

## TABLE OF CONTENTS

|  |    |
|--|----|
| I. Introduction .....  | 1  |
| Developments within Cuba.....  | 2  |
| Relations with the international community .....   | 3  |
| Developments in relations with the European Union (EU) .....   | 4  |
| Developments in relations with Latin America .....   | 6  |
| II. Prisoners of conscience .....  | 6  |
| Prisoners of conscience released during 2001-2002.....   | 8  |
| Prisoners of conscience remaining in detention.....  | 11 |
| III. Short term detention and harassment of dissidents .....   | 13 |
| Examples of individuals targetted for short term detention and harassment.....                                       | 14 |
| Examples of activities affected by short term detention and harassment.....  | 17 |
| IV. The death penalty .....  | 18 |
| Recent history of the death penalty in Cuba .....  | 19 |
| Conditions of detention and allegations of cruel, inhuman or<br>degrading treatment of death penalty prisoners ..... | 21 |
| Allegations of self harm amongst death penalty prisoners in Cuba .....   | 22 |
| V. Recommendations .....   | 22 |
| With regard to prisoners of conscience.....  | 22 |
| With regard to harassment of dissidents .....  | 23 |
| With regard to the death penalty .....   | 23 |



# CUBA

## The situation of human rights in Cuba

### I. Introduction

Amnesty International contributes to building respect for the Universal Declaration of Human Rights by drawing attention to violations of certain fundamental rights, pressuring for perpetrators to be held accountable and making recommendations to governments on how to improve compliance with international standards.

From its beginning in 1961, the Amnesty movement identified as prisoners of conscience “people who are held in prison solely because their views are unacceptable to their Government;” in its first years it took up the cases of several Cubans that it believed had been detained for the peaceful expression of their views.<sup>1</sup> Some of the early prisoners of conscience were trade unionists and other leaders who, like Fidel Castro’s supporters, had reportedly opposed the dictatorship of Fulgencio Batista, only to be imprisoned after the revolution for criticizing the behaviour of their former comrades.<sup>2</sup> Others were religious and conscientious objectors.<sup>3</sup> With time, peaceful political groupings with views differing from those of the authorities emerged, and many of their members were also declared prisoners of conscience after having been detained for their dissident activities.<sup>4</sup>

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<sup>1</sup> See, *inter alia*, "Do we get an answer?", *Amnesty: journal of the AMNESTY movement, an international movement for freedom of opinion and religion*, No. 9, 18 October 1961, p. 4.

<sup>2</sup> See, *inter alia*, "David Salvador (Cuba)", *Amnesty International Bulletin*, No. 7, April 1964 and *Amnesty International "Card Scheme" newsletter*, October 1966, p. 2; and "Huber Matos Benites (Cuba)", *Amnesty International Newsletter*, Vol. I, No. 12, December 1971, pp. 3-4.

<sup>3</sup> See, *inter alia*, "Kid' Gavilan (Cuba)", *Amnesty International "Card Scheme" newsletter*, August 1965, pp. 4-5 and "Mario Greenough Hylton (Cuba)", *Monthly newsletter from Amnesty International postcards for prisoners campaign*, June 1968, p.4.

<sup>4</sup> See, *inter alia*, Cuba chapter, *Amnesty International Report 1975-1976*.

In addition to its work on behalf of prisoners of conscience, Amnesty International also raised concerns about prison conditions and treatment of detainees;<sup>5</sup> fair trials for political prisoners;<sup>6</sup> and the death penalty.<sup>7</sup>

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<sup>5</sup> See the Cuba chapters of annual *Amnesty International Reports*, the earliest of which covered 1975-1976.

<sup>6</sup> See, *inter alia*, "An eye-witness report on the Cuban tribunals," *Amnesty: journal of the AMNESTY movement, an international movement for freedom of opinion and religion*, No. 13, 18 December 1961, pp. 2 and 6. Also "Visit to Cuba", *Eustomy: quarterly journal of Amnesty International*, No. 6, April 1965, pp. 1-2.

<sup>7</sup> See, *inter alia*, "Castro's personal intervention in the trial of Rolando Cubelas", *Amnesty International Bulletin*, No. 15, May 1966.

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Over the next three decades, Amnesty International delegates paid several visits to Cuba. In 1977, delegates were permitted to meet with government officials and others, but were denied private interviews with political prisoners.<sup>8</sup> Amnesty International visited Cuba again in 1988. In 1990, Amnesty International delegates to the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders in Havana also met government officials and members of civil society. The government has not replied to more recent requests for access.

In recent years Amnesty International's work has focused on the continuing imprisonment of a number of prisoners of conscience; the harassment of perceived dissidents; and the ongoing recourse to the death sentence.

#### **Developments within Cuba**

Amnesty International is concerned that Cuba continues to detain people for their political, religious or other conscientiously held beliefs.<sup>9</sup> *An unconfirmed number of people are currently detained for political offences in Cuba; of these, six had been identified by Amnesty International as prisoners of conscience as this report went to print.* While recognizing that this number represents a significant decrease from past decades, Amnesty International continues to call urgently for the unconditional release of all prisoners of conscience, and for the repressive laws under which they are often convicted to be repealed.

*While the number of identified prisoners of conscience has declined steadily over the last years, Amnesty International and other*

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<sup>8</sup> See, *inter alia*, Cuba chapter, *Amnesty International Report 1978*.

<sup>9</sup> Amnesty International designates as prisoners of conscience those who are *detained for their political, religious or other conscientiously held beliefs or because of their ethnic origin, sex, colour, language, national or social origin, economic status, birth or other status, who have not used or advocated violence.*

organizations have noted with concern an increase in other types of violations, including short-term arbitrary arrest, threats, summonses and other forms of harassment directed by the state against political dissidents, independent journalists and other activists in an effort to limit their ability to exercise fundamental freedoms.<sup>10</sup>

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<sup>10</sup> See *inter alia* Amnesty International, “Cuba: short term detention and harassment of dissidents” (AMR 25/04/00), March 2000.

