

## Chapter IV.B

### Cuba

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#### I. INTRODUCTION

1. In exercising its competence to promote and protect human rights in the Americas, the Inter-American Commission on Human Rights (“IACHR” or “the Commission”) monitored the human rights situation in Cuba, in particular, events of late 2019 to 2020, which could be relevant to the full enjoyment of human rights.

2. In June 2020, the IACHR published its country report "Human Rights Situation in Cuba," which gives it a general overview of the human rights situation in the country between 2017 and 2019.<sup>1</sup> Following the publication of this report, the IACHR noted with concern that the situation it studied persisted throughout 2020. In particular, the Commission noted a lack of political participation and free elections due to the persistence of a single party, as well as the lack of measures to ensure the separation of powers, with a National Assembly that exercises broad authorities and a lack of the conditions necessary to guarantee judicial independence.

3. In this context, in 2020, the IACHR became aware of a number of issues that constitute obstacles to the enjoyment of the rights of persons under the jurisdiction of the Cuban State, such as arbitrary restrictions on the right of assembly, the presence of a single political party, a ban on association for political purposes, and a refusal to incorporate proposals from groups opposing the government. Likewise, the IACHR learned of persistent restrictions to the right to participate in government, the right to assembly and association, and the right to freedom of expression and the dissemination of thought. Additionally, it followed up on mass violations of the rights to liberty, security and personal integrity; protection from arbitrary arrest; the inviolability of the home; and the inviolability and transmission of correspondence. Additionally, violations of the rights to minimum judicial guarantees and to judicial protection continued to systematically limit the human rights of residents of Cuba. This context has mainly affected human rights defenders, social and political leaders, activists, and independent journalists, as well as persons of African descent, women, LGBTI persons, and members of other vulnerable groups. In this regard, the IACHR expresses serious concern at the prevalence of harassment against human rights defenders, activists, and members of the opposition in Cuba, who have reported being the victims of arbitrary detentions, criminalization processes, and judicial persecution.

4. In assessing the human rights situation in Cuba, the IACHR decided to include the country in chapter IV-B of its annual report, on the grounds that the country’s situation meets the criteria provided for in Article 59, subsection 6.a.i of its Rules of Procedure, which reads:

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<sup>1</sup> IACHR, [Situation of Human Rights in Cuba](#), 2020.

(a) A serious breach of the core requirements and institutions of representative democracy mentioned in the Inter-American Democratic Charter, which are essential means of achieving human rights, including:

(i) There is discriminatory access to or abusive exercise of power that undermines or denies the rule of law, such as systematic infringement of the independence of the judiciary or lack of subordination of State institutions to the legally constituted civilian authority;

5. The IACHR also concluded that the foregoing situation meets the criteria set forth in Article 59, subsection 6.c of the same Rules of Procedure, which provides that:

(c) The State has committed or is committing massive, serious and widespread violations of human rights guaranteed in the American Declaration, the American Convention, or the other applicable human rights instruments.

6. Pursuant to Article 59(5) of the IACHR's Rules of Procedure, in drawing up this report, the Commission has utilized information from international organizations, civil society, and the Cuban Government itself through the website of the Ministry of Foreign Affairs of Cuba and other official media outlets. It has also drawn on information obtained through other mechanisms of monitoring and protection available to the IACHR, including the system of petitions and cases, precautionary measures, and public hearings. The IACHR examines the information received in light of Inter-American human rights norms and standards, identifies sound government practices, and issues recommendations to the State. It also avails itself of this opportunity to describe its activities in relation to Cuba in 2020.

7. The Commission is aware of the mounting challenges States face when it comes to securing the full and effective enjoyment of human rights in the hemisphere. The IACHR is available to all actors, especially authorities of the Cuban government, to provide technical support, as necessary, in order to promote respect for the human rights of all persons in Cuba.

8. As part of the process of drafting this report, the Commission received information from civil society organizations on forums and talks held to discuss and analyze the content and recommendations set forth in its 2020 Country Report on Cuba. In contrast, during the preparation of this Annual Report, the Commission has received no response from the State.

9. On February 10, 2021, the Commission forwarded a copy of the preliminary draft of this report to the Cuban State, in keeping with articles 59(7) and 59(10) of its Rules of Procedure, with a deadline of three weeks for it to submit its observations. The State did not submit its observations. The IACHR approved this report on March 26, 2021.

## **II. PRELIMINARY CONSIDERATIONS**

### **A. Status of the Cuban State before the OAS**

10. On January 31, 1962, the Government of Cuba was excluded from participating in the Inter-American System under Resolution VI, adopted at the Eighth Meeting of Consultation of

Ministers of Foreign Affairs, held in Punta del Este, Uruguay.<sup>2</sup> Subsequently, on June 3, 2009, during the 39th Regular Session of the General Assembly, held in San Pedro Sula, Honduras, the General Assembly of the Organization of American States (OAS), by means of Resolution No. 2438, annulled that Resolution, and provided: “That the participation of the Republic of Cuba in the OAS will be the result of a process of dialogue initiated at the request of the Government of Cuba, and in accordance with the practices, purposes, and principles of the OAS.”<sup>3</sup>

11. As of the date of adoption of this report, the annulment of the 1962 resolution that excluded the Cuban Government from the inter-American system has not resulted in Cuba's reincorporation in the OAS. For example, in 2018, at the Eighth Summit of the Americas, Cuba sent a delegation, and despite walking out of the inaugural session prior to the address delivered by Secretary General of the OAS, it announced that it would continue to “exercise [its] legitimate right to participate at a forum to which it should have been a party for a long time.” At the same event, Foreign Minister Bruno Rodríguez reiterated the position of the Cuban State with respect to what it views as the use of the OAS as an instrument of the geopolitical interests of United States. Furthermore, for the second year in a row, Cuba denied a visa for OAS Secretary General Luis Almagro, who had been invited by civil society organizations to receive the Oswaldo Payá award on the island.

12. The exclusion of the Cuban government by the OAS has not impeded the Commission from fulfilling its mandate of human rights promotion and protection,<sup>4</sup> inasmuch as it recognizes Cuba as “juridically responsible to the Inter-American Commission in matters concerning human rights” because it is “a party to the international instruments initially established to protect human rights in the American hemisphere” and because Resolution VI of the Eighth Meeting of Consultation “excluded the Government of Cuba and not the Cuban State from participation in the Inter-American system.”<sup>5</sup>

13. The States that have not ratified the American Convention on Human Rights conferred on the Commission the power “to pay particular attention to the observance of the human rights referred to in Articles I, II, III, IV, XVIII, XXV and XXVI of the American Declaration of the Rights and Duties of Man,” as established in Article 20(a) of the Statute of the IACHR.

14. In the framework of this mandate, the Commission has written eight country reports on Cuba, the last one in 2019. Cuba was included in Chapter IV, or the equivalent thereof, of the Annual Report in 1984-1985 to 1994, and uninterruptedly from 1996 to 2018. As of the 2013 amendments to the Rules of Procedure, Cuba's inclusion in annual reports has been based on the criteria under Article 59, section 6, subsections a.i and c of the Rules of Procedure. The IACHR has asked for the State's

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<sup>2</sup> The text of Resolution VI can be found in “Eighth Meeting of Consultation of Ministers of Foreign Affairs serving as Organ of Consultation in Application of the Inter-American Treaty of Reciprocal Assistance, Punta del Este, Uruguay, January 22-31, 1962, Meeting Documents,” Organization of American States, OEA/Ser.F/II.8, doc. 68, pages 13-15.

<sup>3</sup> The text of Resolution AG/RES. 2438 (XXXIX-0/09) can be found in the “Thirty-Ninth Regular Session, San Pedro Sula, Honduras, June 2 to 4, 2009, Acts and Documents, Volume I,” Organization of American States, OAS/Ser.P/XXXIX-0.2, pg. 12.

<sup>4</sup> In 2018, the IACHR sent two letters requesting information from the State and published two press releases: IACHR, Press release R152/2018, [The IACHR publishes merit report in case related to the criminalization of political opinion and deliberation in Cuba](#), April 11, 2018; and IACHR, Press release R82/2018, [The Office of the Special Rapporteur Expresses Concern over Criminal Convictions for desacato laws in Cuba](#), July 17, 2018.

<sup>5</sup> IACHR. 2002 Annual Report, Chapter IV, Development of human rights in the region, Cuba, OEA/Ser.L/V/II.117 Doc. 1 rev. 1, March 7, 2003, paragraphs 3-7; The Situation of Human Rights in Cuba, Seventh Report, OEA/Ser.L/V/II.61, Doc.29 rev. 1, October 4, 1983, paragraphs 16-46.

consent to conduct a country visit, but the State has not provided it. Over the past 10 years, the IACHR has held an average of two public hearings per year on Cuba. Additionally, pursuant to Article 18(d) of the Statute, information has been requested from the State, and in turn, individual petitions, cases and requests for precautionary measures continue to be received, processed and examined. As of the drafting of this report, Cuba has 34 active precautionary measures, the majority for the protection of activists, dissidents, opposition members, human rights defenders, and political prisoners. Of them, 8 were granted in 2020. While the Cuban State does not reply to the IACHR's communications and decisions, civil society organizations report experiencing a cessation or decrease in intensity, temporarily, of the mistreatment, retaliation, harassment and/or assaults to which they were subjected prior to the Commission acting.<sup>6</sup>

**a. Relations between the Cuban State and other Actors**

15. Despite the Cuban government's indications that it was willing to cooperate with human rights bodies,<sup>7</sup> there were no reports during 2020 of visits by international monitoring bodies. For its part, despite repeated requests for consent, the IACHR has not visited the country. It hereby reiterates again its request to the Cuban State for consent to and facilitation of the realization of its first country visit to the island to enable it to observe the human rights situation firsthand, as well as the progress and challenges it faces on the subject matter, with the aim of guaranteeing respect for human rights in Cuba.

● ***Engagement with the United States***

16. Since the announcement on December 17, 2014 of the reestablishment of relations between Cuba and the United States of America,<sup>8</sup> the Commission has been continually monitoring partial lifting of the economic blockade by the US Congress.<sup>9</sup>

17. The Cuba-U.S. Bilateral Commission, established in August 2015 to define the focal issues on the agenda for reestablishing relations between the two countries, has not held any meetings since its seventh meeting in Washington, D.C. in 2018.

18. In 2019, the U.S. government reactivated a number of sanctions imposed on the Cuban government.<sup>10</sup> Toward the beginning 2020, the United States placed restrictions on private flights to all Cuban airports, with the exception of the José Martí International Airport in Havana.<sup>11</sup> It

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<sup>6</sup> Interviews held at IACHR headquarters on August 23, 2018 with Omara Ruiz Urquiola, sister of biologist and activist Ariel Ruiz Urquiola, and on June 4, 2018, with Norberto Mesa Carbonell, Cofradía de la Negritud; José Ernesto Morales Estrada, Consejería Jurídica e Instrucción Cívica, Pinar del Río and beneficiary of Precautionary Measure 954/16; Juana Mora, Arco Iris Libre de Cuba/Alianza Manos and beneficiary of Precautionary Measure 236/16; Eorises González Suárez, Plataforma Femenina Nuevo País; Calixto Gammalame, Asociación Jurídica (independent attorney). Also see: IACHR, Hearing on [Situation of human rights defenders in Cuba](#), 149th Regular Period of Sessions, October 29, 2013.

<sup>7</sup> Prensa Latina, [Cuba reiterates willingness to cooperate with human rights bodies](#), October 29, 2018.

<sup>8</sup> The White House, Press Release, [Fact Sheet: Charting A New Course On Cuba](#), December 17, 2014.

<sup>9</sup> IACHR, press release 156/2014: [IACHR Welcomes Announcement to Reestablish Relations between the United States and Cuba](#), December 18, 2014.

<sup>10</sup> Congressional Research Service, ["Cuba: U.S. Policy in the 116th Congress"](#), May 14, 2020, pg. 24.

<sup>11</sup> *El Nuevo Herald*, ["Estados Unidos elimina los vuelos chárter a Cuba excepto a La Habana"](#), January 10, 2020.

had also previously restricted the sending of remittances to the island.<sup>12</sup> Additionally, it limited the number of flights to a maximum of 3,600 starting on June 1 and through May 31, 2021.

19. In the context of the COVID-19 health emergency, representatives of the UN—including Michelle Bachelet, the High Commissioner for Human Rights—and of civil society organizations called on the United States to temporarily lift the sanctions to allow the arrival of health assistance, equipment, medications, and humanitarian aid for the Cuban people to help address the effects of the pandemic.<sup>13</sup> During a call with the media, the United States Secretary of State said there were no restrictions preventing humanitarian aid from reaching Cuba.<sup>14</sup> However, some U.S. members of Congress expressed concern that it would be impossible for some international companies to provide the support due to the aforementioned reactivation of the sanctions.<sup>15</sup>

20. In August 2020, the US government moved to suspend all private charter flights to Cuba. On August 13, 2020, the Secretary of State posted the following on his twitter account: “Dictators cannot be allowed to benefit from U.S. travel.”<sup>16</sup> He likewise stated that the Cuban government would use the revenue from tourism and the flights to finance abuses.<sup>17</sup> In December 2020, the IACHR learned that commercial flights from the United States to Cuba had recommenced, including flights departing persons presumably of Cuban nationality.<sup>18</sup>

21. In November 2020, as a consequence of the sanctions imposed by the United States, Western Union ended remittance operations between the US and Cuba.<sup>19</sup>

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

#### **A. Representative Democracy: Absence of Essential Elements**

22. Upon adopting the Inter-American Democratic Charter, the OAS member states recognized that representative democracy is the system through which stability, peace, and development in the region can be achieved, and that it is fundamental for attaining the full exercise of fundamental rights. Article 3 of the Inter-American Democratic Charter establishes that:

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<sup>12</sup> United States Department of State, [“Estados Unidos restringe las remesas y las transacciones ‘U-Turn’ a Cuba”](#), September 6, 2019.

<sup>13</sup> Congressional Research Service, [“Cuba: U.S. Policy in the 116th Congress”](#), May 14, 2020, pg. 25.

<sup>14</sup> Congressional Research Service, [“Cuba: U.S. Policy in the 116th Congress”](#), May 14, 2020, pg. 26.

<sup>15</sup> Congressional Research Service, [“Cuba: U.S. Policy in the 116th Congress”](#), May 14, 2020, pg. 26.

<sup>16</sup> Secretary Pompeo [@SecPompeo]. (August 13, 2020). Today, I asked the Department of Transportation to suspend private charter flights between the U.S. and Cuba. The Castro regime uses tourism and travel funds to finance its abuses and interference in Venezuela. Dictators cannot be allowed to benefit from U.S. travel. [Tweet]. Twitter. <https://twitter.com/SecPompeo/status/1293952690918170625>.

<sup>17</sup> Secretary Pompeo [@SecPompeo]. (August 13, 2020). Today, I asked the Department of Transportation to suspend private charter flights between the U.S. and Cuba. The Castro regime uses tourism and travel funds to finance its abuses and interference in Venezuela. Dictators cannot be allowed to benefit from U.S. travel. [Tweet]. Twitter. <https://twitter.com/SecPompeo/status/1293952690918170625>.

<sup>18</sup> *Telemundo 51*, [“Se reinician las deportaciones a Cuba”](#), December 29, 2020.

<sup>19</sup> NBC News, [“Because of Trump sanctions, Western Union remittances come to an end in Cuba”](#), November 24, 2020.

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.<sup>20</sup>

23. The persistent failure to abide by the core requirements of institutions of representative democracy is one of the main criteria for including Cuba in this chapter of the Annual Report, as provided for in Article 59(6)(a)(i) of the IACHR's Rules of Procedure. Historically, the IACHR has been critical of the absence of conditions allowing for the genuine political participation of sectors with a different line of thinking in Cuba; in particular, it has criticized the holding of elections lacking in plurality and independence, with insurmountable obstacles impeding free access to diverse sources of information. Voices and points of view opposed to those of the government, in an effort to express views and participate in the conduct of the country's affairs, are suppressed because of the single-party system, the ban on association for political purposes and arbitrary restrictions on freedom of expression and the right of assembly, among other fundamental rights.

#### **B. Right to Vote and Participate in Government and Constitutional Reform**

24. In the wake of an electoral process that began in 2017, Raúl Castro Ruz was relieved of the office of President of the Council of State and of Ministers of the Republic of Cuba in April 2018. He was replaced by Miguel Díaz-Canel Bermúdez, as ratified by the National Assembly of the People's Power (ANPP), after being nominated the day before as the sole candidate. Former President Raúl Castro continues to lead the Communist Party and—as stated by the President upon being chosen—“will head the decision[-making-process] of major significance for the present and the future of the nation.” During the course of the electoral process, persistent conditions standing in the way of genuine political participation of different sectors of society were observed; in the view of the OAS General Secretariat, the election of President Díaz-Canel is an “illegitimate transition,” calling its system of government a “dictatorship.”<sup>21</sup>

25. In this context, the IACHR has also watched particularly closely the implementation of the new Constitution of the Republic of Cuba.<sup>22</sup> On December 22, 2018, 583 deputies attending the II Regular Session of the National Assembly of the People's Power approved in a roll call vote the new Constitution of the Republic of Cuba.<sup>23</sup> The new Constitution took effect on April 10, 2019.<sup>24</sup>

26. The Constitution of 2019 maintains the characteristic features of the Cuban Government, describes the State of Cuba as socialist and the Communist Party as its highest political and leadership force in society and the State, and establishes that it organizes and guides common

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<sup>20</sup> Inter-American Democratic Charter, Art. 3. Adopted at the Twenty-eighth Special Session, September 11, 2001, Lima, Peru.

<sup>21</sup> OAS General Secretariat, [Press Release from the General Secretariat: Cuba: An Illegitimate Transition](#). April 19, 2018.

<sup>22</sup> IACHR. [The Situation of Human Rights in Cuba](#). OEA/SER.L/V/II. Doc. 2, February 3, 2020, paras. 73-79.

<sup>23</sup> Republic of Cuba – National Assembly of the People's Power, [Cuban deputies approve new Constitution of the Republic](#). December 22, 2018.

<sup>24</sup> IACHR. [The Situation of Human Rights in Cuba](#). OEA/SER.L/V/II. Doc. 2, February 3, 2020, para. 80.

efforts in the construction of socialism and progress toward a socialist society. The Commission reiterates its concern about the democratic restrictions implied by the absence of political pluralism and representativeness. Additionally, the effects of this norm on political rights, freedom of expression, freedom of thought, and even equality and non-discrimination in relation to political ideas, as described later on in this chapter, are deeply troubling.<sup>25</sup>

27. Despite this, the IACHR takes note that in the area of human rights, this new Constitution incorporates judicial guarantees like *habeas corpus* and the principle of the presumption of innocence, as well as a list of fundamental rights, both civil and political, including the right to life and the prohibition of forced disappearance, torture, and cruel, inhuman, or degrading treatment and punishment. It also enshrines economic, social, cultural, and environmental rights, including the rights to water, health, and education free of charge, among other rights. Likewise, the right to private property is incorporated and the principle of equality is expanded by including a ban on discrimination on the basis of gender, sexual orientation, gender identity, ethnic origin, and disability. The Constitution indicates that international relations are to be based on the defense and protection of human rights and establishes that the State has an obligation to ensure “the inalienable, indivisible and interdependent enjoyment and exercise of human rights, in keeping with the principle of progressive realization and without discrimination.”<sup>26</sup>

28. The IACHR understands that the effective observance of the rights to justice (Article XVIII) and due process of law (Article XXVI) of the American Declaration—emanating from the classic separation of powers—is based on the independence of the judicial branch, which is an essential requirement for the practical observance of human rights. In the view of the Commission, the subordination of the courts to the Council of State, headed by the Head of State, means that in Cuba, the Judicial Branch is directly subordinate to the directives of the Executive Branch. Accordingly, the lack of independence of the Judicial Branch compromises its ability to provide guarantees for the enjoyment of human rights. The Commission notes that the Constitution recognizes several political rights in its Article 80. Due to their significance, these issues will be dealt with in more detail in the sections that follow, as will issues concerning the organization of the State, the duties in defense of the socialist State, and the absence of independence of powers.

### C. Dissidence and Political Activism

29. In 2020, the IACHR noted in Cuba the persistence of violations of the right to liberty, security and personal integrity, protection from arbitrary arrest, the rights to residence and movement, the inviolability of the home, the inviolability and transmission of correspondence, and to minimum judicial guarantees and judicial protection for human rights defenders, social and political leaders, and independent journalists, in the practice of their professions.

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<sup>25</sup> In this regard, see IACHR, [The Situation of Human Rights in Cuba](#), OEA/SER.L/V/II. Doc. 2. February 3, 2020, para. 82. With respect to the rights expressly recognized in the Constitution, the Commission takes note of the recognition of the rights to life, the prohibition of forced disappearance, and the prohibition of torture and cruel, inhuman or degrading treatment or punishment. It also introduces the prohibition of discrimination on the basis of sexual orientation, gender identity, and disability, as well as including the right to privacy. It also establishes the rights to health, education, work, housing, environment, food, and clean water. The vast majority of those economic, social, cultural and environmental rights were enshrined in the previous Constitution as goals or duties of the State, but not as rights of the Cuban population. The Constitution also states that the State, society, and families have obligations with regard to older persons and persons with disabilities.

<sup>26</sup> IACHR, Press release 58/2019, “[IACHR Concerned about Cuba’s New Constitution and its Implementation](#),” March 4, 2019.

