatment or punishment; arbitrary detention and unlawful imprisonment; b) imposes on that group legislative or other measures intended to prevent it from participating in the country’s political, social, economic, or cultural life and deliberately creates conditions that thwart the group’s full development by denying its members their fundamental rights and freedoms; c) divides the population along racial lines by creating reservations and ghettos, prohibiting marriage between members of different racial groups and expropriating their property; d) exploits the labor of the group’s members, especially by subjecting them to forced labor.

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

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

<sup>273</sup> Cuban Criminal Code, Article 190.

<sup>274</sup> Cuban Criminal Code, Article 263.

<sup>275</sup> Cuban Criminal Code, Article 298.

<sup>276</sup> Cuban Criminal Code, Article 299.

<sup>277</sup> Cuban Criminal Code, Article 310.

committed with violence or intimidation.<sup>278</sup> The death penalty is also the punishment for a significant number of offenses criminalized in broad or vague language that include expressions like “dangerous state.”<sup>279</sup>

164. Furthermore, as previously noted, in Cuba the death penalty can be ordered even in especially expedited summary proceedings. The Commission has written that “[a]lthough Article XVIII of the American Declaration refers to the simple and brief procedure whereby the courts will protect persons from acts of authority that violate any fundamental rights, the requirement of simplicity and brevity cannot be applied to a trial that does not allow the accused to defend themselves with all the guarantees of due process of law, and even more so in cases where the penalty that could be applied is irreversible by nature, that is, death.”<sup>280</sup>

165. According to the information available to the Commission, the last time the death penalty was used in Cuba was in 2003, when Messrs. Lorenzo Enrique Copello Castillo, Bárbaro Leodán Sevilla García and Jorge Luis Martínez Isaac<sup>281</sup> were executed.

166. The Commission believes that if capital punishment is an option, then the judicial branch must be an independent one, where judges exercise a high degree of scrutiny and respect the guarantees of due process. Here, the Inter-American Court has written that:

Capital punishment is not *per se* incompatible with or prohibited by the American Convention. However, the Convention has set a number of strict limitations to the imposition of capital punishment.<sup>282</sup> First, the imposition of the death penalty must be limited to the most serious common crimes not related to political offenses.<sup>283</sup> Second, the sentence must be individualized in conformity with the characteristics of the crime, as well as the participation and degree of culpability of the accused.<sup>284</sup> Finally, the imposition of this sanction is subject to certain procedural guarantees, and compliance with them must be strictly observed and reviewed.<sup>285</sup>

<sup>278</sup> Cuban Criminal Code, Article 327.

<sup>279</sup> As the Inter-American Court has observed, “[a]mbiguity in describing crimes creates doubts and the opportunity for abuse of power, particularly when it comes to ascertaining the criminal responsibility of individuals and punishing their criminal behavior with penalties that exact their toll on the things that are most precious, such as life and liberty.” See, for example, I/A Court H.R., *Case of Castillo Petruzzi et al.* Judgment of May 30, 1999. Series C No. 52, para. 121.

<sup>280</sup> IACHR, Merits Report No. 68/06, Case 12.477, Lorenzo Enrique Copello Castillo *et al.*, October 21, 2006, para. 96.

<sup>281</sup> IACHR, Merits Report No. 68/06, Case 12.477, Lorenzo Enrique Copello Castillo *et al.*, October 21, 2006, para. 96.

<sup>282</sup> *Cf. Restrictions to the Death Penalty (Arts 4(2) and 4(4) American Convention on Human Rights)*. Advisory Opinion OC-3/83 of September 8, 1983. Series A. No. 3.

<sup>283</sup> *Cf. Case of Hilaire, Constantine and Benjamin et al. v. Trinidad and Tobago. Merits, Reparations and Costs.* Judgment of June 21, 2002. Series C No. 94, para. 106, and *Case of Raxcacó Reyes, Merits, Reparations and Costs.* Judgment of September 15, 2005. Series C No. 133, para. 68. See also *Restrictions to the death penalty (Arts. 4(2) and 4(4) American Convention on Human Rights)*, Advisory Opinion OC-3/83 of September 8, 1983. Series A. No. 3.

<sup>284</sup> *Cf. Case of Hilaire, Constantine and Benjamin et al. v. Trinidad and Tobago. Merits, Reparations and Costs.* Judgment of June 21, 2002. Series C No. 94, para. 103, 106 and 108, and *Case of Raxcacó Reyes, Merits, Reparations and Costs.* Judgment of September 15, 2005. Series C No. 133, para. 81. See also *Restrictions to the death penalty (Arts. 4(2) and 4(4) American Convention on Human Rights)*, Advisory Opinion OC-3/83 of September 8, 1983. Series A. No. 3., para. 55.

<sup>285</sup> *Cf. Case of Fermín Ramírez, Merits, Reparations and Costs.* Judgment of June 20, 2005. Series C No. 126, para. 79. See also *Restrictions to the death penalty (Arts. 4(2) and 4(4) American Convention on Human Rights)* Advisory Opinion OC-3/83 of September 8, 1983. Series A. No. 3., para. 55, and *The Right to Information on Consular Assistance in the Framework of the Guarantees of Due Process of Law.* Advisory Opinion OC-16/99 of October 1, 1999. Series A No. 16, para. 135.

167. The IACHR observes a gradual trend in the hemisphere toward abolition of the death penalty<sup>286</sup> and, accordingly, appreciates the Cuban State's observation to the effect that it understands and respects the arguments of the international movement that advocates for the abolition of or a moratorium on the death penalty.<sup>287</sup>

## 2. Right to liberty and security of the person

168. With respect to the right to liberty and security of the person, the American Declaration indicates that every human being has the right to liberty<sup>288</sup> and no one may be deprived of it except in those cases and as per the forms established by pre-existing laws.<sup>289</sup> According to the American Declaration, every person who has been deprived of liberty has the right to have the legality of his or her detention ascertained without delay by a court, and to be tried without undue delay, or otherwise to be released.<sup>290</sup> In addition, every person accused of a crime has the right to be heard impartially and in a public proceeding, to be judged by courts previously established as per pre-existing laws, and to not be subject to cruel, infamous, or unusual punishment.<sup>291</sup>

169. In relation to the right to personal liberty, the IACHR has observed with concern<sup>292</sup> the continuation on the books and enforcement of criminal statutes in Cuba of the offense called "pre-delictive social dangerousness" [*peligrosidad social pre-delictiva*], provided for in the Criminal Code. Article 72 of the statute provides that:

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

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

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

171. Article 75(1) of the Criminal Code provides that "anyone who, although not covered by any of the dangerous states described in Article 73, has ties or relations to persons who are potentially dangerous

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<sup>286</sup> "Believing that abolition of the death penalty contributes to enhancement of human dignity and progressive development of human rights," Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, adopted and proclaimed by General Assembly resolution 44/128 of 15 December 1989, available at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/2ndOPCCPR.aspx>. [Consulted November 6, 2013].

<sup>287</sup> UN, (2013) Universal Periodic Review, National report submitted in accordance with Human Rights Council resolution 16/21, annex, paragraph 5\* Cuba. Available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G13/106/93/PDF/G1310693.pdf?OpenElement> [Consulted November 6, 2013].

<sup>288</sup> American Declaration, Article I.

<sup>289</sup> American Declaration, Article XXV.

<sup>290</sup> American Declaration, Article XXV.

<sup>291</sup> American Declaration, Article XXVI.

<sup>292</sup> IACHR, Annual Report of the Inter-American Commission, 1998, April 16, 1999.

to society, to other persons, and to the social, economic and political order of the social State and may therefore be inclined to commit crimes, shall be warned by the competent police authority.”

172. If a person engages in one of the forms of conduct defined as dangerous, security measures, both pre- and post-delictive, may be applied to him or her. Article 78 of the Criminal Code provides that the person found to be in a “dangerous state” may be subject to the imposition of therapeutic, re-educational, or surveillance measures by the organs of the National Revolutionary Police. One of the therapeutic measures consists – according to Article 79 – of being confined to care facilities, psychiatric institutions, or detoxification centers.<sup>293</sup> The re-education measures are applied to allegedly anti-social individuals and consist of confinement in a special establishment for work or study, and handing the person over to a work collective for monitoring and orienting their conduct. These measures are imposed for at least one year and no more than four years.

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

174. The Commission considers that the criminal law should punish offenses or even frustrated attempts to commit an offense, but never attitudes or presumptions of an offense.<sup>294</sup> The IACHR is concerned about the use of the criminal law provisions concerning dangerousness, for it is a subjective concept on the part of the person making such a determination, and its vagueness constitutes a factor of juridical insecurity for the population, since it creates the conditions for the authorities to commit arbitrary acts. The Commission also considers it extremely serious that these provisions – which are *per se* incompatible with the principles established in the American Declaration – are applied using a summary procedure to persons who have not committed any offense but who according to the discretion of the Cuban authorities are considered *dangerous* [*peligrosas*] to society, and therefore deserving of severe measures of security depriving them of liberty.<sup>295</sup> In these cases, the State intervenes without limitations and does not hesitate to violate the right to individual liberty.

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

## **B. Respect for and guarantee of political rights**

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

177. The right to vote is one of the essential elements of democracy and one of the means by which citizens freely express their will and exercise the right to political participation. This right means that

<sup>293</sup> IACHR, *Annual Report of the Inter-American Commission, 1998*, April 16, 1999.

<sup>294</sup> IACHR, *Annual Report of the Inter-American Commission, 1998*, April 16, 1999.

<sup>295</sup> IACHR, *Annual Report of the Inter-American Commission, 1998*, April 16, 1999.

the citizens can directly and freely, in conditions of equality, choose who will represent them in making decisions on public affairs.<sup>296</sup> Political participation in turn through the exercise of the right to be elected presupposes that citizens can run as candidates on equal conditions and that they can hold public office subject to election if they win the required number of votes. The American Convention prohibits the suspension of this right even in states of emergency.<sup>297</sup>

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

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.

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

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

180. The State has affirmed that “Cuba’s democratic system is based on the principle of ‘government of the people, by the people and for the people’,” adding that “[t]he Cuban people participate in the exercise and active control of Government through its political and civil institutions and in the framework of its laws.”<sup>298</sup> In addition, it has stated that the restrictions provided for by law on the enjoyment of some political rights in Cuba have been the minimum essential for ensuring the right to self-determination, peace, and life of the entire people, as a response to the mounting anti-Cuban aggressiveness of the Empire.<sup>299</sup>

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

182. In the view of the Commission those elements are not present in the Cuban elections, which are characterized precisely by the lack of plurality and independence and the absence of a framework of free access to various sources of information. In light of the international standards noted, the Commission

<sup>296</sup> IACHR, *Annual Report 1990-1991*, p. 557; IACHR, *Second Report on the Situation of Human Rights in Peru*, 2000, Chapter IV, Political Rights, A.1. See also I/A Court H.R. *Case of Castañeda Gutman v. Mexico*. Preliminary Objections, Merits, Reparations and Costs. Judgment of August 6, 2008. Series C No. 184.

<sup>297</sup> Article 27 of the American Convention on Human Rights, Suspension of Guarantees, establishes at section 2: “The foregoing provision does not authorize any suspension of the following articles: ...] and 23 (Right to Participate in Government), or of the judicial guarantees essential for the protection of such rights.” See also, I/A Court H.R. *Case of Castañeda Gutman v. Mexico*. Preliminary Objections, Merits, Reparations and Costs. Judgment of August 6, 2008. Series C No. 184 and I/A Court H.R. *The Word “Laws” in Article 30 of the American Convention on Human Rights*. Advisory Opinion OC-6/86 of May 9, 1986. Series A No. 6, para. 34; and *Case of Yatama v. Nicaragua*. Preliminary Objections, Merits, Reparations and Costs. Judgment of June 23, 2005. Series C No. 127, para. 191.

<sup>298</sup> National report presented by the State of Cuba; UN, Human Rights Council, Working Group on the Universal Periodic Review, Fourth session, Geneva, February 2 to 13, 2009. A/HRC/WG.6/4/CUB/1; November 4, 2008, para. 8.

<sup>299</sup> In Chapter 9, “Libro Blanco del 2007,” published at the official website of the Ministry of Foreign Affairs of Cuba.

reiterates that the lack of free and fair elections, based on universal suffrage and secret ballot as an expression of popular sovereignty<sup>300</sup>, violates the right to political participation of the Cuban people.

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

183. In 2006, the Commission notified the parties and published, in its Annual Report, Report on the Merits 67/06<sup>301</sup>, in Case 12,476 (Oscar Elías Biscet et al.) regarding the political dissidents who were detained and prosecuted by highly summary procedures in the so-called “Black Spring” of 2003, based on the application of Article 91<sup>302</sup> of the Cuban Criminal Code, as well as Law 88 on Protection of the National Independence and Economy of Cuba, for acts related to the exercise of fundamental freedoms such as the freedom of thought, conscience, opinion, and expression, as well as the right to peaceful assembly and free association. The sentences ranged from six months to 28 years in prison.

184. In Report 67/06, the IACHR concluded that the Cuban State violated several articles of the American Declaration, including Articles I, II, IV, VI, XX, XXI, XXII, XXV, and XXVI, to the detriment of the victims in the case; Article V in relation to eight of the victims; the violation of Article X to the detriment of 14 victims, and the violation of Article XVIII to the detriment of 73 victims. In addition, the Commission concluded that the State had not violated Articles IX, XI, or XVII of the American Declaration to the detriment of the victims.<sup>303</sup>

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

1. Order the immediate and unconditional release of the victims in this case, overturning their convictions inasmuch as they were based on laws that impose unlawful restrictions on their human rights.
2. Adopt any measures necessary to adapt its laws, procedures and practices to international human rights law. In particular, the Commission is recommending to the Cuban State that it repeal Law No. 88 and Article 91 of its Criminal Code, and that it initiate a process to amend its Constitution to ensure the independence of the judicial branch of government and the right to participate in government.
3. Redress the victims and their next of kin for the pecuniary and non-pecuniary damages suffered as a result of the violations of the American Declaration herein established.
4. Adopt the measures necessary to prevent a recurrence of similar acts, in keeping with the State’s duty to respect and ensure human rights.<sup>304</sup>

186. From July 2010 to March 2011, the Government of Cuba released persons who had been deprived of liberty since 2003 in the “Black Spring” [*Primavera Negra*], including the victims of Case 12,476 before the IACHR.<sup>305</sup> Most of the people were released under the condition to be sent to Spain.

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<sup>300</sup> Article 3 of the Inter-American Democratic Charter establishes as one of the essential elements of representative democracy the holding of periodic, free, and fair elections based on universal suffrage and secret ballot, as an expression of the sovereignty of the people; and the plural regime of political parties and organizations.

<sup>301</sup> Notice of Report on the Merits No. 67/06 was given to the Cuban State and the petitioners’ representatives on November 1, 2006. See in IACHR, Press Release No. 40/06, “IACHR announces two reports on human rights violations in Cuba,” of November 1, 2006.

<sup>302</sup> Article 91 of the Criminal Code of Cuba: “Whoever, in the interest of a foreign State, commits an act with the intent to cause damage to the independence of the Cuban State or the integrity of its territory, shall receive a sentence of between ten and twenty years or a death sentence.”

<sup>303</sup> See complete report at: <http://www.cidh.org>

<sup>304</sup> See complete report at: <http://www.cidh.org>

<sup>305</sup> IACHR, Report on the Merits No. 67/06, Case 12,476, Oscar Elías Biscet et al., October 21, 2006.

187. The IACHR reiterates that the guilty judgments handed down against the political dissidents should be set aside since they were based on laws that imposed illegitimate restrictions on human rights.<sup>306</sup> In addition, granting conditional release amounting to house arrest [*licencias extrapenales*], to those who having been released opted to stay in Cuba does not constitute compliance with the recommendations that the IACHR issued in its merits report.<sup>307</sup>

188. According to the information received, in the course of 2014 the Government continued to carry out what the IACHR has referred to as a tactic of political repression on the basis of systematic arrests for several hours or a few days, threats, and other forms of harassment directed against opposition activists.<sup>308</sup>

189. In 2014, the Government has apparently continued its tactic of short-term arbitrary detentions without a court order, targeting political opponents, human rights activists, and independent journalists, who are usually held incommunicado for periods ranging from hours to days, normally at police stations. The IACHR has referred to this situation as a tactic of political repression on the basis of systematic arrests for several hours or a few days, threats, and other forms of harassment directed against opposition activists. In this regard, in 2012, the Committee against Torture expressed concern about the use of ambiguous criminal concepts such as “pre-criminal social dangerousness” to justify the imposition of security measures, restrictions on freedom of movement, intrusive surveillance, physical aggression and other acts of intimidation and harassment allegedly committed by officers of the National Revolutionary Police and members of State security bodies.

190. In 2014, the level of physical assaults, threats, harassment, and acts of repudiation against human rights defenders in Cuba continued, particularly those involved in the defense of the rights of persons who have been deprived of liberty for political reasons. According to Amnesty International, the Cuban Government does not recognize monitoring and protection of human rights has a legitimate activity, nor does it grant legal status to local human rights organizations.<sup>309</sup> As noted, the repression of human rights defenders in Cuba takes the form of physical assaults and detentions for short periods of time, ranging from a few hours to several days.

191. Specifically, the Commission has received information confirming the same pattern as that identified in Chapter IV of the 2013 Annual Report, which typically featured physical assaults, arbitrary detentions, and restrictions on the peaceful exercise of the right to freedom of assembly of human rights defenders, political dissidents, and women defenders belonging to the Ladies in White group. In this regard, on May 12, 2014, the Commission extended the precautionary measure granted on 28 October 2013 (PM 264/13) for the members of the Ladies in White.

192. The IACHR was also informed of an alleged practice on the part of the State whereby health clinics refuse to treat persons involved in the work of defending human rights, even in those cases where the condition of the human rights defender is extremely serious.<sup>310</sup> The IACHR recalls that the right of every person, without discrimination, to physical, mental and moral integrity is protected under the American Convention on Human Rights. The right to personal integrity in the area of health is closely related to the right to health, since adequate and timely health services are one of the principal means of guaranteeing the right to personal integrity.

<sup>306</sup> IACHR, Report on the Merits No. 67/06, Case 12,476, Oscar Elías Biscet et al., October 21, 2006.

<sup>307</sup> IACHR, Report on the Merits No. 67/06, Case 12,476, Oscar Elías Biscet et al., October 21, 2006.

<sup>308</sup> For more reference, see section on freedom of expression and human rights defenders.

<sup>309</sup> Amnesty International, *Annual Report 2013*

<sup>310</sup> Information supplied during the 149th Session of the Inter-American Commission on Human Rights, *Hearing No. 27, Situation of Human Rights Defenders in Cuba, Hearing No. 28, Human Rights Situation of the “Ladies in White” in Cuba*, October 29, 2013. Video available at: <http://www.oas.org/es/cidh/multimedia/sesiones/149/2martes29a.asp>

193. Organizations dedicated to the defense of human rights have told the IACHR that family members of human rights defenders in Cuba tend to be victims of intimidation and threats from State authorities, as a form of repression and punishment for the work their family members do.<sup>311</sup> In the case of the Ladies in White, they testified that the majority are mothers whose children are treated differently by the National Education System. For example, their children are required to receive Communist indoctrination and can be expelled from school if they refuse. One of the reports the Commission received concerned the daughter of one of the Ladies in White who was 14 when she finished her basic secondary school studies, but was not allowed to pursue pre-university studies on the grounds that her mother was a counter-revolutionary.<sup>312</sup> The Commission was also informed that the sons and daughters of political dissidents are expelled from university because of the work their parents do. These acts of repression are also evident in the difficulty that adults have in finding jobs or becoming integrated into social life in Cuba.<sup>313</sup>

194. The Commission was also informed that in October 2014 Carlos Amel Oliva Torres, a Patriotic Union of Cuba (UNPACU) activist who was traveling to the Czech Republic to address a meeting of civil society organizations on various human right situations, was stopped by customs agents at the international airport in Havana and prevented from traveling without explanation. On September 30, 2014, he had also been prevented from traveling to a similar event in Chile.<sup>314</sup>

195. According to civil society organizations, the case of Sonia Garro Alfonso, a member of the Ladies in White group (an opposition movement consisting of female relatives of jailed dissidents) and founder of the Independent Afro-Cuban Foundation, a civil society organization,<sup>315</sup> is illustrative of deprivations of liberty of this type, given that she has been held in pretrial detention accused of the crimes of “public disorder” and “attempted murder” since March 18, 2012, when she was arrested along with her husband, Ramón Alejandro Muñoz González and Eugenio Hernández Hernández, also political dissidents and accused of the same crimes, in an operation carried out by members of the ant-riot forces, police, and state security agents, at their home in Havana. Mrs. Garro has reportedly been in detention for more than two years, which exceeds the statutory limit of six months established by Cuban law for keeping a person in custody while under investigation. She was freed on December 9<sup>th</sup> 2014, although the charges against her were not removed.<sup>316</sup> She has been refused medical assistance on several occasions and the authorities are allegedly obstructing her, her family, and human rights organizations from having information about her state of health, given that they are not allowed access to the medical records at the prison where she is interned.<sup>317</sup>

196. The Commission was informed that the trial of Sonia Garro Alfonso and activists Ramón Alejandro Muñoz González and Eugenio Hernández Hernández had been postponed for the fourth time on

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<sup>311</sup> IACHR, *Hearing on the Situation of Human Rights Defenders in Cuba*. 149<sup>th</sup> Session of the IACHR. Washington, D.C., October 29, 2013.