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Such harassment, in addition to targetting the most vocal or well-known activists, has increasingly been used to stifle broader initiatives such as the *Proyecto Varela*, a petition for a referendum on legal reform that has reportedly collected the 10,000 voters' signatures required to introduce the subject before the *Asamblea Nacional del Poder Popular*, National Assembly of People's Power.<sup>11</sup> In addition, several recent incidents of the use of violence against protestors could signal the beginning of an extremely worrying trend in the Cuban authorities' efforts to repress dissent. These include the security forces' response to the events of 27 February 2002, when 21 Cubans drove a bus into the grounds of the Mexican Embassy in Havana. Police officers and state security officials reportedly beat Reuters journalist Andrew Cawthorne and cameraman Alfredo Tedeschi with batons while trying to prevent them from covering the story. Security sources reported that up to 150 Cubans, who had gathered outside the embassy, were arrested in a mass crackdown. The 21 were eventually arrested as well, after police were allowed entry into the embassy. As this report went to print, a number of those detained, including several well known dissidents, remained in custody (see below).

Cuban law has long provided for the death penalty for a range of offences. In a positive trend, it appears that no executions were carried out in 2001, in response to an unofficial moratorium declared by the authorities. However, at least 49 people remain on death row; and Amnesty International continues to urge the government to abolish the death penalty entirely.

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<sup>11</sup> See *inter alia* articles 75.u, 88.g and 137 of the *Constitución de la República de Cuba* of 1976, modified in 1992.

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### *Relations with the international community*

*The four decades-old embargo against Cuba by the USA continues to contribute to a climate in which fundamental rights are denied. On 19 April 2002, the UN Commission on Human Rights passed by 23 votes to 21 a resolution inviting Cuba to allow its citizens greater enjoyment of their civil and political rights. A resolution on human rights in Cuba has been passed annually since 1992, with the exception of 1998. Like the 2001 text, the 2002 resolution was more conciliatory towards Cuba than in earlier years; while stopping short of condemnation of the US embargo, the resolution recognized Cuba's efforts to give effect to its people's social rights, "despite an adverse international environment."*

*In November 2001, UN General Assembly members voted overwhelmingly to condemn the embargo, for the 10<sup>th</sup> consecutive year. In what was hailed as a possible breakthrough, in the same month the USA sold agricultural commodities to Cuba in the wake of a hurricane. However, both governments denied that this signified a change in overall relations.*



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## Developments in relations with the European Union (EU)

The EU has on several occasions condemned the USA's embargo against Cuba, and has opposed US efforts to limit third countries' trade with Cuba.<sup>12</sup> At the same time, recent relations between Cuba and the EU have been strained. Political dialogue between the EU and Cuba broke down in 1996, when the EU first adopted a Common Position on Cuba which conditioned any improvement in political relations to signs of democratic opening and increased respect for human rights in Cuba. In particular the EU requested that Cuba reform its legislation with regard to civil and political rights, with a view towards putting an end to political imprisonment, repression of fundamental freedoms and harassment of dissidents. The Common Position has been the topic of ongoing dialogue; it has been renewed every six months since.

One consequence was the blockage of cooperation agreements. Cuba was formally admitted to the group of African, Caribbean and Pacific (ACP) states on 14 December 2000 as the group's 78<sup>th</sup> member, after having held observer status since May 1998.<sup>13</sup> However, it is the only ACP member which has not signed trade and aid agreements with the EU.<sup>14</sup> Its failure to sign first the Lomé Convention and then the Cotonou Agreement stems from debate over its compliance with the *agreements' provisions on democratic principles and human rights*.

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<sup>12</sup> In February 1996, four people were killed when the Cuban Air Force shot down two small planes flown by members of a Cuban exile group set up to rescue "rafters" trying to escape Cuba by sea and based in Florida, USA. The Cuban Government claimed that the planes had entered Cuban airspace without authorization and that warnings had been given before they were shot down. It said that this and previous incursions were provocative and criticized the US authorities for failing to take steps to prevent them. In response to the shooting-down of the planes, US President Bill Clinton signed the Helms-Burton Act which extended the US trade embargo on Cuba, in place since 1962, by seeking to take action against foreign companies investing in Cuba. Most other governments strongly opposed the Helms-Burton Act because of its extraterritorial nature. See *Amnesty International Annual Report 1997*.

<sup>13</sup> The ACP Group was formed in 1975, and currently incorporates 48 African countries as well as 16 from the Caribbean and 14 from the Pacific.

<sup>14</sup> The Cotonou Agreement is a twenty-year trade accord signed on 21 June 2000 between the European Community and African, Caribbean and Pacific (ACP) countries, replacing the Lomé Convention of 1975. The stated objectives include "to promote and expedite the economic, cultural and social development of the ACP States, with a view to contributing to peace and security and to promoting a stable and democratic political environment" (The Cotonou Agreement, 21 June 2000, article 1.)

In February 2000 Cuba formally requested integration under the agreement; its candidacy was supported by the ACP Council of Ministers and the ACP-EU Joint Assembly. However, in April 2000, Cuba withdrew its candidacy to protest the votes of EU members in favour of the UN Commission on Human Rights resolution condemning Cuba's human rights record.

In August 2000 Cuba again communicated an interest in the trade and aid agreement, and the ACP-EU Joint Parliamentary Assembly again expressed its support.<sup>15</sup> The EU continued to call for movement on specific human rights issues, including for example Cuba's accession to the International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights, as well as steps towards abolition of the death penalty.

In April 2002, as during the preceding year, a number of EU member countries once again voted in favour of the UN Commission on Human Rights resolution regarding Cuba. During Belgium's tenure in the rotating presidency of the European Union (EU) during the second half of 2001, however, the country's foreign minister Louis Michel had taken significant strides towards reopening a closer dialogue with Cuba by visiting the country and meeting with government officials as well as dissidents. He reportedly reached agreement with the Cuban authorities on mutual willingness to discuss human rights issues.

In December 2001 the EU reconfirmed the Common Position with regard to Cuba, while noting some recent positive developments:

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<sup>15</sup> See ACP-EU 3194/01/fin., Resolution on accession by Cuba to the new ACP-EU Agreement, March 2001.

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After an in-depth assessment and information exchanges, it [the EU General Affairs Council] continues to note, in this country, serious failings with regard to the recognition and application of civil and political freedoms and the refusal by the authorities to consider reforms leading to a political system based on these values. However, adds the Council, it takes stock of a few signals in this area: greater religious freedom, the non-implementation of the death penalty for the last two years, a noticeable reduction in the number of political prisoners and an increase in the ratification of United Nations instruments in terms of human rights ... the Council feels that the common positions remain valid and remain the basis of European policy towards Cuba, and recalls that it awaits significant signs from the Cuban government towards achieving the aims of the common position.<sup>16</sup>

### **Developments in relations with Latin America**

In January 1962, the Organization of American States removed Cuba from its membership. The Inter-American Commission on Human Rights has continued to issue periodic reports on the situation of human rights in Cuba, and stresses that Cuba is still bound by regional human rights mechanisms.