- **Right to liberty, security and personal integrity, to protection from arbitrary arrest, to the inviolability of the home and of transmission of correspondence**

30. Since its 1992-1993 Annual Report,<sup>27</sup> the Commission has been observing with great concern the systematic use of summary arbitrary arrests as a method of harassment by Cuban authorities. In the month of October 2020 alone, the Observatorio Cubano de Derechos Humanos (OCDH) documented 544 repressive actions, including 152 incidents of arbitrary detentions, threats of imprisoning activists and journalists, fines for freedom of expression demonstrations, charges for crimes not proven by the political police, and restrictions on freedom of movement and on community participation.<sup>28</sup> As of November 30, 2020, the OCDH had documented 1613 cases of arbitrary detention on the island.<sup>29</sup> For its part, the organization Cuban Prisoners Defenders (CPD) documented five "prisoners of conscience" in the month of December 2020, for a total of 138 persons convicted of and imprisoned for political activism in Cuba.<sup>30</sup>

31. The Ladies in White (Damas de Blanco), Unión Patriótica de Cuba (UNPACU), Somos Más, and Frente Orlando Zapata Tamayo movements continue to be the organizations most often impacted.<sup>31</sup> The criminal offenses most frequently leveled against them are assault (*atentado*), disrespect of public officials (*desacato*), pre-criminal dangerousness to society (*peligrosidad social pre-delictiva*), failure to pay fines, public disturbance (*desorden público*), resistance or rebellion, and unlawful economic activity.<sup>32</sup> According to the information received, the summary detentions, which can last from hours to more than a day, include physical and verbal aggressions.<sup>33</sup> Once again, the Commission has noted the use of repressive tactics, such as raids of residences and confiscation of property, generally tied to fabricated charges or dubious criminal cases; unlawful restrictions on departures from the country and on free movement throughout the territory; and stigmatization and smear campaigns.<sup>34</sup>

32. On November 23, 2020, the IACHR granted precautionary measures to the benefit of Maydolis Leyva Portelles, Ana Iris Miranda Leyva, Ada Iris Miranda Leyva, Fidel Manuel Batista Leyva, T.R.M., A.M.R.M., and María Casado Ureña, human rights defenders and their relatives, after

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<sup>27</sup> IACHR, Annual Report 1992-1993, [Chapter IV, Status of Human Rights in Several Countries, Cuba](#): III. Methods of Harassment Used against Human Rights Activists, OEA/Ser.L/V/II.83, Doc. 14, March 12, 1993.

<sup>28</sup> Observatorio Cubano de Derechos Humanos, [Cuba, Informe represión, octubre 2020](#), November 27, 2020.

<sup>29</sup> Observatorio Cubano de Derechos Humanos, [Cuba, Gráfico detenciones arbitrarias 2020](#), December 29, 2020.

<sup>30</sup> Cuban Prisoners Defenders, [Con 5 Convictos de Conciencia más en diciembre y asuman 138 condenados políticos en Cuba](#), January 4, 2021.

<sup>31</sup> IACHR, Press release 40/20 – [IACHR Grants Precautionary Measures in Favor of Fernando González Vaillant, José Pupo Chaveco, and Roilan Zárraga Ferrer in Cuba](#), Washington DC, February 14, 2020.

<sup>32</sup> IACHR, Press release 173/20 – [IACHR Grants Precautionary Measures in Favor of Silverio Portal Contreras in Cuba](#), Washington DC, July 22, 2020. IACHR, Press release 175/20 – [IACHR Grants Precautionary Measures in Favor of Keilylli de la Mora Valle in Cuba](#), Washington DC, July 24, 2020. IACHR, Press release 257/20 – [IACHR adopts precautionary measures in favour of Maikel Herrera Bones in Cuba](#), Washington DC, October 19, 2020.

<sup>33</sup> IACHR, [The Situation of Human Rights in Cuba](#). OEA/SER.L/V/II. Doc. 2. February 3, 2020, para. 8.

<sup>34</sup> IACHR, Press release R280/20 – [The IACHR and its Office of the Special Rapporteur express grave concern over the increase in criminalization and harassment of activists, artists, and independent journalists in Cuba](#), Washington DC, November 23, 2020.

finding they were facing a grave and urgent situation of risk of irreparable harm to their rights.<sup>35</sup> The Commission found that the information received was sufficient to conclude *prima facie* that these individuals were facing a situation of risk that was subjecting them to threats, harassment, detentions, and acts of violence on the part of State agents and third parties, presumably as a result of their work as human rights defenders in the country. The Commission expresses regret at not having observations from the State in the framework of these precautionary measures despite having requested them pursuant to Article 25(5) of its Rules of Procedures. This situation is representative of multiple instances of information received during 2020.<sup>36</sup>

33. In response to the lack of effective remedies and due process of law for the protection of their rights, activists, human rights defenders, independent artists, and their family members, held in custody at detention facilities or on release, have used hunger and/or thirst strikes as a tool to raise their demands with respect to, *inter alia*, the alleged arbitrariness of their arrests; persecution, threats, harassment and criminalization of their activities, which are perceived as criticism of the government; failure to provide minimum judicial guarantees at trial proceedings, which lead to prison sentences; and serious conditions of detention. As of November 1, 2020, CPD had documented 137 political prisoners in Cuba.<sup>37</sup>

- **Right to residence and movement**

34. As regards the right of movement and residency, the Commission has expressed concern at the restrictions that impede full exercise of this right, both within the country and abroad.<sup>38</sup>

35. The IACHR reiterates the importance of guaranteeing for all people in Cuba, free from undue interference, the right to residence and movement contemplated in Article VIII of the American Declaration, which establishes that "Every person has the right to fix his residence within the territory of the state of which he is a national, to move about freely within such territory, and not to leave it except by his own will."<sup>39</sup> Since 1983, when its seventh report on the human rights situation in Cuba was released, and up through its most recent country report, the Commission has spoken out about the lack of constitutional protection of the right of free movement in Cuba, which poses an obstacle to the effective enjoyment thereof.<sup>40</sup> The IACHR again appeals to the Cuban State to allow its inhabitants to be able to exercise their freedom of movement unrestricted throughout the territory

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<sup>35</sup> IACHR, Press release 283/20 – [IACHR adopts precautionary measures in favour of family of human rights defenders in Cuba](#), Washington DC, November 24, 2020.

<sup>36</sup> IACHR, Press release 30/20 – [IACHR Grants Precautionary Measures in Favor of Women Human Rights Defenders in Cuba](#), Washington DC, February 7, 2020. IACHR, Press release 173/20 – [IACHR Grants Precautionary Measures in Favor of Silverio Portal Contreras in Cuba](#), Washington DC, July 22, 2020. IACHR, Press release 175/20 – [IACHR Grants Precautionary Measures in Favor of Keilylli de la Mora Valle in Cuba](#), Washington DC, July 24, 2020. IACHR, Press release 257/20 – [IACHR adopts precautionary measures in favour of Maikel Herrera Bones in Cuba](#), Washington DC, October 19, 2020.

<sup>37</sup> *Radio Televisión Martí*, [Informe de CPD denuncia nuevos presos políticos en Cuba](#), November 2, 2020.

<sup>38</sup> IACHR. [The Situation of Human Rights in Cuba](#). OEA/SER.L/V/II. Doc. 2. February 3, 2020, para. 355.

<sup>39</sup> [American Declaration of the Rights and Duties of Man](#), approved at the Ninth International Conference of American States, Bogotá, Colombia, 1948, Article VIII.

<sup>40</sup> IACHR, [The Situation of Human Rights in Cuba](#), OEA/Ser.L/V/II.61. Doc.29 rev. 1, October 4, 1983. IACHR. [The Situation of Human Rights in Cuba](#). OEA/SER.L/V/II. Doc. 2. February 3, 2020, para. 355.

of Cuba and freedom to depart and reenter the country, and to refrain from continuing to implement the restrictions described above.<sup>41</sup>

36. The IACHR notes that although Article 52 of the new Constitution refers explicitly to freedom of movement in Cuban territory, there are constant complaints about unjustified restrictions on that right. Therefore, the Commission once again calls on the Cuban State to allow its inhabitants freely to exercise their freedom of movement in Cuban territory and the freedom to leave and enter the country, and to refrain from continuing to implement the above-described restrictions. Likewise, the IACHR continues to receive information about restrictions on Cuban persons' departure from the country —particularly including human rights defenders, activists, journalists and broadcasters— when they attempted to attend international conferences and events on the subject of human rights, as well as about restrictions on movement within the country.

37. In this context, the Commission observes that during the month of January, 14 people were prevented from leaving the country, including the opposition leaders like Eduardo Cardet and Manuel Cuesta Morúa.<sup>42</sup> In this regard, the Observatorio Cubano de Derechos Humanos indicates that the individuals affected were not informed of the government's measure until they boarded their flights, and they were not presented with any court order. The organization alleges that the country is de facto returning to the time when activists were not allowed to leave the island, with the aggravating factor of a lack of transparency or explanation of reasons.<sup>43</sup>

38. Likewise, during the year under analysis, the IACHR learned of the restrictions placed on activist Lidier Hernández Sotolongo, a member of Movimiento Acciones por la Democracia and who had been "regulated" under Law 305 of 2012, which empowers the authorities to prevent people from leaving the country for "reasons of public interest, as determined by the authorities empowered."<sup>44</sup> After more than four months of being "regulated," Hernández Sotolongo was able to return to Uruguay, the country where he has resided legally since 2016.<sup>45</sup> According to information received by the IACHR, at the time of the drafting of this report, the IACHR had counted more than 240 cases of arbitrary restrictions on departures from Cuba.<sup>46</sup>

- ***Minimum Due Process Guarantees***

39. The IACHR again expresses its concern at the death penalty remaining on the books as a punishment for a significant number of criminal offenses in Cuba.<sup>47</sup> Capital punishment is called

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<sup>41</sup> IACHR, [The Situation of Human Rights in Cuba](#). OEA/SER.L/V/II. Doc. 2. February 3, 2020, para. 356.

<sup>42</sup> Observatorio Cubano de Derechos Humanos, [En enero el gobierno impidió la salida del país a 14 personas](#), February 4, 2020.

<sup>43</sup> Observatorio Cubano de Derechos Humanos, [Casi doscientas detenciones arbitrarias se registraron en Cuba en el primer mes del año](#), Madrid, February 4, 2020

<sup>44</sup> *ADN Cuba*, [Régimen cubano reitera a Lidier Hernández que no puede salir del país](#), April 9, 2020.

<sup>45</sup> *ADN Cuba*, [Lidier Hernández anuncia regreso a Uruguay tras mese "regulado" por el régimen cubano](#), October 10, 2020.

<sup>46</sup> IACHR, Matrix/Table of monitoring of arbitrary restrictions on departures in Cuba, December 20, 2018 [in IACHR archives]. *ADN Cuba*, [Lidier Hernández anuncia regreso a Uruguay tras mese "regulado" por el régimen cubano](#), October 10, 2020.

<sup>47</sup> IACHR, [The Situation of Human Rights in Cuba](#). OEA/SER.L/V/II. Doc. 2. February 3, 2020, para. 188. The maximum punishment of death is provided for under the categories of crimes against the security of the State; peace and international law; public health; life and corporal integrity; normal course of sexual relations; normal development of childhood and youth

for especially for crimes against the security of the State, which are described with broad or ambiguous language, for which the imposition would be permitted in summary proceedings, wherein the necessary minimum guarantees for defendants to exercise their rights to an adequate legal defense are not provided for.<sup>48</sup> Based on the information available, the last time that the death penalty was imposed in Cuba was in 2003.<sup>49</sup> The IACHR expresses disappointment that the process to adopt a new constitution in 2019 did not include the *de jure* abolition of that punishment. In any event, the IACHR finds that the fact that it is in force in domestic legislation and can be potentially applied constitutes a latent threat to the right to life. Accordingly, the Commission reiterates its appeal to the Cuban State to abolish the death penalty, inasmuch as this is the trend throughout the hemisphere.<sup>50</sup>

40. The Commission has also noted similar vagueness in the definition of “dangerous state,” (*estado peligroso*), as set forth in Article 72 of the Criminal Code.<sup>51</sup> As established therein, “dangerous state” can be deduced from a special proclivity of the individual to commit criminal offenses, given the observed “manifest contradiction with the norms of socialist morality,” which is demonstrated when any of the “indications of dangerousness,” are present, which are: habitual intoxication and dipsomania, narcomania, and antisocial conduct; the latter is understood as a person who habitually breaks the rules of social interaction by acts of violence, or by other provocative acts, violates the rights of others or by his or her behavior in general undermines the rules of interaction or

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and against proprietary rights. Under the category of crimes against the security of the State, the criminal offenses which are subject to the death penalty as the maximum punishment are as follows: Acts against the independence or the territorial integrity of the State; promotion of armed action against Cuba; armed service against the State; aiding the enemy; espionage; rebellion; sedition; usurping political or military command; sabotage; terrorism; hostile acts against a foreign State; genocide; piracy; mercenarism; crime of apartheid and; other acts against the security of the State. Additionally, the law provides for punishment by the death penalty with the following criminal offenses: Production, sale, demand, trafficking, distribution and illicit possession of drugs, narcotics, psychotropic substances and other items of similar effects; murder; rape; pederasty with violence; corruption of minors; robbery with violence or intimidation of persons. Likewise, the death penalty remains on the books as punishment for a significant number of broad or vague criminal offenses, such as “state of dangerousness.”

<sup>48</sup> The Law on Criminal Procedure provides for summary proceedings under Articles 479 and 480 thereof. **Article 479** establishes: In the event that exceptional circumstances so warrant, the Attorney General of the Republic may request of the President of the People’s Supreme Court, and the latter decide that the criminal acts of the jurisdiction of the Courts of Justice shall be adjudicated through summary proceeding, except for those that are under the jurisdiction of the People’s Municipal Courts. For its part, **Article 480** establishes as follows: At a summary proceeding, to the extent that the competent Court deems necessary, the deadlines that this Law establishes for the processing of preliminary investigations, the oral trial proceeding and motions and appeals process are reduced. Law on Criminal Procedure. Special Proceedings. Title X. Summary Proceeding. Articles 479 and 480.

<sup>49</sup> IACHR, [The Situation of Human Rights in Cuba](#). OEA/SER.L/V/II. Doc. 2. February 3, 2020, para. 88.

<sup>50</sup> IACHR, [The Death Penalty in the Inter-American Human Rights System: From Restrictions to Abolition](#), OEA/Ser.L/V/II.Doc. Doc. 68, December 31, 2011.

<sup>51</sup> Law No. 62, [Criminal Code](#), December 29, 1987, Articles 72 to 74:

**Article 72.** Dangerous state is understood as a special proclivity of a person to commit criminal offenses, as demonstrated by the conduct observed, in manifest contradiction to the norms of socialist morality; **Article 73(1).** Dangerous state is manifested when any of the following indications of dangerousness appears in the individual: a) habitual intoxication and dipsomania; b) narcomania; c) antisocial conduct. 2. A person who habitually breaks the rules of social interaction by acts of violence, or by other provocative acts, violates the rights of others or due to his behavior in general undermines the rules of interaction or disturbs community order or lives, as a social parasite, off other people’s work or exploits or engages in socially reprehensible vices, is considered in a dangerous state.

Article 74. The state of mental derangement and of persons with delayed mental development is also considered a dangerous state, if for this reason, they do not possess the faculty to grasp the scope of their actions or of controlling their conduct, when it poses a threat to the security of persons or the social order.

disturbs the order of the community or lives, as a social parasite, off other people’s work or exploits or engages in socially reprehensible vices.<sup>52</sup>

41. According to Articles 415 ff. of Decree-Law No. 128 of June 18, 1991,<sup>53</sup> a declaration of pre-criminal dangerousness of antisocial conduct is also issued through a summary proceeding, and may result in arbitrary deprivation of liberty through trial proceedings that do not have the minimum judicial guarantees set forth in the American Declaration of the Rights and Duties of Man.<sup>54</sup> In this regard, the bodies of the Inter-American human rights system have concurred that “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.”<sup>55</sup>

42. As for military jurisdiction, the Committee on Enforced Disappearance has noted with concern the competence of Cuban military courts in criminal proceedings where a member of the armed forces was the accused, even when the participants or the victim are civilians. In this regard, the Committee indicated that “While noting that the military courts may decline jurisdiction in favour of the ordinary courts, the Committee recalls its position that, in principle, military courts do not offer the guarantees of independence and impartiality required by the Convention for trying cases of enforced disappearance (arts. 11 and 12).”<sup>56</sup> Regarding this, the settled case law of the inter-American system establishes that the scope of military jurisdiction must be restrictive and exceptional, and that allegations of human rights violations shall not be settled in that jurisdiction.<sup>57</sup>

## **D. Topics of Special Concern and Priority Groups for the IACHR**

### **1. Freedom of expression**

43. During 2020, the Office of the Special Rapporteur for Freedom of Expression documented a continuing pattern of restrictions on freedom of expression and access to public information on the island. Specifically observed were threats, harassment, and persecution perpetrated against journalists, dissidents, activists, artists, and teachers who question the regime or disseminate information or opinions on matters of public interest. Although the forms of government harassment and restrictions are not new, the IACHR and its Office of the Special Rapporteur observed them to have increased during 2020 in the context of the pandemic. In most cases, persecution of expressions of criticism by the State’s Department of Security were carried out pursuant to the provisions of Decree-Law 370 “on the digitalization of society in Cuba.” Likewise, the Office of the Special Rapporteur received reports that certain apps and websites had been blocked. It also learned of interference with and alteration of mobile data by the government. Many of these incidents took

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<sup>52</sup> Law No. 62, [Criminal Code](#), December 29, 1987

<sup>53</sup> [Official Gazette No. 7 Special Issue, Law Decree No. 128](#), June 18, 1991.

<sup>54</sup> IACHR. [The Situation of Human Rights in Cuba](#). OEA/SER.L/V/II. Doc. 2. February 3, 2020, para. 189.

<sup>55</sup> Inter-American Court. *Case of Castillo Petruzzi et al. v. Peru*, Judgment of May 30, 1999, Series C. N° 52, para. 121.

<sup>56</sup> UN, Committee on Enforced Disappearance, Concluding observations on the report submitted by Cuba under Article 29, paragraph 1, of the Convention, CED/C/CUB/CO/1, April 19, 2017.

<sup>57</sup> Inter-American Court, *Case of the Gómez-Paquiyaui Brothers v. Peru*, Judgment of July 8, 2004. Series C No. 110, para. 165.

place in a context of social upheaval and calls to protest, thus preventing citizens from communicating and coordinating.

**a. Persecution of the Independent Press**

44. In the context of the pandemic, State authorities used the grave crisis brought about by COVID-19 to systematically intimidate and harass journalists working for independent media outlets. In many instances, the restrictions to freedom of the press were carried out pursuant to Decree-Law 370 "on the digitalization of society in Cuba," the purpose of which, according to the government, is to consolidate cyber security, technological sovereignty, and national security and defense.

45. In March 2020, weeks after the emergence of the COVID-19 pandemic, State Security and the national police sent a summons to independent journalists Yoe Suárez and Camila Acosta requiring them to appear for questioning, offering no justification.<sup>58</sup> In April, journalist Waldo Fernández Cuenca, with *Diario de Cuba*, was summonsed and interrogated by the police at the Aguilera police station, Diez de Octubre municipality, in Havana, during which they threatened to prosecute him for "not having employment."<sup>59</sup> Later, the police visited him at home to warn him he was being monitored because of his "criminal potential."<sup>60</sup>

46. Likewise, in April, journalist Camila Acosta reported that four doctors in charge of attending to patients with respiratory symptoms or with connections to confirmed cases of COVID-19 had visited her at home. According to the journalist, this was an attempt by State Security to isolate her.<sup>61</sup> Throughout 2020, the Office of the Special Rapporteur noted repeated acts of harassment carried out by Cuban State Security of independent journalist Camila Acosta, who was fined, summonsed for questioning, warned, and evicted on several occasions.<sup>62</sup>

47. The imposition of heavy fines has been another method by which the government has attempted to limit independent journalism. On April 6, Esteban Rodríguez, a contributor to *ADN Cuba*, was fined \$120<sup>63</sup> for posting criticism of the regime on his Facebook account. According to the reporter, "the Cuban regime, rather than focusing on what is happening in the country with the

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<sup>58</sup> *ADN Cuba*, [Periodistas independientes son citados por la seguridad del estado en medio de crisis por el coronavirus](#), March 27, 2020; *Radio Televisión Martí Solidaridad Cristiana Mundial condena hostigamiento a periodista cubano*, April 2, 2020; *Cubanet*, [Denuncian represión contra periodista independiente cubano Yoe Suárez](#), April 3, 2020.

<sup>59</sup> *Diario de Cuba*, [Waldo Fernández Cuenca, otro periodista de DIARIO DE CUBA 'interrogado' en medio de la pandemia](#), April 4, 2020.

<sup>60</sup> *Diario de Cuba*, ['Eres potencial delictivo', advierte la Policía al periodista de DIARIO DE CUBA Waldo Fernández Cuenca](#), April 25, 2020; *Heraldo de Cuba*, [«Eres Potencial Delictivo», Advierte La Policía Al Periodista De DIARIO DE CUBA Waldo Fernández Cuenca](#), April 25, 2020.

<sup>61</sup> *ADN Cuba*, [Régimen cubano intenta aislar a Camila Acosta por supuestos síntomas de coronavirus](#), April 8, 2020; *Cubanet*, [El régimen intenta aislar a Camila Acosta por supuestos síntomas de COVID-19](#), April 8, 2020.

<sup>62</sup> *ADN Cuba*, [Órganos represivos cubanos multan con 3000 pesos a la periodista Camila Acosta](#), March 28, 2020; *Cubanet*, [Policía hostiga a Camila Acosta y Omara Ruiz Urquiola en plena pandemia](#), April 15, 2020; *ADN Cuba*, [Seguridad del Estado continúa el asedio a periodista independiente Camila Acosta](#), April 15, 2020; *Radio Televisión Martí*, [En Cuba un periodista independiente es casi un corresponsal de guerra](#), May 3, 2020; *Radio Televisión Martí*, [Periodista otra vez en la calle por presión de la Seguridad del Estado a sus arrendatarios](#), June 21, 2020; *Cibercuba*, [Periodista independiente Camila Acosta graba su detención en La Habana](#), July 31, 2020; *Cubanet*, [Régimen libera a Camila Acosta bajo amenaza: "Quieren que me vaya del país o que deje de hacer periodismo"](#), July 31, 2020.

<sup>63</sup> The \$120 fine is equivalent to 3000 Cuban pesos, a significant amount compared to average incomes.

coronavirus, is more focused on those of us in the opposition. They fined me because they say I am slandering them.”<sup>64</sup>

48. The harassment of independent journalists also includes intimidation of their relatives. In April, intellectual and journalist Julio Aleaga Pesant stated that his wife had been summonsed for interrogation by the police. The interrogation took place at the police station in the Plaza de la Revolución municipality, in Havana, where she was threatened with deportation to Santiago de Cuba, which is where she is originally from.<sup>65</sup> The journalist also indicated that by March 2020, the police had already summonsed him six times for interrogation.