<sup>312</sup> IACHR, *Hearing on the Situation of Human Rights Defenders in Cuba*. 149<sup>th</sup> Session of the IACHR. Washington, D.C., October 29, 2013.

<sup>313</sup> IACHR, *Hearing on the Situation of Human Rights Defenders in Cuba*. 149<sup>th</sup> Session of the IACHR. Washington, D.C., October 29, 2013.

<sup>314</sup> *Cubamet*, “Joven cubano denuncia nueva violación de derechos humanos” [Young Cuban reports new violation of human rights], available at <http://www.cubamet.org/mas-noticias/joven-cubano-denuncia-nueva-violacion-de-derechos-humanos>.

<sup>315</sup> On November 8, 2012, the IACHR granted precautionary measures (MC-354-12) to Sonia Garro in order to protect the life and well-being.

<sup>316</sup> Press release on 14ymedio.com, “Liberada la Dama de Blanco Sonia Garro junto a otros dos activistas” December 9<sup>th</sup>, 2014. Available at: [http://www.14ymedio.com/nacional/Sonia-Garro-Liberada-Noticias-Cuba\\_0\\_1685231472.html](http://www.14ymedio.com/nacional/Sonia-Garro-Liberada-Noticias-Cuba_0_1685231472.html)

<sup>317</sup> Cubalex, *Informe sobre la situación discriminación contra las mujeres en Cuba* [Report on the Situation of Discrimination against Women in Cuba]. 2013 [in the Commission archive].

November 7, 2014.<sup>318</sup> According to publicly available information, it is not uncommon for the trials of dissidents to be postponed. Amnesty International has stated that the Cuban authorities' continual postponing of the trial without explanation raises concerns that the charges against the three may be politically motivated, and it has called on the Cuban authorities to ensure both that the trial "goes ahead in accordance with international standards, including the right of the accused to call defense witnesses and to challenge the evidence against them" and that the three defendants are "released immediately and allowed to await their trial outside of prison."<sup>319</sup> Furthermore, the Commission recalls that in the course of the 2013 hearing on the human rights situation of the Ladies in White in Cuba, it was also informed that since Ms. Garro Alfonso had been in prison, the prison authorities had refused to provide medical care, and her health had deteriorated.<sup>320</sup>

197. For their part, Amnesty International<sup>321</sup> and Human Rights Watch<sup>322</sup> have published reports to the effect that in Cuba, arbitrary detentions for short periods of time are a routine practice in the case of peaceful demonstrators, independent journalists and human rights activists, and is a way of restricting their liberty for having exercised their freedom of expression, their right of assembly, their freedom of association and their freedom of movement. The Cuban Commission for Human Rights and National Reconciliation (CCDHRN) has expressed concern at the growing criminalization of the exercise of civil and political rights. It reports that the individual or collective demonstration of popular discontent is an offense liable to prosecution *ex officio*.<sup>323</sup> In 2014, the month-by-month figures for arbitrary temporary or politically motivated detentions were as follows: 1,052 in January; 1,051 in February; 813 in March; 905 in April,<sup>324</sup> and 1,120 in May.<sup>325</sup> In April 2014, the CCDHRN identified 90 cases of dissidents physically assaulted by the police or parapolice and another 104 of dissidents subjected to so-called "acts of repudiation," other forms of harassment, or vandalism, generally of the homes of peaceful dissidents.<sup>326</sup> According to the CCDHRN, the May 2014 figure of 1,120 detentions of peaceful dissidents is among the highest for politically motivated detentions in recent decades.<sup>327</sup> The Cuban Human Rights Observatory (OCDH) reports that in October 2014 there were 787 arbitrary detentions, including 510 detentions of women, and underlines that this figure

<sup>318</sup> "El régimen suspende por cuarta vez el juicio contra Sonia Garro" [Regime postpones Sonia Garro trial for fourth time], *Diario de Cuba*, November 7, 2014, available at [http://www.diariodecuba.com/derechos-humanos/1415373264\\_11169.htm](http://www.diariodecuba.com/derechos-humanos/1415373264_11169.htm).

<sup>319</sup> Amnistía Internacional, "Cuba: Detenidos y atrapados en un limbo tras un nuevo aplazamiento del juicio". Available at: <http://www.amnesty.org/en/news/cuba-detainees-left-limbo-trial-postponed-yet-again-2014-11-07>

<sup>320</sup> Amnistía Internacional, "Cuba: Detenidos y atrapados en un limbo tras un nuevo aplazamiento del juicio". Available at: <http://www.amnesty.org/en/news/cuba-detainees-left-limbo-trial-postponed-yet-again-2014-11-07>.

<sup>321</sup> See, Amnesty International, *Annual Report. Cuba 2013*. Available at: <http://www.amnestyusa.org/research/reports/annual-report-cuba-2013>.

<sup>322</sup> See, Human Rights Watch, *World Report 2013*. Available at: <http://www.hrw.org/world-report/2013/country-chapters/112973?page=2> [Consulted November 6, 2013].

<sup>323</sup> Report of the Cuban Committee for Human Rights and National Reconciliation, "Cuba: Algunos Actos de Represión Política en el mes de abril de 2014" [Cuba: some acts of political repression in April 2014], available at <http://observacuba.org/wp-content/uploads/pdfs/2014/overview-abril2014.pdf>.

<sup>324</sup> Report of the Cuban Committee for Human Rights and National Reconciliation, "Cuba: Algunos Actos de Represión Política en el mes de abril de 2014" [Cuba: some acts of political repression in April 2014], available at <http://observacuba.org/wp-content/uploads/pdfs/2014/overview-abril2014.pdf>.

<sup>325</sup> Report of the Cuban Committee for Human Rights and National Reconciliation, June 2, 2014, available at <https://www.fidh.org/es/americas/cuba/15468-informe-de-la-comision-cubana-de-derechos-humanos-y-reconciliacion>.

<sup>326</sup> Report of the Cuban Committee for Human Rights and National Reconciliation, "Cuba: Algunos Actos de Represión Política en el mes de abril de 2014" [Cuba: some acts of political repression in April 2014], available at <http://observacuba.org/wp-content/uploads/pdfs/2014/overview-abril2014.pdf>.

<sup>327</sup>R Report of the Cuban Committee for Human Rights and National Reconciliation, June 2, 2014, available at <https://www.fidh.org/es/americas/cuba/15468-informe-de-la-comision-cubana-de-derechos-humanos-y-reconciliacion>.

represents an increase of 229 over the preceding month. The IACHR observes with concern that the figures for 2014 indicate a clear trend toward increasing political repression in Cuba throughout 2014.<sup>328</sup>

198. Specifically in relation to the January 2014 figures for temporary detentions, according to media and civil society reports, in the days leading up to the second Summit of the Community of Latin American and Caribbean States (CELAC), held in Havana from January 28 to 29, 2014, repression of dissidents escalated, resulting in the cancelation of various parallel forums.<sup>329</sup> Amnesty International reports that dozens of dissidents were arbitrarily detained, while others were coerced not to participate in private events taking place in parallel with the second CELAC Summit.<sup>330</sup> For its part, the Cuban Committee for Human Rights and Reconciliation recorded a total of 40 people arbitrarily detained for brief periods by the secret police between January 23 and 26, 2014. It also identified five people placed under house arrest and at least 18 who had been threatened or otherwise harassed by the authorities to prevent them from traveling to Havana.<sup>331</sup>

199. Since 2013, the CCDHRN has expressed concern at the many repressive actions organized, encouraged or allowed by the political secret police.<sup>332</sup> According to the domestic press, in February 2014, the political secret police illegally detained and physically assaulted 70 dissidents meeting in various public places.<sup>333</sup> For its part, the CCDHRN reports that, between January and June 2013, repressive actions resulted in 11 cases of physical assault, 15 victims of acts of repudiation, three victims of vandalism, and 71 people who reported having been subjected to various forms of harassment for their political opinions.<sup>334</sup>

200. The Commission has been told by human rights defenders that government sympathizers continue to stage “acts of repudiation” in front of human rights organizations and the homes of the Ladies in White.<sup>335</sup> In this connection, the Ladies in White reported various instances of repression of the Ladies in White in 2014, such as the detention of several Ladies in January 2014 after they had been subjected to more than four hours of acts of repudiation, consisting of various objects being thrown by paramilitary mobs. [See section on defenders].

<sup>328</sup> Report of the Cuban Commission for Human Rights and National Reconciliation. Some Acts of Political Repression in October 2013. Available [in Spanish] at: <http://observacuba.org/wp-content/uploads/pdfs/2013/overview-octubre2013-ocdh.pdf> [Consulted November 6, 2013].

<sup>329</sup> Amnesty International reports a “campaign of repression” in Cuba for the CELAC Summit, available at <http://www.amnistia.org.ar/noticias-y-documentos/archivo-de-noticias/cuba-16>; “Cuba: hay disidentes apresados y desaparecidos a días de la Celac” [Cuba: dissidents arrested or disappeared days before CELAC], *Infobae*, January 25, 2013, available at <http://www.infobae.com/2014/01/25/1539344-cuba-hay-disidentes-apresados-y-desaparecidos-dias-la-celac>; “Denuncian opositores cubanos ‘represión política’ por Cumbre Celac,” [Cuban dissidents report “political repression” for CELAC Summit], *Diario Rotativo Noticias de Querétaro*, January 30, 2014, available at <http://www.rotativo.com.mx/noticias/internacionales/230759-denuncian-opositores-cubanos-represion-politica-por-cumbre-celac/>.

<sup>330</sup> Amnesty International reports a “campaign of repression” in Cuba for the CELAC Summit, available at <http://www.amnistia.org.ar/noticias-y-documentos/archivo-de-noticias/cuba-16>; “Cuba: hay disidentes apresados y desaparecidos a días de la Celac” [Cuba: dissidents arrested or disappeared days before CELAC], [*Infobae*, September 25, 2014].

<sup>331</sup> Cuban Committee for Human Rights and National Reconciliation, press release, “Oleada de represión política en Cuba a varios días de la cumbre de CELAC” [Wave of political repression in Cuba days away from the CELAC Summit], January 27, 2014, available at <http://www.unpacu.org/oleada-de-represion-politica-en-cuba-a-varios-dias-de-la-cumbre-de-celac/>.

<sup>332</sup> Report of the Cuban Committee for Human Rights and National Reconciliation, “Algunos Actos de Represión Política en el mes de junio de 2014” [Cuba: some acts of political repression in June 2014].

<sup>333</sup> *La Razón*, “La Policía secreta cubana detiene y golpea a más de 70 disidentes” [Cuban secret police detain and beat more than 70 dissidents], February 7, 2014, available at [http://www.larazon.es/detalle\\_normal/noticias/5418631/la-policia-secreta-cubana-detiene-y-golpea-a-mas-de-70-disidentes#.Tt10YQNmbCYeE](http://www.larazon.es/detalle_normal/noticias/5418631/la-policia-secreta-cubana-detiene-y-golpea-a-mas-de-70-disidentes#.Tt10YQNmbCYeE). (accessed September 19, 2014).

<sup>334</sup> Report of the Cuban Committee for Human Rights and National Reconciliation, “Algunos Actos de Represión Política en el mes de junio de 2013” [Cuba: some acts of political repression in June 2014].

<sup>335</sup> Amnesty International, *Annual Report. Cuba 2013*.

201. Hunger strikes remain a recurring method of putting pressure on the Cuban government. According to various media reports, trade unionist Jorge Ramírez Calderón, who is in the Nieves Morejón prison for disorderly conduct, *atentado* (violence or intimidation against a State official), and *desacato* (disrespect), declared a hunger strike on November 3, 2014 to demand the hours of sunlight to which he is legally entitled.<sup>336</sup> According to the domestic press, Ernesto Castañeda Masó went on hunger strike on October 27, 2014 to protest allegedly having been charged with trumped up offenses because he had accused General Luis Alberto Rodríguez López-Calleja (President Raúl Castro's son-in-law) of abuse of power.<sup>337</sup> Furthermore, political dissident Osvaldo Rodríguez Acosta went on hunger strike in the Combined Eastern Prison on December 25, 2013, because of the poor condition of the food he received in solitary confinement.

### C. Right to Due Process of Law and Judicial Independence

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

203. Article 121 of the Cuban Constitution provides that “the courts are a system of state bodies, structured so as to be functionally independent of any other organ and hierarchically subordinate to the National Assembly of the People’s Power and to the Council of State.” In the Commission’s view, the courts’ subordination to the Council of State, which is headed by the Chief of State, means that the judiciary is directly answerable to the executive branch. This subordination to the executive branch offers no possibility of an independent judicial branch capable of providing guarantees to ensure the exercise and enjoyment of human rights.<sup>338</sup>

204. In its Chapter IV Reports on Cuba from prior years, including 2013, the IACHR reiterated that the death penalty remaining on the books as punishment in a significant number of broadly-worded or vague criminal offenses, for example “Status of threat”<sup>339</sup> and criminal proceedings continuing to take place without sufficient due process guarantees, -summary proceedings, lack of trusted defense counsel and jurors of dubious independence and impartiality standing in judgment- is tantamount to a violation of international human rights protection instruments. It may lead to the application of disproportionate punishments and enormous discretion, which could do away with any chance of an effective defense of the individual appearing before the authorities.<sup>340</sup> Allegedly there has been no change in this situation in 2014 vis-à-vis that of prior years.

<sup>336</sup> “El preso político Jorge Ramírez Calderón cumple trece días en huelga de hambre” [Political prisoner Jorge Ramírez Calderón on 13<sup>th</sup> day of hunger strike], *Diario de Cuba*, November 16, 2014, available at [http://www.diariodecuba.com/derechos-humanos/1416178102\\_11299.html](http://www.diariodecuba.com/derechos-humanos/1416178102_11299.html).

<sup>337</sup> “Once días en huelga de hambre” [Eleven days on hunger strike], *Cubnet*, November 7, 2014, available at <http://www.cubnet.org/mas-noticias/11-dias-en-huelga-de-hambre/>

<sup>338</sup> IACHR, Guarantees for the Independence of Justice Operators, OEA/Ser.L/V/II Doc. 44, 5 December 2013, para. 32. Available at: <http://www.oas.org/es/cidh/defensores/docs/pdf/Justice-Operators-2013.pdf>. See also, IACHR, 2011 Annual Report , Chapter IV, Cuba, para. 215; IACHR, 2012 Annual Report, Chapter IV, Cuba, paras 113 – 114.

<sup>339</sup> As has been noted by the Inter-American Court, “ambiguity in describing crimes creates doubts and the opportunity for abuse of power, particularly when it comes to ascertaining the criminal responsibility of individuals and punishing their criminal behavior with penalties that exact their toll on the things that are most precious, such as life and liberty.” See, for example, IA Ct. of HR, Case of Castillo Petruzzi et al, Judgment of May 30, 1999, Series C. N° 52, par. 121.

<sup>340</sup> According to the Cuban State, application of the death penalty is of an exceptional nature and only for the commission of the most serious offenses. The Cuban Criminal Code establishes that:

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

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

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

## **D. Right to residence and movement**

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

205. As regards the right of residence, in its Annual Report 2012, the Commission emphasized the restrictions that impede the full exercise of this right of every person to reside freely within the territory of Cuba, particularly in the city of Havana.<sup>341</sup> As of Decree 217 of 1997 on internal migration regulations to Havana, restrictions were established to reside freely in this city for people who come from other parts of the country, might try domiciled, reside or live permanently in a house located in Havana, or those who come from other municipalities and try to domiciliate, reside or live permanently in a house located in the municipalities of Old Havana, Central Havana, Cerro and Diez de Octubre were required to request permission to administrative authorities to reside in the capital.<sup>342</sup> The decree in question imposed fines and the obligation to return to the place of origin for those who contravene its provisions.

206. Therefore, people interested in residing in the City of Havana had to apply for permission to permanently reside there and if they did in violation of domestic law risked fines and deportation to their place of origin. Although it is not a crime to be in Havana, Decree 217 has resulted in the police arresting and deporting to their places of origin to those persons who do not comply with the provisions of the Decree. When a person who has already been deported is deported again they may be subjected to pre-criminal security measures.<sup>343</sup> According to Human Rights Watch and human rights organizations, Decree 217 is often used to prevent political dissidents from traveling to Havana and taking part in rallies and demonstrations, as well as a mechanism to persecute dissidents from other parts of Cuba who live in Havana.<sup>344</sup>

207. Article 5 of Decree No. 217 of 1997 was amended by Decree No. 293 of 2011, by which an exception is made for the requirement to go through the authorization procedure for certain persons from other provinces who request to make a permanent move to the city of Havana<sup>345</sup>, which includes: (a) the spouse, children, parents, grandparents, grandchildren, and siblings of the person authorized; (b) the minor children of the spouse of the person authorized; (c) the persons found legally incompetent; (d) the nuclear family of the person to whom real property is assigned as a matter of the interest of the state or society. The Commission values the reform; nonetheless, it observes that restrictions that have a detrimental impact on the right to residence and movement continue in place.

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

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

209. Since 1983, the Commission has addressed the lack of constitutional protection of the right to freedom of movement in Cuba, which is an obstacle for its enjoyment. Under the Migration Act, Law No. 1312 of 1976, to leave or enter the country, the Cubans and required a current passport and an exit permit, granted by the Minister of Interior<sup>346</sup>. On October 16 2012, the Decree-Law No. 302 was published in the

<sup>341</sup> See IACHR, *Annual Report 2013, Chapter IV, Cuba*.

<sup>342</sup> Council of Ministers, Decree No. 217 of 1997, April 22, 1997. Available at: <http://www.gacetaoficial.cu/html/regulacionesmigratoriasparaC.H.html> [Consulted November 6, 2013].

<sup>343</sup> Cubalex, *Informe sobre la situación discriminación contra las mujeres en Cuba* [Report on the Situation of Discrimination against Women in Cuba]. 2013 [document in the Commission archive].

<sup>344</sup> Human Rights Watch, *World Report 2013*.

<sup>345</sup> Council of Ministers, Decree No. 293 of 2011, published in the Gaceta Oficial of November 16, 2011.

<sup>346</sup> Council of Ministers, Law 1312 (Migration Law), September 20, 1976, Article 1.

Official Gazette of the Republic of Cuba. This Decree-Law was promulgated by the State Council and amended the 1976 Migration Act. This reform entered into force on January 14, 2013. The main changes introduced to the Migration Act are the partial suppression of the requirement for permission to leave the territory, the extension of the period required for a Cuban national who has traveled abroad to be considered as an emigrant, the which went from 11 to 24 months, the elimination the need for a letter of invitation from the host country as well as the possibility that girls and boys can travel temporarily, once have the authorization of their parents or legal guardians. Before this reform, girls and children Cubans could only leave the country permanently.

210. Although the Decree-Law No. 302 of 2012 reflects progress with regards the Migration Act, the Commission has noted that Decree-Law establishes a number of assumptions by which certain Cuban nationals who reside in Cuba cannot obtain a passport or may not leave the country when for reasons of "national defense and security so require" , for "lack of authorization established under rules designed to preserve the skilled workforce for the economic , social and country's scientific-technical and for the safety and protection of official information", "[w]hen for other reasons of public interest, as determined by the authorities" , among other reasons. In its 2012 and 2013 Annual Reports, the Commission noted that the generality of terms confer a broad discretion to the Cuban authorities to allow or not the exit of Cuban nationals, in particular those who express anti-government views.

