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CUBA

Short term detention and harassment of dissidents

INTRODUCTION

In Cuba freedom of expression, association and assembly are severely limited in law and in practice. Those who attempt to express views, organize meetings or form organizations that conflict with government policy are frequently subjected to punitive measures including 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.

Although the number of political prisoners and prisoners of conscience has decreased in recent years and long prison sentences for those considered by the government to be counter-revolutionaries are less common than in the past, other forms of punishment such as those mentioned above have become more frequent. Some dissidents, including journalists, members of independent political parties and human rights defenders, have gone into exile to escape continual persecution.

In a 1997 resolution, the United Nations Commission on Human Rights urged the Cuban Government “to ensure freedom of expression and assembly and freedom to demonstrate peacefully, including by allowing political parties and non-governmental organizations to function freely in the country and by reforming legislation in this area.”¹

Following Pope John Paul II’s visit to Cuba in January 1998, there was a brief improvement in the human rights situation and about 100 political prisoners were released, including 19 people declared by Amnesty International to be prisoners of conscience. However, in late 1998 frequent detentions and harassment resumed.

BACKGROUND

Legal framework

President Fidel Castro became head of state in 1959, after leading a guerrilla campaign that ousted right-wing dictator Fulgencio Batista. Fidel Castro’s party, the Cuban Communist Party, *el Partido Comunista de Cuba*, remains the only legal political party and no independent organizations or labour unions are permitted.

¹United Nations Commission on Human Rights resolution 1997/62, adopted 16 April 1997, para. 5.

It is also illegal to leave the island without permission from the authorities. Those caught attempting to do so are liable to be charged with “*salida ilegal del territorio nacional*”, “illegal exit from national territory”.

Dissidents who are brought to trial are often convicted of offences such as “*propaganda enemiga*”, “enemy propaganda”, “*desacato*”, “disrespect”, or “*desórdenes públicos*”, “public disorder”.² Amnesty International notes that such vague or ambiguous offences can undermine the right to liberty and security of the individual laid out in article 3 of the Universal Declaration of Human Rights (UDHR).³ According to several decisions by the United Nations Working Group on Arbitrary Detention (WGAD), to take one example, the crime of “public disorder” under the Cuban Penal Code is “a vague accusation which does not warrant detention,”⁴ contravening international standards requiring adequate characterization of the conduct prohibited by offences.

Freedom of expression is severely restricted by law. Article 53 of the Cuban Constitution of 1976, as revised in 1992, purports to allow freedom of speech and press but only “in keeping with the objectives of socialist society”.

Article 54 states that “the rights to assembly, demonstration and association are exercised by workers, both manual and intellectual, peasants, women, students and other sectors of the working people, and they have the necessary means to do so. The mass and social organizations have all the facilities they need to carry out such activities for which their members enjoy full freedom of speech and opinion, based on the unlimited right of initiative and criticism”.

However, such rights are not permitted if they are “contrary to the goals of the socialist state” (Article 62 of the Constitution). Article 208 of the Cuban Penal Code states that “Anyone who belongs as a member or associate to an unregistered association will incur a sanction of one to three months’ imprisonment or a fine”.

The rights of political detainees to a fair trial are severely limited. The courts and prosecutors are government-controlled. Article 73 of the Constitution states that Cuba’s National Assembly should “elect the President, Vice-President and the other judges of the

²See “Cuba: Current prisoners of conscience must be released”, AMR 25/36/99, 14 September 1999, for further information.

³See also Inter-American Commission on Human Rights, *Informe anual de la Comisión Interamericana de Derechos Humanos, 1983-1984*, pg. 85, para. 7.

⁴Report of the Working Group on Arbitrary Detention to the United Nations Commission on Human Rights, E/CN.4/1993/24, Annex I, Decision No. 13/1992, para. 6(f), 12 January 1993.

Peoples' Supreme Court; elect the Attorney General and the deputy attorneys general". According to Article 122 of the Constitution, the courts are subordinate to the National Assembly and the Council of State, which is considered the "supreme representation of the Cuban State" (Article 87 of the Constitution).

There are particular problems related to adequate access to defence counsel. Lawyers, who are all employed by the Cuban State, are often reluctant to seriously challenge the arguments put forward by the prosecutors and the Department of State Security, the security service usually responsible for investigating cases of a political nature. During the initial period of detention detainees are frequently held for weeks or months without access to a lawyer and subjected to psychological pressures to sign incriminating statements. Though they are usually permitted family visits, these take place in the presence of an official and they are forbidden to talk about anything relating to the reasons for their detention or the treatment they are receiving.