49. On January 8, agents of the National Revolutionary Police and the Cuban Intelligence Office searched the home of reporter Iliana Hernández, with *CiberCuba*, in Cojímar, state of Havana. According to the information available, the officers took some of her personal belongings, including her personal computer and her cell phone. She was also fined for violating Decree-Law 370 "on the digitalization of society in Cuba."<sup>66</sup> Following the search, the agents issued Iliana Hernández a citation, indicating that she was being charged with the crime of receiving stolen goods. She was ordered to turn herself in to the police on January 13. According to a report by Article 19, over the last three years, the journalist has been detained at least three times by agents of the State Security Department, sometimes violently, and other times with the aim of intimidating her.<sup>67</sup>

50. Additionally, the IACHR was able to ascertain that between April and May, independent journalist Niober García Fournier, with the agency Palenque Visión and a contributor to *People in Need*, was summonsed for interrogation by State Security twice in a little more than one month. Both times, he was fined 3000 pesos (\$120) for violating Decree-Law 370.<sup>68</sup>

51. On April 8, State Security threatened independent journalist Osniel Carmona Breijo with "making him disappear indefinitely, from dungeon to dungeon until nobody knew where he was," because of his reports on the coronavirus crisis in Havana. Carmona Breijo regularly publishes

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<sup>64</sup> *ADN Cuba*, [Imponen multa de 120 dólares a colaborador de ADN Cuba](#), April 7, 2020.

<sup>65</sup> *Radio Televisión Martí*, [La Policía política arrecia amenazas a periodistas independientes](#), March 19, 2020; *Radio Televisión Martí*, [Periodistas independientes denuncian acoso de Seguridad del Estado contra sus familiares](#), April 3, 2020; *Cubamet*, [Régimen amenaza a esposa del periodista independiente Julio Aleaga Pesant](#), April 3, 2020.

<sup>66</sup> *14 y medio*, [La policía registra la casa de la reportera Iliana Hernández](#), January 8, 2020; *Cubamet*, [Policía castrista allana vivienda de periodista independiente Iliana Hernández](#), January 8, 2020; *Radio Televisión Martí*, [Iliana Hernández: "La policía que allanó mi casa venía en busca de pintura roja" por Clandestinos](#), January 15, 2020; CPJ, [Cuban reporter Iliana Hernández charged with illegally possessing journalistic equipment](#), January 28, 2020; *Cibercuba*, [Policía del régimen multa e incauta medios de trabajo a periodista de CiberCuba Iliana Hernández](#), February 9, 2020; *Diario de Cuba*, [La Policía multa y decomisa sus herramientas de trabajo a Iliana Hernández](#), February 10, 2020; *Cibercuba*, [Periodista Camila Acosta: "Me pusieron un acta de advertencia por incitación para delinquir"](#), August 1, 2020.

<sup>67</sup> Article 19, Mexico and Central America office. [Bajo sentencia: la censura en Cuba, Guatemala y Honduras](#), August 31, 2020.

<sup>68</sup> *ADN Cuba*, [Multa de 120 dólares a activista por publicar en Facebook](#), April 15, 2020; *Periódico Cubano*, [Multa de 3.000 pesos para el periodista independiente cubano Niober García Fournier](#), April 15, 2020; *Diario de Cuba*, [3.000 pesos de multa por hacer periodismo independiente en tiempos de Covid-19 en Cuba](#), April 16, 2020; *Cubamet*, [Niober García Fournier, doblemente azotado por el Decreto-Ley 370](#), May 20, 2020; *Radio Televisión Martí*, [Periodista multado dos veces en un mes por el Decreto 370](#), May 21, 2020.

information on the pandemic and its impact on the population in Cuba's capital in the newspaper *Amanecer Habanero*.<sup>69</sup>

52. On April 17, Mónica Baró, a journalist with the magazine *El Estornudo*, was fined for allegedly violating Decree-Law 370. According to the information received, the journalist was summonsed to a police station of the National Revolutionary Police in Havana and interrogated for around two hours.<sup>70</sup>In this context, they also accused her of working for media outlets that accept financing from foreign organizations attempting to “tear down the Cuban revolution.”<sup>71</sup>

53. On April 18, Jorge Enrique Rodríguez—a [journalist](#) with *Diario de Cuba* and a contributor to the newspaper *ABC*—was intercepted on the street and taken to a police station in Havana, where he was subjected to interrogation for more than two hours. State Security informed him there that he was being investigated for “disseminating false news,” which is punished with between one and four years in prison.<sup>72</sup> On June 28, he was transferred to the Vivac criminal processing center, in Havana. According to the information available, his detention is supposedly related to his coverage of the death of Hansel Hernández and the alleged participation of the police in the facts, as well as the mobilizations to demand justice.<sup>73</sup> The Cuban authorities had prevented a protest from being held that had been announced and taken measures to prevent coverage of the subject. Around 48 journalism organizations and organizations dedicated to the defense of human rights informed the IACHR and the United Nations of the arrest of the *Diario de Cuba* reporter.<sup>74</sup>

54. Additionally, group of activists led by the coordinator of the Mesa de Diálogo de la Juventud Cubana, Kirenia Yalit Núñez Pérez, and by scientist and activist Oscar Casanella filed a writ of habeas corpus before the Tribunal of Havana to the benefit of Jorge Rodríguez.<sup>75</sup> On July 2, the IACHR and its Office of the Special Rapporteur expressed serious concern at the imprisonments of the journalist on charges of *desacato*. They recalled that detentions for exercising journalism are not

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<sup>69</sup> [Radio Televisión Martí, “Te vamos a desaparecer por tiempo indefinido”, advierte policía política a periodista habanero](#), April 13, 2020; [Periódico Cubano, Periodista Osniel Carmona recibe amenazas por informar acerca del coronavirus en La Habana](#), April 13, 2020; [Cubanet, “Te vamos a desaparecer por tiempo indefinido, de calabozo en calabozo”](#), April 14, 2020; [El Heraldo de Cuba, El comunicador estuvo detenido 11 horas y también amenazaron a su esposa](#), April 16, 2020.

<sup>70</sup> [Cubanet, Multan a la periodista Mónica Baró por “violiar” Decreto-Ley 370](#), April 17, 2020; [Cibercuba, Seguridad del Estado multa con 3000 pesos a la periodista independiente cubana Mónica Baró](#), April 17, 2020; [Diario de Cuba, ‘No me van a callar’: otra periodista independiente multada con 3.000 pesos](#), April 18, 2020.

<sup>71</sup> CPJ, [Cuban journalist Mónica Baró fined over Facebook posts under new internet decree](#), April 22, 2020.

<sup>72</sup> [Diario de Cuba, Jorge Enrique Rodríguez, otro periodista de DIARIO DE CUBA interrogado y procesado](#), April 19, 2020; [ADN Cuba, El acoso continúa: Policía política interroga al periodista cubano Jorge E. Rodríguez](#), April 19, 2020.

<sup>73</sup> [Cubanet, Detenido y a la espera de juicio periodista independiente Jorge Enrique Rodríguez](#), June 30, 2020; [14 y medio, Detenido y a la espera de juicio el periodista independiente Jorge Enrique Rodríguez](#), July 1, 2020; CPJ, [Cuban journalist Jorge Enrique Rodríguez detained amid protests, awaiting trial](#), July 2, 2020; [Cubanet, Liberan a Jorge Enrique Rodríguez: “Salí por los amigos que hicieron la campaña”](#), July 4, 2020.

<sup>74</sup> [Cubanet, Sociedad civil cubana exige la liberación del periodista Jorge Enrique Rodríguez](#), July 3, 2020.

<sup>75</sup> [ADN Cuba, Activistas presentan Habeas Corpus a favor de periodista independiente Jorge Enrique Rodríguez](#), July 3, 2020; [Cubanet, Presentan Habeas Corpus a favor de Jorge Enrique Rodríguez](#), July 3, 2020.

compatible with the principles of freedom of expression.<sup>76</sup> The communicator was finally released on July 3 after six days in detention.<sup>77</sup>

55. The Office of the Special Rapporteur was able to ascertain that on April 24, agents of State Security and the National Revolutionary Police came to the home of *CubaNet* journalist Enrique Díaz Rodríguez and took him to the Playa Territorial Investigations Unit, where he was interrogated about several news articles. The officials then brought him before an inspector of the Ministry of Communications, who, pursuant to Decree-Law 370, fined him 3000 pesos.<sup>78</sup>

56. According to publicly available information, on May 1, 2020, journalist Héctor Miguel Sierra was summonsed, interrogated, and threatened with prison for publishing a photograph of an officer of the National Revolutionary Police without a facemask in *Cimarrón de Mayabeque*, a community media outlet. The reporter was again violently detained by police officers on July 24.<sup>79</sup>

57. On June 1, journalist Emilio Almaguer de la Cruz was detained by the authorities of the municipality of Baracoa (Guantánamo province) for allegedly defaming a local government official. According to the information available, the arrest took place days after the journalist published on his social media accounts that Superintendent Norge Rodríguez Delgado was being investigated for embezzlement of public funds.<sup>80</sup>

58. On July 27, Yadisley Rodríguez Ramírez, a reporter for *Palenque Visión*, was detained by State Security in the province of Camagüey. Additionally, the Office of the Special Rapporteur learned that agents from the police and State Security had entered her home without a court order, confiscating two telephones and a personal computer. According to the journalist, she was taken to the headquarters of the Ministry of Internal Affairs, where she was held for 15 hours while the officers interrogated her as to the whereabouts of Rodríguez Lobaina, a political activist, the director of *Palenque Visión*, and a member of the Alianza Democrática Oriental. She was finally released with a warning.<sup>81</sup>

59. According to publicly available information, on October 2, freelance journalist Abraham Jiménez Enoa, founder of *El Estornudo* and a columnist for *The Washington Post* and magazine *Gatopardo*, appeared for a police interrogation. Agents of State Security disguised as

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<sup>76</sup> IACHR, [@CIDH] (July 2, 2020). #Cuba La @CIDH y @RELE\_CIDH expresan grave preocupación por la prisión del periodista Jaime Rodríguez de @diariodecuba por presunto desacato. Las detenciones por ejercer periodismo son incompatibles con principios de #LibertadExpresión por lo que debe ser puesto en libertad. [Tweet]. Twitter. <https://twitter.com/CIDH/status/1278842382931427335?s=20>.

<sup>77</sup> *Cubamet*, [Liberan a Jorge Enrique Rodríguez: "Salí por los amigos que hicieron la campaña"](#), July 3, 2020; *Cibercuba*, [Liberado el periodista independiente Jorge Enrique Rodríguez](#), July 4, 2020.

<sup>78</sup> *Cubamet*, [Régimen cubano arresta a periodista de CubaNet Enrique Díaz](#), April 24, 2020; *Cibercuba*, [Periodista cubano Enrique Díaz habla de su arresto y multa de 3000 pesos por el Decreto Ley 370](#), April 29, 2020.

<sup>79</sup> *Cubamet*, [Amenazan a periodista del ICLEP por informar sobre la COVID-19](#), May 4, 2020; *Voces del Sur*, [Periodista del ICLEP es detenido arbitrariamente, robado y humillado por oficiales de la Policía Política cubana](#), July 25, 2020.

<sup>80</sup> *Radio Televisión Martí*, [Emiliano Almaguer acusado por difamación tras denunciar corrupción](#), June 4, 2020; *Cubamet*, [Acusan por difamación a periodista que denunció corrupción en Baracoa](#), June 5, 2020; *Periódico Cubano*, [Arrestado periodista independiente por denunciar corrupción en Baracoa](#), June 5, 2020.

<sup>81</sup> *Diario Las Américas*, [Arrestan a reportera de Palenque Visión en Cuba](#), July 28, 2020; *Periódico Cubano*, [Periodista independiente Yadisley Rodríguez en paradero desconocido tras arresto](#), July 28, 2020; *Radio Televisión Martí*, [Reportera de Palenque Visión envía mensaje a sus colegas: "No se dejen avasallar ni intimidar"](#), July 31, 2020; CPI, [Cuban security forces detain Yadisley Rodríguez Ramírez, interrogate her about news agency director](#), August 6, 2020.

civilians forced him to undress to search him, then handcuffed him and took him to headquarters. There, he was interrogated for almost five hours. He was threatened with prosecution for usurpation of authority should he continue to publish in *The Washington Post*, as "that the media outlet is not accredited in Cuba." He was also told they would "start a war" against his family and associates.<sup>82</sup>The journalists said that the harassment and threats were a result of the fact that he was being "regulated," a term which is used in Cuba to refer to people who the authorities are arbitrarily preventing from leaving the country.<sup>83</sup>In June, Abraham Jiménez Enoa reported that several State Security agents and a patrol with four officers had been "posted" at his home to prevent him from covering protests surrounding the death of Hansel Hernández.<sup>84</sup>

60. The persecution of the independent media that reported on COVID-19 took place in the context of reports of distortion of infection figures, as well as errors and inaccuracies. On a number of occasions, *Inventario*, an independent data journalism initiative, denounced erroneous reports issued by the Ministry of Public Health and demanded greater transparency.<sup>85</sup> In a press release issued in April, the Office of the Special Rapporteur expressed concern at the restrictions in the region on journalism work in the context of the pandemic, noting particularly the case of Cuba and the application of Decree-Law 370.<sup>86</sup> At that time, the IACHR and its Office of the Special Rapporteur called on States to guarantee the exercise of the right to freedom of expression and access to information and to guarantee the crucial role that the media plays during the pandemic, pursuant to Resolution 01/20 on Pandemic and Human Rights, issued by the IACHR.

61. The IACHR and its Office of the Special Rapporteur have indicated in the Special Report on the Situation of Freedom of Expression in Cuba that State agents are the main source of threats and aggressions against the media in the country, a practice that must be dismantled and sanctioned. The report recommended that the State of Cuba end the harassment, including the citations, detentions of any length, and judicial harassment of anyone for reasons related to the exercise of their freedom of expression, freedom of association, freedom of assembly, and related rights.<sup>87</sup>

62. Lastly, the Office of the Rapporteur received with satisfaction the news of the release of journalist Roberto Quiñones on September 4, 2020, days after marking one year of deprivation of liberty.<sup>88</sup> The independent journalist noted that while he was in prison, he was denied

<sup>82</sup> *14 y medio*, [La policía amenaza con la cárcel al periodista Abraham Jiménez Enoa](#), October 1, 2020; *Infobae*, [Lo desnudaron, esposaron y amenazaron: la brutalidad del régimen cubano contra el periodista Abraham Jiménez Enoa](#), October 3, 2020; *The Washington Post*, [If this is my last column here, it's because I've been imprisoned in Cuba](#), October 5, 2020.

<sup>83</sup> CPJ, [CPJ calls on Cuban security forces to stop threatening Washington Post columnist Abraham Jiménez Enoa](#), October 6, 2020.

<sup>84</sup> *Infobae*, [El régimen cubano detuvo al periodista Abraham Jiménez Enoa, columnista del Washington Post](#), June 30, 2020; *Cibercuba*, [Policía cita a periodista independiente cubano Abraham Jiménez Enoa](#), June 30, 2020.

<sup>85</sup> *Cubanet*, [Denuncian "reportes erróneos" del MINSAP sobre coronavirus en Cuba](#), April 30, 2020; *Cubanet*, [Piden "transparencia" en los reportes oficiales sobre COVID-19 en Cuba](#), May 20, 2020.

<sup>86</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [IACHR and its RELE express concern about restrictions on freedom of expression and access to information in States' response to the COVID-19 pandemic](#), April 18, 2020.

<sup>87</sup> IACHR, Office of the Special Rapporteur for Freedom of Expression, [Freedom of Expression in Cuba](#), OEA/Ser.L/V/II, 2018.

<sup>88</sup> *ABC*, [Liberan al periodista cubano Roberto Quiñones tras casi un año en prisión](#), September 4, 2020; *14 y medio*, [Liberan al periodista Roberto Quiñones tras un año en prisión](#), September 4, 2020; *Deutsche Welle (DW)*, [Cuba libera a periodista independiente Roberto Quiñones](#), September 5, 2020.

"all the benefits" to which he was entitled. He also denounced conditions of overcrowding, poor-quality food and water, and lack of adequate medical care.<sup>89</sup> The Cubanet reporter was convicted on August 7, 2019, by the municipal court of Guantánamo and sentenced to one year in prison for the crimes of resisting authority and disobedience. According to information monitored by the Office of the Special Rapporteur in 2019, Roberto Quiñones was reportedly arrested and beaten by agents of the National Revolutionary Police (PNR), while covering a trial that the Cuban State conducted against the Rigal-Exposito couple, a husband and wife who were prosecuted for their decision to home-school their children, among other older cases.

**b. Threats and Persecution against Opposition Activists, Artists, and Citizens**

63. In 2020, the IACHR and its Office of the Special Rapporteur received reports that artists, activists, and opposition figures have been fined and threatened by State Security for their political opinions or criticisms posted on social media regarding the actions of the regime in its management of the pandemic.<sup>90</sup> Generally speaking, the sanctions were imposed under Decree-Law 370 of 2018 "on the digitalization of society in Cuba," published in July 2019 in the Official Gazette of the Republic.

64. In 2019, the Office of the Special Rapporteur for Freedom of Expression noted with concern some of the provisions of this Decree-Law. For example, Article 68 establishes that "violations associated with information and communication technologies," could establish a censorship regime in the country and serve as a legal instrument to punish the independent press. Likewise, the penalties envisaged in Chapter II could be disproportionate, as they provide, for example, for "confiscation of the equipment and means used to commit the violations," "temporary or permanent suspension of the license," "closure of the facilities," and fines of up to several hundred U.S. dollars, which are substantial amounts in Cuban pesos.

65. Visual artist Luis Manuel Otero Alcántara was detained on March 1 while on his way to a protest called a "public kiss-in" across from the Cuban Institute of Radio and Television to protest the censorship of a gay kiss in a movie broadcast on Cuban television.<sup>91</sup> According to the information obtained by the Office of the Special Rapporteur, the artist had already been harassed multiple times over the years, including 21 detentions associated with his acts of public protest. On this occasion, Otero was accused of the crimes of insulting the symbols of the fatherland and damaging property by conducting artistic performance in which he appears photographed with the Cuban flag in a variety of situations. The office of the prosecutor had requested a sentence of between two and five years in prison. According to the information available, the artist was held for two weeks and released on

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<sup>89</sup> *Radio Televisión Martí*, [Quiñones Haces, más delgado y sin acceso a la debida atención médica en prisión](#), July 22, 2020; *ADN Cuba*, [Roberto Quiñones: más delgado y sin la debida atención médica en prisión](#), July 22, 2020.

<sup>90</sup> *ADN Cuba*, [Multan y amenazan de muerte a activistas cubanos por publicar en redes sociales](#), April 2, 2020; *Radio Televisión Martí*, [Multas y amenazas a opositores por comentar sobre el coronavirus en la isla](#), April 2, 2020; *ADN Cuba*, [Multan y amenazan de muerte a activistas cubanos por publicar en redes sociales](#), April 2, 2020; *Cubanet*, [Decreto-Ley 370 o "Ley Azote" a la libertad de expresión en Cuba](#), April 14, 2020; *Radio Televisión Martí*, [Activistas del FANTU: Nos multan para intentar silenciarnos](#), April 23, 2020; *ADN Cuba*, [Decreto 370: Multan al activista Raux Denis por hacer denuncias en Facebook](#), April 24, 2020; *Cubanet*, [Multan a opositora Yanisbel Valido por "violar" Decreto-Ley 370](#), May 10, 2020.

<sup>91</sup> *El País*, [Detenido en Cuba el artista y activista Luis Manuel Otero Alcántara](#), March 5, 2020; *ABC*, [Arrestan en Cuba al artista Luis Manuel Otero Alcántara](#), March 6, 2020; *CubaLex*, [Cuba: alert from Luis Manuel Otero arbitrary detention and the increasing attacks against freedom of artistic expression](#), March 11, 2020; Amnesty International,

. [Cuba: Amnesty International calls for release of artist and prisoner of conscience](#), March 13, 2020.

March 14.<sup>92</sup> Later, on November 26, 2020, Otero and 13 other artists and dissidents, many belonging to the Movimiento San Isidro, were arbitrarily detained for violating COVID-19 rules and accused of not having taken another test.<sup>93</sup> According to the information available, the detentions took place after numerous cases in which agents from security forces and Cuban prosecutors detained dissidents, accusing them of the crime of "spreading epidemics" and fining them for alleged violations of COVID-19 prevention restrictions. The authorities carried out arbitrary detentions, opening abusive criminal processes and holding persons in unhealthy conditions that favored the spread of COVID-19.<sup>94</sup>

66. On April 1, Ovidio Martín Castellanos, a member of Unión Patriótica de Cuba (UNPACU) and promotor of Cuba Decide, was detained for several hours on Wednesday in the second police unit of Santiago de Cuba.<sup>95</sup> The opposition activist had already been detained on April 1 and fined under Decree-Law 370 for posts critical of the regime published on social media. Also, at that time, he was fined 200 Cuban pesos for the alleged crime of "enemy propaganda."<sup>96</sup>

67. Likewise, in April, José Aguiar González, a Cuban citizen and resident of the city of Cienfuegos, was fined 3000 pesos under Decree-Law 370 for recording and publishing a video on the Internet showing the risks of contagion faced by some groups of people living in the street.<sup>97</sup> The Office of the Special Rapporteur documented numerous similar incidents of citizens detained and threatened with fines after they reported the poor conditions under which patients suffering from the coronavirus are provided with care, among other criticisms of matters of public interest.<sup>98</sup>

68. On April 13, after leaving a police interrogation, YouTuber Yander Serra was detained while doing a livestream in the city of Manzanillo (Granma province) during which he denounced the threats to which he had been subjected. He had been summonsed for his posts on social media on the epidemiological situation in Manzanillo.<sup>99</sup> He was interrogated again on June 8 for two hours due to one of his most recent public videos and fined 3000 pesos.<sup>100</sup>

<sup>92</sup> Amnesty International, [Cuba: Amnesty International calls for release of artist and prisoner of conscience](#), March 13, 2020; Human Rights Watch, [Cuba: Covid-19 Rules Used to Intensify Repression](#), December 7, 2020.

<sup>93</sup> Human Rights Watch, [Cuba: Covid-19 Rules Used to Intensify Repression](#), December 7, 2020.

<sup>94</sup> Human Rights Watch, [Cuba: Covid-19 Rules Used to Intensify Repression](#), December 7, 2020; IACHR, Press release 286/20, [La CIDH rechaza el operativo arbitrario en contra del Movimiento San Isidro en Cuba y recuerda sus obligaciones internacionales en derechos humanos](#), November 28, 2020.