211. Government data indicates that nearly 183,000 people traveled abroad between January and September 2013.<sup>347</sup> However, according to the Cuban Commission for Human Rights and National Reconciliation, as of June 2013, the Government continued to authorize foreign travel for political dissidents, "with the obvious intention of sending out false signs of change, given that the widespread, institutionalized violation of the right of all Cubans, without exception, to come and go freely from the island persists, as does the right of all Cubans to move freely throughout the country and establish themselves in any of its provinces without fear of being detained and deported under arrest, as has happened to several tens of thousands of citizens at least in the past 15 years."<sup>348</sup>

212. For its part, the Commission noted that Cubans traveling and remaining abroad on private business for more than 11 months forfeited authorization to return to the country<sup>349</sup> and, therefore, their status as residents of Cuba. The 11-month time limit became a 24-month limit with the entry into force of Decree-Law No. 302 of 2012<sup>350</sup>. Nevertheless, there is still a time limit, with penalties for exceeding it. They include restrictions on access to free services such as health and education, to the right to social security and the right to vote, and to one's property. These provisions also have a direct impact on the right to the protection of family life for those who are unable to reunite with relatives remaining in Cuba. In addition to the above, this situation poses further obstacles for Cubans with illegal immigration status, since they cannot return to their country of origin and also do not have the immigration status to reside legally in the country where they are.

213. For its part, the Cuban Observatory of Human Rights expressed in November 2014 its "alarm for the increase in the number of Cuban" looking for ways to escape the island."<sup>351</sup>

<sup>347</sup> Human Rights Watch, *World Report 2014*, Cuba, p. 2; available at <http://www.hrw.org/world-report/2014/country-chapters/cuba?page=2>.

<sup>348</sup> Report of the Cuban Commission for Human Rights and National Reconciliation, *Algunos Actos de Represión Política en el mes de junio de 2013* [Some acts of political repression in June 2013].

<sup>349</sup> Council of Ministers, Decree-Law No. 302, October 16, 2012, Article 24.1 (f).

<sup>350</sup> Council of Ministers, Decree-Law No. 302, October 16, 2012, Article 9.2. Decree-Law No. 302 of 2012 allows travelers staying more than 24 months to request extensions, which may be granted by a Cuban consulate.

<sup>351</sup> Cuban Observatory of Human Rights, Report, Arbitrary Detentions in Cuba (October 2014). Available at: <http://observacuba.org/detenciones-arbitrarias-en-cuba-octubre-2014/>.

## Situation of migrants, refugees, and victims of human trafficking

214. With respect to people who have been forced to flee Cuba for different reasons, there were 6,428 Cuban refugees, 1,000 people in refugee-like situations, and 1,127 asylum seekers with applications pending at the end of 2013.<sup>352</sup> In addition, in mid-2013, there were 1,476,717 international migrants of Cuban origin and 16,177 international migrants living in Cuba.<sup>353</sup>

215. Another subject of concern for the Inter-American Commission in 2014 has been the increasing number of maritime incidents resulting in the death of Cuban migrants and refugees attempting to reach other countries in the Caribbean or the United States. These deaths can be attributed to multiple factors, including weather conditions, rough waters and/or dangerous maritime routes chosen to avoid coast guard patrols, unseaworthy or overloaded vessels, and human traffickers who forced their passengers to disembark far from the coast and/or without necessary equipment such as life jackets. According to the UNHCR, more than 509 people of Cuban origin died in maritime incidents between January and July 23, 2013, and 92 Cubans are reported to have died between January and early February 2014.<sup>354</sup> In both years, the number of Cubans who died in such incidents was second only to the number of Haitians.

### E. State observance and guarantee of the exercise of freedom of expression<sup>355</sup>

216. At the hearing on the “Human Rights Situation of Journalists in Cuba” held in the 150th Period of Sessions of the IACHR on March 25, 2014, the Commission learned about the constant violations of the rights to freedom of expression, association and free movement of independent journalists in this country. The aforementioned is evident in arbitrary detentions, attacks, persecutions, harassment, surveillance, work equipment seizures and threats committed by government agents<sup>356</sup>. In this regard the petitioners noted that in the early months of the year, the authorities detained 1817 members of civil society; 31 were independent journalists. Likewise, they noted that at that time there were at least 68 human rights activists in prison, three of them are reporters and their detention was related to their freedom of expression. The petitioners highlighted the cases of reporters Ángel Santiesteban Prats, blogger and novelist; sentenced to five years incarceration. Yoennis de Jesús Guerra García correspondent for the *Yayabo Press* agency, sentenced to eight years imprisonment. Juan Antonio Torres, correspondent for the Official Body of the Communist Party, sentenced to 14 years in jail for espionage.

217. According to the petitioners, the country has a judicial framework that allows for imprisonment and repression of reporters<sup>357</sup>. Pursuant to the 1999 Law 88, no Cuban may express and

<sup>352</sup> UNHCR, *Global Trends 2013*. Geneva, 2014, Table 2, available at <http://unhcr.org/trends2013/>.

<sup>353</sup> UN, Department of Economic and Social Affairs, Population Division, “Trends in International Migrant Stock: Migrants by Destination and Origin,” Table 10, September 2013.

<sup>354</sup> UNHCR, “Maritime Incidents in the Caribbean in 2014,” February 11, 2014.

<sup>355</sup> The Inter-American Commission tasked the Office of the Special Rapporteur for Freedom of Expression with preparation of this section of the report.

<sup>356</sup> IACHR. 150th Period of Sessions. Hearing on the Human Rights Situation of Journalists in Cuba. March 25, 2014. Available at: [http://www.oas.org/en/iachr/media\\_center/PReleases/2014/035A.asp](http://www.oas.org/en/iachr/media_center/PReleases/2014/035A.asp); IACHR. May 13, 2014. [Press Release 35A/14. Report on the 150th Session of the IACHR.](#)

<sup>357</sup> Here, the petitioners mentioned Article 53 of the Constitution of Cuba, which recognizes the right to freedom of expression. The petitioners stated that this right is recognized only to the extent that it serves the purposes of socialist society. That article of the Constitution also states that “the press, radio, television, cinema, and other mass media are the property of the State or society and can never be privately owned. This is a means to ensure that they serve the working people and the interests of society exclusively.” They also mentioned Law 88 on Protection of the National Independence and Economy of Cuba of February 16, 1999, allegedly known as the Gag Rule. They contend that this law can be used to sentence citizens to up to 20 years in prison if their actions are deemed to have subverted or attempted to subvert national order. According to the petitioners, simply questioning the supremacy of the Communist party would qualify as subversion. Under the law, any citizen can face punishment if, by whatever means, he or she collaborates with foreign radio or television broadcasters, newspapers, magazines or other media. Government of Cuba. *Constitución de la República de Cuba*. February 24, 1976; Cuba. Ley No.88 de Protección de la independencia nacional y la economía de Cuba. February 16, 1999. Available for consultation at: <http://www.cubanet.org/htdocs/ref/dis/021699.htm>

disseminate their opinion on the public administration, financial management or social policy of the current government. The country has different crimes that are codified to criminalize journalists and protect public officials, such as contempt, attacks, resistance, state of danger, disobedience, associations, meetings and illegal protests, clandestine literature, illegal economic activity, and others. According to the petitioners, there were at least 60 arbitrary detentions related to the exercise of freedom of expression.

218. The petitioners believe these issues are even more concerning for those reporters in provinces, where it is more difficult to file complaints. They specifically mentioned three media outlets: *Arabescos de Guantánamo*, in the Guantanamo province; *El Bayamés*, in the Granma province; and the monthly *Fernandina de Jagua*, in the province of Cienfuegos. According to the petitioners, in addition to the repressive, legal and criminal measures the media faces in the capital; they also face administrative measures. As in the case of *Arabescos de Guantánamo*, where the director was stripped of his license to practice law and was barred from the Cuban Writers and Artists Union [*Unión de Escritores y Artistas de Cuba*] (Uneac). One of his contributors was detained on the way to the office, and on a different occasion was approached by the Political Police [*Policía Política*]. One of his reporters, who also serves as the guardian of the literary works of a Cuban poet, was threatened with the destruction of the library archives that has "the most substantive information about this city." At *El Bayamés*, where most of the contributors are Protestant, they were reprimanded by the Religion Division of the Communist Party. On the other hand, the equipment of the correspondents for *Fernandina de Jagua* was seized, and persons with disabilities were threatened with the withdrawal of the assistance they currently receive<sup>358</sup>.

219. Likewise, the petitioners reported on the state control over radio media outlets and how difficult it is for the Cuban population to access the Internet. Nonetheless, they added that new technology has allowed for the development of new areas for independent journalism. The country has developed a community of bloggers that blog about their day-to-day activities, there are 40 critical blogs managed on foreign servers. They have joined and created news agencies<sup>359</sup>.

220. Lastly, petitioners requested the Commission urge the State to (i) repeal the crimes in the Criminal Code that affect freedom of expression in the country; (ii) repeal Law 88 that represses freedom of information; (iii) create a law to regulate the free exercise of freedom of expression; (iv) attend to the bill to modify the 1977 Association Law in order to allow journalists to connect in order to create media outlets and be a professional field; (v) for the IACHR to invite the Cuban Government to participate in the Inter-American Human Rights System in order to facilitate discussion of all the topics relating to freedom of information; and (vi) for the Special Rapporteurship for Freedom of Expression to report specifically on the freedom of expression in Cuba.

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

222. In the case of Ángel Santiesteban Prats, the IACHR granted precautionary measures on September 26, 2014. These measures were requested on June 13, 2013<sup>360</sup>. Ángel Santiesteban Prats, a writer and author of a blog critical of the government called "Los hijos que nadie quiso" [The Children Nobody Wanted] has reportedly been imprisoned since February 28, 2013, after a Havana provincial court sentenced him in early 2012 to five years in prison for the supposed crimes of "trespassing and battery." On January 28, 2013, the People's Supreme Court reportedly denied his appeal and confirmed his conviction. Santiesteban

<sup>358</sup> IACHR. 150th Period of Sessions. Hearing on the Human Rights Situation of Journalists in Cuba. March 25, 2014. Available at: [http://www.oas.org/en/iachr/media\\_center/PReleases/2014/035A.asp](http://www.oas.org/en/iachr/media_center/PReleases/2014/035A.asp); Cubalex/ Centro de Información Hablemos Press/ Primavera Digital. March 25, 2014. Report on Independent Journalists in Cuba. Document submitted at the 150<sup>th</sup> Period of Sessions, IACHR. Available at: Archives of the Special Rapporteurship for the Freedom of Expression.

<sup>359</sup> Cubalex/ Centro de Información Hablemos Press/ Primavera Digital. March 25, 2014. Report on Independent Journalists in Cuba. Document submitted at the 150<sup>th</sup> Period of Sessions, IACHR. Available at: Archives of the Special Rapporteurship for the Freedom of Expression.

<sup>360</sup> IACHR. Resolution 26/2014. Precautionary Measure No. 206-13. September 26, 2014.

maintained that the charges against him had been trumped up and were politically motivated.<sup>361</sup> According to the information received by the IACHR, Santiesteban was a victim of different attacks, threats and harassment by the prison authorities. In July, 2014 relatives of the writer and blogger couldn't communicate with him and didn't know his location. The authorities at first stated that he escaped; later his relatives received the news he was on a police station. The time frame where his relatives couldn't communicate with him, occurred after an interview granted by his son on July 15 to *Televisión Martí* where he said he had been forced to corroborate false accusations against his father. The precautionary measures for Santiesteban Prats were also granted in favor of his son<sup>362</sup>.

223. The Inter-American Commission cautiously received information regarding the detention of Roberto de Jesús Guerra; the reporter and editor of *Centro de Información Hablemos Press*, was detained at the *José Martí* airport when he was returning from his presentation at the "Hearing on the Human Rights Situation of Journalists in Cuba" in the 150<sup>th</sup> Period of Sessions of the IACHR and after a press event in Mexico. According to reports, the reporter was detained for several hours and the authorities seized documents and work related books<sup>363</sup>.

### **Detention, attacks and threats against defenders, journalists, members of the opposition and demonstrators**

224. Throughout 2014, the Inter-American Commission received information regarding alleged members of state forces conducting numerous short term arrests, detentions, attacks, harassment and threats against journalists, activists, defenders or government opposition members, because of their expressions and positions critical of the governing party; as well as their peaceful demonstrations and protests against the national government. Following are some of the main cases reported.

225. The Commission continued receiving information regarding various harassment, detentions and attacks against the members of the organization Ladies in White. According to the organization, hundreds of women were arbitrarily detained each month by police officers. The majority of these detentions occurred when the Ladies in White tried to go to mass, their Literary Teas or other activities<sup>364</sup>. For example, on January 3, 2014, agents of the State Security [*Seguridad del Estado*] and the National Police [*Policía Nacional*] entered the headquarters of this organization in different provinces and seized toys collected to deliver to children on three kings day. In some cases they also seized other objects such as laptops, mobile phones, documents and books, among other things. During the operations, some people were detained, threatened and/or assaulted.<sup>365</sup> On January 5, 73 women in various provinces of Cuba, who were trying to go to mass, were detained<sup>366</sup>. On January 6 and 7 there were acts of repudiation against the members of this organization; Sandra Guerra, Mayelín Peña and Adriana Portales, in the community of Ojo de Agua, in the Mayabeque province, that lasted from the morning hours until noon<sup>367</sup>. In January, the organization reported

<sup>361</sup> IACHR. [2013 Annual Report. Annual Report of the Office of the Special Rapporteur for the Freedom of Expression](#), Chapter II (Evaluation of the State of Freedom of Expression in the Hemisphere). OAS/Ser.L/V/ii.149. Doc. 50. December 31, 2013. Par. 238.

<sup>362</sup> IACHR. Resolution 26/2014. Precautionary Measure No. 206-13. September 26, 2014; NTN24. July 23, 2014. [Familiares de Ángel Santiesteban denuncian en La Noche que el escritor cubano desapareció](#). (VIDEO); Infobae. July 23, 2014. [El régimen cubano no se detiene: desapareció Ángel Santiesteban](#); Reporters Without Borders. August 6, 2014. [RSF EXHORTA A LAS AUTORIDADES CUBANAS A QUE ESCLAREZCAN LA SITUACIÓN DE ÁNGEL SANTIESTEBAN-PRATSE](#).

<sup>363</sup> Reporters Without Borders. April 11, 2014. [FRENCH MINISTER MUST NOT IGNORE FREEDOM OF INFORMATION DURING CUBA VISIT](#); Misceláneas de Cuba. April 9, 2014. [Detienen a director de Hablemos Press en el aeropuerto José Martí](#).

<sup>364</sup> Damas de Blanco. Informes Semanales del Movimiento Damas de Blanco. Available for consultation at: <http://www.damasdeblanco.org/index.php/derechos-humanos>

<sup>365</sup> Damas de Blanco. January 8, 2014. [Represión Policial contra las Damas de Blanco, 6 de enero de 2014](#); Centro de Información Hablemos Press. January 6, 2014. [Régimen castrista arremete contra las casas sede de las Damas de Blanco](#); Aciprensa. January 3, 2014. [Cuba: Gobierno detiene líderes opositores y confisca juguetes que iban a ser repartidos en bajada de Reyes](#); Telenoticias/AP. January 4, 2014. [Agentes cubanos confiscan juguetes que los opositores iban a distribuir](#).

<sup>366</sup> Damas de Blanco. January 8, 2014. [Represión Policial contra las Damas de Blanco, 6 de enero de 2014](#).

<sup>367</sup> Centro de Información Hablemos Press. January 6, 2014. [Tres actos de repudio en menos de 24 horas](#).

319 detentions<sup>368</sup>. Sandra Guerra and Arianna Portales were once more detained on February 19 in the Ojo de Agua community when they were supposed to travel to Havana by bus for a meeting of the organization<sup>369</sup>. On February 23 over 145 women who were trying to go to mass and participate in the march commemorating the death of a certain political prisoner, were detained in different regions of the country<sup>370</sup>. The organization reported that 395 women were detained in February<sup>371</sup>. On March 9, 59 women were detained<sup>372</sup>. On March 18, while at a Literary Tea, there were acts of repudiation against the National Headquarters in the Capital, also at least 30 ladies were detained in different cities<sup>373</sup>. The organization reported that 207 women were detained in March<sup>374</sup>. On April 27 at least 87 women were detained<sup>375</sup>. In April, the organization reported 200 detentions<sup>376</sup>. Between May 23 and 24 the authorities detained Berta Soler, the leader of the movement, and over 60 women when they intended to attend a Literary Tea at the headquarters for the organization in Havana. Soler and 54 other women were detained days earlier when they were accompanying a member of the group to file a complaint of domestic violence.<sup>377</sup> The organization reported 571 detentions in May<sup>378</sup>. On June 15 and 22, the group reported over 160 women detained by State agents while the ladies were attempting to go to mass<sup>379</sup>. Additionally, on June 18 over 90 women were detained when attempting to attend a Literary Tea<sup>380</sup>. According to the organization, there were 539 arrests in June<sup>381</sup>, in July there were at least 263 detentions<sup>382</sup> and in August 190 women were detained<sup>383</sup>. On September 28, alleged agents of the State Security Department (DSE) and the National Revolutionary Police (PNR) detained 39 members of the organization, in different provinces across the country, when they intended to go to mass.<sup>384</sup> According to Berta Soler, the spokesperson for the organization, security forces

<sup>368</sup> Damas de Blanco. July 18, 2014. [Informe de represión contra las Damas de Blanco \(de Enero a Julio de 2014\)](#)

<sup>369</sup> Centro de Información Hablemos Press. February 19, 2014. [Detienen a Damas de Blanco de Mayabeque que se reunirían con Berta Soler.](#)

<sup>370</sup> Centro de Información Hablemos Press. February 25, 2014. [Arrestan a más de 145 mujeres del Movimiento Damas de Blanco en un día](#); Damas de Blanco. [Represión Policial contra las Damas de Blanco. 25 de febrero de 2014.](#)

<sup>371</sup> Damas de Blanco. July 18, 2014. [Informe de represión contra las Damas de Blanco \(de Enero a Julio de 2014\)](#).

<sup>372</sup> Centro de Información Hablemos Press. March 12, 2014. [Detenidas cincuenta y nueve Damas de Blanco sin que se les presentara orden de arresto](#); Damas de Blanco. MArch 11, 2014. [Represión Policial contra las Damas de Blanco. 11 de marzo de 2014.](#)

<sup>373</sup> Damas de Blanco. March 19, 2014. [Informe de Represión del Movimiento Damas de Blanco Laura Pollán, 19 de marzo de 2014.](#)

<sup>374</sup> Damas de Blanco. July 18, 2014. [Informe de represión contra las Damas de Blanco\(de Enero a Julio de 2014\).](#)

<sup>375</sup> Damas de Blanco. April 27, 2014. [Represión Policial contra las Damas de Blanco, 27 de abril de 2014](#); Centro de Información Hablemos Press. April 28, 2014. [Autoridades cubanas detienen a ochenta y siete mujeres.](#)

<sup>376</sup> Damas de Blanco. July 18, 2014. [Informe de represión contra las Damas de Blanco \(de Enero a Julio de 2014\)](#).

<sup>377</sup> El País. May 24, 2014. [Detenidas en La Habana Berta Soler y más de 60 Damas de Blanco](#); Diario de Cuba. May 23, 2014. [Detenidas 60 Damas de Blanco para impedir un encuentro en La Habana](#); Diario de Cuba. May 20, 2014. [Soler: Detenidas 45 mujeres por acompañar a una Dama de Blanco a denunciar 'violencia doméstica'.](#)

<sup>378</sup> Damas de Blanco. July 18, 2014. [Informe de represión contra las Damas de Blanco \(de Enero a Julio de 2014\)](#).

<sup>379</sup> Centro de Información Hablemos Press. June 26, 2014. [Régimen cubano continúa reprimiendo a opositores pacíficos](#). Damas de Blanco. June 25, 2014. [Represión Policial contra las Damas de Blanco, 24 de Junio 2014.](#) Damas de Blanco. June 21, 2014. [Represión Policial contra las Damas de Blanco, 17 de Junio 2014.](#)

<sup>380</sup> Centro de Información Hablemos Press. June 26, 2014. [Régimen cubano continúa reprimiendo a opositores pacíficos](#); Damas de Blanco. June 25, 2014. [Represión Policial contra las Damas de Blanco \(adjunto al informe del 19 de Junio\).](#)

<sup>381</sup> Damas de Blanco. July 18, 2014. [Informe de represión contra las Damas de Blanco\(de Enero a Julio de 2014\)](#).