Arbitrary detention

Arbitrary deprivation of liberty is expressly prohibited by article 9 of the Universal Declaration of Human Rights and article 25 of the American Declaration of the Rights and Duties of Man, among other instruments. In defining its work in this area, the United Nations Working Group on Arbitrary Detention (WGAD) has established criteria for determining when detention is arbitrary. These criteria include when there is no legal grounds for detention; when the deprivation of freedom relates to the exercise of certain freedoms or rights protected by international law; or when the right to fair trial has not been respected.⁵

As noted above, many prisoners of conscience and political prisoners are detained under national legislation limiting the exercise of freedom of expression, association and assembly. At the beginning of its tenure, the Working Group was asked by the Cuban Government to comment on the value to be attached to national legislation in evaluating whether deprivation of liberty is arbitrary. In response, the Working Group developed the following guideline:

⁵Report of the Working Group on Arbitrary Detention to the United Nations Commission on Human Rights, E/CN.4/1992/20, Annex I, 21 January 1992.

“The legal framework within which the Working Group will have to carry out its mandate is made up primarily of international standards and legal instruments, but in certain instances of domestic legislation as well. The Working Group will thus have to look into domestic legislation in investigating individual cases, where it will have to determine whether internal law has been respected and, in the affirmative, whether this internal law conforms to international standards. It may thus have to consider, in certain cases where there are alleged practices of arbitrary detention, whether they have not been made possible as a result of laws which may be in contradiction with international standards.”⁶

Since its creation in 1991, the WGAD has raised a number of individual cases with the Cuban Government, and has determined that more than twenty individuals among those whose detentions were under review were arbitrarily deprived of liberty. The criterion most often cited as grounds for declaring these detentions to be arbitrary was that pertaining to the exercise of fundamental freedoms and rights. The WGAD has repeatedly urged the Cuban Government to bring its legislation into conformity with international standards in this regard.

SHORT TERM DETENTION AND HARASSMENT

Those who are seen to be undertaking activities that are considered to be in opposition to government policies or practices take great risks and may be subjected to a range of repressive measures. Such activities include holding meetings, distributing anti-government propaganda, writing articles critical of the government or shouting anti-government slogans. The following are currently some of the most frequently used measures by the government to combat dissent:

Short term detention

Short-term detentions of dissidents are becoming more and more frequent, including some incidents of mass detentions. Detainees are normally held for a few hours or sometimes days in police stations or other detention centres, during which time they are often subjected to long interrogations, threats, periods of solitary confinement, deprivation of light and in some cases beatings. Detainees are normally threatened with imprisonment if they do not give up their “counter-revolutionary” activities or go into exile. They are often not permitted to see a lawyer or family members during this period. Amnesty International is concerned that the practice of short term detention of dissidents risks undermining respect for international principles and standards regarding deprivation of liberty and freedom of expression, association and assembly.

⁶Report of the Working Group on Arbitrary Detention to the United Nations Commission on Human Rights, E/CN.4/1993/24, para. 20 (13), 12 January 1993.

(a) Recent examples of mass detentions:

On 7 and 8 September 1998 at least ten dissidents were detained in the biggest crackdown on anti-government activism since the Pope's visit. Most of the detainees had taken part in a demonstration outside the court where **Reinaldo Alfaro García**, vice-president of the unofficial *Asociación de Lucha Frente a la Injusticia (ALFIN)*, Association for Struggle against Injustice, and a member of the unofficial *Partido Solidaridad Democrático (PSD)*, Democratic Solidarity Party, was tried in August 1998. All were released without charge within one to six days.

On 27 November 1998 several people were detained after protesting outside the courtroom where the trial of **Mario Julio Viera González**, director of the independent press agency, *Cuba Verdad*, Cuba Truth, was to take place. The demonstration outside the courtroom reportedly began peacefully but turned violent when members of the *Brigadas de Respuesta Rápida*, Rapid Response Brigades⁷, State Security agents and police, came to the scene and began to beat the demonstrators with clubs. Several demonstrators shouted anti-government slogans and were detained. All of the detainees were released without charge, most of them the following morning. However, on 4 December 1998 **Milagros Cruz Cano**, who is blind, was re-detained by State Security officials whilst waiting for a bus. She was initially held at the Maria Luisa police station in Havana where she was reportedly beaten by police officers which resulted in a swollen cheek and a bruise and scab below her eye. She was then transferred to Mazorra psychiatric hospital in Havana where she was held in an isolated cell called Córdoba. The conditions of detention were said to be degrading as she was held in a cell with iron bars which other patients and guards could see into and where she had to carry out all personal hygiene. She was released on 14 December 1998 without charge.