<sup>95</sup> *Cubamet*, [Detienen a Ovidio Martín Castellanos y amenazan con dejarlo en prisión](#), May 6, 2020; *Radio Televisión Martí*, [Arrestado en Cuba Ovidio Martín Castellanos, activista de UNPACU](#), May 6, 2020; *Diario de Cuba*, [El régimen encarcela y acusa de un delito común a otro activista de la UNPACU](#), May 8, 2020; *Periódico Cubano*, [Opositor cubano Ovidio Martín Castellanos detenido y acusado de supuesto delito de cohecho](#), May 8, 2020.

<sup>96</sup> *Radio Televisión Martí*, [Coordinador de UNPACU arrestado y multado por comentar en redes sociales](#), April 2, 2020.

<sup>97</sup> *Radio Televisión Martí*, [Multas y amenazas por grabar video de desamparados en Cienfuegos \(VIDEO\)](#), April 17, 2020; *Radio Viva 24*, [Multa por filmar video de desamparados en Cienfuegos](#), April 18, 2020.

<sup>98</sup> *ADN Cuba*, [Multan a cubano por denunciar en ADN Cuba condiciones precarias de su comunidad](#), April 20, 2020; *Radio Televisión Martí*, [Arrestado, amenazado y multado por revelar casos en hogar de ancianos en Santa Clara](#), April 22, 2020.

<sup>99</sup> *Cubamet*, [Detienen en Granma a youtuber cubano mientras realizaba una directa](#), April 13, 2020; *Cibercuba*, [Detenido el YouTuber Yander Serra mientras hacía un video en "directo" desde Manzanillo](#), April 14, 2020.

<sup>100</sup> *Periódico Cubano*, [Youtuber cubano Yander Serra es multado por su "clasificación de chivatones"](#), June 9, 2020; *Diario de Cuba*, [Un youtuber que presentó una clasificación de 'chivatos' en Cuba, detenido y multado por el 370](#), June 9, 2020; *Radio Televisión Martí*, ["Odian la verdad": Multan a youtuber cubano con 3.000 pesos por video sobre "chivatones"](#), June 9, 2020.

69. On April 17, rapper Maykel Osorbo was detained while live streaming on Facebook outside his home, in La Habana Vieja. He was taken in a patrol car by officers of the National Revolutionary Police and agents of the State Security Department.<sup>101</sup> He was released four days later.<sup>102</sup> In July, he was detained again for 12 hours in the San Miguel del Padrón police station, accused of the crime of "defamation of institutions and organizations and of heroes and martyrs." According to the information received, the charges were related to his social media posts on the death of musician "El Dany," allegedly due to medical malpractice. He challenged President Miguel Díaz-Canel and the Ministry of Public Health, and demanded explanations for what had happened.<sup>103</sup> Also, several days later, he was summonsed along with his partner to a police station in La Habana Vieja by an officer of the Office on Minors of the Ministry of Interior Affairs, who threatened them with losing custody of their four-year-old daughter.<sup>104</sup>

70. On November 9, rapper and opposition figure Denis Solís was detained by the Cuban police after several days of harassment with no apparent motive, according to members of the Movimiento San Isidro (MSI), of which the activist is a member.<sup>105</sup> According to local media, the day after his detention, Denis Solís was tried by the Municipal Court of La Habana Vieja, convicted, and sentenced to eight months in prison for allegedly committing the crime of "desacato." The decision was upheld by the Provincial Court of Havana.<sup>106</sup> On November 10, members of the San Isidro independent art movement filed a writ of habeas corpus before the Provincial Court of Havana requesting his release.<sup>107</sup> However, on November 13, the Chamber of Crimes against State Security answer that the trial had taken place on November 11, at which time he was sentenced and his transfer was ordered to the Valle Grande prison, where the activist was "awaiting the finalization of the judgment handed down against him."<sup>108</sup> In a press release, the Movement denounced the expedited process against the activist. "In only three days, a citizen of this country was violently arrested without charges, taken to three institutions of the forces of repression, and tried on trumped up charges. Additionally, all of this took place without allowing him a single phone call," they stated.<sup>109</sup>

71. In that context, starting on November 9 and for several consecutive days, dozens of artists, activists, and academics demonstrated publicly to demand the release of Denis Solís and to demand more information on his status. According to information from local media, this led to a wave

<sup>101</sup> *Cibercuba*, [Detienen al rapero cubano Maykel Osorbo por sus publicaciones en las redes sociales](#), April 16, 2020; *Cubonet*, [Régimen acusa a Maykel Osorbo de "desacato" y "propagación de epidemias"](#), April 17, 2020.

<sup>102</sup> *ADN Cuba*, [Régimen cubano libera al rapero Maykel Osorbo](#), April 18, 2020; *Radio Televisión Martí*, [Maykel Osorbo fue detenido y liberado luego que activistas protestaran](#), April 18, 2020.

<sup>103</sup> *Cubonet*, [A Maykel Osorbo "lo procesarían por difamar a las instituciones del Estado"](#), July 21, 2020; *Radio Televisión Martí*, [Acusan a rapero El Osorbo de "difamación a la medicina cubana" por directa sobre muerte de El Dany](#), July 21, 2020.

<sup>104</sup> *Cibercuba*, [Amenazan a Maykel Osorbo con quitarle la custodia de su hija por declaraciones sobre la muerte de El Dany](#), July 27, 2020; *Diario de Cuba*, [El régimen cubano amenaza a Maykel Castillo con despojarlo de la custodia de su hija](#), July 28, 2020.

<sup>105</sup> *Diario de Cuba*, [Tras varios días de acoso la Policía cubana detiene al activista Denis Solís](#), November 10, 2020.

<sup>106</sup> *14 y medio*, [Condenado a ocho meses de prisión Denis Solís por "desacato"](#), November 16, 2020; *Diario de Cuba*, [Las autoridades condenan a Denis Solís a ocho meses de prisión por 'desacato'](#), November 16, 2020; *Cibercuba*, [Denis Solís, el joven rapero cubano condenado a 8 meses de prisión por sus ideas políticas](#), November 17, 2020.

<sup>107</sup> *Radio Televisión Martí*, [Entregan Hábeas Corpus a favor de rapero encarcelado Denis Solís](#), November 12, 2020.

<sup>108</sup> *Diario Las Américas*, [Cuba: Denis Solís, a prisión por ser un artista libre](#), November 16, 2020.

<sup>109</sup> *Diario Las Américas*, [Cuba: Denis Solís, a prisión por ser un artista libre](#), November 16, 2020.

of arbitrary detentions and police violence over the course of more than three days. They also indicated that numerous members of the Movimiento San Isidro have been detained, and although some were released after being held for several hours, they were later detained again.<sup>110</sup>

72. Decree-Law 370 was broadly criticized and rejected by Cuban civil society, as well as by specialist civil society organizations. In April, a group of journalists, artists, and activists signed a [Declaration against the Lash Law](#) stating as follows: “aware of the fact that informing, opining, and freely expressing oneself are not crimes, and that unjust laws must be changed, not obeyed, we state that as of this moment, we refuse to pay the fines resulting from the application of this law and all fines that violate our human rights.”<sup>111</sup> Additionally, in June, more than 50 nongovernmental organizations and media outlets signed a petition addressed to the National Assembly, the Council of State, the Supreme Court, the Office of the Attorney General, and the President of the Republic asking them to declare Decree-Law 370 unconstitutional.<sup>112</sup> The signers urged the actors in the international community, governments, civil society, and international human rights organizations to demand that the Cuban government immediately halt online surveillance of those who express their opinions on social media or other media and stop persecuting journalists and human rights activists.

73. In this context, on March 17, in a press release, the Office of the Special Rapporteur condemned the increase in criminalization of and harassment against journalists, activists, and artists exercising their freedom of expression in Cuba and urged the State to immediately release all those detained for exercising their rights to opinion and expression. It also reminded the State that the use of criminal law as a mechanism to persecute those who express opinions, information, or criticism of government authorities or policies and on matters in the public interest produces a chilling effect that limits freedom of expression.<sup>113</sup> Likewise, on April 25, the IACHR and its Office of the Special Rapporteur condemned the use of Decree-Law 370 to punish journalists and activists for reporting or raising questions on the responses to COVID-19 over the Internet. They recalled that imposing sanctions for expressing criticism or disseminating information of public interest using vague definitions is not compatible with international human rights obligations or with the values of a democratic State.<sup>114</sup>

74. The Office of the Special Rapporteur notes that health professionals have also been victims of persecution and censorship by the State in retaliation for their posts on social media. For example, on May 20, Cuban nurse Pedro Ariel García Rodríguez reported having been forced to resign from the National Oncological and Radiological Institute after refusing to take down his Facebook

<sup>110</sup> *Infobae*, [Detenciones arbitrarias en Cuba: las fuerzas del régimen arrestaron ilegalmente a un grupo de artistas](#), November 14, 2020; *Cultura Democrática*, [Ola de detenciones arbitrarias y violencia policial a artistas en Cuba](#), November 14, 2020; *Periódico Cubano*, [Opositores de Cuba viven fuerte oleada represiva](#), November 16, 2020.

<sup>111</sup> *Diario Las Américas*, [Cuba y su esfuerzo de banalizar a periodistas independientes](#), April 20, 2020; *Cubanet*, [Periodistas, artistas y activistas cubanos se unen contra el Decreto-Ley 370](#), April 20, 2020; *Radio Televisión Martí*, [Cubanos exigen derogación de decreto bautizado como "Ley Azote"](#), April 20, 2020.

<sup>112</sup> *IFEX*, [Apoyo internacional a la petición para declarar inconstitucional el Decreto Ley 370 en Cuba](#), June 15, 2020. Also see: Freedom House, [Cuba: Statement against the application of Decree Law 370](#), May 6, 2020.

<sup>113</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression, Press release R55/20, [The Office of the Special Rapporteur for Freedom of Expression condemns increased criminalization and harassment of journalists, activists, and artists who exercise freedom of expression in Cuba](#), March 17, 2020.

<sup>114</sup> IACHR [@CIDH]. (April 25, 2020). #Cuba @CIDH y @RELE\_CIDH condenan uso de DecretoLey 370 que sanciona por informar o cuestionar en Internet respuestas a #COVID-19. Cerca de 20 periodistas y activistas recibieron multa o advertencia por expresiones contrarias al interés social o integridad de las personas. [Tweet]. Twitter. <https://twitter.com/CIDH/status/1254037937211297792?s=20>.

posts. Several days later, he was summonsed by agents of the regime and the assistant director of the hospital, who warned him that they were following his posts on social media.<sup>115</sup> Additionally, on May 29, Dr. Ramón Zamora was detained by State Security and taken into the police station known as El Anillo, where he was interrogated and threatened with application of Decree-Law 370 for “posting false information against the government.” According to the information available, his detention was related to social media posts about an outbreak of human rabies that caused the death of three people in the municipality of Mayarí.<sup>116</sup>

75. The Office of the Special Rapporteur recalls that both the Universal Declaration of Human Rights and the American Declaration of the Rights and Duties of Man, as well as Article 19 of the International Covenant on Civil and Political Rights, signed by Cuba on February 28, 2008, protect journalism work, artistic work, and the defense of human rights. Therefore, those expressing themselves legitimately must not be pressured on how to do their work, cover, and/or disseminate facts in the public interest.

**c. Internet Access and Freedom of Expression**

76. As the Office of the Special Rapporteur mentioned in its 2018 special report on the state of freedom of expression in Cuba, and according to the 2020 report on the situation of human rights in Cuba, if anything has changed recently in the area of freedom of expression, it has been fundamentally due to the slow and gradual spread of communication technologies which, even with severe restrictions, have become particularly important on the island. In recent years, the use of Internet and the development of digital media have made it possible for spaces to open up for the circulation of information and ideas beyond government control. Thanks to those technologies, in recent years, an increasing number of journalists have set up digital media outside the official discourse and State control to disseminate their work, as well as to promote the exchange of information and opinions.<sup>117</sup>

77. The Office of the Special Rapporteur observes that State moves to block the Internet are one of the most frequent violations of freedom of expression. During 2020, this problem became more relevant due to measures of social distancing and/or isolation that forced citizens to perform a significant portion of their daily activities virtually.

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<sup>115</sup> *Cubanet*, [Expulsan a enfermero de hospital en La Habana por “contrarrevolución”](#), May 21, 2020; *14 y medio*, ["Aquí tienes que estar de un lado de la cerca o del otro"](#), May 22, 2020; *Radio Televisión Martí*, [Enfermero cubano afirma que lo expulsaron del trabajo por decir lo que piensa \(VIDEO\)](#), May 21, 2020.

<sup>116</sup> *Radio Televisión Martí*, [Interrogan y hackean Facebook de médico que publicó sobre muertes por rabia en Mayarí](#), May 28, 2020; *Cubanet*, [Amenazan a médico que compartió información sobre brote de rabia](#), May 29, 2020; *Cibercuba*, [Arrestan a médico cubano que informó de muertes por rabia en Mayarí](#), May 29, 2020.

<sup>117</sup> IACHR, [Special Report on the Situation of Freedom of Expression in Mexico](#). OEA/SER.L/V/II CIDH/RELE/INF.21/18, December 31, 2018, para. 197; IACHR, [The Situation of Human Rights in Cuba](#). OEA/SER.L/V/II. Doc. 2. February 3, 2020, para. 219.

78. Over the course of the year, multiple opposition leaders, artists, journalists, and activists reported theft of their mobile data balances;<sup>118</sup> blockages of certain websites;<sup>119</sup> suspensions, cuts, and interference;<sup>120</sup> high fees and poor service quality;<sup>121</sup> problems with connectivity in certain geographical areas;<sup>122</sup> and hacking of activists' social media accounts.<sup>123</sup> According to the information obtained, these types of problems arise particularly during social mobilizations, protests, and activities organized by independent or opposition activists.<sup>124</sup>

79. Likewise, in October, the Office of the Special Rapporteur learned of alleged blockages of the instant messaging service Telegram. In a communication issued over Twitter, the company stated that its users in Cuba were reporting connection problems that were preventing them from using the application normally. "We are monitoring the situation but the problem is not ours. We hope that the provider responsible for this issue is able to provide a solution as quickly as possible," the company stated.<sup>125</sup> Cuban users reacted to the cuts with the hashtag #NiMeCallasNiMeCallo (you won't shut me up and I won't shut up) in protest to demand an end to the blocking of Telegram.<sup>126</sup>

<sup>118</sup> *Cubamet*, [Denuncian complicidad de ETECSA en hackeos de cuentas de Internet](#), April 21, 2020; *Heraldo de Cuba*, [Complicidad De ETECSA En Hackeos De Cuentas De Internet](#), April 21, 2020; *Periódico Cubano*, [Periodista independiente Rolando Rodríguez Lobaina acusa a ETECSA de ser cómplice de hostigamiento](#), April 21, 2020; *Cubamet*, [Denuncian que ETECSA roba datos móviles a Tania Bruguera](#), May 7, 2020; *Cibercuba*, [ETECSA ofrece explicaciones tras numerosas denuncias de robo de saldo y datos](#), May 29, 2020.

<sup>119</sup> *Cibercuba*, [Gobierno cubano arrecia la censura contra CiberCuba en servidores de la isla](#), June 2, 2020; *ADN Cuba*, [Denuncian en Cuba bloqueo de la plataforma de peticiones Avaaz](#), May 7, 2020.

<sup>120</sup> *Cibercuba*, [José Daniel Ferrer denuncia que el régimen cubano le quitó internet: "¿Por qué le temen tanto a la información?"](#), May 1, 2020; *ADN Cuba*, [Régimen cubano corta acceso a internet a José Daniel Ferrer](#), May 1, 2020; *Cibercuba*, [ETECSA impide que Pedrito el Paketero haga sus videos en vivo](#), May 24, 2020; *Cibercuba*, [Quitan Internet a periodista de CiberCuba Iliana Hernández horas antes de protesta pacífica](#), June 30, 2020; *Cibercuba*, [Periodistas, profesores y activistas cubanos se quedan sin datos de Internet el día de la protesta pacífica](#), June 30, 2020; *Radio Televisión Martí*, [ETECSA corta Internet y restringe llamadas en el día de las protestas](#), June 30, 2020; *ADN Cuba*, [Periodista Mónica Baró denuncia que Etecsa suspendió su servicio de Internet](#), July 20, 2020; *Cibercuba*, [Periodistas independientes en Cuba denuncian vigilancia de la Seguridad del Estado y corte de datos móviles](#), July 20, 2020; *Cibercuba*, [Periodista Roberto Quiñones denuncia que el régimen cubano le bloquea Internet](#), October 29, 2020.

<sup>121</sup> *Cubamet*, ["Bajen los precios de Internet": tuitazo contra ETECSA el próximo fin de semana](#), May 27, 2020; *Cibercuba*, [Convocan campaña para exigir a ETECSA que baje los precios de internet](#), May 29, 2020; *Cibercuba*, [Cubanos inician tuitazo de 3 días para exigir a ETECSA que baje los precios de internet](#), May 30, 2020; *El País*, [Cuba: más conectada y más aislada](#), July 9, 2020.

<sup>122</sup> *Radio Televisión Martí*, [Internet desde "zonas de silencio" en Cuba, un lujo que pocos se pueden dar](#), May 3, 2020.

<sup>123</sup> *Cibercuba*, [ETECSA deja sin internet a activista cubano en primer aniversario de marcha reprimida por el régimen](#), May 11, 2020.

<sup>124</sup> *Radio Televisión Martí*, [ETECSA corta Internet y restringe llamadas en el día de las protestas](#), June 30, 2020; *Cibercuba*, [Iliana Hernández reclama a ETECSA por cortes en los servicios de internet](#), July 1, 2020; *IFEX*, [Organizaciones denuncian numerosas detenciones arbitrarias, restricciones y cortes del servicio de internet para evitar manifestaciones contra la violencia policial en Cuba](#), July 1, 2020.

<sup>125</sup> *Infobae*, [Telegram, fuera de servicio en Cuba por más de 24 horas](#), October 15, 2020; *Cibercuba*, [Gobierno de Cuba bloquea la app Telegram](#), October 15; *Periódico Cubano*, [ETECSA bloquea el acceso a Telegram desde Cuba](#), October 15, 2020; *Diario de Cuba*, [Numerosos usuarios reclaman a ETECSA por el bloqueo de Telegram en Cuba](#), October 15, 2020.

<sup>126</sup> *Cibercuba*, [Cubanos se unen contra la censura y exigen desbloqueo de Telegram y las VPN: #NiMeCallasNiMeCallo](#), October 17, 2020; *Cibercuba*, [Internautas reaccionan a golpe de memes contra censura de Telegram en Cuba](#), October 17, 2020; *14 y medio*, [Bloqueado por segunda vez Telegram en Cuba a pesar de la ola de denuncias](#), October 18, 2020.

80. With regard to the high costs of Internet service, a report from the Alianza Regional por la Libre Expresión e Información and the Observatorio Cubano de Derechos Humanos indicates that there is broad consensus regarding the price paid in Cuba for Internet access. According to the document, considering the monthly minimum wage established by the Cuban government as of mid-2019 stood at \$16, 1 GB of data was equivalent to 80% of the monthly minimum wage.<sup>127</sup>

81. The Office of the Special Rapporteur recalls that in a 2011 joint declaration on freedom of expression and the Internet, the special rapporteurs from the UN, the OSCE, the IACHR, and the ACHPR stated that "Giving effect to the right to freedom of expression imposes an obligation on States to promote universal access to the Internet. Access to the Internet is also necessary to promote respect for other rights, such as the rights to education, health care and work, the right to assembly and association, and the right to free elections." Likewise, they recalled that "mandatory blocking of entire websites, IP addresses, ports, network protocols or types of uses (such as social networking) is an extreme measure – analogous to banning a newspaper or broadcaster – which can only be justified in accordance with international standards."<sup>128</sup>

## 2. Human Rights Defenders

82. With regard to the human rights of human rights defenders in Cuba, the IACHR observes that during 2020, the situation did not change substantially compared to previous years. In this regard, according to the information received and the monitoring conducted by this Commission, those who defend human rights in the country continue to face acts of harassment and arbitrary violations of the right of free movement, liberty, security and personal integrity and the guarantees of due process and judicial protection, among other ones.

83. The Commission has consistently granted precautionary measures in favor of human rights defenders in Cuba whose lives and wellbeing are at risk. In 2020, the IACHR saw a significant increase in the number of precautionary measures granted to protect human rights defenders.<sup>129</sup>

84. With regard to the acts of harassment, the Commission received information on the specific situation of Nancy Alfaya, one of the founders of the Ladies in White and an activist. She had been subjected to a number of acts of harassment at the hands of State authorities, including being prevented from traveling since 2018; threats of legal action on considering her "rebellious;" and several arbitrary detentions. The Commission particularly noted the situation of risk facing Ms. Alfaya due to her status as a woman human rights defender due to gender stereotypes, historical discrimination, and prejudice with regard to how women should act or the roles they are required to play in society.<sup>130</sup>

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<sup>127</sup> Alianza Regional por la Libre Expresión and Observatorio Cubano de Derechos Humanos. [Informe sombra sobre la evolución de los compromisos asumidos. Examen periódico universal \(EPU\) de Cuba](#). October 2020.

<sup>128</sup> The United Nations (UN) Special Rapporteur on Freedom of Opinion and Expression, the Organization for Security and Cooperation in Europe (OSCE) Representative on Freedom of the Media, the Organization of American States (OAS) Special Rapporteur on Freedom of Expression and the African Commission on Human and Peoples' Rights (ACHPR) Special Rapporteur on Freedom of Expression and Access to Information. [Joint Declaration on Freedom of Expression and the Internet](#), June 1, 2011.

<sup>129</sup> IACHR, PM No. 1116-19 Nancy Alfaya and her husband, Jorge Olivera, regarding Cuba, February 5, 2020; IACHR, PM No. 3-20 María Elena Mir Marrero regarding Cuba, February 5, 2020; IACHR, PM No. 1077-19 Roilan Zárraga Ferrer *et al.* regarding Cuba, February 13, 2020; IACHR, PM No. 799-20 Maikel Herrera Bones regarding Cuba, October 14, 2020.

<sup>130</sup> IACHR, [PM No. 1116-19 Nancy Alfaya and her husband, Jorge Olivera, regarding Cuba](#), February 5, 2020.