Cuba continues to take part in some regional fora, and maintains bilateral relations with many countries in the Americas. In February 2002, for example, Mexico's president Vicente Fox visited the island, meeting with dissidents as well as with authorities. Uruguay presented a draft resolution on Cuba's human rights record before the UN Human Rights Commission in April 2002; it was supported by a wide range of Latin American countries. Mexico, which for the past decade has not voted in favour of the resolutions condemning Cuba's record, was among those to vote in favour of the resolution.

## **II. Prisoners of conscience**

As mentioned above, Amnesty International considers all those who have been imprisoned for their beliefs, ethnic origin, sex, colour or language to be prisoners of conscience, as long as they have not used or advocated violence, and calls for their immediate and unconditional release.

In Cuba, freedom of expression and association are restricted both in law and in practice. This affects, among others, 'independent' journalists and trade unionists -- those

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<sup>16</sup> EU/CUBA: Council notes positive signs in Cuba but confirms common position; Brussels, 10/12/2001 (Agence Europe).

working outside the state media or official trade union. The following is a short list of some of the offences contained in the Cuban Penal Code which usually result in the imprisonment of prisoners of conscience:

- **‘Disrespect’** (article 144)<sup>17</sup> - *anyone who in any way insults or offends an authority.*

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<sup>17</sup> Please note that these are unofficial translations to English of the articles of the penal code.

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Journalist **Bernardo Arévalo Padrón**<sup>18</sup> is serving a six-year prison sentence for reportedly accusing President Fidel Castro and Vice-President Carlos Lage of lying in an interview given to a United States radio station.

- **‘Public disorder’** (articles 200-201) - *anyone who carries out an act with the intention of causing panic or commotion.*

**Carlos Oquendo Rodríguez**<sup>19</sup> is believed to have been sentenced to at least two years’ imprisonment in January 2002 for ‘public disorder’ and ‘disrespect’ after having publicly expressed criticisms of Fidel Castro.

- **‘Revealing state security secrets’** (articles 95-96) - *anyone who reveals state security secrets of any kind.*

**Francisco Chaviano González**<sup>20</sup>. A document handed to him by a stranger was reportedly used against him at his trial in 1994, at which he was sentenced to 15 years’ imprisonment.

- **‘Enemy propaganda’** (article 103) - *anyone who incites against the social order, international solidarity or the Socialist State by means of oral or written propaganda and anyone who makes, distributes or possesses propaganda of that kind; anyone who spreads false news or malicious predictions which are likely to cause alarm or discontent among the population, or public disorder.*

**Cecilio Monteagudo Sánchez**<sup>21</sup> served four years in prison, reportedly for writing a leaflet calling on people not to vote in local elections which were due to take place in October 1997. The leaflet was never printed or distributed. According to the Cuban Constitution, citizens have the right to vote but are not obliged to do so.

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<sup>18</sup>See, *inter alia*, Amnesty International *Cuba: Political prisoners in need of medical attention*, AI Index: AMR 25/040/1999, October 1999.

<sup>19</sup>See, *inter alia*, Amnesty International *Cuba: short term detention and harassment of dissidents*, AI Index: AMR 25/004/2000, March 2000.

<sup>20</sup> See, *inter alia*, Amnesty International *Cuba: Political prisoners in need of medical attention*, AI Index AMR 25/040/1999, October 1999.

<sup>21</sup>See, *inter alia*, Amnesty International *Cuba: Current prisoners of conscience must be released*. AI Index: AMR 25/036/1999, September 1999.

- **‘Insult to the symbols of the homeland’** (article 203) - *anyone who insults or shows contempt by means of any other action for the national flag, anthem or coat of arms.*

**Oscar Elías Biscet**<sup>22</sup> was sentenced to three years for this offence in October 1999 after hanging the Cuban flag upside down from his balcony during a press conference at his house.

- **‘Spreading false news against international peace’** (article 115) - *anyone who spreads false news with the intention of disrupting international peace or endangering the prestige or reputation of the Cuban State or its good relations with another State.*

Independent trade unionist **José Orlando González Bridón**<sup>23</sup> spent eleven months in prison in 2001 for an article in which he accused the police of negligence in the case of a fellow activist who had been murdered.

- **‘Dangerousness’** (articles 72-74) - *the dangerous state is the particular proclivity which a person has to commit crimes, as demonstrated by behaviour which clearly runs counter to socialist moral norms.*

Independent journalist **Jesús Joel Díaz Hernández**<sup>24</sup> spent two years in prison, from January 1999 to January 2001, for this offence. This charge, which is particularly vaguely defined and risks being open to subjective application, has repeatedly used against those engaged in dissident activities.

### **Prisoners of conscience released during 2001-2002**

Amnesty International welcomes the release of the following prisoners. At the same time, the organization reaffirms that these individuals were arrested for the peaceful exercise of fundamental freedoms, and should never have been imprisoned in the first instance.

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<sup>22</sup>See, *inter alia*, Amnesty International Cuba: *Prisoner of conscience: new convictions overshadow releases*, AI Index: AMR 25/021/2000, October 2000.

<sup>23</sup>See, *inter alia*, Amnesty International Cuba: *Prisoner of conscience José Orlando González Bridón*, AI Index 25/006/2001, June 2001.

<sup>24</sup>See, *inter alia*, Amnesty International Cuba: *Political prisoners in need of medical attention*, AI Index 25/040/1999, October 1999.

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**Víctor Bressler Villazán and Emilio Bressler Cisneros:**<sup>25</sup> Víctor and his son Emilio served prison sentences of 8 years and four months and six years respectively. Both were members of an unofficial group called *Nueva Generación*, New Generation, as well as an association of independent intellectuals and writers. Víctor Bressler was sentenced to 12 years' imprisonment on charges of 'rebellion' and 'enemy propaganda,' reportedly for belonging to a dissident group and distributing leaflets. Emilio Bressler was sentenced to six years for 'enemy propaganda' for distributing leaflets.

**Leonardo Bruzón Avila:**<sup>26</sup> Leonardo Bruzón Avila was in detention for almost two months (from 3 December 2000 until 1 February 2001) after being detained in the context of the mass arrest of dissidents and government opponents which took place on the eve of the anniversary of the Universal Declaration of Human Rights. Following his release without charge he stated that he had been held for four days handcuffed to the bars of a punishment cell with his arms up and that later he was held naked for two days in a room which was kept at a low temperature. On 5 September 2001 he was again detained for four days, reportedly for opening a video library for children in Havana.