On 10 December 1998 several people were detained prior to a celebration of the 50th anniversary of the Universal Declaration of Human Rights. According to reports, hundreds of members of the *Unión de Jóvenes Comunistas*, Union of Communist Youth, and other government sympathisers, came to the Butari Park in Havana where the celebration was to take place and beat one man who shouted anti-government slogans and attacked foreign journalists. All the detainees were subsequently released without charge.

⁷ These were set up in 1991 "to defend the country, the Revolution and socialism in all circumstances, by confronting and liquidating any sign of counter-revolution or crime" and have subsequently been involved in numerous violent confrontations with dissidents.

On 15 and 16 December 1998 about a dozen people were detained, possibly to prevent them from attending the trial of **Lázaro Constantín Durán**, the leader of the *Club de Amigos del Colegio de Pedagogos Independientes*, Friends Club of the College of Independent Teachers. All were released within a couple of days.

On 14 January 1999 about a dozen people were reportedly detained, allegedly to stop them from participating in a march to commemorate the anniversary of the birth of US civil rights activist, Martin Luther King. All were subsequently released.

Between 22 and 27 January 1999 at least a dozen dissidents were detained, allegedly to prevent them from taking part in several public events planned for January: members of the *Fundación Lawton de Derechos Humanos*, Lawton Human Rights Foundation, reportedly held a public meeting calling on people to join their peaceful struggle; a pilgrimage was held on 25 January, to mark the anniversary of a mass that took place on Pope John Paul II's last day in Cuba in 1998; and on 28 January a peaceful human rights demonstration was scheduled in celebration of the birth of Cuban national hero José Martí. All detainees were subsequently released.

In late February 1999 dozens of dissidents were detained or held under house arrest, presumably to prevent them going anywhere near the vicinity of the trial on 1 March of four members of the *Grupo de Trabajo de la Disidencia Interna para el Análisis de la Situación Socio-Económica Cubana*, Internal Dissidents' Working Group for the Analysis of the Cuban Socio-Economic Situation (**Félix Antonio Bonne Carcasés**, **René Gómez Manzano**, **Vladimiro Roca Antúnez** and **Marta Beatriz Roque Cabello**).

In August 1999 some two dozen dissidents were temporarily detained, reportedly to prevent them from carrying out anti-government protests, one of which was called by the ecological group *Naturpaz* and was to take place in Lenin Park, Havana. The other was to take place in Pedro Betancourt, Matanzas province. One of the detainees, **Dr. Oscar Elías Biscet González**, president of the Lawton Foundation for Human Rights, claimed that he was threatened with imprisonment if he did not leave the country.

In September 1999, seven opposition activists were detained in Butari Park, Havana, where they were holding an informal class on civil disobedience. The detainees were all taken to a police station and then to the *Departamento Técnico de Investigaciones* (DTI), Technical Investigations Department, in Havana. Five of the detainees were released shortly afterwards, but **Marcel Valenzuela Salt** and **Marlon Cabrera Rivero** remained in detention for two weeks.

In October 1999 at least a dozen people were detained after congregating at the house of **Maritza Lugo Fernández** for a meeting called by the *Foro Tercer Milenio*, the Third

Millennium Forum, a group of non-governmental organizations which had written to Ibero-American presidents calling for human rights and democracy in Cuba.

In November and December 1999 some 260 dissidents were detained around the time of the Ibero-American Summit⁸ in Havana. Many more were placed under house arrest. At the time of writing this document, ten of those remain in detention. They are prisoners of conscience **José Aguilar Hernández, Dr. Oscar Elías Biscet González, Diosado González Marrero, Maritza Lugo Fernández, Angel Moya Acosta, Carlos Oquendo Rodríguez, Ariel Sigler Amaya, Guido Sigler Amaya, and Marcel Valenzuela Salt;** and possible prisoner of conscience **Fermín Scull Zulueta.**

(b) Examples of people frequently detained:

José Aguilar Hernández of the *Movimiento 13 de Julio*, 13 July Movement, was most recently detained on 17 December 1999 whilst taking part in a march, chained to other dissidents, to the Saint Lazarus religious shrine, demanding the release of political prisoners and respect for human rights. According to reports, he and three others were beaten by the police on arrest. They have reportedly been charged with “*resistencia*”, “*resistance*” and “*desórdenes públicos*”, “*public disorder*” but no date has been set for a trial. At the time of writing he remains in detention at the Valle Grande Prison. He was also detained in July, August and September 1999, several times in November 1999, and in December 1999, prior to or after taking part in peaceful anti-government activities.