<sup>382</sup> Damas de Blanco. July 18, 2014. [Informe de represión contra las Damas de Blanco\(de Enero a Julio de 2014\).](#)

<sup>383</sup> Damas de Blanco. August 4, 2014. [Represión Policial contra las Damas de Blanco, 4 de agosto 2014](#). Damas de Blanco. August 12, 2014. [Represión Policial contra las Damas de Blanco: domingo 10 de agosto](#); Damas de Blanco. August 20, 2014. [Informe de Represión a Damas de Blanco, Domingo 17 de agosto](#). Damas de Blanco. August 20, 2014. [Represión Policial contra las Damas de Blanco, 18 de agosto de 2014](#); Damas de Blanco. September 2, 2014. [Represión Policial contra las Damas de Blanco, 31 de agosto de 2014.](#)

<sup>384</sup> Damas de Blanco. September 30, 2014. [Represión Policial contra las Damas de Blanco: 30 de septiembre 2014](#); Centro de Información Hablemos Press. October 3, 2014. [Más de 180 Damas de Blanco detenidas al finalizar septiembre.](#)

detained 187 women in total during the month of September<sup>385</sup>. During the month of October, the organization reported over 160 detentions<sup>386</sup>. While participating in different activities, at least 140 women were detained in November<sup>387</sup>.

226. On May 12, 2014, the IACHR extended the precautionary measure granted on October 28, 2013 to include approximately 237 members of that organization<sup>388</sup>. The decision was related to the events occurring between April 3 and 5 in the city of Gibara, in the province of Holguín, where six members of the organization were assaulted, detained, targets of repudiation acts, as well as having their homes searched where documents and other objects were removed.

227. On January 3, 2014, Pablo Morales Marchán, correspondent for *Centro de Información Hablemos Press*, was detained by agents of State Security Department (DSE) and the Revolutionary National Police (PNR) after offering telephone statements to a radio show on the *Radio Martí* station. His statements were related, among others, to the impact the discourse of Raúl Castro has on the Cuban population following his first official media appearance on 2014. The reporter was arrested for several hours<sup>389</sup>.

228. During the month of January, 2014, journalists Pablo Morales Marchan, Ignacio Luis González Vidal, Denis Noa Martínez and Tamara Rodríguez were also arrested during the course of their work<sup>390</sup>.

229. At the II Summit of the Community of Latin American and Caribbean States (CELAC) held January 28-30 in Havana, there were hundreds of detentions, which could reach more than the 200 mark. According to reports, as of the 23 and up until the conclusion of the Summit, activists, attorneys, oppositionists, reporters, journalists, bloggers, religious leaders, members of the Ladies in White and other organizations were detained; some remained in prison over six days<sup>391</sup>. According to what the IACHR learned, reporters Mario Hecheverría Driggs, David Águila Montero, William Cacer Días, Denis Noa Martínez and Pablo Morales Marchán were detained during the Summit. In the same manner, reporters Raúl Ramírez Puig and José Leonel Silva were detained and threatened so they would not leave their homes during those days. Their

<sup>385</sup> Damas de Blanco. September 2, 2014. [Represión Policial contra las Damas de Blanco, 31 de agosto de 2014](#); Damas de Blanco. September 9, 2014. [Represión Policial contra las Damas de Blanco, 9 de Sept. de 2014](#); Damas de Blanco. September 16, 2014. [Represión Policial contra las Damas de Blanco, 16 de sept. de 2014](#); Damas de Blanco. September 23, 2014. [Represión Policial contra las Damas de Blanco, 22 de sept. de 2014](#); Damas de Blanco. September 30, 2014. [Represión Policial contra las Damas de Blanco: 30 de septiembre 2014](#); Centro de Información Hablemos Press. October 3, 2014. [Más de 180 Damas de Blanco detenidas al finalizar septiembre](#).

<sup>386</sup> Damas de Blanco. October 14, 2014. [Informe semanal Damas de Blanco. Domingo 12 de octubre de 2014](#); Damas de Blanco. October 16, 2014. [Informe Semanal del Movimiento Damas de Blanco \(15 de octubre de 2014\)](#); Damas de Blanco. October 25, 2014. [Informe de Represión, Movimiento Damas de Blanco Laura Pollán, 21 de octubre de 2014](#).

<sup>387</sup> Damas de Blanco. November 20, 2014. [Informe de detenciones \(11 de noviembre, 2014\)](#); Damas de Blanco. November 20, 2014. [Informe Semanal del Movimiento Damas de Blanco \(10 de noviembre, 2014\)](#); Damas de Blanco. November 21, 2014. [Informe de Represión, domingo 16 de noviembre de 2014](#); Damas de Blanco. November 25, 2014. [Informe Semanal del Movimiento Damas de Blanco \(25 de noviembre, 2014\)](#).

<sup>388</sup> IACHR. [Precautionary Measure No. 264-13. Topic Ladies in White regarding the Republic of Cuba](#). May 12, 2014.

<sup>389</sup> Centro de Información Hablemos Press. January 3, 2014. [Arrestado corresponsal de Hablemos Press después de dar declaraciones a Radio Martí](#).

<sup>390</sup> Cubalex/ Centro de Información Hablemos Press/ Primavera Digital. March 25, 2014. Report on Independent Journalists in Cuba. Document submitted at the 150<sup>th</sup> Period of Sessions, IACHR. Available at: Archives of the Special Rapporteurship for the Freedom of Expression; Reporters Without Borders (RSF). February 28, 2014. [El bloguero Ángel Santiesteban Prats ya lleva un año encarcelado](#).

<sup>391</sup> IACHR. 150th Period of Sessions. Hearing on the Human Rights Situation of Journalists in Cuba. March 25, 2014. Available at: [http://www.oas.org/en/iachr/media\\_center/PReleases/2014/035A.asp](http://www.oas.org/en/iachr/media_center/PReleases/2014/035A.asp); Centro de Información Hablemos Press. February 3, 2014. [Informe Mensual de Violaciones de los Derechos Humanos - Enero 2014](#); El Nuevo Herald. January 28, 2014. [Condenan las detenciones de disidentes cubanos en el marco de la Celac](#); Infobae. January 29, 2014. [En medio de la Cumbre de la Celac, Cuba agrida ola represiva contra disidentes](#); CubaNet. January 28, 2014. [252 activistas detenidos en menos de 72 horas](#).

respective residences were under surveillance<sup>392</sup>. Similarly, Gabriel Salvia, the General Director of the Center for the Opening and Development of Latin America [*Centro para la Apertura y el Desarrollo de América Latina*] (Cadal); was removed from the country. He was there as one of the organizers of the II Democratic Forum of International Relations and Human Rights [*II Foro Democrático en Relaciones Internacionales y Derechos Humanos*], a parallel event to the CELAC Summit<sup>393</sup>.

230. Activists Rosario Morales and Melkis Faure were detained for several hours on February 10 after protesting in Havana, where they had signs that denounced government officials such as Fidel and Raúl Castro<sup>394</sup>.

231. The political police detained at least 30 coalition FANTU-UNPACU (United Anti-Totalitarian Front and Patriotic Union of Cuba) [*Frente Antitotalitario Unido y la Unión Patriótica de Cuba*] activists in the city of Santa Clara upon attempting to congregate for their weekly meeting. Guillermo Fariñas Hernández was one of the detainees who reported he was threatened with death and discussed other alleged attacks on the detainees<sup>395</sup>. On March 3, 24 members of the coalition in the city of Santa Clara were detained when attempting to go to their weekly meeting. According to reports, the detainees were violently attacked when they refused to yell out phrases favoring the Government. This was the eighth consecutive Monday with detentions before the meetings<sup>396</sup>.

232. Carlos Manuel Figueroa Álvarez and Santiago Roberto Montes were detained on February 13 during a civic protest in Cathedral Plaza [*Plaza de la Catedral*] in the Havana Vieja municipality. During the protest, the detainees had signs where they requested freedom for political prisoners and respect for human rights<sup>397</sup>.

233. On February 12, members of the Cuban Community Journalists Network [*Red Cubana de Comunicadores Comunitarios*] were detained and beat in the municipality of Centro Habana. According to reports, Juliet Michelena, José Antonio Sierres, Bily Joe Landa, Juan Carlos Díaz y Yuleidis López, members of the organization were detained and assaulted to be taken into custody<sup>398</sup>.

234. Journalist William Cacer Díaz was detained on at least two occasions in February. The first was on the 14 of that month, allegedly in a violent manner, by State Security Agents (DSE) and by National Revolutionary Police (PNR) after having interviewed a leader of the Commission for Attention to Political Prisoners and Family Members [*Comisión de Atención a Presos Políticos y Familiares*]. The second took place on February 28 by a state security officer, while he was interviewing residents of a street where there had been landfalls<sup>399</sup>.

<sup>392</sup> Cubalex/ Centro de Información Hablemos Press/ Primavera Digital. March 25, 2014. Report on Independent Journalists in Cuba. Document submitted at the 150<sup>th</sup> Period of Sessions, IACHR. Available at: Archives of the Special Rapporteurship for the Freedom of Expression.

<sup>393</sup> Martí Noticias. January 27, 2014. [Expulsan de Cuba a Gabriel Salvia \(CADAL\) y aumenta ola de arrestos](#); Infobae. January 28, 2014. [Fui a Cuba a ejercer la libertad de expresión y no tuve posibilidad](#).

<sup>394</sup> Centro de Información Hablemos Press. February 11, 2014. [Dos mujeres protagonizan otra protesta en la calle Montes de La Habana](#); Comisión Cubana de Derechos Humanos y Reconciliación Nacional/Unión Patriótica de Cuba. March 3, 2014. [Cuba: algunos actos de represión política en el mes de febrero de 2014](#).

<sup>395</sup> Centro de Información Hablemos Press. February 11, 2014 [Otro lunes con detenciones en Santa Clara](#).

<sup>396</sup> Centro de Información Hablemos Press. March 4, 2014. [Fariñas denuncia que activistas fueron torturados](#); América Tevé. March 5, 2014. [Fariñas denuncia "torturas" a opositores que se niegan a dar vivas a los Castro](#).

<sup>397</sup> Centro de Información Hablemos Press. February 13, 2014. [Protesta en la Plaza de la Catedral](#).

<sup>398</sup> Red Cubana de Comunicadores Comunitarios. March 14, 2014. [Se calentó el balcón de los helechos](#); Centro de Información Hablemos Press. February 13, 2014. [Detienen y golpean a miembros de la Red Cubana de Comunicadores](#); CubaNet. February 13, 2014 [Arrestan y golpean a periodistas Red Comunitaria](#).

<sup>399</sup> Cubalex/ Centro de Información Hablemos Press/ Primavera Digital. March 25, 2014. Report on Independent Journalists in Cuba. Document submitted at the 150<sup>th</sup> Period of Sessions, IACHR. Available at: Archives of the Special Rapporteurship for the Freedom of Expression; Reporteros Sin Fronteras (RSF). February 28, 2014. [El bloguero Ángel Santiesteban Prats ya lleva un año encarcelado](#).

235. On February 15, agents for the State Security Department beat and detained several activists who attempted to meet at a house in Santiago de las Vegas belonging to a leader of the Opposition for a New Republic Movement [*Movimiento Opositores por una Nueva República*] (MONR)<sup>400</sup>.

236. On February 18, a group of evangelical pastors belonging to the Pastors for Change [*Pastores por el Cambio*] organization were harassed by paramilitary groups while preaching in public at the Bayamo municipality, in the Granma province<sup>401</sup>.

237. Agents of the National Revolutionary Police (PNR) detained during several hours members of the Opposition for a New Republic Movement (MONR) in the municipality of Cotorro after holding a meeting at a house belonging to a leader of this group. The activists were threatened with future detentions if the meetings were to continue and they were prohibited from carrying out an activity to commemorate the February 23 death of Orlando Zapata Tamayo; considered a political prisoner<sup>402</sup>.

238. On February 27, Human Rights activist and member of the organization Ladies in White Melkis Faure Echevarría was violently detained during a protest on a street in Havana. A person who attempted to defend her was attacked<sup>403</sup>.

239. According to reports, different correspondents for the *Centro de Información Hablemos Press* were detained in March during the course of their work. Such were the cases of Ignacio Luis González, William Cacer Díaz, Raúl Ramírez Puig and José Leonel Silva Guerrero<sup>404</sup>.

240. The IACHR learned of the detention of 21 activists Commission for Attention to Political Prisoners and Family Members (CAPPF) after protesting in front of a National Revolutionary Police (PNR) Unit in the municipality of San Miguel del Padrón in Havana on March 12.<sup>405</sup>

241. On April 12, reporter Dania Virgen García was attacked by police officers when she was dropping her nephew off at school. Two reporters for the official television began recording the attack and were detained for that reason for several hours.<sup>406</sup>

242. On April 23, at least 12 members of the Cuban Community Journalists Network were detained in Havana when attempting to meet for their weekly meetings. People who arrived in order to observe and record with their cellular phones were also arrested.<sup>407</sup>

<sup>400</sup> Centro de Información Hablemos Press. February 19, 2014. [Arremete la policía castrista contra activistas que asistían a una reunión.](#)

<sup>401</sup> Centro de Información Hablemos Press. February 19, 2014. [Más represión, menos predica.](#)

<sup>402</sup> Centro de Información Hablemos Press. February 19, 2014. [Liberan a activistas detenidos por reunirse.](#)

<sup>403</sup> Centro de Información Hablemos Press. February 19, 2014. [Activista paraliza el tráfico en La Habana tras gritar decenas de frases +Video.](#)

<sup>404</sup> Cubalex/Centro de Información Hablemos Press/ Primavera Digital. March 25, 2014. Report on Independent Journalists in Cuba. Document submitted at the 150<sup>th</sup> Period of Sessions, IACHR. Available at: Archives of the Special Rapporteurship for the Freedom of Expression; Centro de Información Hablemos Press. March 4, 2014. [Liberan a Editor Multimedia de Hablemos Press.](#)

<sup>405</sup> Centro de Información Hablemos Press. March 13, 2014. [Arrestan a 21 miembros de la CAPPF al realizar una protesta frente a Unidad de Policía;](#) Observatorio Cubano de Derechos Humanos. March 18, 2014. [Detenciones los días 12 y 13 de marzo de activistas de la CAPPF.](#)

<sup>406</sup> Reporters Without Borders. April 17, 2014. [JOURNALIST HELD FOR PAST TEN DAYS, CHARGED WITH "TERRORISM".](#) Inter-American Press Association (IAPA). [Cuba.](#) 2014 General Assembly– Santiago, Chile. October 2014.

<sup>407</sup> Martí Noticias. April 24, 2014. [Policía arresta para impedir que reporteros publiquen la represión;](#) Martha Beatriz Roque/YouTube. April 24, 2014. [El balcón VCD PAL.](#)

243. The night of April 23, alleged members of the Police held reporter José Ramón Borges in Santa Clara and threatened with taking him to prison if he continued publishing reports on the YouTube Channel NacanVideos and if he continued to be a correspondent for the editing and publishing of the digital magazine *El Cartero Nacán*. According to reports, the journalist was returning to the city from Havana when he was detained and handcuffed at the terminal and taken to a police station where he was interrogated, some components were seized, and his computer was checked without authorization. Borges stated that he was detained on two earlier occasions with the supposed objective of disallowing him from attending the writer's council<sup>408</sup>. On May 5, he was detained once again when travelling to Santa Clara. Borges was held in a cell for about 20 hours. When released, the documents on his laptop were deleted and his USB memory sticks were seized in order to research the content<sup>409</sup>.

244. The Inter-American Commission learned of over 360 detentions of the opposition in early May, allegedly for attempting to meet or participate in peaceful activities. Some cases occurred in the city of Santa Clara where at least 18 activists were detained on May 8 for attempting to place flowers at a mausoleum of a member of the opposition. On May 12, 31 members of the FANTU-UNPACU coalition UNPACU (United Anti-Totalitarian Front and Patriotic Union of Cuba) [*Frente Antitotalitario Unido y la Unión Patriótica de Cuba*] were detained for attempting to meet; Guillermo Fariñas Hernandez was among them. Three activists who attempted to protest were detained in Havana on May 8. In the San Miguel del Padrón municipality, 32 members of the Commission for Attention to Political Prisoners and Family Members (CAPPF) were detained when attempting to meet at their headquarters<sup>410</sup>.

245. Reporter José Antonio Sánchez was arrested in Havana for distributing the pamphlet for the digital magazine *Misceláneas de Cuba* in a city park on May 6. The journalist was interrogated for several hours and he was warned that if he were to distribute the magazine, Law 88 would be applied for printing and distributing "subversive material". Three other people were detained along with the reporter because they refused to hand over the magazine copies<sup>411</sup>.

246. IACHR received information regarding different attacks against the members of *Centro de Información Hablemos Press* during June. In that regard, on the 11<sup>th</sup>, Robert Jesús Guerra, director and founder, was violently assaulted by a stranger in Havana, causing him several injuries. According to Guerra, he received threatening phone calls prior to the attack<sup>412</sup>. On June 7, correspondent Raúl Ramírez Puig in the Mayabeque province was charged at with an automobile. The passengers warned him to be careful because "anything could happen". On June 8, his correspondent Mario Hechavarría Driggs, was detained by State Security Department agents for about five hours. Yeander Farrés Delgado, a journalism student and correspondent to the center, was detained for several hours when he was taking pictures of the Havana Capitol. Journalist Magaly Norvis Otero also received threatening phone calls at the office number and on June 12 was called upon by State Security Department agents to change the tone of her articles as the State was

<sup>408</sup> Martí Noticias. April 24, 2014. [Policía arresta para impedir que reporteros publiquen la represión](#) (AUDIO)

<sup>409</sup> Martí Noticias. May 7, 2014. [Los riesgos del periodismo ciudadano en Cuba](#) (AUDIO); Comisión Cubana de Derechos Humanos y Reconciliación Nacional. June 2, 2014. [Cuba: algunos actos de represión política en el mes de mayo de 2014](#).

<sup>410</sup> Centro de Información Hablemos Press. May 14, 2014. [Detienen a más de 360 opositores cubanos por intentar reunirse](#); Infobae. May 15, 2014. [El régimen de los Castro detuvo en mayo a más de 360 opositores por intentar reunirse](#); Comisión Cubana de Derechos Humanos y Reconciliación Nacional. June 2, 2014. [Cuba: algunos actos de represión política en el mes de mayo de 2014](#).

<sup>411</sup> *Misceláneas de Cuba*. May 8, 2014. [Amenazado con la Ley No 88 por repartir \*Misceláneas de Cuba\*](#); Martí Noticias. May 7, 2014. [Los riesgos del periodismo ciudadano en Cuba](#); Law No. 88 on Protection of National Independence and the Economy of Cuba. February 16, 1999. "Article 6.1: Whoever compiles, reproduces or divulges subversive material from the Government of the United States of America, its agencies, departments, representatives, officials, or from any foreign firm, in support of the Helms-Burton Law, the embargo and the economic war waged against our people, whose end is to disrupt internal order, destabilize the country and do away with the Socialist State and Cuban Independence, shall be punished by three to eight years imprisonment or a three to five thousand quota fine, or both". Available at: <http://www.cubanel.org/htdocs/ref/dis/021699.htm>

<sup>412</sup> CubaNet. June 11, 2014. [Golpean en la vía pública a director de Hablemos Press](#); Reporters Without Borders. June 16, 2014. [IS CUBA HEADING TOWARDS A REPEAT OF THE 2003 BLACK SPRING?](#); *Misceláneas de Cuba*. Junio 11, 2014. [Hablemos Agreden físicamente a director de Hablemos Press](#).

displeased. The alleged phone blocking of some journalists in this agency by the Cuban Telecommunications Company [*Empresa de Telecomunicaciones de Cuba*] (ETECSA) was also reported. According to reports, the telephones are disconnected from the only network in the country<sup>413</sup>.

247. On June 11, ten members of the Cuban Community Journalists Network were detained upon arrival to their weekly meeting at the headquarters in Centro Habana. Two plain-clothes women attacked director Martha Beatriz Roque when she was attempting to exit the place in order to see what was going on with the reporters. A security officer arrived afterwards and confirmed she was not allowed to exit the premises<sup>414</sup>.