**Julia Cecilia Delgado:**<sup>27</sup> released on 19 October 2001 after serving ten months of a one-year sentence for 'disrespect' reportedly imposed because she had tried to participate in a peaceful march calling for human rights in Cuba. When she left prison, Julia Cecilia Delgado described the conditions in Manto Negro Prison as "*subhuman in all senses. The water given to the prisoners is contaminated with sewage water. The majority of the prisoners are suffering from dermatitis, diarrhoea and vaginal infections.*"<sup>28</sup>

**Jesús Joel Díaz Hernández:** He was given conditional release on 17 January 2001 after serving two years of a four-year sentence for 'dangerousness', believed to have been imposed because of his work as an independent journalist. On 8 March 2001 he was rearrested and accused of 'disrespect' but released six hours later on condition that he leave Cuba. Jesús Joel Díaz Hernández is the director of the independent press agency known as *Cooperativa Avileña de Periodistas Independientes*, Cooperative of

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<sup>25</sup>See, *inter alia*, Amnesty International *Cuba: Current prisoners of conscience must be released*, AI Index: AMR 25/036/1999, September 1999.

<sup>26</sup>See, *inter alia*, Amnesty International *Urgent Action, Leonardo Bruzón Avila*, AI Index: AMR 25/007/2001, September 2001.

<sup>27</sup>See, *inter alia*, Amnesty International *Cuba: New wave of political oppression*, AI Index: AMR 25/001/2001, January 2001.

<sup>28</sup> Quoted in "'Estamos haciendo lo que Cuba necesita...'", *afirma ex presa política*," CubaNet, 8 November 2001. Unofficial translation.

Independent Journalists of Ciego de Avila, and a member of the *Comité Cubano Pro Derechos Humanos*, Cuban Committee for Human Rights.

**José Orlando González Bridón:** José Orlando González Bridón, secretary general of the unofficial *Confederación Democrática de Trabajadores de Cuba (CTDC)*, Confederation of Democratic Workers of Cuba, was conditionally released on 22 November after serving one year and one month of a two-year sentence for “spreading false news against international peace.” This charge was reportedly brought against him because in an article he accused the police of negligence in the case of the murder of Yohana González Herrera, the national coordinator of the CTDC who apparently died at the hands of her former husband, despite having repeatedly requested that he be arrested for ill-treating and threatening her. The article was published on the internet page of the Miami-based *Cuba Free Press* news agency and also broadcast on Radio Martí, also based in Miami.

**Manuel González Castellanos:**<sup>29</sup> Manuel González Castellanos is a journalist with *Cuba Press*, an independent press agency. He was sentenced to two years seven months’ imprisonment for ‘disrespect,’ of which he served two years and four months. He was released on 26 February 2001.

**Cecilio Monteagudo Sánchez:** released on 15 June 2001 after completing three years and nine months of a four-year sentence for ‘enemy propaganda.’ He was reportedly convicted for having written a leaflet, which was never printed or distributed, calling on people not to vote in the local elections that were due to take place in October 1997. According to the Cuban Constitution, citizens are not obliged to vote.

**Juan José Moreno Reyes:**<sup>30</sup> José Moreno Reyes had been sentenced, together with 19 others, to 13 years’ imprisonment for ‘rebellion.’ It was alleged that the group had printed and distributed leaflets criticizing the government and that they had organized secret meetings. Juan José Moreno Reyes, who was the last of the group to be released, was freed in December 2001 after spending nine years and three months in prison. He is a member of an unofficial political group called ‘*Seguidores de Ochoa*,’ Followers of Ochoa, and of the *Comisión Cubana de Derechos Humanos y Reconciliación Nacional*, Cuban Commission of Human Rights and National Reconciliation.

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<sup>29</sup>See, *inter alia*, Amnesty International *Cuba: Current prisoners of conscience must be released*, AI Index: AMR 25/036/1999, September 1999.

<sup>30</sup>See, *inter alia*, Amnesty International *Cuba: Current prisoners of conscience must be released*, AI Index: AMR 25/036/1999, September 1999.



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**Angel Moya Acosta:**<sup>31</sup> released on 4 December after completing a one-year sentence for ‘disrespect.’ The sentence was reportedly imposed because, in the course of mass celebrated at his home every Sunday in November 2000, prayers were said for political prisoners and prisoners of conscience, including calls for them to be amnestied. Angel Moya Acosta cannot travel to Havana where his wife and children live because he was also sentenced to ten years’ banishment from the city.

**Vladimiro Roca Antúnez:**<sup>32</sup> In a document entitled ‘*La Patria es de Todos*’, ‘The Country is for Everyone’, Vladimiro Roca, René Gómez, Félix Bonné and Marta Beatriz Roque criticized the position taken by the fifth congress of the Communist Party, called on people to abstain in the elections and requested foreign investors not to invest in the island. The four were arrested on 17 July 1997 and convicted of ‘other acts against state security’ relating to a charge of ‘sedition’ for which they were sentenced to prison terms ranging from six months for Marta Beatriz Roque to five years for Vladimiro Roca. Vladimiro Roca was finally released from prison on 5 May 2002; the other three had been freed in May 2000. He had reportedly been denied conditional release and held in isolation in a punishment cell for much of his time in prison. According to statements made by his wife, Magaly de Armas, Vladimiro Roca’s state of health was poor because, as well as arterial hypertension, he was suffering from a chronic lung illness.

Vladimiro Roca is the son of Blas Roca, one of the founders of the *Partido Comunista Cubano*, Cuban Communist Party.

### **Prisoners of conscience remaining in detention**

Amnesty International is calling for the immediate and unconditional release of the following prisoners, listed alphabetically, on the grounds that they have imprisoned for the non-violent expression of their beliefs. The organization is examining information about other political prisoners to determine whether they are also prisoners of conscience.

**Bernardo Arévalo Padrón:** Since 28 November 1997 Bernardo Arévalo Padrón has been serving a six-year sentence for showing ‘disrespect’ towards President Fidel Castro and Vice-President Carlos Lage. When interviewed by a Miami radio station, he called them “liars” and accused them of failing to keep the commitments they had made to democracy at an earlier Ibero-American Summit.

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<sup>31</sup>See, *inter alia*, Amnesty International *Cuba: New wave of political oppression*, AI Index: AMR 25/001/2001, January 2001.