Dr. Oscar Elías Biscet González, a physician, has reportedly been detained over two dozen times since June 1998. Most recently, he was detained on 3 November 1999 as he was about to organize a protest march to take place on 10 November. He was subsequently charged with “*ultraje a los símbolos de la patria*”, “*insult to the symbols of the homeland*”. This carries a maximum sentence of one year’s imprisonment. The charge was reportedly brought against him because a Cuban flag was hung sideways in his home during a press conference on 28 October 1999. The prosecutor’s petition which was issued in February 2000 stated that he was also charged with “*public disorder*” and “*instigación a delinquir*”, “*instigation to commit a crime*”. On 29 November 1999 he was

⁸ This annual event was initiated in 1991 with the goal of bringing together the heads of state of the Spanish and Portuguese-speaking nations of Europe and America to discuss issues of common concern. In 1999 it took place in Havana, Cuba.

temporarily moved from a detention centre in Mazorra psychiatric hospital where the authorities reportedly tried to carry out some psychological tests on him; he refused to participate.

On 25 February 2000 he was tried and found guilty of all three charges and sentenced to three years' imprisonment.

In an example of earlier detentions, on 14 August 1999 he was detained along with four other people in a park in Pedro Betancourt, Matanzas province. They had gathered in the park to give a talk on civic resistance. After being detained, Oscar Biscet reportedly said to a police officer "*Dios te ama*", "God loves you". He was then reportedly beaten about the face and neck and his elbow was burned with a cigarette by policemen. Oscar Biscet was then allegedly put in a single cell and forced to strip naked and beaten and kicked. He was later transferred to the DTI where he was interrogated and threatened with imprisonment if he organised any other dissident activity. He was released on 16 August 1999.

Alejandro Chang Castillo of the *Hermandad Cívica*, Civic Brotherhood, was detained on 8 November 1999 and released the following day. His organization, which was created in August 1999, had planned to hold a peaceful march on 10 November in the Butari Park but was prevented from doing so by State Security. In July, August, September and October 1999 Alejandro Chang Castillo was also temporarily detained, usually after preparing to take part in peaceful anti-government activities, such as giving a class on non-violent ways to promote social change.

José Orlando González Bridón, president of the *Confederación de Trabajadores Democráticos de Cuba*, Democratic Workers' Union, and a writer for the independent press agency *Cuba Press*, has been detained on numerous occasions. For example, on 20 January 2000 he was detained and interrogated for several hours about his journalistic work. He was reportedly threatened with being charged under Law 88⁹ for discrediting the Cuban state. Prior to that, on 25 December 1999 his home was surrounded by members of State Security who would not allow him or his family to leave the house. He was detained that morning when he tried to leave and was taken to a police station where he was held until the evening. Later that day, when his wife, **María Esther Valdés Suárez**, tried to leave the house she was also reportedly detained at the DTI until later

⁹ New legislation effective since March 1999, known as the "Law for the Protection of the National Independence and Economy of Cuba". It provides a penalty of up to 20 years' imprisonment for a series of offences, including providing information to the US government; owning, distributing or reproducing material produced by the US government or any other foreign entity; and collaborating by any means, with foreign radio, television, press or other foreign media, with the purpose of destabilizing the country and destroying the socialist state.

that evening. María Valdés was reportedly pushed by members of State Security at the time of detention in the presence of witnesses.

José González was also detained on 16 December 1999 in the cell of a police station in San Miguel del Padrón. Prior to that he was detained in January, July, September, October, November and December 1999, in December 1998, and in February, April and August 1997 and in 1996. In September 1998 graffiti was reportedly painted on his home and garbage piled outside his front door.

William Ernesto Herrera Díaz, president of the *Liga Cívica Martiana*, Civic Martian League, was detained on 23 December 1999 shortly after calling on people to participate in a pilgrimage on 25 December. He was subsequently released on 3 January 2000. He was also detained on 1 December 1999 and reportedly interrogated for seven hours by State Security officials. They reportedly questioned him about some filming that he was alleged to have done and that was broadcast abroad. According to a statement by William Herrera, he did not do the filming and he was threatened with being sentenced to 18 years' imprisonment for providing information to the enemy and for dissemination of false news. He was also detained on 14 December 1999 when he was due to attend a mass for political prisoners and to make an appeal to governments attending the Ibero-American Summit. He was released the following day, reportedly after a lengthy interrogation. William Herrera has been detained or summoned on many other occasions in the past.