248. According to reports, 8 activists were detained on June 13 as they protested in Havana. Four of them were sent to prison and would face charges of the alleged crimes of “subversion” [*atentado*] and “resisting [arrest]”. Also 39 members of the Commission for Attention to Political Prisoners and Family Members (CAPPF) were detained on June 13 while marching as a tribute to “Remolcador 13 de marzo”<sup>415</sup>. On June 18 ten journalists of the Cuban Community Journalists Network were detained when attempting to meet at headquarters in Havana<sup>416</sup>. At least 23 members of the coalition FANTU-UNPACU (United Anti-Totalitarian Front and Patriotic Union of Cuba) [*Frente Antitotalitario Unido y la Unión Patriótica de Cuba*] were detained when attempting to meet in the city of Santa Clara on June 23. Similarly, 25 activists of the Orlando Zapata Tamayo Civic Action Front were arrested that day when attempting to meet<sup>417</sup>.

249. On July 2 the following members of the Cuban Community Journalists Network were detained: Jorge Bello Domínguez y Yuneisy López González in the municipality of Güira de Melena and Bárbara Fernández Barrero and Misael Aguiar Domínguez in the municipality of San Antonio de Baños. The detentions were made allegedly in order to prohibit them from attending meetings in the capital of the province. According to reports, the journalists were detained in early hours of the day and were released at nightfall. The incident was repeated with Fernández Barrero y Aguiar Domínguez on July 9 in San Antonio de Baños<sup>418</sup>.

250. On July 28, in the city of Matanzas, two alleged National Police Officers temporarily detained independent reporter Oscar Sánchez Madan and inspected his personal property<sup>419</sup>.

251. Journalist Miguel Guerra Pérez was detained in August. According to the information received, he was released on September 1, after being held for one week<sup>420</sup>.

<sup>413</sup> Centro de Información Hablemos Press. June 11, 2014. [Aumentan represión contra periodistas y colaboradores de Hablemos Press](#); Reporters Without Borders. June 16, 2014. [IS CUBA HEADING TOWARDS A REPEAT OF THE 2003 BLACK SPRING?](#); Misceláneas de Cuba. Junio 11, 2014. [Agreden físicamente a director de Hablemos Press](#); Diario de Cuba. June 12, 2014. [Periodistas independientes denuncian detenciones, golpizas y amenazas de muerte](#).

<sup>414</sup> Martí Noticias. June 11, 2014. [Arrestan a 10 miembros de la Red Cubana de Comunicadores](#). (AUDIO).

<sup>415</sup> Centro de Información Hablemos Press. June 26, 2014. [Régimen cubano continúa reprimiendo a opositores pacíficos](#); Comisión Cubana de Derechos Humanos y Reconciliación Nacional. July 1, 2014. [Cuba: algunos actos de represión política en el mes de junio de 2014](#)

<sup>416</sup> Centro de Información Hablemos Press. June 26, 2014. [Régimen cubano continúa reprimiendo a opositores pacíficos](#).

<sup>417</sup> Centro de Información Hablemos Press. June 26, 2014. [Régimen cubano continúa reprimiendo a opositores pacíficos](#); Comisión Cubana de Derechos Humanos y Reconciliación Nacional. July 1, 2014. [Cuba: algunos actos de represión política en el mes de junio de 2014](#).

<sup>418</sup> Comisión Cubana de Derechos Humanos y Reconciliación Nacional/ Foundation for Human Rights in Cuba August 4, 2014. [Cuba: algunos actos de represión política en el mes de julio de 2014](#); Misceláneas de Cuba. July 11, 2014. [Miembros de la Red de Comunicadores arrestados antes de su reunión semanal](#).

<sup>419</sup> Comisión Cubana de Derechos Humanos y Reconciliación Nacional/ Foundation for Human Rights in Cuba. August 4, 2014. [Cuba: algunos actos de represión política en el mes de julio de 2014](#); Centro de Información Hablemos Press. August 2, 2014. [Detienen a un periodista independiente en la ciudad de Matanzas](#); Cuba Verdad. August 1, 2014. [Detienen para registro a periodista independiente Oscar Sánchez Madan](#).

<sup>420</sup> Inter-American Press Association (IAPA). [Cuba](#). General Assembly - Santiago, Chile. October, 2014. Reporters Without Borders. September 9, 2014. [Independent Journalist Arrested, Pressured to Leave Cuba](#).

252. On September 6, journalist Bernardo Arévalo was arrested and threatened by alleged National Revolutionary Police (PNR) officers, in the Cienfuegos province. The journalist writes articles critical of the government in the opposition paper *El Cubano Libre Hoy* [Cubans Free Today]. According to statements made by the journalist to Reporters Without Borders, the officers pressured him to leave Cuba threatening to incarcerate him if he didn't<sup>421</sup>. On September 28, alleged security forces officers detained the journalist again, along with his wife. According to the available information, he was taken to the People's Power offices at that location; there he was forced to undress and was held for two hours. Additionally, they took his work material. Arévalo Padrón was in prison between 1997 and 2003, charged with "contempt" [*desacato*] of high government authorities.<sup>422</sup>

253. On September 13, journalist Ricardo Sánchez Tamayo, correspondent for *Centro de Información Hablemos Press*, was detained for 48 hours; allegedly as retaliation for the distribution of the newspaper in the municipality of Bayamo<sup>423</sup>.

254. On September 30, Roberto de Jesús Guerra, director and reporter for *Centro de Información Hablemos Press*, was detained yet again, this time for five hours at the international airport in Havana, upon returning from Panama. According to his statement, his digital recorder was seized at customs<sup>424</sup>.

255. On October 3, Ignacio Luis González, editor for *Centro de Información Hablemos Press*, was detained again during the recording of images for a report. González was released after three hours of interrogation<sup>425</sup>.

256. On October 7 and 8, Carlos Manuel Pupo Rodríguez, the leader of the Union for a Free Cuba Political Party [*Partido Unión por Cuba Libre*], was detained in the Mayabeque province. According to his report his residence was under the surveillance of the State Security Department and the National Revolutionary Police, for several days, allegedly to prohibit his travel to Havana. He was arrested by officers both times he tried to leave his house that day. He reported that he had received threats from alleged Police officers, who warned him not to travel to Havana<sup>426</sup>.

257. The IACHR received information regarding the November 25 attacks at FANTU (United Anti-totalitarian Front) [*Frente Antitotalitario Unido*] weekly meetings in the city of Santa Clara. According to reports a man with a weapon attempted to attack opositionist Guillermo Fariñas. In an effort to avoid him

<sup>421</sup> IFEX/Reporters Without Borders. September 10, 2014. [Former Political Prisoner and journalist arrested, pressured to leave Cuba](#).

<sup>422</sup> Centro de Información Hablemos Press. October 3, 2014. [Obligan a desnudarse a periodista independiente mientras es grabado \(Audio\)](#); Reporters Without Borders. October 3, 2014. [Cuban Journalist Arrested for Second Time in a Month](#); Diario de Cuba. October 3, 2014. [RSF denuncia el acoso policial al periodista independiente Bernardo Arévalo Padrón](#).

<sup>423</sup> Centro de Información Hablemos Press. October 3, 2014. [Obligan a desnudarse a periodista independiente mientras es grabado \(Audio\)](#); Reporters Without Borders. October 3, 2014. [Cuban Journalist Arrested for Second Time in a Month](#).

<sup>424</sup> Centro de Información Hablemos Press. October 3, 2014. [Confiscan sistema digital inalámbrico a director de Hablemos Press](#); Reporters Without Borders. October 3, 2014. [Cuban Journalist Arrested for Second Time in a Month](#).

<sup>425</sup> Centro de Información Hablemos Press. October 6, 2014. [Detienen a editor de multimedia de Hablemos Press + \(Audio\)](#).

<sup>426</sup> Comisión Cubana de Derechos Humanos y Reconciliación Nacional/ 14ymedio. November 3, 2014. [Cuba: algunos actos de represión política en el mes de octubre de 2014](#); Centro de Información Hablemos Press. October 10, 2014. [Arrestan por segunda vez en un día al líder del Partido Unión por Cuba Libre + \(Audio\)](#)

others were injured, among them a member of the Ladies in White who had to undergo surgery<sup>427</sup>. The man identified as the attacker was detained<sup>428</sup>.

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

259. As the United Nations Special Rapporteur on the Protection and Promotion of the Right to Freedom of Opinion and Expression and the Special Rapporteurship for Freedom of Expression of the Inter-American Commission have stated, the State "has the duty to ensure that journalists and media workers reporting on public demonstrations are not arrested, threatened, assaulted, or limited in any manner in their rights as a result of practicing their profession. Their work materials and tools must not be destroyed or confiscated by the authorities." Furthermore, "the authorities must not stigmatize or stereotype demonstrators and their demands. They must refrain from making generalizations based on isolated events or the conduct of particular groups."<sup>429</sup>

260. The IACHR is also reminded that the rights of freedom of assembly and freedom of expression "are fundamental, and guaranteeing them is a vital condition to the existence and proper functioning of a democratic society. A State may impose reasonable limitations on demonstrations for purposes of ensuring that they are conducted peacefully, or to disperse those that turn violent, provided that such limits are governed by the principles of legality, necessity, and proportionality. In addition, the breaking-up of a demonstration must be warranted by the duty to protect individuals, and authorities must use the measures that are safest and least harmful to the demonstrators. The use of force at public demonstrations must be an exception, used under strictly necessary circumstances consistent with internationally recognized principles."<sup>430</sup>

### Other relevant situations

261. On May 21, blogger and activist Yoani Sánchez launched a new digital news site called *14ymedio*. This paper is the first independent digitally based daily in the country and, according to its website, those who contributed to its creation have a "commitment to truth, freedom and human rights, without ideological or partisan ties." According to reports, minutes after it was launched, access to the media outlet in

<sup>427</sup> Martí Noticias. November 26, 2014. [Fariñas denuncia que en un intento de asesinarle fueron apuñalados cinco disidentes](#); El Nuevo Herald. November 26, 2014. [Dos Damas de Blanco apuñaladas por un seguidor del régimen cubano](#); 14ymedio. November 26, 2014. [Dama de Blanco en estado grave después de una agresión en Santa Clara](#); Diario las Américas. November 27, 2014. [Un hombre apuñala a varios disidentes en casa de Fariñas y deja grave a dos Damas de Blanco](#); Damas de Blanco. November 26, 2014. [La Dama de Blanco María Luisa Arango, 'muy grave' tras ser apuñalada por un seguidor del régimen](#).

<sup>428</sup> CubaNet. November 29, 2014. [Tras las rejas el acusado de acuchillar a la Dama de Blanco](#); de las Américas/EFE. December 3, 2014. [Atacante de disidentes cubanos, Fariñas y Damas de Blanco está arrestado](#).

<sup>429</sup> United Nations (UN) Special Rapporteur on the Protection and Promotion of the Right to Freedom of Opinion and Expression and Special Rapporteur for Freedom of Expression of the OAS Inter-American Commission on Human Rights. September 13, 2013. [Joint Declaration on Violence against Journalists and Media Workers in the Context of Protests](#).

<sup>430</sup> United Nations (UN) Special Rapporteur on the Protection and Promotion of the Right to Freedom of Opinion and Expression and Special Rapporteur for Freedom of Expression of the OAS Inter-American Commission on Human Rights. September 13, 2013. [Joint Declaration on Violence against Journalists and Media Workers in the Context of Protests](#).

Cuba was blocked. Those who attempted to view the site were redirected to ‘Yoani\$landia’, another page with adverse information on Sánchez<sup>431</sup>. Days later the media outlet was unblocked for Cuba<sup>432</sup>.

### Subsequent liabilities

262. Yoennis [or Yoeni] de Jesús Guerra García, reporter for the *Yayabo Press* agency, was sentenced to seven years imprisonment by the Sancti Spíritus provincial court on March 13. The journalist was arrested in October of 2013 and was held as of that date in the Nieves Morejón jail, charged with “robbery” and “illegal livestock slaughter”. The journalist claimed that his arrest and conviction were related to his critical point of view towards the government and its work as an independent journalist. During his detention he was victimized on several occasions by police violence<sup>433</sup>. In July his sentence was upheld following the denial of an appeal<sup>434</sup>.

263. On April 7, Juliet Michelena Díaz, correspondent to the Cuban Community Journalists Network [*Red Cubana de Comunicadores Comunitarios*] (RCCC), was detained after taking pictures of a police operation in Havana. According to reports, the detention was based on an incident that took place on March 26; when Michelena and other RCCC correspondents witnessed the alleged use of canine units by police to stop a struggle among the city residents; one person was bit. That day, several observers who photographed the incident were detained, including Michelena who was able to hide the photographs. She was rearrested on April 2 when the authorities found out she was writing an article on the incident.<sup>435</sup> During that detention, while in handcuffs, a woman assaulted her; she was released the next day. On April 6, the National Revolutionary Police (PNR) went to her home, allegedly because the woman who assaulted her days earlier received “threats”. Michelena refused to go with the police that day due to the lack of an arrest warrant.<sup>436</sup> Nonetheless, they returned the next day, and she was detained with the use of violence. The trial was set for April 10, however, it was postponed. New documents charge her with subversion [*atentado*]. On April 16, she was transferred to the prison for women known as *Manto Negro*<sup>437</sup>. According to reports, after seven months in prison, Michelena was released on November 7 when a judge found her innocent on the charge of “subversion” [*atentado*]<sup>438</sup>.

<sup>431</sup> 14ymedio. [Quiénes somos](#); El Espectador/AFP. May 21, 2014. [Lanzan "14ymedio", el primer medio independiente en Cuba](#); CNN en Español/AFP. May 21, 2014. [‘Hackers’ intervienen el portal independiente en Cuba de Yoani Sánchez](#); El Tiempo. May 21, 2014. [Bloquera cubana Yoani Sánchez lanza portal y Gobierno lo bloquea](#); Knight Center for Journalism in the Americas. May 21, 2014. [Cuba bloquea nuevo sitio de noticias de bloguera Yoani Sánchez el día de su lanzamiento](#); Committee to Protect Journalists (CPJ). May 22, 2014. [Cuban blogger Yoani Sánchez launches independent news site](#); El País. May 21, 2014. [El Gobierno cubano bloquea el acceso al diario digital de Yoani Sánchez](#).

<sup>432</sup> Martí Noticias. May 25, 2014. [Accesible 14yMedio para los internautas en la Isla](#); Semana/EFE. May 25, 2014. [Desbloquean en Cuba periódico de Yoani Sánchez](#).

<sup>433</sup> Centro de Información Hablemos Press. March 27, 2014. [Condenan a 7 años de cárcel a periodista independiente de Yayabo Press](#); Reporters Without Borders. April 11, 2014. [FRENCH MINISTER MUST NOT IGNORE FREEDOM OF INFORMATION DURING CUBA VISIT](#); Inter-American Press Association (IAPA). [Cuba](#). 2014 General Assembly – Santiago, Chile. October 2014; Misceláneas de Cuba. March 27 2014. [Declaraciones de periodista preso](#).

<sup>434</sup> Instituto Cubano por la Libertad de Expresión y Prensa (ICLEP). July 10, 2014. [Ratifican sanción a periodista Yoennis Jesús Guerra García](#); Unión Patriótica de Cuba (UNPACU). [Ratifican sanción a disidente](#).

<sup>435</sup> CubaNet. April 10, 2014. [Tropas élites controlan con perros riñas callejeras](#); Committee to Protect Journalists (CPJ). April 22, 2014. [CPJ condemns jailing of Cuban citizen journalist](#); El Nuevo Herald. April 18, 2014. [Exigen la liberación de la periodista cubana Juliet Michelena](#).

<sup>436</sup> CubaNet. 18 de abril de 2014. [Juliet sólo hizo periodismo ciudadano](#).

<sup>437</sup> Committee to Protect Journalists (CPJ). April 22, 2014. [CPJ condemns jailing of Cuban citizen journalist](#); Centro de Información Hablemos Press. April 8, 2014. [Policía cubana arresta a una reportera de la Red de Comunicadores +Audio](#); CubaNet. April 18, 2014. [Juliet sólo hizo periodismo ciudadano](#); El Nuevo Herald. April 18, 2014. [Exigen la liberación de la periodista cubana Juliet Michelena](#); Martí Noticias. April 18, 2014. [Juliet Michelena: mapa de una mujer encarcelada](#); Reporters Without Borders. April 17, 2014. [JOURNALIST HELD FOR PAST TEN DAYS. CHARGED WITH “TERRORISM”](#).

<sup>438</sup> Committee for the Protection of Journalists (CPJ). November 7, 2014. [CPJ welcomes release of Juliet Michelena Díaz in Cuba](#); Martí Noticias. November 6, 2014. [Declaran inocente a periodista independiente Juliet Michelena](#); CubaNet. November 7, 2014. [Liberan a Juliet Michelena](#); Diario de Cuba. November 8, 2014. [El régimen libera a la periodista independiente Juliet Michelena Díaz](#).

264. The Inter-American Commission learned that Yoelkis Rosabal, Ricardo Pelier and Ernesto Darián Dufuss; three members of the political group Cuban Patriotic Union [*Unión Patriótica de Cuba*] were sentenced to four, three and two years respectively of imprisonment for the alleged crime of public disorderly conduct. All three were detained on May 15, after protesting the detention of Yohannes Arce, another Unpacu colleague, in the municipality of Caimanera in Guantanamo. They were tried on October 24 and alerted as to their conviction on November 12. Likewise in September, Yohannes Arce was sentenced to three years imprisonment for the alleged crime of subversion [atentado]<sup>439</sup>.

265. On June 19, Yulio Ferrer Bravo, a Human Rights defender and member of the Commission for Attention to Political Prisoners and Family Members was detained at his residence in Havana. According to what the activist reported, he was detained for yelling “down with Fidel!” during a discussion with his mother. A neighbor reported him to the authorities and hours later alleged agents of the State Security Department (DSE) and Police officers showed up at his residence, attacked him and arrested him. According to reports, he was charged with the supposed crime of “public disorderly conduct<sup>440</sup>”. He was placed on probation in September. On October 9 he had to appear before the Court for Crimes against the Security of the State, but the trial has been continued<sup>441</sup>.

266. On October 16, political prisoner Ángel Yunier Remón Arzuaga went on a hunger strike protesting his six year imprisonment sentence for the alleged crime of attack against the security of the State. Remón, a hip hop singer known as “El Crítico” [The Critic], and a member of the Patriotic Union of Cuba, was detained as of March 26, 2013, when he was arrested for protesting<sup>442</sup>. Remón interrupted his hunger strike in November when he was allowed to appeal the sentence.<sup>443</sup>

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

268. The Inter-American Commission is recommending to the Cuban State that it review and amend its domestic laws regulating freedom of expression, to bring them in line with international standards on this subject. Accordingly, it is particularly urging the State to adopt adequate measures to prevent violence against journalists, including public censure of any act of aggression and adequate measures to train public

<sup>439</sup> 14ymedio. November 12, 2014. [Condenados a penas entre dos y cuatro años de prisión activistas de la UNPACU](#); Cubaencuentro. November 14, 2014. [Denuncian condenas a tres activistas de Unpacu](#); Martí Noticias. November 13, 2014. [Ratifican sentencias a 3 opositores guantanameros encarcelados desde mayo](#); Comisión Cubana de Derechos Humanos y Reconciliación Nacional/14ymedio. June 23, 2014. [Lista parcial de condenados o procesados por motivos políticos en Cuba](#)

<sup>440</sup> Comisión de Atención a Presos Políticos y Familiares (CAPPF). July 4, 2014. [Detenido Yulio Ferrer Bravo por falso desorden publico](#); Misceláneas de Cuba. June 4, 2014. [Arrestado el opositor Yulio Ferrer Bravo](#).

<sup>441</sup> Centro de Información Hablemos Press. October 9, 2014. [Cuba: A juicio activista de la CAPPF, este jueves](#); Misceláneas de Cuba. October 22, 2014. [Suspenden juicio de activista de la CAPPF](#).

<sup>442</sup> Centro de Información Hablemos Press. October 23, 2014. [En huelga de hambre el preso político Ángel Yunier Remón](#); Diario de Cuba. October 15, 2014. [El rapero El Crítico, condenado a seis años de cárcel](#); Centro de Información Hablemos Press. October 15, 2014. [Prisioneros político en Cuba: Cantante cubano “El Crítico” relata los hechos ocurridos en el juicio. + \(Audio\)](#).