85. The Commission also received information on the persistent use of arbitrary detentions as a method of harassment by the police and State security agents. In this regard, the Commission granted precautionary measures to the benefits of María Elena Mir Marrero, the national coordinator of the Red de Líderes y Lideresas Comunitarios (RELLIC), who was arbitrarily detained on her way to the airport, thus preventing her from leaving the country. At the same time, her home was searched for no clear reason. According to the information submitted to the IACHR, during both her detention and the search of her home, Ms. Mir was beaten by the police.<sup>131</sup>

86. The Commission has found that human rights defenders in Cuba are consistently and arbitrarily deprived of liberty for certain criminal offenses—such as disrespecting public officials, assault, and public disorder—and are often subjected to aggressions, threats, and abuse within prisons.<sup>132</sup> In this regard, the Commission has indicated that the arbitrary detention of human rights defenders places them in a situation of vulnerability and creates a real and imminent risk that other rights will be violated to their detriment.<sup>133</sup>

87. During 2020, the Commission was also informed of processes to criminalize human rights defenders in Cuba. In this regard, the Commission learned of the specific case of Niober García Fournier, a human rights defender and activist, who was summonsed to the headquarters of the National Revolutionary Police in Guantánamo, where he was issued a warning for crimes of "incitement to criminality and defamation of institutions, organizations, and heroes of the Republic." Later, on April 15, 2020, he was summonsed to the Criminal Investigation Unit in Guantánamo, where he was fined 3000 Cuban pesos, supposedly for "publishing the truth about Cuba on social media," in violation of Decree-Law 370, "which limits online publications that the regime considers to be subversive."<sup>134</sup>

88. Likewise, the Commission observed that in the context of the COVID-19 pandemic, the measures implemented by the State have been used to prevent or punish criticism of the State. Thus, at least 34 cases have been documented of human rights defenders, social leaders, and activists directly affected by the application of rules related to the pandemic.<sup>135</sup> Similarly, according to public information, Decree-Law 370 on the digitalization of society in Cuba, in force since July 2019, has been used by the police to repress journalists, activists, and members of civil society using the pandemic as the rationale. The information indicates that at least 30 people have been subjected to interrogations, threats, and confiscation of work equipment for disseminating their opinions on social media. Likewise, about 20 people have been the victims of the imposition of fines of 3000 pesos (\$120), an amount that is triple the monthly minimum wage. The information highlights that failure to pay the fines is a crime punished with six months in prison, leading to the imprisonment of seven social leaders.<sup>136</sup>

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<sup>131</sup> IACHR, [Resolution 13/2020](#), Precautionary Measure No. 3-20 María Elena Mir Marrero regarding Cuba, February 5, 2020.

<sup>132</sup> IACHR, [Special Report on the Situation of Freedom of Expression in Cuba](#), OEA/SER.L/V/II, CIDH/RELE/INF.21/18, December 31, 2018, Original: Spanish para. 136.

<sup>133</sup> IACHR, [Report on the Situation of Human Rights in Cuba](#), OEA/Ser.L/V/II. Doc. 2. February 3, 2020, para. 186.

<sup>134</sup> IACHR, [Resolution 96/2020](#), Precautionary Measure No. 1043-20, Niober García Fournier and his immediate family regarding Cuba, December 18, 2020.

<sup>135</sup> Human Rights Watch, [Cuba: Covid-19 Rules Used to Intensify Repression](#), December 7, 2020.

<sup>136</sup> DDC, [Casi 50 organizaciones de derechos humanos y medios independientes repudian la aplicación del Decreto-Ley 370 en Cuba](#), May 6, 2020.

89. The IACHR recalls that the principal aim of imposing fines or other penalties on the work of human rights defenders and depriving them of their liberty is to criminalize their activities in promoting and defending human rights, as well as deterring them from continuing to advance their causes.<sup>137</sup> Likewise, the Commission reiterates that the organs of the inter-American system have indicated that reprisals against human rights defenders have a multiplier effect that goes beyond the person of the defender. When an assault is committed in retaliation for a defender's actions, it produces an effect of intimidation on those defending similar causes.<sup>138</sup>

90. Additionally, the Commission has received information on maneuvers intended to suppress the right to protest. Thus, several activists, opposition figures, and independent journalists reported detentions, homes surrounded, and cuts to Internet service, mainly in Havana, on October 31, 2020, the day on which a protest had been scheduled in that city. Additionally, the detention of three activists who were on their way to the protest was reported.<sup>139</sup>

91. Consequently, the Inter-American Commission concludes that the situation of human rights defenders remains concerning. The IACHR reiterates the importance of the right to defend human rights and the irreplaceable role of human rights defenders in guaranteeing the rule of law and building a solid and lasting democratic society.<sup>140</sup> The IACHR therefore reiterates its call for the State to adopt effective measures to guarantee and protect the rights of human rights defenders, activists, journalists, and other social leaders. The IACHR reminds the State of its obligation to prevent threats, assaults and harassment against these groups, and take the necessary measures to safeguard and bring about the conditions to make it possible for them to practice their profession.

### **3. LGBTI Persons**

92. Regarding the human rights situation of lesbian, gay, bisexual, trans and gender-diverse, and intersex (LGBTI) persons, the Commission observes that obstacles to the exercise of the right to gender identity persists, as does the failure to recognize the right to marriage equality, which is to be subjected to a popular consultation process. Additionally, the IACHR continues to note with concern the lack of standardized and disaggregated State data on violence and discrimination that, according to information produced by civil society, continues to affect LGBTI persons and those who defend their rights in the country.

93. Regarding the persistence of pathologizing requirements in civil registry legislation that constitute obstacles to the legal recognition of the gender identities of trans and gender-diverse persons, the IACHR notes that article 294.4 of the Civil Registry Regulations requires a medical diagnosis to update the registry. The IACHR recalls the international duty that States have to adopt gender identity laws that recognize the right of trans and gender-diverse persons to change their name, their image, and the “sex” or “gender” marker on birth certificates, identity documents, and

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<sup>137</sup> IACHR, [Report on the Situation of Human Rights in Cuba](#), OEA/Ser.L/V/II. Doc. 2. February 3, 2020, para. 193.

<sup>138</sup> IACHR, [Follow-up Report on the Situation of Human Rights Defenders in the Americas](#). OEA/SER.L/V/II/Doc.66, approved on December 31, 2011, para. 25.

<sup>139</sup> DDC, [Detenciones y cercos policiales en el día señalado por una convocatoria de protesta en Cuba](#), December 31, 2020.

<sup>140</sup> IACHR, [Criminalization of the Work of Human Rights Defenders](#), OEA/Ser.L/V/II, Doc. 49/15, December 31, 2015, para. 22; IACHR, Press Release 288/19, [IACHR and UN Human Rights Presences Once Again Call for the Creation of a Safe, Favorable Environment for Human Rights Defenders in the Americas](#), November 7, 2019.

other legal documents, without pathologizing requirements, such as medical certifications or requiring surgical procedures.

94. Additionally, since the publication of its country report, the IACHR has monitored the status of the popular consultation process and referendum of the draft Family Code, which, according to the information received during 2020, has once again been postponed by the National Assembly of the People's Power to 2021.<sup>141</sup> The Commission once again expresses concern at the possibility of a human right like marriage equality being subjected to a mechanism of popular consultation. Along these lines, the IACHR called on the State to take all measures necessary to legally recognize unions or marriage of persons of the same sex, granting them the same rights conferred to couples of different sexes, including property rights and all other rights that derive from the relationship, without distinction based on sexual orientation or gender identity, under penalty of violating the rights to equality and nondiscrimination.

95. The Commission also notes the lack of standardized and disaggregated official information on discrimination and violence against LGBTI persons in Cuba. In this regard, the IACHR recalls that States must make efforts and allocate sufficient resources to systematically collect and analyze statistics on the prevalence and nature of the violence and discrimination based on prejudice against LGBTI persons or those perceived as such.<sup>142</sup>

96. The Commission has also taken note of public information indicating a number of incidents of violence, discrimination, and restrictions to LGBTI persons' rights to assembly and association, as well as the actions taken to impede the freedom of expression and dissemination of thought of LGBTI persons or those perceived as such. Among other incidents, the Commission highlights the murder of theater producer René Armando<sup>143</sup> and the threats and attacks against human rights defenders like Elaine Saralegui Caraballo,<sup>144</sup> Ruhama Fernández,<sup>145</sup> Adiel González Maimó,<sup>146</sup> Jancel Moreno,<sup>147</sup> and Osmel Adrián Rubio Santos.<sup>148</sup> Of particular concern to the Commission are the acts committed against LGBTI persons or persons perceived as such who are associated with the Movimiento San Isidro or 27N. According to public information, LGBTI persons

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<sup>141</sup> *The Washington Post*, [Plebiscitar el matrimonio gay en Cuba es anticonstitucional](#), August 4, 2020.

<sup>142</sup> IACHR, [Violence against Lesbian, Gay, Bisexual, Trans and Intersex Persons in the Americas](#), 2015; and IACHR, [Progress on and challenges to recognizing the rights of LGBTI persons in the Americas](#), 2018.

<sup>143</sup> *Cibercuba*, [Policía cubana investiga muerte del productor teatral René Pita en La Habana](#), November 16, 2020.

<sup>144</sup> *Cibercuba*, [Denuncian amenazas a pastora cubana y activistas por defender comunidad LGBTI](#), September 27, 2020; and *Diario de Cuba*, [Iglesias cristianas critican que la televisión oficial cubana 'exponga una sola visión y silencie otras opiniones'](#), September 28, 2020.

<sup>145</sup> *ADN Cuba*, [Policía política asedia a Ruhama Fernández en Santiago de Cuba](#), October 14, 2020.

<sup>146</sup> *Cibercuba*, [Denuncian amenazas a pastora cubana y activistas por defender comunidad LGBTI](#), September 27, 2020.

<sup>147</sup> *Diario de Cuba*, [EL ICRT se disculpa por censurar un beso gay, pero la comunidad LGBTIQ convoca a una protesta](#), March 1, 2020; *ADN Cuba*, ["No harán que me quede callado": activista Jancel Moreno denuncia amenazas por criticar al régimen](#), October 18, 2020; and *Periódico Cubano*, [Amenazan a activista LGBTI cubano con divulgar fotos íntimas por criticar al Gobierno](#), October 19, 2020.

<sup>148</sup> *Washington Blade*, [Gay man who participated in Cuba protest movement arrested](#), December 15, 2020; and *ADN Cuba*, [Régimen detiene al joven activista y objetor de conciencia Osmel Adrián Rubio](#), December 21, 2020.

who are part of this movement have been subjected to continual surveillance by State agents, arbitrary detentions, house arrest, and other situations.<sup>149</sup>

97. Along these lines, the Commission reminds the State of Cuba of its obligation to guarantee protection of LGBTI persons and address the underlying causes of violence and discrimination against them, and its obligation to act with due diligence to prevent, investigate, try, punish, and provide reparations for human rights violations against LGBTI persons.<sup>150</sup>

98. Additionally, the Commission takes note of the censorship of—according to publicly-available information—a scene depicting a kiss between two men, apparently by the Cuban Radio and Television Institute. Regarding this, the IACHR’s Office of the Special Rapporteur for Freedom of Expression has indicated that this kind of expression enjoys a special level of protection under inter-American instruments because it conveys an integral element of personal identity and dignity.<sup>151</sup> The IACHR therefore reiterates that States have a duty to implement the measures necessary to ensure that people can exercise their right to freedom of expression without discrimination.<sup>152</sup>

99. Additionally, the IACHR takes note of the different initiatives promoted by the National Center on Sexuality Education (CENESEX) to promote respect for diversity in the different areas of social life in Cuba, including family, as well as comprehensive sex education and the elimination of stigmatization, stereotypes, and discrimination against LGBTI persons or persons perceived as such. From among these initiatives, the IACHR highlights the panel "Cuban Families and Diversity;" the Seventh Workshop on Sexualities, Violence, and Human Rights; the trainings to build capacity among lesbian and bisexual women against gender violence; and workshops to empower trans-persons, among others.<sup>153</sup> The Commission reiterates that these training and cultural change initiatives carried out on diversity and the rights of LGBTI persons are consistent with inter-American obligations in the area of equality and nondiscrimination, and therefore urges the State to continue its efforts to eradicate violence and prejudice in society through education.

100. Without prejudice to this, the IACHR has learned of reports from civil society organizations that work on the rights of LGBTI persons indicating that CENESEX leadership, in their capacity as representatives of a State institution and through public statements, has rejected independent activism and human rights defense, calling human rights defenders “little ticks,” thus having a dissuasive effect on independent civil society.<sup>154</sup> Regarding this, the Commission calls on the State to avoid stigmatizing, persecuting, and criminalizing activists and independent human rights

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<sup>149</sup> Amnesty International, Cuba: San Isidro movement and allies under frightening levels of surveillance, December 12, 2020; Washington Blade, Gay man who participated in Cuba protest movement arrested, December 15, 2020; and *ADN Cuba*, Régimen detiene al joven activista y objetor de conciencia Osmel Adrián Rubio, December 21, 2020.

<sup>150</sup> IACHR, Violence against Lesbian, Gay, Bisexual, Trans and Intersex Persons in the Americas, 2015; and IACHR, Progress on and challenges to recognizing the rights of LGBTI persons in the Americas, 2018.

<sup>151</sup> IACHR, Annual Report of the Office of the Special Rapporteur for Freedom of Expression, December 30, 2009, paras. 54-57.

<sup>152</sup> IACHR, Violence against Lesbian, Gay, Bisexual, Trans and Intersex Persons in the Americas, 2015, Recommendation 42.

<sup>153</sup> According to the information available on the official CENESEX website: <https://www.facebook.com/cenesex/>, accessed on January 7, 2021.

<sup>154</sup> *Washington Blade*, Mariela Castro’s ‘little ticks’, May 9, 2020.

defenders working to protect the rights of LGBTI persons, and to guarantee human rights defense work.

101. Lastly, the Commission welcomes the Ministry of Justice recognizing the parenthood of two mothers—who are a couple—of their son, recording it in the corresponding civil registry.<sup>155</sup> It calls on the State to establish regulations for the procedures so that in the future, same-sex couples do not have to undergo a process through the ministry to determine their rights.

#### 4. Rights of women

102. With regard to the situation of the human rights of women, the Commission reiterates its concern at the lack of legislation recognizing and codifying as a criminal offense discrimination and violence against women. This is in a context characterized by acts of violence reported by civil society, including femicides. The Commission has also been informed of a lack of access to justice with a gender perspective, which has an impact on the human rights of the survivors and family members of the victims of femicidal violence. The IACHR also highlights the lack of official information that would foster understanding of the phenomenon of violence and discrimination against women.

103. With regard to the lack of legislation providing a general definition for discrimination against women, the Commission underscores the calls made by a number of civil society organizations that work on the rights of women for the National Assembly to schedule debate and passage of the Comprehensive Gender-based Violence Act.<sup>156</sup> Despite calls made repeatedly by civil society and international organizations to legislate in this regard, the IACHR notes that discussion of this bill has not been placed on the Parliamentary agenda, which extends up until 2022.<sup>157</sup>

104. Regarding the lack of specific legislation on violence and discrimination against women, the Commission urges the State to adopt measures in this regard that take into account the close relationship between the right of women to live a life free from violence and the right to equal protection and nondiscrimination, which are the foundation of the international legal system. In this regard, the Commission highlights, as it did in its 2020 report, that Cuba is still not party to the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (Convention of Belém do Pará), which is the principle inter-American instrument to defend and guarantee women’s rights in the region, gives the IACHR the authority to receive individual petitions on the basis of its provisions, and requires states parties to submit follow-up reports to regional bodies.<sup>158</sup> In this sense, it reiterates its call to sign and ratify this international instrument.

105. The Commission also highlights that the State does not have consolidated, up-to-date, and properly disaggregated information produced by State agencies that would enable a comprehensive analysis of the phenomenon of gender-based violence against women in the country.

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<sup>155</sup> Medium, [Estado cubano reconoce legalmente que Paulo tiene dos madres](#), June 19, 2020.

<sup>156</sup> *Diario de Cuba*, [No será mágica, pero sí es urgente: Ley Integral contra la Violencia de Género en Cuba](#), December 7, 2020.

<sup>157</sup> *Diario de Cuba*, [Con al menos 32 mujeres fallecidas a causa de la violencia machista cierra 2020 en Cuba](#), December 7, 2020.

<sup>158</sup> OAS, Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women “Convention of Belém do Pará,” Treaty Information, updated as of December 10, 2018; and IACHR, [Situation of Human Rights in Cuba](#), 2020 para. 311.

In this regard, human rights activist Marthadela Tamayo has indicated that “updates to the data on cases of femicide (...) are publicized thanks only to independent media.”<sup>159</sup> The IACHR notes that the lack of disaggregated data conceals discrimination and violence against women, but it also makes it impossible to analyze factors of vulnerability such as ethnic and racial origin, sexual orientation, or gender identity and contributes to the perpetuation of impunity for these crimes in a context of deeply rooted discriminatory gender-based stereotypes and structural discrimination against women.

106. Despite the absence of data from State sources, the Commission takes note of the information collected by civil society organizations, including the Observatorio de Femicidios en Cuba, which indicates that during 2020, more than 30 femicides were reported in the country, including 3 child femicides. The IACHR observes that while the measures to contain the COVID-19 pandemic were in place between March and October 2020, 17 femicides were reported.<sup>160</sup> According to the information available, in most cases, the perpetrator is the victim’s partner former partner, and the majority of victims were between the ages of 15 and 35.<sup>161</sup>

107. The Commission calls on the State to take decisive action to address violence against women, girls, and adolescents. It also notes and welcomes reported efforts to issue guides and hotlines specifically for helping survivors of gender-based violence, prepared by a multidisciplinary team from Cuban State institutions and bodies including the National Center on Sexuality Education (CENESEX), the Office of the Attorney General of the Republic, Universidad de La Habana, the National Revolutionary Police, and the Federation of Cuban Women, among other actors.<sup>162</sup>

108. The IACHR has also learned that the personnel in charge of administration of justice are not specifically trained to support survivors in processing their complaints. Instead, victims are subjected to a process that is revictimizing. The information available even indicates that national police officers have committed crimes of violence against women, ranging from political persecution to street harassment and sexual abuse.<sup>163</sup> In this regard, the Commission calls on the State to continue its training efforts on the rights of women and gender perspective that have been reported within the Ministry of Interior Affairs.<sup>164</sup>

109. Lastly, the IACHR welcomes the progress made by the Cuban State with regard to the rights of women, including the approval of the National Program for the Advancement of Women in Cuba by the Council of Ministers in October 2020.<sup>165</sup> According to publicly available information, the purpose of this plan is to promote the advancement of women and equality of rights, opportunities, and possibilities; go into depth on the objective and subjective factors that pose

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<sup>159</sup> *Diario de Cuba*, [Entre el escepticismo y la esperanza, plataformas femeninas ante los planes oficiales para la mujer cubana](#), November 13, 2020.

<sup>160</sup> Distintas Latitudes, [Investigación apoyada por el Fondo Howard G. Buffet para Mujeres Periodistas de la International Women’s Media Foundation, Violentadas en Cuarentena](#), visited on January 8, 2021.

<sup>161</sup> Observatorio de Femicidios, [Yo Sí Te Creo en Cuba](#), visited on January 8, 2021.

<sup>162</sup> Distintas Latitudes, [Investigación apoyada por el Fondo Howard G. Buffet para Mujeres Periodistas de la International Women’s Media Foundation, Violentadas en Cuarentena](#), visited on January 8, 2021.

<sup>163</sup> *ADN Cuba*, [Así reprimen a las mujeres cubanas](#), August 3, 2020.

<sup>164</sup> Cuban Parliament, [confronting gender-based violence: A priority for the Cuban State](#), October 12, 2020.

<sup>165</sup> *Diario de Cuba*, [Entre el escepticismo y la esperanza, plataformas femeninas ante los planes oficiales para la mujer cubana](#), November 13, 2020.

obstacles to "better economic, political, social, and family results;" and adopt a cross-cutting gender approach in teaching plans and curricula in all forms and at all educational levels.<sup>166</sup> The Commission views positively the adoption of this program, which has the potential to contribute to eradicating the structural causes of inequality that impact the human rights of women in Cuba. However, in view of reports that the program does not offer an opportunity for independent civil society organizations to participate,<sup>167</sup> the IACHR calls on the authorities to launch dialogue processes with these organizations and guarantee interaction with civil society in all its plurality during the implementation of the program, taking into account their desire to collaborate and the specific capacities that civil society organizations have developed with regard to the rights of women.

## 5. Persons of African descent

110. As regards the rights of persons of African descent in Cuba, the IACHR continues to receive information on cases of persecution and harassment of persons of African descent who are human rights defenders, as well as acts of police violence and gender-based violence that could be discriminatory from an ethnic-racial perspective. Furthermore, the Commission has received information on a lack of programs intended to compile disaggregated statistics on this population, as well as reports indicating a failure to execute the National Program against Racism and Racial Discrimination.

111. First of all, the IACHR has taken note of reports of persecution and harassment of persons of African descent, and particularly of those who defend human rights. It has also noted interference with the activities of organizations that work on behalf of the rights of the Afro-descendant population and against racial discrimination. In this regard, it highlights the reports of illegal detentions of persons of African descent, including Juan Madrazo Luna, Luis Oleidy Machado Reinoso, Aimara Nieto Muñoz, Martha Sánchez González, Keilyly de la Mora Valle, Denis Solís, and Silverio Portal Contreras, who is the beneficiary of precautionary measures granted on July 18, 2020, by the IACHR in view of the grave and urgent risk of irreparable harm to his rights in the context of his deprivation of liberty in Cuba.<sup>168</sup> The Commission determined the situation to be grave and urgent following an analysis of information on, among other aspect, the conditions of his detention, including the prohibition on making phone calls, and aggressions that caused him to lose sight in one eye. It also noted the poor management of his health following transient ischemic attacks, all based on information provided by civil society organizations.<sup>169</sup>

112. The Commission also took note of the denial of permits requested by Comité Ciudadanos por la Integración Racial (CIR) to take part in activities planned for 2020 as part of the Forum on Race, Gender, Culture, and Community.<sup>170</sup> In this regard, the IACHR reiterates its call for the State to adopt effective measures to prevent and combat the stigmatization and criminalization of

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<sup>166</sup> *Diario de Cuba*, [Entre el escepticismo y la esperanza, plataformas femeninas ante los planes oficiales para la mujer cubana](#), November 13, 2020.