Librado Linares García, Secretary General of the *Movimiento Reflexión*, Reflection Movement, was detained on 9 November 1999, the day he was to take part in a meeting of unofficial organizations. He was released a few days later. He had been detained or summoned on several occasions in the past, for example he was detained for short periods in July, September and October 1997.

Maritza Lugo Fernández, Vice-president of the unofficial *Partido Democrático 30 de Noviembre "Frank País"*, 30 November "Frank País" Democratic Party, has been detained on numerous occasions over the past few years. Most recently, she was detained on 23 December 1999 prior to taking part in a religious pilgrimage and remains imprisoned at the DTI, although no charges have been brought against her as yet. She was also temporarily detained on 4 December 1999 and on 12 November 1999 prior to the Ibero-American Summit, and on 20 October 1999 after a meeting called by the *Foro Tercer Milenio* (see page 5 above) was held at her house.

She had previously been detained on 15 August 1997 and subsequently sentenced to two years' "*limitation de libertad*", "restricted freedom"¹⁰, charged with "*cohecho*", "bribery",

¹⁰ Article 34 of the Penal Code - this measure can be imposed for up to three years, during which

on the grounds that she bribed a prison guard to smuggle money and a tape recorder into a prison. 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 the *Centro de Reeducación de Mujeres de Occidente*, Women's Re-education Centre in Havana (the main prison for women nicknamed "Malto Negro") until her release on 28 September 1999.

Héctor Palacios Ruiz, ex-president of the *Partido Solidaridad Democrático*, and founder of the *Centro de Estudios Sociales*, Centre for Social Studies, has been detained several times in recent years. In September 1997 he was sentenced to 18 months' imprisonment for "disrespect" towards President Fidel Castro. He had been detained on 9 January 1997 following an interview with a German television station in which he criticised the Cuban Government and referred to declarations made by President Fidel Castro at the Sixth Ibero-American Summit in Chile in November 1996. He was released in February 1998 following Pope John Paul II's visit to Cuba.

He was also temporarily detained in November 1999 prior to attending a meeting of anti-government activists prior to the Ibero-American Summit. He had previously been detained for four days in February 1996 and for a few days in August 1994.

Angel Pablo Polanco, a journalist for the independent press agency *Cooperativa de Periodistas Independientes*, Cooperative of Independent Journalists, and the director of *Noticuba* (also an independent press agency, created in November 1999) was recently detained on 10 November 1999 and held for one week, allegedly to prevent him from reporting on or attending any dissident activities organised during the time of the Ibero-American Summit. He has been detained on numerous occasions in the past, including January, August, September and October 1999.

Marcos Lázaro Torres León, a member of the *Partido Democrático 30 de Noviembre "Frank País"* has been detained for short periods on numerous occasions. Most recently he was detained on 23 December 1999 as he was due to take part in a religious pilgrimage, along with Maritza Lugo Fernández of the same party. He was subsequently released on 3 January 2000. Prior to that he was detained on 4 December 1999 and held until 11 December 1999; detained twice in November 1999 around the time of the Ibero-American Summit; in October 1999 before he was due to attend a meeting held by the *Foro Tercer Milenio*; in August 1999 whilst he and a group of dissidents were

time the person concerned may not move house without permission, is not permitted to receive promotion or a salary increase in their place of work, must appear before the court to explain their conduct if summoned to do so and must maintain "an honest attitude towards work, in strict accordance with the law and with respect for the norms of socialist life".

carrying out an anti-government protest in a park in Pedro Betancourt, Matanzas province; in August and September 1997; and in May and July 1996.

Marcel Valenzuela Salt of *Hermandad Cívica* was detained along with three others on 17 December 1999 (see José Aguilar Hernández case, page 9). They have reportedly been charged with “resistance” and “public disorder” but no date has been set for a trial.

According to reports Marcel Valenzuela Salt was transferred to the Carlos J. Finlay military hospital as he is suffering from an ulcer, high blood pressure and pneumonia.

Marcel Valenzuela Salt was also briefly detained in July, August, September, October, November and December 1999. On 14 September 1999 Marcel Valenzuela Salt and **Marlon Cabrera Rivero**, also a member of *Hermandad Cívica*, were detained, along with five others, in the Butari Park in Havana where they were holding an informal class on civil disobedience. The detainees were all taken to a police station and then to the DTI in Havana. According to Dr. Oscar Elías Biscet González, who was detained with them, Marlon Valenzuela was hit in the face by a plain-clothes policeman. Both men were released on 29 September 1999.