<sup>32</sup>See, *inter alia*, Amnesty International *Cuba: Prisoner of conscience: new convictions overshadow releases*, AI Index: AMR 25/021/2000, October 2000.

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In April 1998 he was reportedly beaten by two guards at Ariza High Security Prison after they accused him of distributing anti-government propaganda. As a result of the injuries to his head, he has reportedly suffered from memory problems. He is also said to be suffering from lumbago and high blood pressure as a result of which doctors have recommended that he should not do physical work. Despite this, his failure to do such work was the reason reportedly given by the authorities to deny his conditional release. Bernardo Arévalo Padrón is the founder and director of the independent press agency known as *Prensa Línea Sur*, Linea Sur Press.

**Oscar Elías Biscet González:** In November 1999 Oscar Elías Biscet was imprisoned and accused of ‘insult to the symbols of the homeland,’ an offence which carries a maximum sentence of one year’s imprisonment. In February 2000, however, the prosecutor added two further charges of ‘public disorder’ and ‘incitement to commit an offence’ and Biscet was sentenced to three years’ imprisonment. Oscar Elías Biscet is the president of the *Fundación Lawton de Derechos Humanos*, Lawton Human Rights Foundation, an unofficial organization.

**Francisco Chaviano González:** In 1994 he was accused of revealing State Security secrets and falsifying a document for which he was sentenced to 15 years’ imprisonment. Francisco Chaviano has reportedly suffered from a duodenal ulcer and arthritis and has had breathing problems. He has received no medical attention for his high blood pressure and he was confined to a punishment cell for at least three months in 1999. He has also reportedly been beaten on several occasions: at the time of arrest and on 17 June 1999 when, according to reports received by Amnesty International, prison guards broke his tibia and caused injuries to his face. He has undertaken hunger strikes on several different occasions to draw attention to his conditions of detention.

Francisco Chaviano is the president of the *Consejo Nacional por los Derechos Civiles en Cuba*, National Council for Civil Rights in Cuba, an unofficial human rights group whose work includes documenting the cases of Cubans who have been lost at sea trying to leave the country.

**Eddy Alfredo Mena y González:**<sup>33</sup> He is the provincial coordinator of the *Movimiento de Jóvenes Cubanos por la Democracia*, Cuban Youth Movement for Democracy, and was sentenced in July 2000 to five years for ‘disrespect,’ ‘public disorder’ and ‘damage,’ together with the president of the group, Nestor Rodríguez Lobaina. In September 2000 Eddy Alfredo Mena was reportedly beaten with sticks by common prisoners; in August of the same year he went on hunger strike in protest at the suspension of his visits.

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<sup>33</sup>See, *inter alia*, Amnesty International *Cuba: Prisoner of conscience: new convictions overshadow releases*, AI Index: AMR 25/021/2000, October 2000.

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**Néstor Rodríguez Lobaina:**<sup>34</sup> in detention since 2 March 2000, the president of the *Movimiento de Jóvenes Cubanos por la Democracia*, Cuban Youth Movement for Democracy. He was sentenced, together with the group's coordinator, Eddy Alfredo Mena González, to six years and two months' imprisonment for 'disrespect,' 'public disorder' and 'damage.' In a report from prison, he said that he was "eating in unsanitary conditions, full of rodents and insects and near common prisoners suffering from tuberculosis" as a result of which he went on hunger strike.<sup>35</sup> In September of the same year, he was reportedly attacked by a common prisoner who broke his jaw but, despite this, they were allegedly left in the same cell together. Amnesty International has received unconfirmed reports that Néstor Rodríguez began another hunger strike in early April 2002, allegedly after having been beaten by prison staff.

**Carlos Oquendo Rodríguez:**<sup>36</sup> sentenced to at least two years' imprisonment in January 2002 for 'public disorder' and 'disrespect' after having publicly expressed criticisms of Fidel Castro. Carlos Oquendo Rodríguez, who is the president of the *Movimiento Opositor 13 de Julio*, 13 July Opposition Movement, has been imprisoned on several occasions: in December 1999 he was arrested for participating in a march calling for the release of political prisoners. After being held for five months, he was released without charge; he was also imprisoned between October 2000 and January 2001 for undertaking a hunger strike in his home in defence of the rights of prisoners of conscience.

### III. Short term detention and harassment of dissidents

In Cuba freedom of expression, association and assembly are severely limited by law and in practice. Those who attempt to express views, organize meetings or form organizations that conflict with government policy can be subjected to short term detentions, interrogations, summonses, official warnings, threats, intimidation, eviction, loss of employment, restrictions on travel, house searches, house arrests, telephone bugging and physical and verbal acts of aggression carried out by government supporters. These measures can be directed against specific individuals, in an apparent effort to encourage

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<sup>34</sup> See, *inter alia*, Amnesty International *Cuba: Prisoner of conscience: new convictions overshadow releases*, AI Index: AMR 25/021/2000, October 2000.

<sup>35</sup> Quoted in "Epistolas," *Disidente Universal de Puerto Rico*, No. 170, August 2001. Unofficial translation to English.

<sup>36</sup> See, *inter alia*, Amnesty International *Cuba: short term detention and harassment of dissidents*, AI Index: AMR 25/004/2000, March 2000.

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them to desist from their activities. Similarly, they can be used on a larger scale, to prevent planned demonstrations or events in which dissident views might be expressed.

### **Examples of individuals targetted for short term detention and harassment**

**Maritza Lugo Fernández,**<sup>37</sup> 38-year-old vice-president of the *Partido Democrático 30 de Noviembre “Frank País”*, Frank País 30 November Democratic Party, left Cuba for the USA in January 2002. Her decision to leave was in large part prompted by the repeated harassment and detentions to which she and her family were subjected; her husband Raphael Ibarra Roque, aged 42, is serving a 20-year sentence in Kilo 8 Maximum Security Prison in the Province of Camaguey, reportedly on charges of sabotage. The couple have two daughters.

Maritza Lugo was regularly subjected to short-term detention, interrogations and other forms of harassment before leaving Cuba. Her last long-term detention occurred when she was arrested on 15 December 2000, after trying to commemorate the anniversary of the Universal Declaration of Human Rights. She was charged with *instigacion a delinquir*, ‘instigation to commit a crime,’ but was not tried. During her detention, in the *Centro de Reeducación de Mujeres de Occidente*, Women’s Re-education Centre in Havana (the main prison for women nicknamed “*Manto Negro*”), Maritza Lugo published a scathing denunciation of the Cuban government and state security apparatus:

I accuse, from this horrible place, before all international human rights organizations; before all organizations concerned with defending democracy, justice and peace; before religious organizations that promote human freedom and before the entire world.