<sup>167</sup> *Diario de Cuba*, [Díaz-Canel reclama que 'cada quien haga las cosas bien' durante la aprobación de cinco políticas y programas](#), November 6, 2020.

<sup>168</sup> IACHR, Resolution 39-20, [Precautionary Measures 530-20](#), July 18, 2020.

<sup>169</sup> Information provided to the IACHR by Race and Equity in a request for thematic hearing on July 21, 2020, available in the IACHR's internal digital archive.

<sup>170</sup> *Diario de Cuba*, [¿Un programa oficial contra el racismo en Cuba o contra las voces que lo denuncian?](#), November 10, 2020.

human rights defenders, in particular when said stigmatization or criminalization may be of a discriminatory nature from an ethno-racial standpoint.

113. Similarly, in the context of the COVID-19 pandemic, women of African descent were exposed to police harassment and high rates of domestic violence and femicide. In this regard, the Commission was informed of the police persecution of Kirenia Yalit Núñez Pérez and María de los Ángeles Matienzo Puerto, who were prevented from participating in demonstrations over the murder of Hansel Hernández; under similar circumstances, Juan Antonio Madrazo Lama, Osvaldo Navarro Veloz, Dunia Moreno, and Marthadela Tamayo had their movements restricted. The IACHR also received information on an act of violence committed in Holguín against a woman of African descent with a disability during an intervention that ended with at least 40 people detained.<sup>171</sup>

114. The Commission reiterates its concern at the lack of programs intended to compile statistics on this population that are disaggregated and broken down by gender, sexual orientation, and age. Similarly, the Commission expresses its concern at the absence of the mechanisms necessary to promote self-identification of the Afro-descendent population, especially, through the inclusion of the choice “Afro-descendance” on all public records and specifically on the population census and household surveys. In this regard, the State reiterates its recommendation to carry out sensitization campaigns for civil society and training for census workers, in order to create the necessary conditions to enable all Afro-descendants to be able to identify themselves as such.

115. Additionally, the IACHR welcomes the approval of the National Program against Racism and Racial Discrimination by the Council of Ministers in November 2019<sup>172</sup> with the aim of “fighting and definitively eliminating this scourge from Cuban society,” as well as diagnosing the causes behind racial discrimination and identifying possible actions for combating it, disseminating the historical-cultural African legacy in Cuba, and encouraging public debate on racial discrimination, among other objectives.<sup>173</sup> However, the Commission expresses concern at the lack of information on its effective implementation. In this regard, civil society organizations and human rights defenders have raised alarm at the lack of information on the specific content of this National Program and on concrete actions for its implementation.<sup>174</sup> In this regard, the Comité Ciudadanos por la Integración Racial (CIR) has indicated that “the Afro-descendant population is concerned at authorities’ silence on the discussion surrounding the race issue, especially the indifference toward what is happening.”<sup>175</sup> Similarly, a number of civil society organizations have asked the government to include the opinion of experts in the subjects to be able to give substance to a program whose content is for the most part unknown.<sup>176</sup> In this context, the Commission recalls that States must adopt and coordinate the legislative, legal, and institutional measures necessary to eliminate discrimination

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<sup>171</sup> *Cibercuba*, [Policía cubana arremete contra vecinos de Holguín y arresta al menos a 40 personas](#), October 3, 2020, and report presented to the IACHR by the Instituto Nacional de Estudios sobre las Interacciones Raciales y la Pedagogía Crítica (FORACi)

<sup>172</sup> *InterPress Noticias*, [Activismo resulta clave para éxito de programa cubano contra racismo](#), February 13, 2020.

<sup>173</sup> *Cuba Debate*, [Programa nacional contra el racismo y la discriminación racial: “Yo creo en el color cubano”](#), March 11, 2020.

<sup>174</sup> *Diario de Cuba*, [¿Un programa oficial contra el racismo en Cuba o contra las voces que lo denuncian?](#), November 10, 2020.

<sup>175</sup> *Diario de Cuba*, [Activistas cubanos piden al Gobierno permitir el debate sobre el racismo y la discriminación en el país](#), November 19, 2020.

<sup>176</sup> *InterPress Noticias*, [Activismo resulta clave para éxito de programa cubano contra racismo](#), February 13, 2020.

and racial stereotypes, effectively dedicating the human and financial resources necessary and guaranteeing effective execution of the programs formally adopted.<sup>177</sup>

## 6. Persons Deprived of Liberty

116. Regarding deprivation of liberty, the IACHR observes that deficiencies persist in detention conditions and violations of the human rights of persons deprived of liberty in Cuba, putting their lives and integrity at risk. Likewise, the IACHR reiterates the seriousness of the lack of official and up-to-date information on the situation of persons deprived of liberty in Cuba. The most recent official data were published in 2012 and indicated that there were 57,733 people being held in the country's prisons.<sup>178</sup> However, this figure contrasts sharply with the more than 90,000 people that civil society organizations counted detained in 2020.<sup>179</sup> Given the population of the country, according to the figures presented by civil society, Cuba has one of the highest per capita prison populations in the world. Approximately 794 persons are detained per 100,000 residents.<sup>180</sup>

117. Despite the lack of specific information from the Cuban State, civil society organizations have reported overcrowding in the country's prisons.<sup>181</sup> In addition to the overcrowding, the IACHR observes that Cuban prisons continued to have the same problems described previously. In this regard, detention conditions in the country's prisons are characterized by negligent medical care, insufficient food and potable water, lack of ventilation, and poor hygiene and health conditions.<sup>182</sup> In particular, in its 2020 Country Report, the IACHR presented testimony from detained persons who described low-quality food and insufficient water for personal hygiene, among other poor detention conditions.<sup>183</sup> Likewise, detainees are particularly affected by a lack of measures within prisons that take a gender perspective, leading to a lack of specialized medical care and access to feminine hygiene products.<sup>184</sup>

118. Additionally, in the context of the pandemic caused by COVID-19, in a number of statements—including Resolution 01/20 "Pandemic and Human Rights in the Americas"—the IACHR has expressed concern at the particular situation of risk faced by persons deprived of liberty.<sup>185</sup> This is due to detention conditions in the region, which represent a risk to their lives, integrity of person, and health. In this regard, the IACHR has indicated that overpopulation and subsequent crowding in

<sup>177</sup> In this regard, see IACHR, [Afro-descendants, Police violence, and Human Rights in the United States](#), recommendation 8.

<sup>178</sup> Institute for Crime & Justice Policy Research, [World Prison Brief Database: Cuba](#), November 2018. Based on: Sergio Alejandro Gomez, "[Respeto a la dignidad y al mejoramiento humano](#)," *Granma*, Volume 16, No. 140, May 22, 2012.

<sup>179</sup> Cuban Prisoner Defenders, [Dirigentes y políticos internacionales piden la liberación de más de 8500 presos sin delitos y presos políticos en Cuba](#), April 23, 2020.

<sup>180</sup> Prisoners Defenders. [Cuba tiene miles de presos políticos](#). March 14, 2019.

<sup>181</sup> *Diario de Cuba*, "[Prisiones en Cuba, una bomba a punto de estallar en la pandemia de coronavirus](#)", April 18, 2020; *Diario de Cuba*, "Más de 10.000 presos cubanos fueron excarcelados durante la pandemia, según el régimen," June 17, 2020; Observatorio Cubano de Derechos Humanos, "[Cárceles cubanas](#)", December 2020.

<sup>182</sup> In this regard, see IACHR, [Annual Report 2018, Chap. IV. Cuba](#), para. 96.

<sup>183</sup> IACHR, Report on Human Rights Situation in Cuba, para. 379.

<sup>184</sup> Race & Equality, [Cubanas libres ya! The situation of female political prisoners in Cuba](#), October 27, 2020.

<sup>185</sup> IACHR, [Resolution No. 1/2020, Pandemic and human rights in the Americas](#), adopted by the IACHR on April 10, 2020.

prisons makes it impossible to (among other things) practice the social distancing needed to contain the virus.<sup>186</sup>

119. Specifically, the Commission observes that the Cuban State has implemented a number of measures to prevent the spread of the virus in the country's prisons. In this regard, civil society organizations report that toward the beginning of April, the government ordered all transfers between prisons canceled and suspended visits from relatives and legal representatives.<sup>187</sup> Despite this, the IACHR notes with concern that those detained in Cuban prisons remain at high risk of infection. Among other factors, this is due to: i) a lack of personal protective equipment for penitentiary personnel; ii) insufficient cleaning supplies for the cellblocks; iii) a lack of potable water; and iv) a lack of adequate ventilation.

120. In this regard, the IACHR has information indicating that the prisons continue to be overcrowded and social distancing and isolation measures are not being implemented to contain the virus.<sup>188</sup> Additionally, when the first cases of COVID-19 were confirmed in the country, prison guards continued to move about the prisons without using the masks recommended to prevent the spread.<sup>189</sup> Likewise, at the beginning of April, both Toledo Prison and the 1580 Prison (El Pitirre) in Havana had no access to potable water, and penitentiary authorities had not provided the cleaning supplies needed to keep cells and common spaces clean.<sup>190</sup> Additionally, civil society reports that the lack of air circulation characterizing prisons in Cuba creates an environment that fosters the spread of COVID-19 and the worsening of other respiratory illnesses.<sup>191</sup>

121. As an additional measure of prevention, civil society reports that Cuban penitentiary authorities are not allowing relatives to bring food into the prisons, nor are they offering alternatives to replace this source of nutrition.<sup>192</sup> Because of the constant shortages that characterize Cuban prisons, and consequently, the dependence of inmates on provisions from their relatives, these measures are preventing inmates from obtaining the supplies and resources they need during the sanitary crisis.

122. Additionally, in order to reduce prison overcrowding during the pandemic, the justice system announced that as of the middle of June, more than 10,000 early releases had been

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<sup>186</sup> IACHR, Press release 66/20 - [The IACHR urges States to guarantee the health and integrity of persons deprived of liberty and their families in the face of the COVID-19 pandemic](#). Washington, D.C., March 31, 2020; IACHR, Press release 66/20 - [IACHR concerned about specific risks faced by Persons Deprived of Liberty in the Americas during the COVID-19 pandemic](#). Washington, D.C., September 9, 2020

<sup>187</sup> *Cibercuba*, [Prisiones cubanas sin condiciones higiénicas contra el coronavirus](#), April 1, 2020.

<sup>188</sup> *Cibercuba*, [Prisiones cubanas sin condiciones higiénicas contra el coronavirus](#), April 1, 2020.

<sup>189</sup> Race & Equality, [Political Prisoner on Hunger Strike: Race and Equality Calls on the Cuban Government to Immediately Free Female Political Prisoners Amid the COVID-19 Crisis](#), April 16, 2020; *Diario de Cuba*, [Prisiones en Cuba, una bomba a punto de estallar en la pandemia de coronavirus](#), April 18, 2020.

<sup>190</sup> *Diario de Cuba*, [Prisiones en Cuba, una bomba a punto de estallar en la pandemia de coronavirus](#), April 18, 2020; *Cibercuba*, [Prisiones cubanas sin condiciones higiénicas contra el coronavirus](#), April 1, 2020.

<sup>191</sup> Race & Equality, [Political Prisoner on Hunger Strike: Race and Equality Calls on the Cuban Government to Immediately Free Female Political Prisoners Amid the COVID-19 Crisis](#), April 16, 2020.

<sup>192</sup> Race & Equality, [Political Prisoner on Hunger Strike: Race and Equality Calls on the Cuban Government to Immediately Free Female Political Prisoners Amid the COVID-19 Crisis](#), April 16, 2020.

granted. Specifically, these measures took the form of parole and prison leave.<sup>193</sup> In this regard, the IACHR highlights that while some releases have been granted, since the beginning of March, the Cuban judicial system has imposed sanctions for crimes committed in the context of COVID-19, including pretrial detention for people who violate the sanitary measures ordered by health authorities.<sup>194</sup> As of the beginning of May, a total of 503 people had been processed for crimes related to the COVID-19 pandemic, of which approximately 335 have been convicted and sentenced to deprivation of liberty.<sup>195</sup>

## 7. People in Situations of Human Mobility

123. With regard to the right to movement, the Commission has issued statements on multiple occasions regarding restrictions that impede full exercise of this right, both within the country and abroad.<sup>196</sup> Since 1983, the Commission has spoken out about the lack of constitutional protection of the right of free movement in Cuba, which poses an obstacle to the effective enjoyment thereof.<sup>197</sup> In this regard, the IACHR reiterates the importance of guaranteeing for all people in Cuba, free from undue interference, the right to movement contemplated in Article VIII of the American Declaration.<sup>198</sup> Likewise, Decree No. 217 of 1997 on Regulations on Internal Migration to the City of Havana and infractions thereof, originally intended to control the movement of persons to Havana and thereby diminish the effects of overpopulation in terms of access to different services, restricted the possibility of becoming domiciled, residing, or living with others on a permanent basis in a dwelling located in the City of Havana.<sup>199</sup> The Decree was amended by Decree No. 293 of 2011, which provides for certain exceptions.<sup>200</sup>

124. During the context of the COVID-19 pandemic, the IACHR observes that freedom of movement within the country was extensively affected. Likewise, according to publicly available information, on March 24, 2020, the regime under the current president announced that transportation would be regulated for people traveling domestically.<sup>201</sup> Likewise, on August 8, the Cuban authorities limited interprovincial transport mobility in the western part of the country, impacting people living in the provinces of Matanzas, La Habana, Camagüey, Artemisa, and Pinar del

<sup>193</sup> *Diario de Cuba*, [Más de 10.000 presos cubanos fueron excarcelados durante la pandemia, según el régimen](#), June 17, 2020.

<sup>194</sup> Office of the Attorney General of the Republic, Press release, [Más rigor contra los indisciplinados](#), April 13, 2020.

<sup>195</sup> *Miami Herald*, [Cuba releases thousands of prison inmates amid coronavirus fears](#), May 1, 2020.

<sup>196</sup> IACHR, Annual Report, Chapter IV-B, Cuba. [Right to residence and movement](#), 2019. Also see Annual Reports 2014, 2015, 2016, and 2018.

<sup>197</sup> IACHR, [The Situation of Human Rights in Cuba](#), OEA/Ser.L/V/II.61. Doc.29 rev. 1, October 4, 1983.

<sup>198</sup> [American Declaration of the Rights and Duties of Man](#), approved at the Ninth International Conference of American States, Bogotá, Colombia, 1948, Article VIII.

<sup>199</sup> Decree No. of 1997 establishes that persons who intend to be domiciled, reside or live [with someone] on a permanent basis in a residence located in the City of Havana, or who live in other municipalities of the City of Havana, but intend to be domiciled, reside or live with someone on a permanent basis in a house located in the municipalities of Old Havana (Habana Vieja), Centro Habana, Cerro and Diez de Octubre, must obtain a permit from the President of the Council of the Municipal Administration, after meeting certain requirements, under punishment of being fined or being returned to their location of origin (Decree No. 217, Internal Migratory Regulations for the City of Havana and the infractions thereof, April 22, 1997, available at: <http://www.gacetaoficial.cu/html/regulacionesmigratoriasparaC.H.html>).

<sup>200</sup> [Decree No. 293, Amending Decree No. 297, "Internal Migratory Regulations for the City of Havana and infractions thereof](#), April 22, 1997," published in Special Official Gazette No. 39 of November 16, 2011.

<sup>201</sup> *Diario las Américas*, [Cuba cierra transporte nacional y regula viajes al exterior](#), March 24, 2020.

Río. Additionally, when entering or leaving Havana, one needs authorization from the People's Power in order to board an interprovincial bus.<sup>202</sup>

125. At the same time, regarding human trafficking, the IACHR notes that mechanisms of the United Nations have expressed concern at the alleged exploitation of Cuban medical personnel abroad, which may constitute forced labor. Thus, the IACHR learned of a report dated November 6, 2019, sent to the Government of Cuba by the Special Rapporteur on trafficking in persons, especially women and children, and by the Special Rapporteur on contemporary forms of slavery, including its causes and consequences.

126. The report points to a series of allegations of abuses and human rights violations committed by the Cuban State against its healthcare personnel assigned to work abroad.<sup>203</sup> Among other allegations, the Special Rapporteurs highlighted the following: i) between 75% and 90% of the salary of medical personal was paid to the Cuban government; ii) they work up to 64 hours per week; iii) women medical staff experience sexual harassment; and v) they are punished for abandoning the mission with 3 to 8 years in prison. It is also alleged that although participation in the international missions is supposedly voluntary, many doctors feel pressured to participate on fear of retaliation from the Government of Cuba should they decline to do so.<sup>204</sup> In this regard, the IACHR observes that Human Rights Watch has also addressed this matter, indicating that the Government of Cuba "imposes draconian rules on doctors deployed in medical missions globally that violate their fundamental rights."<sup>205</sup>

127. Given that the allegations related to Cuban personnel working abroad could indicate forced or obligatory labor, the IACHR reminds the Cuban State that Article 6(2) of the American Convention on Human Rights prohibits all forms of forced labor.<sup>206</sup> The Commission also reminds the Cuban State that on July 20, 1953, and June 2, 1958, it ratified ILO conventions 29 and 105 on forced labor and the abolition of forced labor, respectively. Pursuant to the commitments enshrined therein, the State must abolish and refrain from engaging in all forms of obligatory or forced labor.<sup>207</sup>

## 8. Children and Adolescents

128. Regarding the rights of children and adolescents, the Commission stresses the urgency for the country to adapt its legislation to prohibit all forms of corporal punishment of children in all care settings, including schools and alternative care settings. Currently, the 1975 Family Code allows "moderate" punishment of children by parents (Art. 86) and guardians (Art. 152).<sup>208</sup> In addition, as the Committee on the Rights of the Child has done, the IACHR recommends that the Cuban State

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<sup>202</sup> [CiberCuba, Iberia prepara vuelo humanitario a La Habana solo para viajeros autorizados por la embajada cubana](#), August 11, 2020.

<sup>203</sup> United Nations, [Mandatos de la Relatora Especial sobre las formas contemporáneas de la esclavitud, incluidas sus causas y consecuencias; y de la Relatora Especial sobre la trata de personas, especialmente mujeres y niños](#), November 6, 2019.

<sup>204</sup> United Nations, [Mandatos de la Relatora Especial sobre las formas contemporáneas de la esclavitud, incluidas sus causas y consecuencias; y de la Relatora Especial sobre la trata de personas, especialmente mujeres y niños](#), November 6, 2019.

<sup>205</sup> Human Rights Watch, [Cuba Repressive Rules for Doctors Working Abroad](#), July 23, 2020

<sup>206</sup> American Convention on Human Rights, Article 6, November 1969.

<sup>207</sup> ILO Convention 105, Abolition of Forced Labour Convention, 1957 (No. 105), [Article 1](#), Geneva 1957.

<sup>208</sup> Global initiative to end all corporal punishment of children, [Corporal Punishment of Children in Cuba](#), November 2019.

set 18 as the minimum age for entry into the armed forces and that it prohibit all military-type training for persons under 18.<sup>209</sup>

129. According to UNICEF data, Cuba's population includes more than 2.2 million people under the age of 18, equivalent to 19.6% of the population.<sup>210</sup> The Commission notes with satisfaction the State's efforts to ensure universal birth registration, which reached 100 percent in 2018,<sup>211</sup> as well as to reduce bureaucracy in registration procedures.<sup>212</sup> On the other hand, the IACHR expresses concern at the high rate of early marriage, particularly among girls and teenagers, with 26 percent of teenagers married before turning 18.<sup>213</sup> Regarding teen pregnancy, the United Nations' Population Fund (UNFPA) reports that the median age of mothers between the ages of 10 and 14 is 13.8 years, while for mothers between the ages of 15 and 19, it is 17.5.<sup>214</sup> In particular, the information available indicates that in 2019, there were 429 births to mothers under the age of 15, as well as 16,734 births to teenagers between the ages of 15 and 19.<sup>215</sup> Likewise, in 2019, almost 1000 Cuban teen girls between the ages of 14 and 17 got married.<sup>216</sup> Despite the fact that the minimum legal age for marriage under Cuban law is the same as that determined by the Convention on the Rights of the Child—that is, 18—the country's law also allows marriage between adolescents as young as 14 with parental consent.<sup>217</sup>

130. In this regard, the IACHR received information indicating that the National Assembly of the People's Power will discuss the draft of a new Family Code in March 2021, as stipulated in the new Constitution.<sup>218</sup> The Commission urges the Cuban State to take advantage of this opportunity to harmonize its legislation on the rights of children and adolescents with international standards on corporal punishment, marriage, and other issues.

131. With regard to the right to health, the Commission notes that the country has maintained a steady reduction in the child mortality rate, from 9 deaths per 1,000 live births in 2000 to 5.1 in 2019.<sup>219</sup> The Commission also recognizes that Cuba achieved 99 percent immunization of children and adolescents from vaccine-preventable diseases. Despite the low rate of HIV infection among children and despite being the first country to eliminate vertical transmission of the virus,<sup>220</sup>

<sup>209</sup> UNHCHR, *Compilation on Cuba for the Universal Periodic Review, A/HRC/WG.6/30/CUB/2*, March 16, 2018, para. 52 and 61.

<sup>210</sup> UNICEF, *The State of the World's Children 2019*, October 2019, pg. 193.

<sup>211</sup> UNICEF, *The State of the World's Children 2019*, October 2019, pg. 232.

<sup>212</sup> *Granma*, [Nuevas facilidades para inscripciones de nacimiento y en registro de consumidores](#), July 5, 2019.

<sup>213</sup> UNICEF, *The State of the World's Children 2019*, October 2019, pg. 232.

<sup>214</sup> UNFPA Cuba, *Estado de la población mundial 2020* [Las uniones tempranas y el embarazo adolescente. Desafíos en el ejercicio de los derechos sexuales y reproductivos](#), July 1, 2020, pg. 5.

<sup>215</sup> *IPS Cuba*, [Tendencias del matrimonio infantil en Cuba](#), July 2, 2020.

<sup>216</sup> UNFPA Cuba, *Estado de la población mundial 2020* [Las uniones tempranas y el embarazo adolescente. Desafíos en el ejercicio de los derechos sexuales y reproductivos](#), July 1, 2020, pg. 6.

<sup>217</sup> *UOL*, [América Latina avanza em proteção a crianças proibindo casamento infantil](#), August 23, 2017. IACHR, Annual Report, [Chapter IV-B: Report especial respecto de Cuba](#), 2018, para. 87.