Eviction

Eviction is another less common method of repression used by the authorities to suppress dissidence. Victims are ordered to leave their homes and reportedly sometimes transferred to crowded shelters for the homeless. Amnesty International is concerned that incidents in which eviction is threatened or carried out allegedly for political motives or as a means of suppressing freedom of expression, association and assembly undermine respect for the principles articulated in article 12 of the Universal Declaration of Human Rights. This article states that “no one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation,” and other related rights.

For example, in August 1999, as well as being temporarily detained, opposition activist **Ramón Humberto Colás Castillo**, was evicted from his home in Las Tunas province, along with his wife, **Berta Mexidor Vázquez**, and their two children. Ramón Colás and Berta Mexidor, who were both founders of the first independent library in Cuba, had lived in their home for 13 years before being told they were illegal occupants. According

to Berta Mexidor, the authorities removed all their belongings into lorries in spite of their protests and told them they were been moved to another area, some 60 kilometres from their home. They were later taken to a military camp where some 300 people were reportedly housed. According to reports, the family are currently staying with relatives.

In January 1999 **Margarita Sara Yero**, an independent journalist working for *Cuba Press* in Santiago de Cuba province, was reportedly informed that she had to vacate the home where she had lived for some 35 years. The reason given by the authorities was reportedly that she “had abandoned her home and was the owner of another”. Margarita Yero’s lawyer then wrote to the *Dirección Municipal de Vivienda*, Municipal Housing Office, with signatures from neighbours confirming that she had never abandoned her home. However, on 2 February 1999 she reportedly received a reply to the letter stating that she would be evicted on 4 February 1999. Due to help from various local organizations and a statement by an old friend who confirmed that she had been living in that place since 1963, the eviction was not carried out.

Restrictions on movement

The Cuban Government imposes restrictions of one kind or another on the movement of Cuban citizens, often in an arbitrary fashion, sometimes preventing certain people from leaving or returning to the country, at other times actively encouraging or forcing so-called “counter-revolutionaries” to go, and sometimes restricting their movement within certain areas of Cuba. Amnesty International is concerned that such practices to stifle dissent violate fundamental freedom of expression, association and assembly and undermine respect for the rights to movement laid out in article 13 of the Universal Declaration of Human Rights and article 8 of the American Declaration on the Rights and Duties of Man.

(a) Internal exile

In October 1999 **Reverend Santos Osmani Domínguez Borja** was sent to Holguín province, over 700 kilometres from his home. He and **Reverend Lázaro William Urbina Dupont** had both been temporarily detained after formally requesting permission from the government to hold an act of public worship.

Ex-prisoner of conscience, **Nestor Rodríguez Lobaina**, president of the unofficial *Movimiento Cubano Jóvenes por la Democracia*, Cuban Youth Movement for Democracy, was temporarily detained in December 1998 after making a personal protest at the refusal of the Cuban Government to grant him permission to leave the country to attend a conference in Paris marking the 50th anniversary of the Universal Declaration of Human Rights, to which he had been invited by Amnesty International and other non-governmental organizations. He was released a week later and ordered to go and live

in Baracoa, Guantánamo province, where he had been born. He was also forbidden from going to Havana.

In June 1996 Nestor Rodríguez and **Radames García de la Vega**, vice-president of the *Movimiento Cubano Jóvenes por la Democracia*, were detained in Havana and charged with “disrespect” and “resistance”. They were sentenced respectively to twelve and six months’ “restricted freedom”, as well as to “*destierro*”, internal exile or confinement¹¹, for a period of five years. They were ordered to return to their home towns in eastern Cuba and to remain there. The detention of the two men was reportedly related to their attempts to organize a movement for university reform in Havana. The sentence of “*destierro*” is believed to have been imposed to prevent them from returning to the capital to carry on with their activities. They were subsequently escorted to their respective homes, Nestor Rodríguez to Baracoa, Guantánamo province, and Radames García de la Vega to Palma de Soriano, in the province of Santiago de Cuba.

Amnesty International is concerned that such punishments, particularly if intended to punish exercise of freedom of expression, association and assembly, contravene international standards, including those regarding freedom of association and movement.

(b) Denial of the right to leave the country

Anyone who wish to leave Cuba, either temporarily or permanently, has to seek permission to do so from the Cuban authorities as well as obtain a visa for another country. Members of certain professions such as doctors, government officials and former members of the armed forces are usually prevented from emigrating. Sometimes, in the case of known dissidents or former political prisoners, even when they obtain a visa, the authorities simply refuse to let them leave or delay their departure for no apparent reason. For example, many who have requested permission to travel abroad temporarily to take up invitations to attend conferences and other events have been prevented from leaving the country.