<sup>443</sup> Martí Noticias. November 4, 2014. [El Crítico suspende huelga de hambre tras lograr demanda](#); Miami en Cuba. No date. [El Crítico suspende huelga de hambre tras lograr demanda](#).

officials, especially the police and security forces; to take the measures necessary to prevent violence against journalists covering public demonstrations and against demonstrators, to establish reasonable limits, dictated by the principles of legality, necessity and proportionality, to ensure that the demonstrations are peaceful, as well as to conduct serious, impartial and effective investigations into attacks, threats and acts of intimidation committed against journalists and others working in the media.

269. Similarly, it is recommending the State to promote the repeal of laws that criminalize *desacato*, no matter what form it takes, since such laws are contrary to inter-American standards and restrict public discourse, an essential element to enable democracies to function; to promote amendment of the laws criminalizing defamation to eliminate the use of criminal proceedings to protect honor and reputation when information of interest to the public is disseminated regarding public officials or candidates for public office; to encourage democratic debate through public statements, practices and policies that promote tolerance and respect for all persons as equals and irrespective of their thinking or ideas; to repeal any provision that allows prior censorship by any organ of the State, and any preconditions that may imply censorship of freedom of expression, such as prerequisites as to veracity, timeliness and impartiality in reporting; to refrain from exercising public power to punish or reward media and journalists for their editorial line or coverage of certain news, whether through discriminatory and arbitrary placement of government advertising or other indirect means aimed at blocking the communication and circulation of ideas and opinions; to promote effective laws, policies and practices that allow access to information and equal participation of all sectors of society so that their needs, opinions and interests are taken into account when crafting and adopting decisions; to adopt legislative and other measures necessary to guarantee pluralism, including laws that prevent public or private monopolies; and to adjust the institutional frameworks so as to prevent the possibility that state powers might be used to reward or punish the media, according to their editorial line and instead use them to encourage pluralism and diversity in public discourse.

## **F. Defenders**

270. Human rights defenders in Cuba continue to face adverse conditions for exercising the defense of rights, given that they are subjected to dangerous conditions because of their activities. The IACHR has noted that the work performed by these defenders, in protecting individuals and groups of individuals who are victims of human rights violations, publicly condemning the injustices that affect large sectors of society, and pointing to the need for citizen oversight of public officials and democratic institutions, among other activities, means that they play an irreplaceable role in building<sup>444</sup> societies that respect human rights. At the same time, the oversight, reporting, and educational activities carried out by human rights defenders often exposes them to situations of harassment, smear campaigns, and attacks on their lives and personal freedom and integrity. Therefore, the Commission has reiterated that when any one individual is prevented from defending human rights, the rest of society is directly affected.

271. In view of the foregoing, the IACHR is concerned about information gathered over the course of the year 2014 that confirms the very pattern identified in Chapter IV of the 2013 Annual Report according to which human rights defenders in Cuba are the object of alleged physical attacks, arbitrary short-term detentions that last from a few hours to several days, acts of repudiation, and limitations on the peaceful exercise of their rights of demonstration and assembly, aimed at silencing or intimidating them.

### **1. Alleged arbitrary arrests**

272. The Commission has received information about the use of pretrial detention or the temporary detention of individuals, including political dissidents and human rights defenders, in the context of peaceful social protests. According to the Cuban Human Rights Observatory, by the month of September 2014, around 6,500 arbitrary arrests of political dissidents had occurred in the context of peaceful

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<sup>444</sup> Report on the situation of human rights defenders in the Americas, paragraph 23. OEA/Ser.L/V/II.124 Doc. 5 rev.1, March 7, 2006, paragraph 23.

demonstrations.<sup>445</sup> There were 1,052 arbitrary arrests in the month of January alone, which is the highest number of detentions in the past four years.<sup>446</sup>

273. In this context, according to the information received, women human rights defenders continue to be victims of repeated physical attacks, to be arbitrarily arrested during social protest demonstrations, and to be restricted or prevented from peacefully exercising their right to assembly. This has especially been the case with the members of the group Ladies in White, who have been subject to mass arrests of their members as a way of deterring them from exercising their rights to demonstrate and assemble. As noted above, on October 28, 2013, the IACHR granted precautionary measures to the organization's members and asked the State to adopt the measures necessary to protect their lives and personal integrity.<sup>447</sup> This precautionary measure was extended on May 12, 2014.<sup>448</sup> With regard to this matter, the IACHR received information indicating that on April 20, 2014, Berta Soler Fernández, representative of the Ladies in White, and her husband Ángel Moya Acosta, member of the group of 75 of the Black Spring of March 2003, had reportedly been detained for four hours. Subsequently, on April 30, Mr. Moya Acosta was reportedly arrested twice on the same day for a period of 12 hours, and was allegedly brutally beaten by officers of the National Revolutionary Police.<sup>449</sup> The IACHR also received information that on May 19, 2014, 45 members of the organization and another 25 dissidents were allegedly arrested and beaten by law-enforcement officers and many were reportedly locked up for 10 hours.<sup>450</sup> In addition, it came out that on July 14, 2014, around 100 Ladies in White were reportedly arrested during their Sunday march after attending mass in the parish of Santa Rita. A group of uniformed police officers and plainclothesmen supposedly arrested the members of the organization during a counter-demonstration by government supporters.<sup>451</sup>

274. Furthermore, on May 14, 2014, two Ladies in White were detained and beaten by members of the Holguín Province Department of State Security (DSE) to prevent them from attending mass at a local church. The Ladies in White indicate that 55 Ladies were detained on May 19, 2014, as they made their way to the Caprí police station to report alleged domestic violence against Yalenis Cutiño Martínez and held for 10 hours at the Vivac prison criminal processing center. Thirty were detained in June 2014 on their way to the La Palma People's Municipal Court to support a Lady filing a complaint of domestic violence. On June 13, 2014,

<sup>445</sup> Cuban Human Rights Observatory, *Exiliados y disidentes denuncian en Ginebra '6.500 detenciones arbitrarias' en lo que va de año* [In Geneva, exiles and dissidents denounce "6,500 arbitrary arrests" so far this year], September 6, 2014. Available at (in Spanish): <http://observacuba.org/exiliados-y-disidentes-denuncian-en-ginebra-6-500-detenciones-arbitrarias-en-lo-que-va-de-ano/>

<sup>446</sup> Cuban Committee for Human Rights and National Reconciliation, *Cuba: Algunos actos de represión política en el mes de abril de 2014* [Cuba: Some acts of political repression in the month of April, 2014]. Available at (in Spanish): <http://observacuba.org/wp-content/uploads/pdfs/2014/overview-abril2014.pdf>

<sup>447</sup> IACHR, Resolution 6/2013, Precautionary Measure No. 264-14. Available at: <https://www.oas.org/en/iachr/decisions/pdf/Resolution6-13%28MC-264-13%29.pdf>

<sup>448</sup> IACHR, Resolution 12/14, Precautionary Measure 264-14. Available at (in Spanish): <http://www.oas.org/es/cidh/decisiones/pdf/2014/MC264-13-ES.pdf>

<sup>449</sup> Cuban Committee for Human Rights and National Reconciliation, *Cuba: Algunos actos de represión política en el mes de abril de 2014* [Cuba: Some acts of political repression in the month of April, 2014]. Available at (in Spanish): <http://observacuba.org/wp-content/uploads/pdfs/2014/overview-abril2014.pdf>

<sup>450</sup> Diario de Cuba, *Soler: Detenidas 45 mujeres por acompañar a una Dama de Blanco a denunciar 'violencia doméstica'* [Soler: 45 women arrested for accompanying a Lady in White to report "domestic violence"], May 20, 2014. Available at (in Spanish): [http://www.diariodecuba.com/derechos-humanos/1400606563\\_8670.html](http://www.diariodecuba.com/derechos-humanos/1400606563_8670.html)

<sup>451</sup> El Nuevo Herald, *EEUU y UE repudian detención de las Damas de Blanco en Cuba* [USA and EU condemn arrest of Ladies in White in Cuba], July 15, 2014. Available at (in Spanish):

<http://www.elnuevoherald.com/2014/07/14/1799460/eeuu-y-ue-repudian-detencion-de.html#storylink=cpy>; See also: <http://www.fhrcuba.org/2014/07/u-s-european-union-condemn-arrest-ladies-white/>

seventy-eight Ladies in White were detained to prevent them from reaching the coast of Cuba to attend a tribute to the victims of the sinking of the Trece de Marzo tugboat.<sup>452</sup>

275. Moreover, it was reported that on June 11, 2014, the opposition leaders Jorge Luis García Antúnez, National Secretary of the Orlando Zapata Tamayo National Resistance Front [Frente Nacional de Resistencia Orlando Zapata Tamayo] and his wife Yris Tamara Pérez Aguilera, leader of the Rosa Parks Women's Movement [*Movimiento Femenino Rosa Parks*] were violently arrested and that their home was broken into by the National Revolutionary Police and the Department of State Security.<sup>453</sup> The defenders were allegedly released on June 12, 2014. The officers who arrested Mr. Antúnez supposedly told him that "we broke in to your house for three reasons: first, because you are inciting to the point of propaganda, you have turned Placetas into a regular bulletin board; second, because here you have become the spokesperson in Cuba in league with the extreme right in exile in obstructing the normalization of Cuba-US relations; third, we know that here in Cuba you are leading this new trend that is causing problems for us, that the Revolution can make a comeback and because of you and many other recalcitrants in and out of Cuba it has not." In addition, Mr. Antúnez indicated that he was subjected to an interrogation in which a man in a white robe reportedly tried to strangle him; he allegedly lost consciousness twice and was injected with a substance so that he would recover.<sup>454</sup>

276. On June 15, Mr. Pérez Antúnez and his wife Yris Tamara Pérez Aguilera were reportedly arrested once again after staging a protest to request medical care for a man who was found thrown by the wayside.<sup>455</sup> Ms. Pérez Aguilera was apparently released the next day and reported that her husband had been cruelly beaten in cell number 16 of the Police Instruction Unit for Cuban State law-enforcement officers.<sup>456</sup> On June 20, Mr. Antúnez was sentenced with the precautionary measure of house arrest while awaiting trial for the alleged crime of "disorderly conduct."<sup>457</sup> However, on July 3, the charges against him were dropped.<sup>458</sup>

277. On October 15, Rafael Juan Mesa Gallardo, manager for the Constitutional Consensus [*Consenso Constitucional*] project, and the activists Joel Lazo Mesa, Marina Núñez Márquez, and Bartolo Alfredo Salgado, were arrested in the city of Manzanillo, municipality of Granma, allegedly in retaliation for the work they had been doing in the city on the round tables for the constitutional initiative [*Mesas de*

<sup>452</sup> Ladies in White, "Informe de represión contra las Damas de Blanco (de enero a julio de 2014)" [Report on repression of the Ladies in White (January to July 2014)], July 17, 2014, available at <http://www.damasdeblanco.org/index.php/derechos-humanos/1895-informe-de-represion-contra-las-damas-de-blanco-de-enero-a-julio-de-2014>.

<sup>453</sup> Directorio Democrático Cubano, Arrestados Antúnez y su esposa Yris Pérez después de allanamiento de su vivienda [Antúnez and his wife Yris Pérez arrested after forced entry into their home], June 11, 2014. Available at (in Spanish): [http://www.directorio.org/comunicadosdeprensa/note.php?note\\_id=3879](http://www.directorio.org/comunicadosdeprensa/note.php?note_id=3879)

<sup>454</sup> Directorio Democrático Cubano, Antúnez denuncia torturas y amenaza de muerte contra su persona por "obstaculizar relaciones Estados Unidos-Cuba." Otros activistas continúan arrestados. [Antúnez denounces torture and death threats against him for "obstructing United States-Cuba relations." Other activists continue under arrest], June 13, 2014. Available at (in Spanish):

[http://www.directorio.org/comunicadosdeprensa/note.php?note\\_id=3881](http://www.directorio.org/comunicadosdeprensa/note.php?note_id=3881)

<sup>455</sup> Directorio Democrático Cubano, Arrestan nuevamente a Antúnez y su esposa y amenazan con procesarlos [Antúnez and his wife arrested again and threatened with prosecution], June 16, 2014. Available at (in Spanish): [http://www.directorio.org/comunicadosdeprensa/note.php?note\\_id=3883](http://www.directorio.org/comunicadosdeprensa/note.php?note_id=3883); See also: <http://www.elnuevoherald.com/2014/06/17/1774763/disidente-antunez-fue-nuevamente.html>

<sup>456</sup> Directorio Democrático Cubano, Jorge Luis García Pérez "Antúnez" golpeado salvajemente por represores castristas. Su esposa hace un llamado a la comunidad internacional [Jorge Luis García Pérez "Antúnez" savagely beaten by Castro supporters. His wife calls on the international community], June 18, 2014. Available at (in Spanish): [http://www.directorio.org/comunicadosdeprensa/note.php?note\\_id=3888](http://www.directorio.org/comunicadosdeprensa/note.php?note_id=3888)

<sup>457</sup> Directorio Democrático Cubano, Condenan a Antúnez a Reclusión Domiciliaria por supuesto delito de desórdenes públicos [Antúnez sentenced to house arrest for alleged crime of disorderly conduct], June 26, 2014. Available at (in Spanish): [http://www.directorio.org/comunicadosdeprensa/note.php?note\\_id=3892](http://www.directorio.org/comunicadosdeprensa/note.php?note_id=3892); See also: <http://www.martinoticias.com/content/ant%C3%BAnez-vuelve-a-casa-encausado-y-bajo-prision-domiciliaria/37723.html>

<sup>458</sup> Régimen de La Habana retira cargos contra Antúnez y lo libera de la reclusión domiciliaria [Havana regime withdraws charges against Antúnez and releases him from house arrest], July 3, 2014. Available at: [http://www.directorio.org/comunicadosdeprensa/note.php?note\\_id=3916](http://www.directorio.org/comunicadosdeprensa/note.php?note_id=3916)

*Iniciativa Constitucional*], the collection of signatures for a constitutional assembly in Cuba, and the Economic Forum for Entrepreneurs [*Foro Económico para Emprendedores*].<sup>459</sup>

278. With regard to mass arrests in the context of demonstrations and social protests, the IACHR reminds the State of the standards set forth by the Office of the Special Rapporteur for Freedom of Expression, which has indicated that a mere disturbance is not sufficient to justify the arrest of an individual who is protesting peacefully; rather, for such an arrest to be legal, the individual must effectively instigate or provoke violence, interfering with the rights or freedoms of others.<sup>460</sup> Likewise, the Inter-American Court has established that planned, mass arrests of individuals without legal grounds, in which the State collectively arrests individuals whom the authority supposes, could represent a risk or danger to the security of others, without well-founded signs that a crime has been committed, are illegal and arbitrary arrests.<sup>461</sup>

279. The IACHR urges the State to review domestic legislation and to strictly define the grounds and procedures that govern imprisonment in order to bring domestic laws into line with international standards. It therefore calls on the State to adopt the measures necessary to stop all illegal arrests as well as solitary confinement, abuse, and other violations of due process that may occur in the context of the arrests to which human rights defenders have been subjected in the exercise of their rights-defending activities.

## 2. Personal integrity

280. In 2014, the IACHR continued to receive information that indicates that human rights defenders have been the object of harassment and physical attacks because of their reporting or human-rights promoting activities. For example, it came out that on January 9, 2014, the human rights defender Juan Carlos González Leiva, president of the Council of Human Rights Reporters of Cuba [*Consejo de Relatores de Derechos Humanos de Cuba*] and his wife Tania Maceda, member of the Ladies in White, had reportedly been physically attacked while distributing the newsletter *la Voz Avileña* along with five other colleagues.<sup>462</sup> Apparently, after this distribution, they were beaten and dragged to the police patrol vehicle by members of the National Revolutionary Police. According to reports, Mr. González, who is blind, had his hands tied behind his back and was severely beaten in the face and head. Upon exiting the vehicle he was strangled until he suffocated and as a result lost consciousness. Meanwhile, Ms. Maceda's hair was pulled out, and she was bitten and beaten on the head. All were all apparently released without being interrogated.<sup>463</sup>

281. Likewise, the IACHR has continued to receive information about acts of aggression and attacks against Ms. Damaris Moya Portieles, member of the Rosa Parks Women's Civil Rights Movement [*Movimiento Femenino por los Derechos Civiles Rosa Parks*], and her family. Ms. Moya Portieles had been the victim of grave acts of violence and intimidation in the past, for which reason the IACHR granted her precautionary measures to protect her life and integrity, as well as those of her daughter, on June 12, 2012.<sup>464</sup> Despite such measures, in 2013 Ms. Portieles was allegedly subjected to sexual assault and her daughter was

<sup>459</sup> Detenidos en Manzanillo activistas de Consenso Constitucional [Constitutional Consensus activists arrested in Manzanillo], October 16, 2014. Available at (in Spanish): <http://www.cubonet.org/noticias/detenidos-en-manzanillo-activistas-de-consenso-constitucional/>

<sup>460</sup> IACHR, *2005 Annual Report*, Vol. III: Report of the Office of the Special Rapporteur for Freedom of Expression. Chapter V, paragraph 92.

<sup>461</sup> I/A Court H.R., *Case of Servellón García et al. v. Honduras*. Judgment of September 21, 2006. Series C No. 152 paragraph 96.

<sup>462</sup> Cuban Committee for Human Rights and National Reconciliation, *Cuba: Algunos actos de represión política en el mes de abril de 2014 [Cuba: Some acts of political repression in the month of April 2014]*. Available at (in Spanish): <http://observacuba.org/wp-content/uploads/pdfs/2014/overview-abril2014.pdf>

<sup>463</sup> Frontline Defenders, *Cuba: Physical attack against human rights defenders by state security forces*, January 15, 2014. Available at: <http://www.frontlinedefenders.org/node/24667>

<sup>464</sup> IACHR, Precautionary Measure No. 163/12. Available at: <http://www.oas.org/en/iachr/decisions/precautionary.asp>

threatened.<sup>465</sup> The attacks against Ms. Portieles reportedly continued in 2014; it came out that on January 2 her children were apparently beaten by officers of the National Revolutionary Police in Santa Clara.<sup>466</sup> Subsequently, on March 13, 2014, Ms. Moya Portieles was reportedly arrested, presumably in order to prevent her from participating in the weekly meeting of the Orlando Zapata Tamayo Front [Frente Orlando Zapata Tamayo] committee.<sup>467</sup> Likewise, it came out that on August 26, 2014, the defender's house was raided by State law-enforcement forces, who presumably attacked her eight-year-old daughter and threatened her five-year-old son.

282. The IACHR also received information to the effect that this past June 11, Roberto de Jesús Guerra Pérez, human rights defender and independent journalist, was attacked by an unknown individual in the street. According to reports, the act occurred in front of State Security employees, who did not intervene. Guerra Pérez was transferred to the Calixto García University Hospital, where he was diagnosed with a fractured nasal septum, multiple bruises on his face, and a dislocated right knee. According to public reports, days before the events described here, the defender and journalist Guerra Pérez and his wife, Magali Norvis Otero Suárez, member of the Ladies in White board, had received threatening phone calls, which apparently continued after the attack.<sup>468</sup>

283. The Commission recalls the essential role that defenders have had and continue to have in condemning human rights violations. Acts of violence and other attacks against these defenders thus affect their fundamental role in society and plunge everyone they work for into a state of vulnerability. Therefore, the IACHR calls on the Cuban State to provide the means necessary in order to enable human rights defenders to "freely carry out their activities; protect them when they receive threats so as to prevent attacks on their lives and integrity; create the conditions to eradicate violations by State agents or other individuals; refrain from hindering their work and seriously and effectively investigating violations committed against them, combating impunity."<sup>469</sup>

## G. Women

284. Over the course of this year, and in 2013, the IACHR has received information about abuses committed against women human rights defenders in Cuba. Various civil society organizations have drawn attention to abuses committed by police and paramilitary forces against the Ladies in White.