<sup>218</sup> *Granma*, [Aprueban cronograma legislativo de la nación por etapas, y presentación del Código de las familias en 2021](#), December 21, 2019.

<sup>219</sup> UNICEF, [Country profiles: Cuba](#), December 2019.

<sup>220</sup> WHO, [WHO validates elimination of mother-to-child transmission of HIV and syphilis in Cuba](#), June 30, 2015.

there is concern that only 33.8 percent of children aged 0-14 years who are living with HIV receive antiretroviral therapy.<sup>221</sup>

132. Regarding reproductive health, the IACHR received information indicating that 74% of women who are married or in a civil union use some method of family planning.<sup>222</sup> Teens use contraception less than older women: 60% of women between the ages of 15 and 19 who are married or have a partner use some method of contraception, lower than the 72% of women ages 20 and over who do.<sup>223</sup> Regarding this, the IACHR expresses its concern at the increase in cases of sexual abuse of children and adolescents in recent years—which increased by 24% between 2016 and 2019—and the fact that more than 90% of the victims are girls.<sup>224</sup> In 2020, during the COVID-19 quarantine, between March and October, 17 femicides and 3 infanticide's were reported to have taken place in the home or in victims' family environments.<sup>225</sup> In this context, the IACHR recalls the importance of the State guaranteeing access to sexual and reproductive health services for girls and adolescents in the context of the COVID-19 pandemic.<sup>226</sup>

133. In relation to the right to education, the Commission welcomes the fact that Cuba has achieved 100% completion of primary education and 98% completion of lower secondary education. The Commission also views positively that literacy among people between the ages of 15 and 24 has reached 100%.<sup>227</sup> According to information from the Cuban Ministry of Education, marriage is among the three leading causes of dropping out of secondary school, underscoring the importance of eliminating the provision from the new Family Code to be considered in 2021 that allows marriage from the age of 14 with the consent of the parents.<sup>228</sup>

134. Additionally, the Commission was informed of the existence of a shortage of teachers and that the State was seeking to address this problem by training adolescents as educators.<sup>229</sup> Due to the possibility of impacting the development of the adolescents who take part in the training program, the IACHR reiterates its recommendation that this public policy proposal be reviewed in view of the principle of the best interests of the child.<sup>230</sup> The IACHR also takes note of statements from the Minister of Education in March to the effect that teacher coverage has improved in recent months.<sup>231</sup>

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<sup>221</sup> UNICEF, *The State of the World's Children 2019*, October 2019, pgs. 204, 208, and 212.

<sup>222</sup> UNFPA Cuba, [Diagnóstico sobre incidencia de legislaciones y políticas en el acceso de adolescentes y jóvenes a servicios de salud sexual](#), January 9, 2020, pg. 6.

<sup>223</sup> UNFPA Cuba, [Diagnóstico sobre incidencia de legislaciones y políticas en el acceso de adolescentes y jóvenes a servicios de salud sexual](#), January 9, 2020, pg. 6.

<sup>224</sup> Cuba Debate, *Contra el Terrorismo Médiatico “Sueños robados”*, September 22, 2020.

<sup>225</sup> Violentadas en cuarentena, *“Mi casa, mi tumba”*, November 11, 2020.

<sup>226</sup> IACHR, Press release 217/20 – [The IACHR Urges States to Ensure Adequate Services to Preserve the Sexual and Reproductive Health of Women and Girls During the COVID-19 Pandemic](#), September 14, 2020.

<sup>227</sup> UNICEF, *The State of the World's Children 2019*, October 2019, pg. 228.

<sup>228</sup> IPS Press release: *“Matrimonio infantil requiere más que cambios legales en América Latina”*, June 30, 2020.

<sup>229</sup> IACHR, Hearing on Situation of the rights of children and adolescents in Cuba, 167th Session, February 28, 2018.

<sup>230</sup> IACHR, Annual Report 2018, *Chapter IV-B: Special Report on Cuba*, 2018, para. 86.

<sup>231</sup> *Granma*, [Destaca Ministra de Educación favorable impacto del sistema de escuelas pedagógicas del país](#), March 13, 2020.

135. In addition, the IACHR is concerned that parents may be prosecuted and deprived of their liberty for non-compliance with rules that impose the political and ideological positions of the State<sup>232</sup> and that limit the right of parents to guide the child in the enjoyment of the right to freedom of thought and conscience, as provided in Article 14(2) of the Convention on the Rights of the Child Niño.<sup>233</sup>

136. The IACHR received information indicating that because of the situation arising from the COVID-19 pandemic sanitary emergency, students have not had consistent access to education.<sup>234</sup> According to the information available, of the 1,084 kindergartens in the country, only 444 are operating, and with minimal staff to lessen the impact.<sup>235</sup> For its part, the Ministry of Education has indicated that proposals are being devised to provide continuity to school coursework.<sup>236</sup> The Commission reiterates that these proposals must be holistic and prioritize the best interest of children and adolescents, in keeping with Inter-American standards.<sup>237</sup> As the Commission has indicated previously, the State must take measures to ensure that children and adolescents have access to education that provides stimulation in accordance with age and level of development and that emphasizes the strengthening of family bonds while helping prevent domestic violence.<sup>238</sup>

137. Lastly, the Commission values the fact that the new Cuban Constitution expressly recognizes that children and adolescents are full bearers of rights and must be protected from all forms of violence. The current Constitution also provides for the special protection of children and adolescents and the guarantee of their comprehensive development by the State, society, and families.<sup>239</sup> As the IACHR has indicated previously, constitutional recognition of the rights of children and adolescents must be accompanied by an infra-constitutional system capable of guaranteeing effective enjoyment of those rights.<sup>240</sup> In this regard, the Commission notes that to date, Cuba does not yet have a national system that provides for the regulatory and institutional framework to develop special measures for the protection of children, in accordance with the relevant Inter-American standards.<sup>241</sup>

## 9. Persons with Disabilities

138. Regarding the human rights situation of persons with disabilities, the Commission has monitored the lack of a specific law to protect their rights and the persistence of legal provisions

<sup>232</sup> UNHCHR, [Summary of communications from interested parties about Cuba](#), A/HRC/WG.6/30/CUB/3, March 9, 2018, para. 80.

<sup>233</sup> ACDEI, contribution to the third Universal Periodic Review, October 2, 2017, pgs. 3-4.

<sup>234</sup> *Tribuna de La Habana*, news article: [“Nuestras escuelas no pueden funcionar como hasta ahora”](#), October 22, 2020.

<sup>235</sup> *Cuba debate*, news article, [“Gobierno cubano en alerta, trabajando contra la COVID-19”](#), April 15, 2020.

<sup>236</sup> *Cuba debate*, news article, [“Gobierno cubano en alerta, trabajando contra la COVID-19”](#), April 15, 2020.

<sup>237</sup> IACHR, [Standards and Recommendations regarding Violence and Discrimination against Women and Girls, Annex 1](#), OEA/Ser.L/V/II, November 14, 2019, para. 40. IACHR, Work, Education and Resources for Women: The path toward equality in the guarantee of economic, social and cultural rights. OEA/Ser.L/V/II.143 Doc. 59, 2011. General Recommendations para. 4.

<sup>238</sup> IACHR, [Resolution 1/2020, Pandemic and human rights in the Americas](#), April 10, 2020, para. 64.

<sup>239</sup> Official Gazette, Constitution of the Republic of Cuba, GOC-2019-406-EX5, 2019, art. 86.

<sup>240</sup> IACHR. The Situation of Human Rights in Cuba. OEA/SER.L/V/II. Doc. 2. February 3, 2020, para. 338.

<sup>241</sup> In this regard, IACHR, Annual Report 2018, [Chapter IV-B: Special Report on Cuba](#), 2018, para. 84.

that nullify the legal capacity of persons with psychosocial disability. The IACHR has also been informed of the differentiated impacts that the COVID-19 pandemic has had on this population.

139. Regarding the legal capacity of persons with disabilities, the IACHR continues to find that Cuban civil law provides for the annulment of the legal capacity of deaf persons and persons with psychosocial disabilities. In this regard, the Commission recalls that States have an obligation to take measures to ensure full recognition of the legal capacity of persons with disabilities through a system to provide decision-making support. The Commission likewise takes note of the efforts to provide mental health care to people with disabilities, as well as the creation of the National Genetic Medicine Program and the strategy for providing care to people with Alzheimer's, among other illnesses.<sup>242</sup>

140. Specifically as regards the rights of deaf persons, the Commission has received information on the efforts of civil society organizations to secure legal recognition of Cuban sign language in order to ensure better social inclusion of persons with hearing disabilities.<sup>243</sup> In this context, the IACHR calls on the State to recognize sign language as the official language of deaf persons within its legislation and promote sign language through the implementation of positive measures to guarantee sign language accessibility and training, such as inclusive teaching of sign language in its educational systems, support for training sign language interpreters, and sign language training for public officials.<sup>244</sup>

141. Additionally, in the context arising from the COVID-19 pandemic, the Commission observes that persons with disabilities suffered differentiated impacts to their human rights, including discrimination in commercial establishments that did not allow access to people with disabilities for the purpose of acquiring essential products.<sup>245</sup> This is based on statements from the governor of Havana, who indicated that "children and adults with disabilities are not allowed out in public, and their guardians will be fined."<sup>246</sup> The Commission also takes note of the difficulties that persons with disabilities have faced in accessing the goods they need for their mobility, including a lack of access to replacement batteries they need for their wheelchairs to function properly, along with other materials, due to a total lack or to high prices.<sup>247</sup> The IACHR calls on the State to ensure that sufficient resources are allocated for persons with disability to be able to access the supplies they need to pursue their life projects autonomously and independently.

142. Regarding progress in this area, the IACHR has received information on the implementation of policies to eradicate discrimination in the form of a ban on discriminating based on disability included in the 2019 Constitutional reform—something that was highlighted by the

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<sup>242</sup> *Agencia Cubana de Noticias*, [Festeja Cuba garantías de las personas con discapacidad en su día internacional](#), December 3, 2020; and *Radio Rebelde*, [Reconocen esfuerzo de dirigentes cubanos en la atención a las personas con discapacidad](#), December 3, 2020.

<sup>243</sup> *IPS Noticias*, [Lengua de Señas Cubana busca reconocimiento](#), September 22, 2020; *Cuba Debate*, [Abogan porque la Lengua de Seña Cubana sea el idioma principal de las personas con discapacidad auditiva en el país](#), March 4, 2020.

<sup>244</sup> IACHR, [IACHR Urges States to Recognize and Promote the Use of Sign Language](#), October 4, 2018.

<sup>245</sup> *Diario de Cuba*, [Ciegos y débiles visuales cubanos denuncian discriminación a las personas con discapacidad](#), September 4, 2020; *ADN Cuba*, [Discapitados en cuba-Discriminación en Cuba](#), April 3, 2020.

<sup>246</sup> *Diario de Cuba*, [Ciegos y débiles visuales cubanos denuncian discriminación a las personas con discapacidad](#), September 4, 2020; *ADN Cuba*, [Discapitados en cuba-Discriminación en Cuba](#), April 3, 2020.

<sup>247</sup> *Ciber Cuba*, [Cubana con discapacidad lleva un año sin salir de su casa por falta de baterías para la silla de ruedas](#), March 5, 2020; *Ciber Cuba*, [Silla de ruedas a más de 500 CUC: Denuncian precios de artículos para ancianos y discapacitados en Cuba](#), January 8, 2020.

Commission in its 2020 country report.<sup>248</sup> In particular, the State policies adopted during 2020 prioritize education of people with disabilities and encourage the implementation of a development strategy based on the principles of liberty, equity, social justice, and inclusion.<sup>249</sup> The Commission also welcomes the approval by the Council of Ministers of the "Policy aimed at improving attention and services provided to persons with disabilities." Regarding this policy, the lead minister stated it establishes the elimination of architectural and communicational barriers; the classification of artistic talents; and support for elite athletes.<sup>250</sup>

143. Lastly, regarding the right to education of children with disabilities, the IACHR notes with satisfaction that, according to the information received, the Ministry of Education is employing alternatives for socio-educational inclusion at preschool, primary, and secondary education levels.<sup>251</sup> Likewise, according to publicly available information, more than 150 people with different types of disabilities begin higher education annually, thanks to implementation of the 2030 Agenda.<sup>252</sup>

## 10. Economic, Social, Cultural and Environmental Rights (ESCR)

144. As regards economic, social, cultural, and environmental rights (ESCR), the IACHR and its REDESCA have repeatedly expressed their concern with regard to the guarantee of these rights on the island, concern that has increased with the health emergency caused by COVID-19. This is due to multiple factors including the pandemic, the reduction in income as a result of the drop in tourism, and the impact of economic sanctions worsening the vulnerability faced by the population, reflected in greater difficulty accessing essential goods, loss of purchasing power, and obstacles to adopting the health protocols recommended by the World Health Organization (WHO) to address the health emergency as a result of difficulties accessing water and sanitation.

145. As expressed in the recent IACHR report on the "Situation of Human Rights in Cuba," there were serious limitations on the island to the enjoyment and exercise of ESCR during 2017-2019. Generally speaking, the IACHR and its REDESCA highlighted a large number of persons without homes, as well as weaknesses in the supply of water and basic sanitation. They also underscored reports of deterioration in the quality of health services and provision of products, as well as the supply of essential foodstuffs. This is despite progress on health and achievements made in the fight against hunger and malnutrition in the Millennium Sustainable Development Goals.<sup>253</sup>

146. In the same regard, during this same period of time, impacts were identified to the right to education in the form of violations of academic freedom and reports of poor conditions in educational facilities. Lastly, concern was expressed over reports of restrictions to cultural and union rights, along with violations of the right to work from arbitrary dismissals and lack of payment.

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<sup>248</sup> IACHR, [Situation of Human Rights in Cuba](#), 2020 para. 348.

<sup>249</sup> *Prensa Latina*, [Cuba prioriza la atención a personas con discapacidad](#), December 2, 2020; *Agencia Cubana de Noticias*, [Festeja Cuba garantías de las personas con discapacidad en su día internacional](#), December 3, 2020; and *Radio Rebelde*, [Reconocen esfuerzo de dirigentes cubanos en la atención a las personas con discapacidad](#), December 3, 2020.

<sup>250</sup> *Cuba Debate*, [Presidente cubano en el Consejo de Ministros: "Con el Plan de la Economía tiene que haber rigor, disciplina y control"](#), February 21, 2020.

<sup>251</sup> *Agencia Cubana de Noticias*, [En Cuba las personas con discapacidad gozan de todos los derechos](#), December 11, 2020; *Granma*, [Destaca la Unesco la inclusión en Cuba de alumnos con discapacidad](#), November 5, 2020.

<sup>252</sup> *Prensa Latina*, [Cuba prioriza la atención a personas con discapacidad](#), December 2, 2020, and *Granma*, [Destaca la Unesco la inclusión en Cuba de alumnos con discapacidad](#), November 5, 2020.

<sup>253</sup> IACHR, Country report, [Situation of Human Rights in Cuba](#), OEA/Ser.L/V/II., February 3, 2020.

Likewise, issues were noted with regard to environmental rights due to poor management of waste and pollution in the country's less developed regions.<sup>254</sup> Although these situations persist and are of significant concern, it is also an absolute priority for the IACHR and its REDESCA to address how impacts on ESCERs have worsened with the health emergency.

147. Toward the end of October 2020, Cuba had approximately 6,727 cases, with 128 deaths and 6,107 recoveries.<sup>255</sup> Its first confirmed case of coronavirus was on March 11.<sup>256</sup> Although the island is open with certain conditions in place for addressing the pandemic, the State ordered at the beginning of the emergency that all foreign maritime vessels must leave, along with all airlines.<sup>257</sup> Likewise, it adopted measures for strict quarantine and curfews—especially in the areas most impacted, like Havana—along with social distancing, restrictions on tourism and productive activities, and restrictions on transportation and nonessential businesses. Changes were also made to the system of distribution to retail businesses to decentralize sales of basic goods.<sup>258</sup> In June, the recovery phase began, with a gradual and phased-in return of the island's productive, economic, and social activities,<sup>259</sup> and a second stage aimed at strengthening the economy to address the crisis.<sup>260</sup> However, because of new outbreaks, the return to normal has been partial and localized, depending on infection rates or risk in the different parts of the country. In some cases, restrictions have been reinstated, mainly in Havana and Artemisa.<sup>261</sup>

148. Although these measures could be necessary to protect health in the framework of the COVID-19 pandemic, three situations in particular have been detrimental to the population and the protection of its human rights. First, the approval of the homeopathic remedy known as Prevengho Vir and the drug Interferon alfa-2b<sup>262</sup>—developed in Cuba as alternatives for combating the coronavirus<sup>263</sup>—runs contrary to the recommendations of the WHO and PAHO for handling the pandemic.<sup>264</sup> Second, regarding statements to the effect that Interferon alfa-2b cures the coronavirus, the same concern arises, as this drug also lacks scientific evidence as to its effectiveness,<sup>265</sup> and additionally, it has a large number of side effects, including nausea, vomiting, body pains, anemia, low platelet count, and low white blood cell count.<sup>266</sup> In this regard, the REDESCA recalls that the IACHR

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<sup>254</sup> IACHR, Country report, [Situation of Human Rights in Cuba](#), OEA/Ser.L/V/II., February 3, 2020.

<sup>255</sup> Worldometer, [Total Coronavirus cases in Cuba](#), October 29, 2020.

<sup>256</sup> *Havana Times*. Timeline: [Cuba's handling of the Covid-19 outbreak](#), April 14, 2020.

<sup>257</sup> *Havana Times*. Timeline: [Cuba's handling of the Covid-19 outbreak](#), April 14, 2020.

<sup>258</sup> *Havana Times*. Timeline: [Cuba's handling of the Covid-19 outbreak](#), April 14, 2020.

<sup>259</sup> *Cuba Debate*. [Gobierno cubano informa sobre medidas para la recuperación tras la epidemia de la COVID-19](#), June 11, 2020.

<sup>260</sup> *Cuba Debate*. [Gobierno cubano informa sobre medidas para la recuperación tras la epidemia de la COVID-19](#), June 11, 2020.

<sup>261</sup> *Infobae*. [Cuba sufre rebrote de Covid-19 y se retoman restricciones](#), August 8, 2020.

<sup>262</sup> Prisoner Defenders, [Interferon Cubano. Alertamos: Un bulo puede matar personas](#), April 17, 2020.

<sup>263</sup> *Havana Times*. Timeline: [Cuba's handling of the Covid-19 outbreak](#), April 14, 2020.

<sup>264</sup> The WHO has come out against the use of homeopathic remedies to treat illnesses like malaria, AIDS, tuberculosis, and influenza. Institute for war & peace reporting, [Cuba's Covid-19 Cure: Duck Heart and Liver](#), June 3, 2020.

<sup>265</sup> *Radio San Joaquín*, [Director de OPS: "no hay pruebas que el Interferón Alfa-2B funcione contra el Covid-19"](#), March 31, 2020.

<sup>266</sup> Prisoner Defenders, [Interferon Cubano. Alertamos: Un bulo puede matar personas](#), April 17, 2020.

established in its directives on protection of the right to health of persons with COVID-19 that when it comes to prevention, integrated treatment, and care, States must adopt immediate measures to ensure sustainable, equal, and affordable accessibility and supply of quality goods, services, and information. Regarding the accessibility and provision of supplies, it was noted that this includes providing access to medications and pharmaceuticals based on the best scientific evidence available for preventing infection, for curing and mitigating the disease, and for rehabilitating and looking after persons with COVID-19.<sup>267</sup>

149. The IACHR and its REDESCA also expressed concern at the working conditions to which health personnel on international missions are exposed. While recognizing Cuba's support for other countries through its doctor brigades, it is crucial to take their human rights situation into account. According to some reports, Cuba withholds up to 90% of the salary that other governments pay for medical collaboration. Additionally, some professionals who have been able to flee the island have filed suit against the Pan-American Health Organization for supporting the system without any controls.<sup>268</sup> Likewise, the organization Prisoner Defenders sent the UN office in Geneva and the International Criminal Court 622 testimonies from Cuban professionals on the workplace conditions to which they were subjected during these contracts.<sup>269</sup>

150. These reports have been arriving for some time, and based on them, on November 6, 2019, the Special Rapporteurs from the United Nations on contemporary forms of slavery, including its causes and consequences, and trafficking in persons, especially women and children, requested more information from the government on the different human rights violations experienced by healthcare personnel when sent on international missions, as they had information that would allow for classification of their working conditions as "forced labor"<sup>270</sup> in view of the personal exploitation, as well as inadequate salaries, harassment, and coercion.<sup>271</sup>

151. The conditions reported included being forced to work approximately 64 hours a week (including 16 hours on call); pressure to participate in the program without receiving a copy of the work contract; insufficient payment for life with dignity because of severe restrictions; and retaliation against the doctors and their families should they fail to comply with the conditions.<sup>272</sup> The report also describes reports of sexual harassment and abuse against women doctors, as well as punishment for deserting the medical mission of between three and eight years in prison. Human Rights Watch has also addressed this matter, indicating that the Government of Cuba "imposes draconian rules on doctors deployed in medical missions globally that violate their fundamental rights."<sup>273</sup> There have also been reports of violations of their personal liberty, freedom of expression, and freedom of association, established and legitimized by Resolution 168 of 2010 issued by the Cuban Ministry of Foreign Trade and Investment, which consider developing friendships, romantic

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<sup>267</sup> IACHR, [Human Rights of Persons with Covid-19](#), Resolution No. 4/2020, July 27, 2020.

<sup>268</sup> Observatorio Cubano de Derechos Humanos, [OCDH pide a Gobierno español no participar en "prácticas ya cuestionadas por Naciones Unidas" sobre la contratación de misiones médicas cubanas](#), April 2, 2020.

<sup>269</sup> DW, [¿Por qué denuncian más de 600 médicos al Gobierno cubano?](#), September 22, 2020.

<sup>270</sup> Human Rights Watch, [Cuba: Repressive Rules for Doctors Working Abroad](#), July 23, 2020.

<sup>271</sup> *Animal Político*, [Explotación laboral y abusos, lo que sufren médicos cubanos en sus misiones por el mundo](#). June 11, 2020.

<sup>272</sup> *Animal Político*, [Explotación laboral y abusos, lo que sufren médicos cubanos en sus misiones por el mundo](#). June 11, 2020.