Recent cases include the following, all members of unofficial groups of different kinds: prominent human rights activist **Elizardo Sánchez Santa Cruz**, president of the *Comisión Cubana de Derechos Humanos y Reconciliación Nacional*, Cuban Commission for Human Rights and National Reconciliation; **Oswaldo Payá Sardiñas**, president of the *Movimiento Cristiano Liberación*, Christian Liberation Movement; **Raúl Rivero**

¹¹ Article 42 of the Penal Code - this measure can be imposed for up to ten years on anyone whose continued presence in a place is considered to be “socially dangerous”. It can be used to forbid someone to reside in a specific place or to force them to remain in a specific place.

Castañeda, president of *Cuba Press*; **Oswaldo Alfonso Valdés**, president of the *Partido Liberal Democrático*, Liberal Democratic Party; **Fernando Sánchez López**, president of the *Partido Solidaridad Democrático*.

In October 1999, Magaly de Armas, the wife of prisoner of conscience **Vladimiro Roca Antúnez**, was refused permission to go to the United States in order to receive an award from the Inter-American Press Society. The prize was awarded to her husband and three other prisoners of conscience belonging to the *Grupo de Trabajo de la Disidencia Interna para el Análisis de la situación Socio-Económica Cubana*, all of whom are currently serving prison sentences for “*otros actos contra la seguridad del estado*”, “other acts against state security”, relating to a crime of “*sedición*”, “sedition”.

Following his conditional release in March 1999, **Reinaldo Alfaro García**, vice-president of the *Asociación de Lucha Frente a la Injusticia*, applied for political asylum in the United States, which was reportedly granted to him. However, he has still not managed to obtain permission from the Cuban authorities to leave the country.

In October 1999, **Mario J Viera González**, director of the independent press agency *Cuba Voz* was refused permission to go to the United States, where he had been granted political asylum.

Sometimes ex-political prisoners who are released on condition that they leave the country and subsequently go into exile, are further punished by not being permitted to be joined by their family. An example of this is the case of ex-prisoner of conscience **Luis Grave de Peralta Morell**, who has been separated from his family since his release and forced exile in February 1996.

“A mi me ofrecieron salir del país. El jefe de la Seguridad del Estado de Santiago de Cuba me dio a escoger: “O sales del país o te quedas preso”. Nunca se me propuso ser liberado dentro de Cuba... Yo había expresado varias veces que si se me daba a escoger entre ser deportado o excarcelado dentro del país, yo siempre escogería estar libre dentro de mi país, pero que entre estar preso o ser un deportado prefería ser un deportado. Repito, no se me dio ninguna alternativa.” [Translation: “They offered me the chance to leave the country. The head of State Security from Santiago de Cuba told me to choose: “Either you leave the country or you stay a prisoner”. They never proposed releasing me inside Cuba... I had said several times that if they gave me the choice of being deported or released inside the country, I would always choose to be free inside my own country, but that given the choice of being a prisoner or being deported, I would prefer to be deported. I repeat, they gave me no other alternative.”]¹²

¹² Quote from Luis Grave de Peralta Morell, released into exile in February 1996 after serving four years of a thirteen year sentence for “rebellion”.

The wife and children of Luis Grave have still not been permitted to leave Cuba in spite of having all their documentation and funds in place for several years. No explanation has been given by the Cuban authorities.

If they are lucky enough to be granted permission to leave the country temporarily, those who stay outside Cuba beyond the period for which permission was granted sometimes face difficulties if they later decide to return, especially if they are known to be critical of the government or are considered to have in some way betrayed the country by failing to return. Generally, such people are reportedly considered to have relinquished their right to return and their home and other belongings can be confiscated by the state. The time limit for temporary periods outside Cuba is said to be up to 11 months.

Such limitations on travel have forced many people to resort to leaving the country without permission, usually by sea. Those who seek to emigrate or flee the country by illegal means are generally considered by the authorities to have betrayed the Cuban Revolution in doing so. Those who are caught trying to flee illegally can be charged with “*Salida Ilegal del Territorio Nacional*”, “Illegal Exit from National Territory” (articles 216 and 217 of the Cuban Penal Code) which carries a maximum sentence of three years if they have not used violence or up to eight years if force or intimidation is used¹³, though in the former case it is unusual these days for anyone to be imprisoned simply for leaving the country illegally. However, they are likely to be subjected to other forms of punishment, such as harassment and the inability to find employment. In September 1999, the Cuban Government announced that any Cuban who left Cuba illegally after 9 September 1994 would not be allowed to return to the island.