285. The IACHR has also received information that Afrodescendant women are more vulnerable to being victims of different forms of violence. According to Cubalex, the situation of Afrodescendant women is critical because they are traditionally victims of discrimination on three levels: by reason of their sex, race, and extreme poverty. Afrodescendant women generally live in fringe zones, usually located in periurban districts with high crime and poverty rates, often popularly referred to as "black neighborhoods."<sup>470</sup>

<sup>465</sup> IACHR, *2013 Annual Report*, paragraph 147. Available at: <http://www.oas.org/en/iachr/docs/annual/2013/docs-en/AnnualReport-Chap4-Cuba.pdf>

<sup>466</sup> Frontline Defenders, *Physical attack against the children of human rights defender Ms. Damaris Moya Portieles*, January 7, 2014. Available at: <http://www.frontlinedefenders.org/node/24600>

<sup>467</sup> Frontline Defenders, *Update: Cuba – Raid and siege at home of human rights defender Ms. Damaris Moya Portieles*, September 3, 2014. Available at: <http://www.frontlinedefenders.org/node/27025>

<sup>468</sup> Llamamiento Urgente a favor del defensor de derechos humanos Roberto de Jesús Guerra Pérez [Urgent Call for human rights defender Roberto de Jesús Guerra Pérez]. Available at (in Spanish): <http://www.fhrcuba.org/es/2014/06/llamamiento-urgente-favor-del-defensor-de-derechos-humanos-roberto-de-jesus-guerra-perez/>

<sup>469</sup> Inter-American Court of Human Rights. *Case of Luna López v. Honduras*. Merits, Reparations and Costs. Judgment of October 10, 2013. Series C No. 269, paragraph 123.

<sup>470</sup> Cubalex, *Informe sobre la situación discriminación contra las mujeres en Cuba* [Report on the Situation of Discrimination against Women in Cuba]. 2013 [document in the Commission archive].

286. Cubalex has expressed concern that there is no legal framework for combating violence against women in Cuba and that nothing is done to eliminate this problem, including domestic and sexual violence.<sup>471</sup>

## H. Children and adolescents

287. Boys, girls, and adolescents make up 22% of the Cuban population.<sup>472</sup> The IACHR notes that important advancements have been made in the promotion of their rights and guarantees, specifically with regard to reaching the millennium development goals.<sup>473</sup> Along those lines, the third report submitted by the State to the UN reports higher rates of primary and secondary school enrollment, at 99.7% and 90.3% respectively.<sup>474</sup> In addition, Cuba has reported especially low child mortality rates in the past five years; in 2012, the rate was 4.6 out of every 1000 children. However, the Commission has been informed that the nutritional situation of children and adolescents is still problematic. For example, the number of babies born with low birth weights has increased.<sup>475</sup>

288. The Commission notes with particular concern that despite repeated recommendations made by international bodies, the age of majority in Cuba continues to be 16 years, contrary to the stipulations of the Convention on the Rights of the Child.<sup>476</sup> Furthermore, as of that age adolescents are criminally responsible as adults, although there is the possibility of reducing sentences for individuals between 16 and 20 years of age.<sup>477</sup> This is even more concerning with regard to adolescent victims of crimes, for example boys and girls who have been used in prostitution and pornography, considering the broad powers granted to legal authorities in the application of “re-educational security measures that include internment in specialized institutions for those prostitutes who engage in crime-related activities.” Adolescents are likewise vulnerable to being exploited as child labor because the law has established that individuals under the age of 18 can enter the job market as adults.<sup>478</sup>

289. Recently, the United Nations Committee on the Rights of the Child asked the Cuban State to present information between May and June of 2015 on the number of adolescents between 15 and 16 years of age enrolled in the Military Register since 2007.<sup>479</sup> Specifically, it is of concern that adolescents have been

<sup>471</sup> Cubalex, *Informe sobre la situación discriminación contra las mujeres en Cuba* [Report on the Situation of Discrimination against Women in Cuba], 2013 [document in the Commission archive].

<sup>472</sup> *Estudios y datos de la población cubana. Cuba y sus territorios, 2011* [Studies and data on the Cuban population. Cuba and its territories, 2011]. Population and Development Centre (CEPDE), National Office of Statistics and Information (ONEI). Updated in 2012. <http://www.one.cu/temaspoblacion.htm>.

<sup>473</sup> “Human Rights Council adopts outcomes of the Universal Periodic Review of the Russian Federation, Cameroon and Cuba, Human Rights Council” (September 20, 2013); see also “United Nations Children’s Fund, Executive Board, Revised country programme document, Cuba (2014-2018)”

<sup>474</sup> United Nations Development Program (UNDP). *Millennium Development Goals. Third report, Cuba, 2010*. [http://www.undp.org/cu/odm\\_informes.html](http://www.undp.org/cu/odm_informes.html) (in Spanish).

<sup>475</sup> *Institute of Nutrition and Food Hygiene (INHA)*, 2011. See also: *UNICEF country programme document for Cuba* (E/ICEF/2013/P/L.2) approved on September 6, 2013.

<sup>476</sup> Committee on the Rights of the Child, 57th session, August 3, 2011. See also (in Spanish), <http://esblog.panampost.com/anton-toursinov/2014/10/30/mitos-del-socialismo-cubano-parte-ii/>

<sup>477</sup> Law N° 62 Cuban Criminal Code of 1987, Art. 17. 1. For individuals over 16 and less than 18 years of age, the minimum and maximum penalties may be reduced by up to one-half, and for individuals from 18 to 20 years old, by up to one-third. In both cases, the goal of reeducating the penalized individual, of educating him or her in a profession or trade, and of instilling in him or her respect for the rule of law, shall take precedence.

<sup>478</sup> Labor Code, Chapter IX Work of Adolescents, Art. 220. The State issues measures to ensure that employers will provide the necessary, special assistance to adolescents of fifteen and sixteen years of age who for exceptional reasons are authorized to begin working, to help them be better prepared, adapt to the working life, and continue to further their professional education and cultural growth. See also: <http://cubadata.blogspot.com/2013/06/peticion-contra-trabajo-infantil-en-cuba.html>

<sup>479</sup> <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G14/189/06/PDF/G1418906.pdf?OpenElement>; see also National Defense Law No. 75/94 and Decree-Law No. 224/2001, which establishes 18 years as the minimum age for performing that service in Cuba.

observed to enter military preparation and training activities, and to participate as “voluntary recruits,” in violation of the minimum age established for military service. Consequently, the State has been requested to provide more information and statistics on this matter.<sup>480</sup>

290. The Commission has also been informed about the restrictions on travel imposed on Cuban nationals, both on entering and exiting the country, as well as on domestic travel, which affects children’s rights to visit or be reunited with their families, as was reported in the IACHR’s 2013 Annual Report and the Committee on the Rights of the Child’s 2011 report.<sup>481</sup> Although domestic regulations on the matter were reformed in 2013 to allow more people to travel, the Government still has the power to restrict the right to travel without clearly defined grounds, and to limit travel to the country’s capital.<sup>482</sup>

## I. Lesbians, Gays, Bisexuals, Trans, and Intersex (LGBTI)

291. In 2013 and 2014, the Commission received information on progress made on and challenges to the protection of the rights of lesbian, gay, bisexual, trans, and intersex (LGBTI) persons in Cuba. In the past twelve months, there were positive legal and public policy developments with respect to discrimination based on sexual orientation in the workplace. However, the Commission continues to receive information about police abuse and acts of violence against LGBT persons, including murders, particularly of gay men. LGBT activists not affiliated with the government’s political positions maintain that “the homosexual community in Cuba is a community that is marginalized, that is stigmatized and persecuted, that lacks public spaces... Homophobia exists at the institutional level.”<sup>483</sup>

292. The IACHR received information that the National Center for Sexual Education [*Centro Nacional de Educación Sexual*] (CENESEX), which is under the authority of the Ministry of Public Health, is making efforts to promote and protect the rights of LGBT individuals. According to information received, CENESEX offers legal advice and representation services, seeking to strengthen the human rights of the LGBT community in Cuba in the face of the discrimination and violent actions that affect the lives of gay and trans individuals.<sup>484</sup>

### 1. Violence

293. In 2013 and 2014 the IACHR continued to receive information on acts of violence against LGBT persons in Cuba, including attacks against them due to their real or perceived sexual orientation and/or gender identity. In 2013, the IACHR was informed of the murders of Ivonne, a transgender woman, presumably at the hands of her husband, and of Nelson Linares, a gay man who reportedly died while in State custody.<sup>485</sup>

294. As part of its work to monitor situations of violence against LGBTI persons, the IACHR has compiled a Register of Violence against LGBT persons, which documents murders and other serious acts of

<sup>480</sup> “Cuba deberá rendir cuentas al comité de los derechos del niño en 2015 [Cuba must render accounts to the Committee on the Rights of the Child in 2015,” published by CRE Satelital, on October 28, 2014. See also (in Spanish): <http://www.martinoticias.com/content/cuba-derechos-del-nino-conflictos-armados/78452.html>

<sup>481</sup> Committee on the Rights of the Child, *Consideration of reports submitted by States parties under article 44 of the Convention. Concluding observations: Cuba*, CRC/C/CUB/CO/2, June 20, 2011, paragraph 41.

<sup>482</sup> Reform regulations, entered into force in January 2013; see also Decree 217 of 1997; and Human Rights Watch, *World Report 2014: Cuba*, <http://www.hrw.org/world-report/2014/country-chapters/cuba>

<sup>483</sup> El Nuevo Herald, “Disidentes cubanos piden el apoyo a proyectos de defensa homosexuales en Cuba [Cuban dissidents request support for projects to defend homosexuals in Cuba],” July 30, 2013, available at (in Spanish): <http://www.elnuevoherald.com/2013/07/23/1532776/disidentes-cubanos-piden-el-apoyo.html>.

<sup>484</sup> Yancuic, “Cuba: Asesoría legal frente a la homofobia [Cuba: legal advice to confront homophobia],” November 5, 2013, available at: <http://www.yancuic.com/yancuic/noticia/35581>

<sup>485</sup> Private meeting of the IACHR with Cuban activists, 2013.

violence against these individuals in the region during a fifteen-month period (between January 1, 2013 and March 31, 2014). In this period, the IACHR was informed of at least two murders of gay men who were well-known Cuban artists, one in September 2013<sup>486</sup> and one in January 2014.<sup>487</sup> Both men were found at their homes with their throats slit. In March of 2014, CENESEX stated that a “large number of murder victims in Cuba in the past two years were ‘homosexuals.’”<sup>488</sup>

## 2. Situation of defenders of human rights of LGBT persons

295. The Commission also received information about the case of the activist David Bustamante. Mr. Bustamante was arrested on May 26, 2014 after a public protest in which he made social demands.<sup>489</sup> As of August 2014, he was still being held under arrest. The government indicates that he was arrested for disorderly conduct, but activists allege that the demonstration was peaceful and that Mr. Bustamante was tortured and discriminated against due to his sexual orientation. The IACHR also received information that Mr. Bustamante’s mother had been arrested for several hours on October 1, 2014 by State Security and National Police officers while participating in a public protest.<sup>490</sup>

296. In addition, the Commission received information on the situation of the defenders of the human rights of LGBT persons unaffiliated with the government’s political stances. These defenders maintain that their organizations are not recognized by the State or by CENESEX, which hinders their work in defense of the rights of the country’s LGBT population.<sup>491</sup>

## 3. Alleged instances of police abuse

297. The Commission has also received information on police abuse against LGBT persons in Cuba. According to the information, LGBT persons from around the country are often forced to migrate towards the capital because of the difficult economic situation and discrimination by local authorities in the country’s interior. It is reported that once they arrive in Havana, they become victims of police persecution. When they are arrested, police officers issue them warning letters and deport them back towards the provinces from where they came.<sup>492</sup>

<sup>486</sup> Cafefuerte, “Asesinan a Coreógrafo cubano Alfredo Velázquez [Cuban choreographer Alfredo Velázquez murdered],” September 22, 2013, available at (in Spanish): <http://cafefuerte.com/cuba/7251-asesinan-al-coreografo-cubano-alfredo-velazquez/>.

<sup>487</sup> IACHR, Press Release No. 23/14 “IACHR expresses concern about attacks against LGBTI persons and other forms of violence and restrictions against LGBTI organizations in the Americas,” February 27, 2014, available at: [http://www.oas.org/en/iachr/media\\_center/PReleases/2014/023.asp](http://www.oas.org/en/iachr/media_center/PReleases/2014/023.asp). Cafefuerte, “Asesinado en La Habana el director teatral Tony Díaz [Theater director Tony Díaz murdered in Havana],” January 30, 2014, available at (in Spanish): <http://cafefuerte.com/culturales/11294-asesinado-en-la-habana-el-director-teatral-tony-diaz/>.

<sup>488</sup> El Nuevo Herald, “‘Alto número’ de asesinados en Cuba eran homosexuales [‘Large number’ of murder victims in Cuba were homosexuals],” March 3, 2014, available at (in Spanish): <http://www.elnuevoherald.com/2014/03/02/1692833/alto-numero-de-personas-asesinadas.html>

<sup>489</sup> Martí Noticias, “Declaran preso político al activista David Bustamante [Activist David Bustamante declared political prisoner],” August 21, 2014, available at (in Spanish): <http://www.martinoticias.com/content/declaracion-presopolitico-activista-david-bustamante/37767.html>

<sup>490</sup> Centro de Información Hablemos Press, “DESDE CUBA: Informe sobre detenciones arbitrarias (446) y otros abusos cometidos en Cuba en Octubre de 2014/ 10 activistas condenados en este mes/ Hablemos Press [FROM CUBA: Report on arbitrary arrests (446) and other abuses committed in Cuba in October 2014/ 10 activists sentenced this month/ Hablemos Press],” November 4, 2014, available at (in Spanish): <http://www.cubademocraciayvida.org/web/article.asp?artID=26312>.

<sup>491</sup> “Informe de derechos humanos sobre orientación sexual; identidad de género y situación de las personas con vih-sida en cuba 2014 [Human rights report on sexual orientation, gender identity, and the situation of persons with HIV-AIDS in Cuba 2014],” submitted to the IACHR in September, 2014.

<sup>492</sup> “Informe de derechos humanos sobre orientación sexual; identidad de género y situación de las personas con vih-sida en cuba 2014 [Human rights report on sexual orientation, gender identity, and the situation of persons with HIV-AIDS in Cuba 2014],” submitted to the IACHR in September, 2014.

298. Organizations report that trans persons are being forced to leave their homes due to their gender identity and expression. Furthermore, trans women who are sex workers are reportedly being prohibited from being on the street and threatened with arrest by the police if they return there. The IACHR has received information on trans women who were reportedly discriminated against because their identity documents did not coincide with their gender identity and who were sexually abused by officers. According to the information received, Cuban trans Afro-descendants are particularly vulnerable to discrimination and violence.<sup>493</sup>

299. Likewise, the Commission has received information on alleged government and police officer violations of the right to free association and freedom of movement of LGBT persons. It is reported that government authorities do not provide authorization for events that are to be held by organizations that are unaffiliated with the government's political positions and that defend the rights of LGBT persons.<sup>494</sup> In addition, the police are reportedly trying to prevent LGBT persons from congregating in public spaces and at their meeting points.<sup>495</sup>

#### 4. Regulations and legislation

300. In 2008, the Ministry of Public Health passed a regulation that made possible for trans persons to undergo sex reassignment surgery for free, completely covered by the State.<sup>496</sup> However, the IACHR has received information to the effect that trans persons who wish to access this benefit must first sign a document in which they indicate their affiliation with and commitment to the ideology of the government, and if they do not sign it, they cannot receive this benefit.<sup>497</sup>

301. In 2013, civil society organizations protested against the fact that Cuba did not have any laws whatsoever for the protection of the rights of LGBTI persons.<sup>498</sup> The director of CENESEX reports that despite the lack of legislation on the subject, in Cuba there is a political will that has facilitated the implementation of a national sexual education program that is helping to change the patriarchal and homophobic culture.<sup>499</sup>

302. On May 20, 2014, the IACHR recognized the work being done in Cuba to modify the legislation in order to protect LGBT persons.<sup>500</sup> The new Labor Code was published as law on June 17,

<sup>493</sup> "Informe de derechos humanos sobre orientación sexual; identidad de género y situación de las personas con VIH-sida en Cuba 2014 [Human rights report on sexual orientation, gender identity, and the situation of persons with HIV-AIDS in Cuba 2014]," submitted to the IACHR in September, 2014.

<sup>494</sup> Document submitted by Navid Fernández Cabrera of the Shui Tuix Project, September 2014.

<sup>495</sup> Accounts of the Shui Tuix Project on Desdemalecon, "Después decimos que en Cuba no existen las violaciones de los derechos Humanos [And then we say that there are no human rights violations in Cuba]," May 29, 2013, available at (in Spanish): <http://desdelmalecon.com/2013/05/29/despues-decimos-que-en-cuba-no-existen-las-violaciones-de-los-derechos-humanos/>.

<sup>496</sup> IPS, Inter Press Service in Cuba, "Mujeres y personas LGBT, a la saga de los derechos sexuales [Women and LGBT persons, behind in sexual rights]," March 9, 2013, available at (in Spanish): [http://www.ipscuba.net/index.php?option=com\\_k2&view=item&id=6741:mujeres-y-personas-lgbt-a-la-saga-de-los-derechos-sexuales&Itemid=42](http://www.ipscuba.net/index.php?option=com_k2&view=item&id=6741:mujeres-y-personas-lgbt-a-la-saga-de-los-derechos-sexuales&Itemid=42)

<sup>497</sup> Private IACHR meeting with Cuban activists, 2013.

<sup>498</sup> OBCUB LGBT [Cuban Observatory on LGBTI Rights], "Carta abierta [de activistas LGBT a diputados cubanos [Open letter from LGBT activists to Cuban representatives]," <http://www.cubanet.org/wp-content/uploads/2013/02/Carta-abierta.pdf> (in Spanish).

<sup>499</sup> Cubasí.cu, "Mariela Castro destaca en Brasil avances en Cuba en derechos humanos y sexuales [In Brazil, Mariela Castro highlights Cuban progress on sexual and human rights]," April 7, 2013, available at (in Spanish): <http://www.cubasi.cu/cubasi-noticias-cuba-mundo-ultima-hora/item/16046-mariela-castro-destaca-en-brasil-avances-de-cuba-en-derechos-humanos-y-sexuales>.

<sup>500</sup> IACHR, Press Release No. 60/14, "The IACHR welcomes recent developments in OAS Member States to protect and promote the rights of lesbian, gay, bisexual, trans and intersex persons (LGBTI)," May 20, 2014, available at: [http://www.oas.org/en/iachr/media\\_center/PReleases/2014/060.asp](http://www.oas.org/en/iachr/media_center/PReleases/2014/060.asp).

2014<sup>501</sup> and represents progress for gays, lesbians, and bisexual persons as it expressly enshrines non-discrimination based on sexual orientation.<sup>502</sup> However, it does not expressly mention non-discrimination based on gender identity,<sup>503</sup> and thus effectively excludes trans persons.

## 5. Regional and international positioning

303. The Sixth Regional Conference of the International Lesbian, Gay, Trans and Intersex Association for Latin America and the Caribbean (ILGALAC) took place in Cuba in May, 2014. CENESEX was the host organization. The Conference brought together hundreds of delegates, including regional figures well-known for their activism in defending the rights of LGBT persons.<sup>504</sup>

304. Nevertheless, five Cuban LGBT organizations unaffiliated with CENESEX published a joint statement in which they rejected the Conference and the fact that only the official representation of the Cuban government and some NGOs that answer to State interests would participate, reporting that “the methods used by the Cuban authorities have only been changed in order to make them invisible to international oversight” and stating that “the Cuban LGBT community continues to be persecuted, marginalized, and stigmatized.”<sup>505</sup>

305. Finally, it is worth highlighting that at the international level, Cuba voted in favor of approving the resolution on discrimination and violence against LGBT persons, entitled “Human rights, sexual orientation and gender identity,” during the United Nations Human Rights Council session held in September 2014.<sup>506</sup> The UN resolution expresses “grave concern at acts of violence and discrimination, in all regions of the world, committed against individuals because of their sexual orientation and gender identity.”<sup>507</sup>

## J. Persons Deprived of Liberty

306. Over the course of this year the Commission continued to receive disturbing information about grave violations of the human rights of persons deprived of liberty in Cuba. During the hearing held during the 153<sup>rd</sup> period of sessions,<sup>508</sup> it was reported that the main problems continue to be overcrowding;

<sup>501</sup> Official Gazette, available at (in Spanish): <http://www.cubadebate.cu/wp-content/uploads/2014/06/codigo-del-trabajo-de-la-republica-de-cuba.pdf>

<sup>502</sup> CENESEX, “Aprobada primera ley cubana que protege derechos de personas LGBT [First Cuban law to protect the rights of LGBT persons approved],” December 23, 2013, available at (in Spanish): <http://www.cenesex.org/2013/12/aprobada-primera-ley-cubana-que-protege-derechos-de-personas-lgbt/>

<sup>503</sup> Dos Manzanos, “El nuevo Código de Trabajo de Cuba recoge el principio de no discriminación por orientación sexual pero deja fuera la identidad de género [The new Cuban Labor Code includes the principle of non-discrimination based on sexual orientation but not on gender identity],” August 21, 2014, available at (in Spanish): <http://www.dosmanzanas.com/2014/08/el-nuevo-codigo-de-trabajo-de-cuba-recoge-el-principio-de-no-discriminacion-por-orientacion-sexual-pero-deja-fuera-la-identidad-de-genero.html> . More on ABC (also in Spanish): <http://www.abc.es/agencias/noticia.asp?noticia=1635117>

<sup>504</sup> CENESEX, “ILGA-LAC celebrará en Cuba su sexta Conferencia Regional [ILGA-LAC will hold its sixth Regional Conference in Cuba],” December 22, 2013, available at (in Spanish): <http://www.cenesex.org/2013/12/ilga-lac-celebrara-en-cuba-su-sexta-conferencia-regional/>

<sup>505</sup> “Comunicado Oficial de las organizaciones cubanas LGBT independientes (no adscritas al CENESEX) sobre la reunión de ILGALAC en Cuba [Official Statement of the independent Cuban LGBT organizations (unaffiliated with CENESEX) on the ILGALAC conference in Cuba]” is available at (in Spanish): <http://www.colegaweb.org/comunicado-oficial-de-las-organizaciones-cubanas-lgbt-independientes-adscritas-al-cenesex-sobre-la-reunion-de-ilgalac-en-cuba/>.