I accuse the dictatorial government in place in Cuba and its repressive arm, State Security, of injustices and abuses that they commit against the Cuban people, the prison population and especially political prisoners and prisoners of conscience. [...]

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<sup>37</sup> See also *CUBA: Prisoners of conscience: New convictions overshadow releases*, AI Index: AMR 25/21/00, October 2000 and *CUBA: Eleven remain in detention following government crackdown on dissent during the Ibero-American Summit in Havana*, AI Index: AMR 25/02/00, January 2000.

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Enough of detaining innocent people whenever they feel like it, for the sole crime of not agreeing with Castro's system [...] In prison they are held for several months, if they are not found guilty by the courts, though in this way we always serve time unjustly without being tried; while other people are tried and sentenced without justice at their convenience.<sup>38</sup>

The open letter goes on to denounce poor prison conditions, which she alleges constitute cruel, inhuman or degrading treatment; ill-treatment by prison guards and by other prisoners with the complicity of prison guards; and inadequate medical care for detainees, among other forms of abuse. Maritza Lugo was released from "*Manto Negro*" in April 2001.

Prior to this, she had served numerous prison sentences and had on several occasions been identified by Amnesty International as a prisoner of conscience. In one such circumstance, she was arrested on 23 December 1999 after having planned to participate in a religious procession to celebrate Christmas. She went on two hunger strikes to protest her arrest and continued detention without official charge. She was eventually charged with *desórdenes públicos*, 'public disorder,' but was not tried; she was released on 1 June 2000, over five months after her arrest.

At the time of the December 1999 arrest, Maritza Lugo had reportedly been detained several times in preceding months, including on 20 October 1999 after a meeting was held at her house organized by the *Foro Tercer Milenio*, the Third Millennium Forum, a group of non-governmental organizations who had written to Ibero-American presidents calling for human rights and democracy in Cuba; on 12 November 1999 prior to the Ibero-American Summit in Havana; and on 4 December 1999.

Moreover, she had only just been released from "*Manto Negro*" prison. In September 1997 Maritza Lugo had been sentenced to two years' *limitación de libertad*, 'restricted freedom,' charged with *cohecho*, 'bribery,' on the grounds that she bribed a prison guard to smuggle money and a tape recorder into Unit 1580 Prison (also known as "*El Pitirre*") for another political prisoner. *However*, in February 1999 she was detained and her sentence was changed to imprisonment, reportedly for violating the order of restricted freedom. She was held in "*Manto Negro*" prison until her release on in September 1999.

Former prisoner of conscience **Leonardo Bruzón Avila** is president of the *Movimiento Pro Derechos Humanos 24 de Febrero*, 24 February Human Rights Movement. This

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<sup>38</sup> Unofficial translation to English. See, *inter alia*, "El 'Yo Acuso' de Maritza Lugo Triunfa en Ginebra," *Boletín del CCPDH* No. 35-36, spring-summer 2001; also *Revista Hispano Cubana* summer 2001.

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group is named for the date in 1996 on which two planes belonging to a Cuban exile group were shot down by the Cuban airforce. Leonardo Bruzón was reportedly arrested on the morning of 23 February 2002, apparently to prevent him from taking part in the next day's activities to commemorate the anniversary of the incident. He was taken to the *Departamento Técnico de Investigaciones* in Havana.

While visiting him there on 1 March, his family learned that he had been charged with 'disrespect' and 'enemy propaganda.' However, in subsequent reports, his lawyer referred to charges of 'disrespect,' 'public disorder' and 'resistance.' On 6 March, the *Movimiento Pro Derechos Humanos 24 de Febrero* reportedly held a demonstration in the park José Martí and sent letters to the Ambassador of Spain in Cuba, the President of the EU and UN High Commissioner for Human Rights Mary Robinson, as well as a series of other international figures, denouncing Leonardo Bruzón's arrest as politically motivated.

According to the information received, Leonardo Bruzón was held in a punishment cell in the *Departamento Técnico de Investigaciones* (DTI), Technical Investigations Department, in Havana before being transferred to Melena Dos prison in La Habana province at end March 2002. Amnesty International understands from other reports that such cells can be dark, poorly ventilated and unhygienic. This is of particular concern in that reports described Bruzón Avila as being in poor health. The organization reiterates that international standards of prison conditions must be respected for all prisoners; and that deliberately exposing detainees to poor conditions as punishment constitutes a serious violation of their rights.

Prior to this arrest, Leonardo Bruzón had been repeatedly detained and harassed. In one instance, the authorities issued a warrant for his arrest and the eviction of him and his family after he set up on 12 August 2001 an independent video library for children in his home in the capital, Havana. He was reportedly arrested on 5 September 2001, and was released four days later.<sup>39</sup> Earlier in August he and other opponents of the government were arrested and briefly detained to prevent them taking part in a demonstration calling for the release of political prisoners, in which they were planning to stand with candles in front of a statue of the Virgin Mary in the *Virgen del Camino* park in Havana. On 3

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<sup>39</sup> See Amnesty International Urgent Action 229/01 (AI Index AMR 25/007/2001 of 12 August 2001 and AMR 25/015/2001 of 13 September 2001.)

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December 2000 he and other dissidents were detained to prevent them taking part in a demonstration to celebrate Human Rights Day. In that instance Leonardo Bruzón was not released for two months.

### **Examples of activities affected by short term detention and harassment**

Activists attempting to collect signatures for the *Proyecto Varela*, a petition for a referendum on legal reform,<sup>40</sup> have been subjected to threats, short-term detention, summons, confiscation of materials and other forms of harassment by State Security agents, police and other officials in a number of locations. In March 2002 project organizers reported having collected the 10,000 signatures constitutionally required to hold a referendum, in scores of municipalities throughout the country.

In one recent instance of repression, on 17 January 2002 in Bayamo, Granma province, two members of the *Movimiento Cristiano Liberación*, Christian Liberation Movement, were reportedly approached by state security agents. According to the information received, they took one of the young men, **Alexis Rodríguez Fernández**, into custody for several hours; while interrogating him they allegedly told him that the leader of the MCL, **Oswaldo Payá Sardiñas**, would soon be arrested and sentenced to a long prison term. The activist was reportedly released at nightfall in a remote area, from which he had to walk home.

