

URGENT ACTION

GOVERNMENT CRITICS JAILED FOR SPEAKING OUT

Two government critics are serving prison sentences in Cuba on politically motivated charges, following summary trials. Amnesty International considers them prisoners of conscience, detained solely for peacefully exercising their right to freedom of expression.

Emilio Planas Robert and **Rafael Matos Montes de Oca** were arrested in the city of Guantánamo in Guantánamo Province on 23 and 27 September 2012 respectively by Cuban police and officials from the Department of State Security. The men, who are both members of the Patriotic Union of Cuba (Unión Patriótica de Cuba, UNPACU) were charged with “dangerousness” (*peligrosidad*), a pre-emptive measure defined as the “special proclivity of a person to commit crimes”. Behaviour such as drunkenness, drug-addiction and “antisocial behaviour” is criminalized under this legislation. However, it is also used as a pretext to imprison political dissidents, independent journalists and government critics. Emilio Planas Robert was sentenced to three-and-a-half years' imprisonment and Rafael Matos Montes de Oca to two-and-a-half years following summary trials on 5 and 15 October 2012 respectively.

The authorities had accused them of putting up posters in Guantánamo city with “anti-government” slogans such as “down with Fidel” (*abajo Fidel*) and “down with hunger” (*abajo la hambre*). According to their families, no incriminating material was found at their houses and none was presented at their trials.

Amnesty International believes these sentences are politically motivated, relating to the two men's peaceful exercise of their right to freedom of expression, **and that it is intended to send a message of intimidation to other government critics, particularly other members of UNPACU.** Therefore the organization considers them prisoners of conscience.

Please write immediately in Spanish or your own language:

- Calling on the authorities to release Rafael Matos Montes de Oca and Emilio Planas Robert immediately and unconditionally, as they are prisoners of conscience, detained solely for peacefully exercising their right to freedom of expression
- calling on them to eliminate from the Criminal Code provisions regarding “dangerousness” and repeal all legislation which unduly limits freedom of expression and association.

PLEASE SEND APPEALS BEFORE 13 SEPTEMBER 2013 TO:

Head of State and Government

Raúl Castro Ruz
 Presidente de la República de Cuba
 La Habana, Cuba
 Fax: +41 22 758 9431 (Cuba office in Geneva); +1 212 779 1697 (via Cuban Mission to UN)
 Email: cuba@un.int (c/o Cuban Mission to UN)

Salutation: Your Excellency

Attorney General

Dr. Dario Delgado Cura
 Fiscal General de la República,
 Fiscalía General de la República,
 Amistad 552, e/Monte y Estrella,
 Centro Habana,
 La Habana, Cuba

Salutation: Dear Attorney General

And copies to:

Interior Minister
 General Abelardo Coloma Ibarra
 Ministro del Interior y Prisiones
 Ministerio del Interior,
 Plaza de la Revolución,
 La Habana, Cuba
 Fax: +1 212 779 1697 (via Cuban Mission to UN)
 Email: correominint@mn.mn.co.cu
 Salutation: Your Excellency

Also send copies to diplomatic representatives accredited to your country. Please insert local diplomatic addresses below:

Please check with your section office if sending appeals after the above date.

**AMNESTY
 INTERNATIONAL**



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ADDITIONAL INFORMATION

Article 72 of the Cuban Criminal Code, "The Dangerous State", reads: "The dangerous state is considered to be the special proclivity of a person to commit crimes as demonstrated by behaviour that manifestly contradicts the norms of socialist morals." (*Se considera estado peligroso la especial proclividad en que se halla una persona para cometer delitos, demostrada por la conducta que observa en contradicción manifiesta con las normas de la moral socialista*).

Both Rafael Matos Montes de Oca and Emilio Planas Robert were sentenced to security measures for those deemed to be likely to commit a crime in the future (*medidas de seguridad predelictivas*). Articles 78 to 84 of the Criminal Code describe the types of measure that can be taken, which include re-educative measures lasting from between one and four years. The person is to be interned in a "specialized work or study establishment" (*un establecimiento especializado de trabajo o de estudio*) or sent to "a work collective" (*colectivo de trabajo*). There is no mention of imprisonment.

Article 75 of the Criminal Code states that an "Official Warning" (*Advertencia Oficial*) will be given by the relevant police authority, to prevent those concerned from carrying out socially dangerous or criminal activities (*será objeto de advertencia por la autoridad policíaca competente, en prevención de que incurra en actividades socialmente peligrosas o delictivas*). The warning is to be issued as a legal document (*acta*) expressly stating the reasons for it, as well as what the person concerned has to say about it, and must be signed by both parties. According to their families, neither Rafael Matos Montes de Oca nor Emilio Planas Robert reportedly ever received any warning from the authorities, written or oral.

Rafael Matos Montes de Oca's wife was only told of his trial when it was already underway, and was only able to attend the closing stages – she had been in the process of hiring a lawyer at the time. Emilio Planas Robert's family were not informed of his trial and he was also not represented by a lawyer. Both trials reportedly lasted less than two hours.

The accusations made by the Public Prosecutor during Rafael Matos Montes de Oca's trial were reportedly that he did not work, did not have good relations with his neighbours, drank alcohol, wandered the streets at night and associated with counter-revolutionary elements. Emilio Planas Robert was apparently accused of being antisocial and meeting with counter-revolutionary elements.

Both men are imprisoned in the Guantánamo Provincial Prison (*prisión provincial de Guantánamo*).

The Patriotic Union of Cuba is a civil society organization which advocates for greater civil liberties on the island.

Name: Rafael Matos Montes de Oca and Emilio Planas Robert
Gender m/f: both m