<sup>273</sup> Human Rights Watch, [Cuba Repressive Rules for Doctors Working Abroad](#), July 23, 2020.

relationships, or other relationships with anyone holding positions contrary the Cuban Revolution to be disciplinary infractions. They also prohibit making statements to the media without prior authorization on the internal situation of workplaces or statements that compromise the Cuban collaboration.<sup>274</sup>

152. Although between 1963 to the present day, the Cuban government has sent out more than 400,000 health workers to provide support to different countries, in response to the COVID-19 pandemic and since March of this year, Cuba has sent approximately 1,500 workers in addition to the 30,000 currently working abroad to support the response of local and regional health systems.<sup>275</sup> Therefore, and because these missions comprised of healthcare workers are facing a broad range of risks in addressing the current pandemic, and in keeping with the directives issued in its Resolution 04/20,<sup>276</sup> for the IACHR and its REDESCA it is crucial that they are guaranteed enhanced protection of their rights, especially their economic, social, cultural, and environmental rights.

153. With regard to the measures adopted to address the pandemic, the IACHR and its REDESCA expressed concern at reports of uprisings among those who are held in isolation centers, either because they returned from abroad or because they are suspected of having contracted the virus. Reports are that conditions are not healthy and sufficient food is not provided, which has had a particular impact on the more vulnerable populations, such as older persons, children, and adolescents.<sup>277</sup> This situation is also placing them at risk by making it impossible to follow the WHO health recommendations on social distancing and safety protocols.

154. In this regard, the IACHR and its REDESCA note that although the Prime Minister clarified that at the current epidemiological stage, patients will no longer be held in these centers, and instead, those returning from abroad or who are suspected of having contracted the virus are to isolate in their homes for 15 days, complaints persist from some of the centers that remain—such as, for example, from people in the polytechnic in Sancti Spíritus, who continued to denounce their situation, and have thus been threatened with fines of up to 3,000 pesos for spreading the pandemic and refusing voluntary confinement.<sup>278</sup>

155. The IACHR and its REDESCA recall that the States of the region have an obligation to guarantee the protection of the human rights of persons with COVID-19, which includes not only people with the virus but everyone assumed to have the virus, people who are presymptomatic, people with symptoms (light, moderate, severe, or critical), and asymptomatic persons who are subjected to medical research tests, as well as those who die from the pandemic and their families and/or caretakers.<sup>279</sup> Thus, in order to guarantee the rights of those who are staying in these centers, it is crucial to guarantee good infrastructure and hygiene conditions, as well as trained personnel and sufficient medical supplies.

156. In the understanding that older persons are at greater risk from the pandemic, the IACHR and its REDESCA also expressed concern regarding the older persons on the island

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<sup>274</sup> Human Rights Watch, [Cuba: Repressive Rules for Doctors Working Abroad](#), July 23, 2020.

<sup>275</sup> Human Rights Watch, [Cuba: Repressive Rules for Doctors Working Abroad](#), July 23, 2020.

<sup>276</sup> IACHR, [Human Rights of Persons with Covid-19](#), Resolution No. 4/2020, July 27, 2020.

<sup>277</sup> *ADV Cuba*, [Así es un centro de aislamiento para cubanos que regresan del extranjero](#), July 2, 2020.

<sup>278</sup> *ADV Cuba*, [Así es un centro de aislamiento para cubanos que regresan del extranjero](#), July 2, 2020.

<sup>279</sup> IACHR, [Human Rights of Persons with Covid-19](#), Resolution No. 4/2020, July 27, 2020.

(approximately 2.2 million people) who in some cases have had to expose themselves to acquire medicines and food, either because they did not have anyone to acquire these products for them (221,425 of them live alone) or because they had to because other people living in their family group were not able to go out during working hours when the products were being sold. Along with this, 21% of the people comprising Cuba's workforce are older persons, making it more difficult for them to isolate themselves.<sup>280</sup>

157. Also regarding the right to health, the Commission and its Office of the Special Rapporteur are concerned at reports on the provision of health services, availability of essential medications, and care for other illnesses or pathologies. On one hand, the IACHR has received reports of obstacles to attending persons with HIV in the context of the pandemic, who are not only required to go out in public to acquire food and medicine (despite the risk this poses to them), but also have problems receiving adequate food to enable them to maintain their defenses, as well as delays in receiving retroviral drugs.<sup>281</sup> Related to this, the IACHR recently had to grant precautionary measures to the benefit of Maikel Herrera, who was not receiving the medical treatment he needed despite being HIV-positive, suffering from severe immunosuppression, and being at risk in a context of deprivation of liberty.<sup>282</sup> Prior to the measures, the beneficiary had been told he would not receive treatment unless he halted his denunciations,<sup>283</sup> a violation of his right to freedom of expression by placing conditions on guaranteeing his rights to life and health.

158. Additionally, the REDESCA has monitored the situation of medication shortages, which has worsened with the pandemic. The island is experiencing shortages in 116 medications, even though 87 of them are produced domestically.<sup>284</sup> The medications seeing the worst shortages are asthma medications, antihypertensive drugs, oral antibiotics, antihistamines, antiglaucoma agents, antiviral drugs, diuretics, sedatives, anxiolytics, insulin and other diabetes drugs, coagulation modifiers, and antithrombotic drugs.<sup>285</sup> This situation is particularly concerning given that a large number of people with pre-existing conditions are at greater risk from the pandemic, and to address their conditions, they have to turn to private or international pharmacies that are not affordable for everyone.<sup>286</sup> In this regard, the IACHR recalls that States have an obligation to ensure compliance on several elements related to health, such as availability, accessibility, acceptability, and quality,<sup>287</sup> underscoring that the accessibility element includes financial accessibility (affordability).

159. Regarding the right to food, the REDESCA again expresses concern at the shortages of food products and the increasing price of the basic food basket, which has grown ever smaller. Regarding the ration card, it should be noted that it does not guarantee food security, and that in the

<sup>280</sup> *Interpress Service in Cuba*, [El coronavirus amenaza a envejecida población cubana](#), March 25, 2020.

<sup>281</sup> *Radio Televisión Martí*, [COVID-19 complica la ya difícil situación de pacientes de VIH-Sida en Cuba](#), June 2, 2020.

<sup>282</sup> IACHR, [IACHR adopts precautionary measures in favour of Maikel Herrera Bones in Cuba](#), October 19, 2020.

<sup>283</sup> *Periódico Cubano*, [Ofrecen atención médica a preso con VIH si se retracta de denunciar al Gobierno](#), October 8, 2020.

<sup>284</sup> *ADV Cuba*, [¿Qué cubano gana 100 CUC para comprar antibióticos?, protesta cubana en redes sociales](#), October 28, 2020.

<sup>285</sup> *ADV Cuba*, [¿Qué cubano gana 100 CUC para comprar antibióticos?, protesta cubana en redes sociales](#), October 28, 2020.

<sup>286</sup> *ADV Cuba*, [¿Qué cubano gana 100 CUC para comprar antibióticos?, protesta cubana en redes sociales](#), October 28, 2020.

<sup>287</sup> IACHR, [Pandemic and human rights in the Americas](#), Resolution 1/2020, April 10, 2020.

midst of the pandemic, it would not be enough to cover even one week.<sup>288</sup> The situation is even more serious for those who do not have access to a ration card, such as the 40 medical students from Jamaica who in April found themselves stranded in Cuba and without the ability to return to their country for a time due to the pandemic. Because they are not registered, they are not able to access essential goods that are currently regulated, such as chicken and cooking oil.<sup>289</sup> Thus, in order to acquire essential goods by other means, they must expose themselves to infection with the virus in long lines for many hours at the Currency Collection Stores.<sup>290</sup> Regarding the Jamaican students, the situation has also led to incidents of xenophobia, food shortages, and lack of sanitary products, which, exacerbated by COVID-19, placed their physical and mental health at risk.<sup>291</sup>

160. Likewise, it is underscored that food shortages mean that the prices of essential products outstrip the purchasing power of the population. In fact, State employees have reported that the packages they are being offered have abusive prices, as in some cases, the costs are up to double their monthly salaries. Therefore, most of them cannot access the benefit or must buy in groups and share, even though it does not fully meet their needs.<sup>292</sup>

161. In this context, it is particularly concerning for the IACHR and its REDESCA when humanitarian aid intended to alleviate the situation facing the population is blocked or confiscated. In this regard, a number of social organizations have asked for the elimination of all obstacles preventing the entry of this type of aid and an end to measures that slow its distribution to those who need it.<sup>293</sup> However, the Observatorio Cubano de Derechos Humanos reported as of the end of August that the government had confiscated a shipment intended to support 15,000 families on the island as part of its "Solidarity among Brothers" initiative.<sup>294</sup> Regarding this, the IACHR and its REDESCA call for all State policies or actions to adopt an approach that places a priority on addressing and guaranteeing human rights.

162. Regarding the right to education, the IACHR and its REDESCA highlight the State's initiative to guarantee education through the use of television programming and the launching of digital educational platforms during the pandemic after the interruption of in-person teaching on March 24, 2020.<sup>295</sup> Likewise, it highlights the search for new alternatives with the United Nations Educational, Scientific and Cultural Organization (UNESCO) for collaborating on distance learning.<sup>296</sup> With the return to classes announced for November 2, the REDESCA knows the importance of ensuring that the necessary hygiene and social distancing measures are taken to protect teaching and

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<sup>288</sup> *ADV Cuba*, [Estudiantes de Jamaica desesperados y con hambre en Cuba, se sienten discriminados](#), April 27, 2020.

<sup>289</sup> *ADV Cuba*, [Estudiantes de Jamaica desesperados y con hambre en Cuba, se sienten discriminados](#), April 27, 2020.

<sup>290</sup> *Radio Televisión Martí*, [Estudiantes de Jamaica desesperados en Cuba sin alimentos; se sienten discriminados](#), April 27, 2020.

<sup>291</sup> *The Gleaner*, [Slamming Shortages, Med Students In Cuba Plead To Come Home](#), April 27, 2020.

<sup>292</sup> *Diario de Cuba*, [El precio de los módulos para trabajadores estatales es abusivo](#), October 7, 2020.

<sup>293</sup> *Noticias Electorales*, [\(CUBA\) UNPACU CONSIDERA URGENTE ELIMINAR LOS OBSTÁCULOS A LA ENTRADA DE AYUDA HUMANITARIA A LA ISLA Y EL CESE DE LA REPRESIÓN A LA SOCIEDAD CIVIL](#), May 26, 2020.

<sup>294</sup> Observatorio Cubano de Derechos Humanos, [Observatorio Cubano de Derechos Humanos condena retención de ayuda humanitaria por parte del Gobierno de Cuba](#), August 31, 2020.

<sup>295</sup> *Milenio*, [Más de 300 mil estudiantes retoman clases en Cuba ante 'nueva normalidad' por covid-19](#), November 2, 2020.

<sup>296</sup> *Prensa Latina*, [Cuba y Unesco analizan alternativas para educación a distancia](#), October 14, 2020.

administrative staff, as well as children and adolescents. This is in light of the impacts related to access to water, health infrastructure, and lack of teaching personnel that educational institutions have been experiencing for some time.<sup>297</sup> It also reiterates its call to guarantee academic freedom as an essential component of the right to education.

163. Regarding cultural rights, the IACHR and its REDESCA reiterate their concern at the censorship of artists based on Decree 349,<sup>298</sup> establishing measures for preventing expression, especially perspectives that run contrary to the Revolution. They likewise expressed concern at the retaliation against artists and police violence against them, including the detentions of Luis Manuel Otero Alcántara and Maykel Osorbo and curators Anamely Ramos González and Claudia Genlui Hidalgo, from the Movimiento San Isidro, which demonstrated an increase in repression through the weaponization of the pandemic.<sup>299</sup>

#### IV. CONCLUSIONS AND RECOMMENDATIONS

164. The IACHR reiterates its interest in conducting its first country visit to Cuba in order to reach out and open a respectful dialogue with the Cuban State, and thus provide any technical support in the area of human rights that may be required, in the interest of promoting respect and guarantee of human rights on the island. Additionally, the IACHR again recognizes and appreciates the actions taken to foster rights in Cuba and highlights the international cooperation that is offered by the Cuban people to the countries of the region in the fields of health, education, culture, and others.

165. However, the IACHR notes with great concern that in view of the information collected in 2020 and taking into account the recommendations issued in its most recent country report and in Chapter IV of the Annual Reports of previous years, the Commission observes no improvements in structural aspects such as violations of the rights to liberty and personal integrity, arbitrary restrictions on the right to vote and to participation in government, freedom of expression and the dissemination of ideas. Likewise, violations of due process guarantees and unlawful limitations on the right of residence and movement persist. Moreover, the IACHR finds it unfortunate that the official information available is so limited, and also laments the history of the State distancing itself from this regional human rights body.

166. Therefore, in compliance with its mandate, the Commission urges the Cuban State to:

##### **Right to vote and to Participate in Government**

1. Adopt the legislative and other measures necessary to ensure an electoral system that is inclusive and that ensures the free circulation of ideas and thought, enabling free political participation for all Cuban citizens on an equal footing.

##### **Independence of the Judicial Branch**

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<sup>297</sup> *14ymedio*, [A pocos días del reinicio del curso, padres y maestros difieren en las preocupaciones](#), October 29, 2020.

<sup>298</sup> IACHR, Country report, [Situation of Human Rights in Cuba](#), OEA/Ser.L/V/II., February 3, 2020.

<sup>299</sup> *Infobae*. [El régimen cubano secuestró a cuatro artistas que iban a presentar una demanda contra la violencia policial](#), June 17, 2020.

2. Adopt the measures necessary to ensure the full independence of the judicial branch from the other branches of government. The IACHR recommends adopting measures to ensure judges have guarantees as soon as they are selected for carrying out their work independently, impartially, in accordance with the law, and with respect for human rights.

#### **Representative Democracy and Political Rights**

3. Adopt measures to guarantee for Cubans the full exercise of political rights provided in the new Constitution.
4. Adopt the legislative and other measures necessary to ensure an electoral system that is inclusive and ensures the free circulation of ideas and thought, making possible free political participation for all Cuban citizens on an equal footing.
5. Adopt measures allowing the rights to freedom of assembly and of association for individuals, organizations, and political movements.
6. Release all persons detained for political reasons or reasons of conscience, including activists, artists, and journalists processed because of their work or activism.

#### **Freedom of Expression**

7. Immediately end the harassment, including the summonses, detentions of any length, and harassment of anyone for reasons related to the exercise of their freedom of expression, freedom of association, freedom of assembly, and related rights.
8. Guarantee that citizens and groups, including artists, political dissidents, human rights defenders, and others, have the right to peaceful assembly, to political participation, and to freedom of expression without fear of suffering retaliation or criminalization, thereby enabling and fostering a plural, expansive, and robust public debate.
9. Refrain from making illegal or arbitrary detentions, and when a person is deprived of liberty, ensure that the measure is exceptional and complies with all guarantees for restricting this right, including the requirement to be brought immediately before a judge.
10. Guarantee the conditions for the free exercise of journalism, establish legal guarantees enshrining the freedom of the press without obstructions, and allow the existence of nongovernment media outlets.
11. Guarantee access to the Internet without restrictions, thereby promoting universal access to Internet to ensure the effective enjoyment of the right to freedom of expression. In this sense, ensure that provisions of law regulating Internet access in the country are compatible with international human rights law, including the right to freedom of expression and thought and the right to privacy, as well as the principles of equal protection, nondiscrimination, pluralism, and net neutrality. This also includes making the costs of accessing the Internet and expanding connectivity affordable.

12. Refrain from conducting any type of surveillance or data processing, including the storage, analysis, and disclosure of personal information, except when it has a legitimate purpose to do so or it has the informed consent of the person affected; and adopt normative measures aimed at banning these practices and establish mechanisms of effective and independent oversight.
13. Amend the laws referred to in this report, particularly Decree-Law 370 on the "digitalization of society," along with any other law that may affect the characteristics of the digital environment in Cuba, in keeping with international standards on freedom of expression.

### **Human Rights Defenders**

14. Adopt adequate prevention mechanisms to avoid acts of harassment, threats, assaults, stigmatization, persecution and criminalization committed by State officials, or with their acquiescence, to the detriment of human rights defenders.
15. Refrain from imposing arbitrary restrictions on the right to free movement of human rights defenders, allowing them to freely exercise their right to freedom of movement on Cuban territory, as well as to depart and return to the country.
16. Refrain from arbitrarily depriving of their liberty human rights defenders, who perform legitimate human rights defense work in the country.

### **LGBTI Persons**

17. Take all measures necessary to legally recognize unions or marriage of persons of the same sex, granting them the same rights conferred to couples of different sexes, including property rights and all other rights that derive from the relationship, without distinction based on sexual orientation or gender identity, under penalty of violating the rights to equality and nondiscrimination.
18. Make efforts and allocate sufficient resources to systematically collect and analyze statistics on the prevalence and nature of the violence and discrimination based on prejudice against LGBTI persons or those perceived as such.
19. Guarantee protection of LGBTI persons and address the underlying causes of violence and discrimination against them, and its obligation to act with due diligence to prevent, investigate, try, punish, and provide reparations for human rights violations against LGBTI persons.
20. Adopt gender identity laws that recognize the right of trans and gender-diverse persons to change their images, their names, and “sex” or “gender” markers on birth certificates, identity documents, and other legal documents.

### **Women**

21. Launch processes of dialogue with civil society organizations aimed at guaranteeing their participation during implementation of the National Program for the Advancements of Women in Cuba.
22. Ratify the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (Convention of Belém do Pará) and adopt a general legal definition of all forms of discrimination against women that includes direct and indirect discrimination, pursuant to inter-American and universal standards on the issue.
23. Regularly produce complete statistics on violence and discrimination against women, disaggregated at a minimum by gender, age, ethnic-racial origin, socioeconomic status, disability, and sexual orientation and gender

identity/expression, as well as the location of the incidents, with the aim of building an accurate picture of the specific ways in which violence and discrimination affect women.

24. Take measures to guarantee training for public officials at all levels on the rights of women, including security forces and penitentiary staff, even when they are not involved in processing cases of discrimination and violence.
25. Guarantee the lives, security, and integrity of person of women who perform human rights defense work.

#### **Persons of African descent**

26. Adopt effective measures to guarantee that the legislative, legal, and institutional measures adopted to eliminate discrimination and racial stereotypes—such as the National Program against Racism and Racial Discrimination—have effective access to the human and financial resources they need to ensure execution.
27. Communicate to the Afro-descendant population regarding the content of the National Program against Racism and Racial Discrimination and ensure the participation in all its programs of those civil society organizations and human rights defenders who work on defending the human rights of persons of African descent.
28. Conduct independent investigations into incidents of violence and discrimination against persons of African descent, taking into account prejudice as a possible motive for such acts.

#### **Persons Deprived of Liberty**

29. Establish an up-to-date and public registry whose access is simple and unrestricted, with regular updates, on persons deprived of liberty, containing the following information at a minimum: (a) the number of persons deprived of liberty at the respective detention facility; (b) procedural status or situation; (c) gender and age. Specifically, factors such as race, ethnicity, age, sexual orientation, gender identity and expression, interculturality, intersectionality, and disability status, should be included.
30. Guarantee that people in State custody are treated with dignity. Specifically, ensure that detained individuals have the medical care they need for their specific health conditions, receive sufficient food with high nutritional value, and have hygienic living conditions.
31. Implement measures with a differentiated and gender-specific approach in order to be able to guarantee the rights of persons who, in the context of deprivation of liberty, are in a special situation of risk.
32. In the context of the global COVID-19 pandemic, adopt measures to address prison overcrowding, including by reevaluating cases of pretrial detention in order to identify the ones in which alternatives to deprivation of liberty can be used, giving priority to the populations with the greatest health risks, such as older persons, persons with chronic illnesses, pregnant women, women caring for children, and people who are close to completing their sentences.

### **People in Contexts of Human Mobility**

33. Create an expeditious and public procedure to determine the grounds for imposing restrictions on freedom of movement between provinces or leaving the country, and ensure in all circumstances that the country does not engage in any type of discrimination, including for political reasons. This policy should clearly explain the valid constitutional and legal grounds for a person to be designated as “regulated,” and there must be a procedure that avoids arbitrariness and is expeditious and impartial, so that citizens can denounce restrictions on leaving the country or on taking up residence in another part of Cuba and obtain a response in a reasonable time, before preparing their travel.
34. Remove travel restrictions (on both domestic and international travel) imposed on individuals because of their activities as activists, journalists, or for political reasons.
35. Adopt public policies and measures to guarantee effective protection of the rights of healthcare personnel providing services in Cuba and abroad, pursuant to international human rights standards on the subject, including ILO regulations.

### **Children and Adolescents**

36. Adopt a legal framework—including the new Family Code to be considered in 2021—that is compatible with the Convention on the Rights of the Child, including provisions to prevent marriage of persons under 18 years of age.
37. Adjust the institutional framework on the rights of children and adolescents to meet international standards on the subject, particularly as regards access to all types of free information, whether oral or written, online or printed, in artistic form or through any other means.

### **People with Disabilities**

38. Adopt a specific law protecting the rights of persons with disabilities to enable compliance with the Convention on the Rights of Persons with Disabilities.
39. Recognize sign language as the official language of deaf persons within its legislation and promote sign language through the implementation of positive measures to guarantee the accessibility of and training in sign language.
40. Adopt measures to ensure full recognition of the legal capacity of persons with disabilities through systems to provide decision-making support.
41. Provide accessible, timely, and clear information on the essential measures of prevention and self-care that persons with disabilities must take in the context of the COVID-19 pandemic.
42. Implement public policies to eradicate all forms of violence and discrimination against persons with disabilities, and guarantee their right to access to justice.

### **Economic, Social, Cultural and Environmental Rights**

43. Immediately, urgently, and with due diligence adopt all adequate measures to protect the economic, social, cultural, and environmental rights of the population

without any discrimination, with a particular focus on vulnerable populations such as persons with COVID-19—pursuant to the terms of Resolution 4/2020 of the IACHR—older persons, persons with disabilities, persons with comorbidities, children, adolescents, persons in a state of human mobility, and caretakers.

44. Adopt measures to protect the right to health of the population based on the best available scientific evidence, in concordance with the International Health Regulations, as well as the recommendations issued by the WHO and PAHO where applicable.
45. Take urgent action to ensure the provision of sufficient and affordable food and medicine to meet national demand, particularly ensuring the protection of the most vulnerable populations.