<sup>506</sup> Movilh, “Avanza la igualdad: ONU aprueba la segunda resolución pro-diversidad sexual de su historia [Progress on equality: UN approves the second pro-sexual diversity resolution of its history],” September 27, 2014, available at (in Spanish): <http://www.movilh.cl/avanza-la-igualdad-onu-aprueba-la-segunda-resolucion-pro-diversidad-sexual-de-su-historia/>.

<sup>507</sup> UN, Human Rights Council, Resolution “Human rights, sexual orientation, and gender identity,” A/HRC/27/L.27/Rev.1, September 24, 2014, available at: [http://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/27/L.27/Rev.1](http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/27/L.27/Rev.1)

<sup>508</sup> IACHR, Hearing on the human rights situation of persons deprived of liberty in Cuba, 153<sup>rd</sup> period of sessions, October 27, 2014. Available at: <http://www.oas.org/es/cidh/audiencias/Hearings.aspx?Lang=en&Session=136>

the subhuman conditions of imprisonment to which the inmates are subjected, particularly the lack of medical care; the excessive use of force and the commission of acts of torture and cruel, inhumane, and degrading treatment, particularly beatings and the arbitrary and abusive application of solitary confinement in punishment cells, which in general are dark holes infested with vermin and insects; the corruption and lack of transparency in prison management; the lack of judicial control over arrests and the large margin of discretion given to the police; and the complete lack of mechanisms for independent oversight and for the inmates or their family members to submit petitions and complaints to the administration.

307. The organizations that participated in this hearing indicated that hunger strikes are quashed by confining inmates in punishment cells and depriving them of water as a deterrent. They also stressed that the exact number of inmates who die due to causes directly attributable to the authorities themselves is unknown and that truthful information is not given to family members nor are these deaths investigated. They further noted that family visits are arbitrarily restricted or prevented and special attention is not given to individuals who belong to vulnerable groups. The members of the Commission considered the situation described to be particularly serious and highlighted, *inter alia*, the need to establish independent mechanisms for the oversight of the general conditions of the prison facilities, to establish a specialized jurisdiction for cases of juvenile offenders, and to prevent, investigate, and disclose the true causes of death of persons in State custody. According to the hearing participants, there are reportedly between 65,000 and 70,000 persons imprisoned in Cuba.

308. In Cuba, the Prison Facilities Office of the Ministry of the Interior [*Dirección de Establecimientos Penitenciarios del Ministerio del Interior*] (MININT), under the authority of the Council of State and the Council of Ministers, is currently the body in charge of handling the fundamental elements of prison administration. In addition, pursuant to the Law of the Office of the Prosecutor, agents of the Office of the Prosecutor General of the Republic are authorized to perform prison inspections, to verify compliance with legal regulations regarding prison operations, and to monitor respect for the rights of the individuals imprisoned in any detention center. However, the Office of the Prosecutor General of the Republic reports to the People's Power General Assembly and to the Council of State, from which it receives direct orders. In practice, this severely limits its independence and means that its legal monitoring powers are without effect. In this context, the hearing participants emphasized that one of the most serious problems facing the Cuban prison system is corruption, which is kept completely out of the public eye. Acts of corruption are allegedly linked, for example, to obtaining transfers, to the sale of certificates of good conduct, of psychological reports, or of participation in work or study activities, conjugal visits, or access to telephone services, among other services that the State is obligated to provide to the prison population in conditions of equality. In Cuba, prison facilities are managed and overseen by military personnel.

309. Furthermore, it has been observed that prison authorities typically disguise the reality of the prison facilities when individuals who are not part of the system visit them, or when images are to be given to the press. At these times, the prisoners are brought out of their cells, the food quality improves for the duration of the visit, and the sanitary and hygiene conditions are surprisingly improved. What is more, some prisoners are generally threatened to prevent them from describing the reality of the prison facility, and others are bought with incentives and the promise of privileges. Those who dare to express their opinions on the true prison conditions, however, are subjected to beatings, punishments, and transfers to distant sites<sup>509</sup>.

## **K. Afrodescendants**

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<sup>509</sup> Cubalex, Report on the human rights of persons deprived of liberty, 2014, p. 62-64, presented during 153<sup>rd</sup> Ordinary Period of Sessions. Available at: [http://www.14ymedio.com/nacional/Informe-CubalexPenitenciario\\_CYMFIL20141031\\_0002.pdf](http://www.14ymedio.com/nacional/Informe-CubalexPenitenciario_CYMFIL20141031_0002.pdf). This was also mentioned during the hearing on the Situation of Persons Deprived of Liberty in Cuba, that took place on March 11, 2013, during the 147 Ordinary Period of Sessions.

310. According to the most recent census in Cuba (2012) –the results were released in 2014– the Afro-descendant population constitutes 9.2% of the Cuban population (879.512 inhabitants)<sup>510</sup>. In this regard, the Cuban chapter of Regional Network of Afrodescendants in Latin America and the Caribbean (ARAC), during the celebration of the First Day against racial discrimination in Cuba (2014), noted that because more than 50% of the population are "non-white", the referred census does not acknowledge the "large sector of the Cuban [Afro-descendant] population" living in Cuba.<sup>511</sup> Likewise, the Citizens Committee for Racial Integration (CIR) has also expressed concern on the accuracy of the statistics related to this population in previous census.<sup>512</sup>

311. During 2014, various civil society organizations expressed concern on racial discrimination confronted by the Afro-descendant population, which is reflected in social inequality, and in the denial of civil, political, economic, social and cultural rights of this population<sup>513</sup>. Likewise, according to local press, the Cuban government would have perpetrated physical and psychological abuses against the "Cuban anti-racism activists", would have defamed them, and exercised "police repression on peaceful and inclusive anti-racist events and initiatives."<sup>514</sup>

312. In the Declaration emitted by the II CELAC Summit which was held in Havana in January 2014, the States representatives –including Cuba– established that they would give priority attention to the Afro-descendant population in order to promote the growth, progress and social inclusion in their States-<sup>515</sup> this, in line with the International Decade for People of African Descent (2015-2025), proclaimed by the UN.

#### L. Persons with disabilities

313. In the hearing "Human rights situation of persons with disabilities in Cuba," held during the 150<sup>th</sup> period of sessions on March 25, 2014, participants noted that despite Cuba having ratified the International Convention on the Rights of Persons with Disabilities ("CRPD") in 2007, the government has still not guaranteed the rights of such individuals.<sup>516</sup> The participants based this assertion on the fact that there are no laws that uphold the standards derived from the CRPD, and on the lack of disaggregated statistical information on persons with disabilities and their living conditions.

314. The hearing petitioners stated that persons with disabilities generally have a low standard of living and furthermore do not feel like they are represented by the organizations that are supposed to assist

<sup>510</sup> National Bureau of Statistics and Information – Cuba, National Census of Population and Housing Report 2012, January, 2014. Posted at: <http://www.one.cu/informenacional2012.htm>

<sup>511</sup> CUBARTE, *En Cuba I Jornada contra la discriminación racial*, November 19, 2014. Posted at: <http://archivo.cubarte.cult.cu/periodico/noticias/en-cuba-i-jornada-contra-la-discriminacion-racial/173899.html>

<sup>512</sup> Citizens Committee for Racial Integration (CIR), *¿Cuánto va a demorar la integración racial en Cuba?*, February 7, 2012. Posted at: <http://www.cir-integracion-racial-cuba.org/textosimprescindibles/%c2%bfcuanto-va-a-demorar-la-integracion-racial-en-cuba/>

<sup>513</sup> These concerns were expressed by activists and civil society organizations in two major events: a) IV Edition of the two-day public forum "Race and Cuban Identity: Cuba's Past, Present and Future," organized by the opposition's Committee for the Racial Integration of Citizens (CIR), in Havana (December 11 and 13, 2014), and b) the First Day against racial discrimination in Cuba, organized by the Cuban chapter of Regional Network of Afrodescendants in Latin America and the Caribbean (ARAC) and others civil society organizations, in Havana (November 15- December 2014). See: Racismo en Cuba, *Los Ajustes Económicos del Gobierno agravan la marginación de negros y mestizos, advierten activistas*, December 16, 2014. Posted at: <http://cubaracismo.impela.net/2014/12/los-ajustes-economicos-del-gobierno-agravan-la-marginacion-de-negros-y-mestizos-advierten-activistas/>. See also: Cubanet, *Cortina de humo contra el racismo*, December 26, 2014. Posted at: <http://www.cubanet.org/opiniones/cortina-de-humo-contra-el-racismo/>

<sup>514</sup> Cubanet, *Cortina de humo contra el racismo*, December 26, 2014. Posted at: <http://www.cubanet.org/opiniones/cortina-de-humo-contra-el-racismo/>

<sup>515</sup> II CELAC Summit, Declaration, II CUMBRE Doc. 3.1, Havana, 28-29 January, 2014. Posted at: [http://celac.cubaminrex.cu/sites/default/files/ficheros/havana\\_declaration\\_celac.pdf](http://celac.cubaminrex.cu/sites/default/files/ficheros/havana_declaration_celac.pdf)

<sup>516</sup> Hearing "Human Rights Situation of Persons with Disabilities in Cuba, 25 March 2014" presented during the IACHR's 150 Ordinary Perio of Sessions. Available at: <http://www.oas.org/es/cidh/audiencias/advanced.aspx?lang=es>

them. Specifically, with regard to the right to education, the petitioners expressed their concern at how the right to an inclusive education for persons with disabilities fails to be recognized.

315. Based on official Cuban government documents on the subject, the Commission highlights that the first important precedent on the matter was the First National Action Plan for Attention to Persons with Disabilities [*Primer Plan de Acción Nacional para la Atención de Personas con Discapacidad*](1995-2000), which was made up of several programs that addressed, among other issues, health, employment, social security, and accessibility. In the context of this Plan, the National Council for Attention to Persons with Disabilities [*Consejo Nacional para la Atención a Personas con Discapacidad*] (CONAPED) was founded.<sup>517</sup> In order to follow up on the First National Action Plan, the Second National Action Plan for Attention to Persons with Disabilities was implemented for the years 2001 to 2005. It included three main areas of intervention: health, integration into economic life, and integration into the life of the community. The final update to government actions on the matter of which this Commission is aware, was the Third Action Plan for Attention to Persons with Disabilities, which was in force from 2006 to 2010 and addressed the following rights: health, economic integration, community life, and accessibility.<sup>518</sup>

316. This Commission also granted a precautionary measure for persons with disabilities. On September 10, 2014, the Commission granted protective measures to Mr. Julio César Cano Molina, who has a mental and intellectual disability, and who was reportedly being held in the detention center known as “Kilometer 5 ½” in the province of Pinar del Río, in critical condition and without access to medical care. The Commission received information from the petitioners to the effect that even though Mr. Cano Molina allegedly suffered from a number of health problems as a result of an accident that occurred in 1989, apparently he was not receiving the necessary medical treatment. In this regard, the petitioners alleged that Mr. Cano Molina’s body was inflamed, that he had a serious infection and a number of bleeds from the urethra, which would require specialized medical care and a surgery that had been recommended by specialists starting in 1995. This situation was apparently exacerbated by the alleged poor detention conditions and the lack of adequate food, all of which had the potential to aggravate his health status. In this context, the Commission asked the Cuban State: a) to adopt the measures necessary in order for Julio César Cano Molina to receive specialized medical care, taking into account his specific circumstances and his needs, in accordance with his health status and his disability; b) to ensure that the beneficiary’s detention conditions adhere to international standards; and c) to conclude the measures to be adopted with the beneficiary and his representatives.<sup>519</sup>

## **M. Situation of Economic, Social and Cultural Rights**

317. Nationally, the Commission observes that Cuban authorities are invested in promoting and fulfilling ESCR. According to the United Nations Development Programme’s 2014 Human Development Report, Cuba’s Human Development Index (HDI), which measures long-term progress in three dimensions of human development: “a long and healthy life, access to knowledge and a decent standard of living” is 0.815. This ranking places Cuba in the “very high human development category,” and positions the country at 44 out of 187 countries and territories.<sup>520</sup>

318. The Commission further notes that Cuba provides free health care and education, as well as subsidized day care and unemployment compensation. According to the Bertelsmann Transformation Index

<sup>517</sup> *Tercer Plan de Acción para la Atención de Personas con Discapacidad [Third Action Plan for Attention to Persons with Disabilities]*, Ministry of Labor and Social Security, 2006-2010. Available at (in Spanish): <http://www.mtss.cu/asocatencion.php>

<sup>518</sup> *Tercer Plan de Acción para la Atención de Personas con Discapacidad [Third Action Plan for Attention to Persons with Disabilities]*, Ministry of Labor and Social Security, 2006-2010. Available at (in Spanish): <http://www.mtss.cu/asocatencion.php>

<sup>519</sup> IACHR, Resolution 24/2014, PM 307-14, Matter of Julio César Cano Molina, Cuba, September 10, 2014. Available at (in Spanish): <http://www.oas.org/es/cidh/decisiones/pdf/2014/MC307-14-ES.pdf>

<sup>520</sup> United Nations Development Programme, Human Development Report 2014, Cuba HDI, 2014. Available at: [http://hdr.undp.org/sites/all/themes/hdr\\_theme/country-notes/CUB.pdf](http://hdr.undp.org/sites/all/themes/hdr_theme/country-notes/CUB.pdf)

2014 Country Report on Cuba, this social safety net is in many respects without equal in the Latin American context. Life expectancy is comparable to that of European countries, while Cuba's fourth graders score in international mathematics tests at levels similar to that of East Asians.<sup>521</sup>

319. Of concern to the Commission, however, is the quality of the social safety net. Information available to the Commission suggests that wait lines have lengthened for health care provision partly because Cuba exports medical services to other countries, and also acts as a health tourism destination. Moreover, recent economic reforms have reportedly raised and will continue to raise social inequalities. Such economic reforms include "a cut in state subsidies, the gradual elimination of rationing cards, a reduction in the number of state jobs and the implementation of market mechanisms as a means of allocating resources to a more significant degree than before."<sup>522</sup>

320. In relation to the right to food, information available to the Commission indicates that Cuba imports an estimated 80% of its domestic food requirements. Cuba's vulnerability to hurricanes and droughts, as well as the increase in global food prices and the financial crisis, makes achieving national food security difficult. The Commission is aware of various measures being taken to increase food production, including the allocation of fallow land to private actors, as well as the reduction of the amount of land used for sugar cane cultivation.<sup>523</sup>

321. According to the World Food Programme (WFP), difficulties in access to food, as well as inadequate food intake including of iron-rich food, insufficient dietary supplements coupled with deficiencies in water and sanitation and inadequate hygiene practices, inhibit iron absorption in individuals, which has contributed to Cuba's main public health problem: anemia. According to the WFP, prevalence of anemia among children under the age of 24 months in the east is 56.7% and 20.1% amongst those between the ages of 2 and 5.<sup>524</sup>

322. Finally, in relation to labor rights, the Commission has noted that Cuba published its revised Labor Code in 2014. This revision process resulted in the modification of 101 items, including 28 New Standards and a complete revision of Chapter II concerning Trade Unions, article 2 on the principles governing Labor Law and a partial modification of Chapter XV Concerning Working Authorities.<sup>525</sup> According to various sources, the consultation process for revising the Labor Code was widespread and considered positive by stakeholders. The Washington Office on Latin America noted that according to official government statistics, more than 2 million workers in nearly 7,000 local meetings discussed the initial draft Labor Code released in 2012.<sup>526</sup>

323. Furthermore, the Commission recognizes a number of positive elements in the revised Labor Code, including a) the removal of previous restrictions on the number of employees that a self-employed individual can hire;<sup>527</sup> b) the stressing of a ban on child labor and special protections for young people

<sup>521</sup> BTI Report 2014, *Cuba Country Report*. Available at: [http://www.bti-project.de/uploads/tx\\_itao\\_download/BTI\\_2014\\_Cuba.pdf](http://www.bti-project.de/uploads/tx_itao_download/BTI_2014_Cuba.pdf)

<sup>522</sup> BTI Report 2014, *Cuba Country Report*. Available at: [http://www.bti-project.de/uploads/tx\\_itao\\_download/BTI\\_2014\\_Cuba.pdf](http://www.bti-project.de/uploads/tx_itao_download/BTI_2014_Cuba.pdf)

<sup>523</sup> World Food Programme, Cuba Overview. Available at: <http://www.wfp.org/countries/cuba/overview>

<sup>524</sup> World Food Programme, Cuba Overview. Available at: <http://www.wfp.org/countries/cuba/overview>

<sup>525</sup> Cuba Debate, Gaceta Oficial publica nuevo Código del Trabajo (+ PDF); June 17, 2014. Available at (in Spanish): <http://www.cubadebate.cu/noticias/2014/06/17/gaceta-oficial-publica-nuevo-codigo-del-trabajo-pdf/#.VKLRbcAAp>

<sup>526</sup> Washington Office on Latin America, *Cuba's New Labor Code and Foreign Investment Law: Implications for Workers*, July 10, 2014. Available at: <http://www.wola.org/commentary/cuba-s-new-labor-code-and-foreign-investment-law-implications-for-workers>

<sup>527</sup> Washington Office on Latin America, *Cuba's New Labor Code and Foreign Investment Law: Implications for Workers*, July 10, 2014. Available at: <http://www.wola.org/commentary/cuba-s-new-labor-code-and-foreign-investment-law-implications-for-workers>

between 15 and 18 years old; c) regulating worker's rights to improve; and iv) the inclusion of worker's right to daily and weekly breaks, and annual paid vacation time.<sup>528</sup>

324. The Commission notes with concern, however, a number of problems associated with the revised Labor Code. According to information received by the Commission, the Labor Code does not a) specify how employees should negotiate collective contracts with their employers in order to protect their economic interests in the self-employed private sector; b) distinguish between the interests of the employer and the employee in this sector;<sup>529</sup> or c) include anti-discriminatory articles regarding gender identity and harassment at work.<sup>530</sup>

## V. RECOMMENDATIONS

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

1. The Commission urges the State of Cuba to bring its procedural laws into line with the applicable international standards on due process so that persons who go before the courts for the determination of their rights and responsibilities can enjoy minimum legal guarantees to mount a defense. In particular, it should void the convictions of the victims in case 12,476.

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

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

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

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

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<sup>528</sup> Global Voices, *The Lights and the Shadows of the New Cuban Labor Code*, June 30, 2014. Available at: <http://globalvoicesonline.org/2014/06/30/the-lights-and-the-shadows-of-the-new-cuban-labor-code/>

<sup>529</sup> Washington Office on Latin America, *Cuba's New Labor Code and Foreign Investment Law: Implications for Workers*, July 10, 2014. Available at: <http://www.wola.org/commentary/cuba-s-new-labor-code-and-foreign-investment-law-implications-for-workers>

<sup>530</sup> Global Voices, *The Lights and the Shadows of the New Cuban Labor Code*, June 30, 2014. Available at: <http://globalvoicesonline.org/2014/06/30/the-lights-and-the-shadows-of-the-new-cuban-labor-code/>