In another such incident, on 23 January 2002 a group of fifteen activists of the MCL and another organization were reportedly beaten by a large group including members of the National Police, State Security agents and civilian members of a *brigada de respuesta rápida*, rapid response brigade,<sup>41</sup> in Baire, Granma province. According to the information received, the activists were made to get out of the truck in which they were travelling, and were reportedly kicked, punched and threatened. Several documents were said to have been confiscated, including some signed *Proyecto Varela* petitions.<sup>42</sup>

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<sup>40</sup> The project is named after Cuban historical figure Father Felix Varela, a pro-independence priest.

<sup>41</sup> These brigades were first set up in 1991, to discourage crime and counter-revolutionary activities.

<sup>42</sup> See *Infoburo*, "Autoridades Cubanas aumentan represión en enero," 6 February 2002.

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Another set of circumstances in which authorities used mass repression against dissidents followed the events of 27 February 2002 mentioned above. On that date a group of 21 Cubans drove a bus into the grounds of the Mexican Embassy in Havana. Police officers and state security officials reportedly beat Reuters journalist Andrew Cawthorne and cameraman Alfredo Tedeschi with batons while trying to prevent them from covering the story. Security sources reported that up to 150 Cubans, who had gathered outside the embassy, were arrested. The 21 were eventually arrested by police as well.

In the followup to these arrests, at least a dozen dissidents were reportedly rounded up to prevent them from taking part in the disturbances. Most of these were reportedly arrested in Havana, but a number were taken into custody in Ciego de Avila province. Also in Ciego de Avila, a number of Cuban journalists were beaten while attempting to cover dissident activities in the wake of the Mexican Embassy arrests. In one incident, independent journalist **Jesús Alvarez Castillo** of Cuba Press reportedly suffered a neck injury after having been beaten by members of a rapid response brigade and officials of the Interior Ministry on 4 March. Activists who protested this injury at the hospital where he was being treated later the same day were themselves allegedly beaten by police agents. Several of them were reportedly arrested; as this document went to press it was not clear whether all of them had been subsequently released.

#### **IV. The death penalty**

“... We recognize the seriousness of these violent events in which prison officials lost their lives, and profoundly regret the pain of all the families affected. We accept the participation of our six young sons ... for that reason, we are not asking for impunity, but for rational justice in which this barbarous penalty of death by firing squad is exchanged for one less cruel and merciless, allowing for the



government's recognition of the sad prison situation which compels prisoners to violence, including systematic self-mutilation."<sup>43</sup>

Amnesty International opposes the death penalty unconditionally as a violation of the right to life and the right not to be subjected to cruel, inhuman or degrading punishment. Along with a range of other international organizations, Amnesty International has regularly urged the Cuban government to abolish it, and to commute the sentences of those facing capital punishment.

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<sup>43</sup> Quote from the parents of a group of six men sentenced to death in Cuba after a violent escape attempt in which several prison guards were reportedly killed. Published in "Reclaman por ayuda familiares de condenados a muerte," *Fragua: publicación de los ex-prisioneros y combatientes políticos cubanos*, June 2000, p.3. Unofficial translation.

According to investigations carried out by the human rights organisation Cuban Commission for Human Rights and National Reconciliation, the *Comisión Cubana de Derechos Humanos y Reconciliación Nacional CCDHRN*,<sup>44</sup> from April 2000 the Cuban government has instituted a de facto moratorium on the death penalty.<sup>45</sup> Amnesty International welcomes this as a positive step away from the executions, generally carried out by firing squad, that the Cuban government had carried out in recent decades. Nevertheless, at least 49 people remain under sentence of death in Cuba, according to CCDHRN records. Amnesty International calls for the immediate and unconditional commutation of their sentences and asserts that their right to life cannot be guaranteed until the death penalty is fully and unconditionally abolished.

While the Cuban government has made no formal announcement of the moratorium, press sources quoted Fidel Castro as saying in November of 2001 that his government was analyzing the possibility of abolishing the death penalty: "*La pena capital no será eterna*", "capital punishment will not be eternal," he was reported to have said, as "we have other ideas that will one day permit us to abolish it." According to this account, Castro added that the reasons behind any eventual decision to abolish the death penalty would be "not in order to have more friends, but because we want to understand the causes that lead to crimes being committed."<sup>46</sup>

However, government sources have also reiterated their belief in the effectiveness of the death penalty as a dissuasive measure to crime. In June 2001 Justice Minister Roberto Díaz Sotolongo, was reported to have said that the death penalty deters would-be drug traffickers from operating in Cuba;<sup>47</sup> and in late 2001, Cuba's legislature reportedly approved unanimously an expanded anti-terrorism law that reaffirmed the use of the death penalty in the most extreme cases.<sup>48</sup>

### **Recent history of the death penalty in Cuba**

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<sup>44</sup> This is an unofficial human rights group tolerated by the government and well-known internationally.

<sup>45</sup> *Inter alia*, "Podemos afirmar que, desde mediados del año 2000, el gobierno de Cuba ha estado aplicando una moratoria en la ejecuciones de condenados a muerte," Notimex, 9 January 2002.

<sup>46</sup> "*Exhortan a gobierno Cubano a conmutar penas. Dos. CCDHRN*," Notimex, 9 January 2002. Unofficial translation.

<sup>47</sup> "*Ministro Cubano ve en pena de muerte mensaje disuasorio para narcos*", EFE, 26 June 2001.

<sup>48</sup> "*Cuba Toughens Anti-Terrorism Law*," Associated Press, 20 December 2001.

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The death penalty was prohibited under the Cuban Constitution of 1940. This constitution was suspended by dictator Fulgencio Batista during the 1950s; one of the slogans of the opposition to Batista was a call for it to be reinstated. After Batista was overthrown and Fidel Castro emerged as head of government, the use of the death penalty was authorized for a wide range of “counter-revolutionary” offences.<sup>49</sup>

Further decrees and laws passed during the 1960s retained and on occasion extended the application of the death penalty. In 1973 the Code of Social Defense replaced the previous legislation but continued to provide for the death penalty as an optional punishment for a range of counter-revolutionary and common crimes. This was subsequently replaced by the 1979 Penal Code, *Código Penal*, which also retained the penalty for a number of offences. Following revision in December 1987<sup>50</sup> their number was reduced somewhat.

It is difficult to obtain reliable information on use of the death penalty: the Cuban government rarely publicizes statistics on capital punishment or measures taken with regard to individual cases.<sup>51</sup> In spite of the difficulty in gaining information, it appears that in recent years there has been a considerable decline in the use of the death penalty, particularly as compared to the years following the revolution.

Cuba’s use of the death penalty has long been a subject of international pressure. According to a human rights delegation to Cuba in May 1995 led by France-Libertés and Human Rights Watch, President Castro announced to them his intention to introduce a bill in the National Assembly for the abolition of the death penalty. However, he specified that this would be dependent on economic developments in the country as well as the US embargo against Cuba.<sup>52</sup>

However, there was little indication of movement in this direction. In March 1999, Cuba expanded the use of the death penalty by modifying articles of the penal code to allow for use of the death penalty for crimes of large scale international drug trafficking, the corruption of minors and trafficking for prostitution. The CCDHRN reported that the Cuban government executed at least 21 individuals by firing squad in 1999; it is not clear how many if any of these were sentenced under the expanded measures.

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<sup>49</sup> Law 425 of 7 July 1959.

<sup>50</sup> Law no. 62 of 1987.

<sup>51</sup> One exception was former General Arnaldo Ochoa Sánchez, executed along with three officers from the armed forces and the Ministry of the Interior in 1989, after a military tribunal convicted them on drug and corruption charges.

<sup>52</sup> Human Rights Watch, *Cuba’s Repressive Machinery: human rights forty years after the revolution*, June 1999, p. 136.

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### Conditions of detention and allegations of cruel, inhuman or degrading treatment of death penalty prisoners

In addition to calling for a full and unconditional abolition of the death penalty, Amnesty International remains concerned about the conditions in which death penalty prisoners are kept, and calls on the government to ensure that prisoners' rights are respected. The organisation has received worrying reports from a variety of sources of some death penalty prisoners being subjected to cruel, inhuman or degrading treatment.

One letter, reportedly from a death penalty prisoner to his father, details how he was confined in a windowless cell, with no toilet or running water, and was denied the right to go outside for months at a time. In July 2000 nongovernmental sources in Cuba indicated that one death row prisoner had been held in solitary confinement in a closed cell for 18 months, at a temperature of approximately 32 degrees centigrade; press reports in September 2001 indicated that five death penalty prisoners were among those who had reportedly been subjected to conditions amounting to cruel, inhuman or degrading treatment in Kilo Ocho prison in Camagüey province, in overcrowded, unlit and unsanitary cells with insufficient food.<sup>53</sup> Allegations of beatings by guards have also been received.

Prisoners on death row are reportedly only entitled to visits from their family every three months. In some cases even this has apparently been denied due to alleged bad behaviour by the prisoner. Amnesty International has also received claims that correspondence between death row prisoners and their families has been curtailed.

Family members have also drawn attention to the unacceptable conditions faced by their sons on death row: "our sons have suffered throughout this time hunger, overcrowding, heat and humidity in the prisons, and above all, ill-treatment and refusal of medical treatment."<sup>54</sup>

Family members of death row prisoners have reported being harassed by the authorities in retribution for their efforts to push for better treatment of their loved ones. In one instance, the father of death row prisoner **Morlaix Nodal Pozo** reported that he lost his job at the Empresa de Cítrucoc "El Cerro" in Ciego de Avila. He said he believed this happened as a result of having written an open letter, circulated internationally via unofficial press sources in Cuba, asking for help to stop his son from being brought before a firing squad.<sup>55</sup>

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<sup>53</sup> "Presos de Kilo Ocho denuncian actos de tortura en su contra," Cuba Net Independiente, 25 September 2001.

<sup>54</sup> Letter from parents, published in CubaNet Independiente, 26 May 2000.

<sup>55</sup> See CubaNet 9 August 2000.

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### **Allegations of self harm amongst death penalty prisoners in Cuba**

Amnesty International has received numerous reports of self-abuse amongst death penalty prisoners in Cuba. **Jorge Luís Rodríguez Mir**, who is also allegedly schizophrenic and epileptic, and **Ulloa García Manuel Antonio**, detained in Camaguey, have both reportedly mutilated their hands during their confinement. They are now said to be unable to attend to their basic needs.

In addition, prisoner **José Manuel Azán Rojas**, arrested for murder in 1998 and subsequently sentenced to death, allegedly inflicted irreparable damage on his own eyes in protest at the sentence; members of his family reportedly say that he is now totally blind. Furthermore, on 23 September 2000 **Héctor Santana Vega** and **Reidel Rodríguez Reyes** are said to have injected petrol or a similar fluid into their own knees to protest the sentences against them; as a result Reidel reportedly required a leg operation.

### **V. Recommendations**

- That the Cuban Government ratify the International Covenants on Civil and Political and on Economic, Social and Cultural Rights, as well as other fundamental international human rights mechanisms, as reiterated in the European Union's Common Position.

#### **With regard to prisoners of conscience:**

Amnesty International calls on the Cuban government

- to order the immediate and unconditional release of all those mentioned above as prisoners of conscience, as well as of anyone else who is detained or imprisoned solely for having peacefully exercised their rights to freedom of expression, association and assembly;
- to bring Cuban legislation into line with international human rights standards, especially the laws relating to the exercise of the fundamental freedoms mentioned above, so that the human rights of all Cuban citizens are protected;
- to provide full judicial guarantees to ensure that, in accordance with international human rights standards, all detainees accused of politically-motivated offences have access to a fair trial, including immediate access to a lawyer of their choice.

**With regard to harassment of dissidents:**

Amnesty International urges the Cuban government

- to put an immediate end to all forms of harassment and intimidation directed against dissidents who are solely attempting to exercise their fundamental human rights as set out in the Universal Declaration of Human Rights;
- that all Cuban citizens be guaranteed their legitimate rights to freedom of expression, association and assembly, in accordance with articles 19, 20 and 21 of the Universal Declaration of Human Rights and articles 4, 21 and 22 of the American Declaration of the Rights and Duties of Man; and that punitive measures, including detention, taken against individuals for exercising these rights immediately cease.
- that independent journalists, independent librarians and others be permitted to carry out their legitimate work without interference.

**With regard to the death penalty:**

Amnesty International welcomes the de facto moratorium on new death sentences, and calls on the Cuban government

- to immediately abolish the death penalty from its legal system, and to reform all laws and legal texts that refer to it accordingly.
- to immediately commute the sentences of those on death row to prison terms.
- to ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, adopted by the UN General Assembly in 1989.