(c) Forced exile

In Cuba usually the only way to obtain early release from prison has been for the prisoner to accept to go into exile, and a number of foreign personalities have been able to obtain such releases for certain detainees in recent years. It is clear that it is a deliberate policy on the part of the government to prevent those who disagree with it from participating in civic life. Amnesty International considers release under such conditions to be a further form of punishment.

¹³ In more serious cases where passenger vessels or aeroplanes are hi-jacked, the charge is usually one of “*piratería*”, “piracy”, which carries a maximum sentence of death if there is loss of life or serious risk to the lives of others.

Those who go into exile, either voluntarily or forcibly, are often prevented from returning to Cuba. All those wishing to return, even for short visits, have to apply for a visa. Those who have temporarily left Cuba by legal means are sometimes also prevented from returning, especially if while abroad they have expressed views not to the liking of the government.

Threats

Threats to dissidents by the authorities are frequent. Many are threatened with imprisonment if they do not give up their anti-government activities or go into exile. Others are threatened with losing their jobs. Reports have also been received of isolated incidents when lives were threatened by members of State Security, but these have never been carried out. Such threats by authorities against dissidents, in addition to limiting freedom of expression, association and assembly, undermine respect for article 3 of the Universal Declaration of Human Rights and article 1 of the American Declaration on the Rights and Duties of Man, which guarantee the right to life, liberty and personal security.

For example, in 1999 former prisoner of conscience, **Nestor Rodríguez Lobaina**, and prisoner of conscience **Juan Pedroso Esquivel** of the *Partido Solidaridad Democrático* were both threatened with their lives.

In December 1999 **Nestor Rodríguez Lobaina** was reportedly detained by members of State Security in Santiago de Cuba and taken to an unknown destination in a mountainous area in the early hours of the morning. State Security agents then reportedly held their guns as if they were going to shoot him and shouted “*Bájate, que vamos a acabar contigo!*”, “Get down, we’re going to do away with you!”. He was then told that he could go but that he was not allowed to return to Santiago de Cuba. He was left in an unpopulated area and had to walk a long way before finding any people to give him directions.

According to reports, in September 1998 **Juan Pedroso Esquivel** was reportedly threatened by the chief of police of the town of San José de los Ramos, Matanzas province, that he had to find a job. The policeman reportedly stated in public that he had orders to “*darte un tiro en el cocote*”, “shoot you in the head”. Some days later, the same policeman reportedly said he had his gun ready.

In August 1999 **Venancio Roberto Rodríguez Martínez** of the illegal *Hermanos Fraternal por la Dignidad*, Fraternal Brothers for Dignity, was threatened by a member of State Security in the presence of witnesses with imprisonment, allegedly for being a counter-revolutionary. He has also been temporarily detained several times.

Many dissidents have recently been threatened by State Security with being tried under the new Law 88 (see footnote 9, page 10). They include **Lázaro Estanislao Ramos**

González of the *Movimiento Cívico Máximo Gómez*, Máximo Gómez Civic Movement, **Raúl Rivero Castañeda** and **Hirán González González**, both independent journalists of *Cuba Press*, **Oswaldo Payá Sardiñas** of the *Movimiento Cristiano Liberación*, **Galman Rodríguez Acosta**, president of the *Partido Unión Nacional de Opositores (UNO)*, National Union of the Opposition Party.

Several people who took part in a 40-day fast (known as the Tamarindo 34 due to the address where it took place) in June 1999 to demand the release of all political prisoners and the respect of human rights, were also threatened by State Security.

Leonel Morejón Almagro of *Naturpaz* left the country in October 1999 because of the continual harassment and threats to which he was subjected by State Security.

Summonses

Amnesty International receives numerous reports of cases of people being summoned for questioning before local authorities. During interrogation, which sometimes lasts a few hours, many are threatened with imprisonment. Amnesty International is concerned that this practice, particularly if used as a means of punishing perceived dissidents for exercising freedom of expression, association and assembly, is potentially arbitrary and in contravention of international standards.

Loss of employment

Government opponents and their relatives are sometimes dismissed from their jobs, reportedly for political reasons or in punishment for the exercise of freedom of expression, association or assembly.

For example, the son of **Roberto de Miranda**, who presides over the *Colegio de Pedagogos Independents de Cuba*, Association of Independent Teachers of Cuba, was dismissed, allegedly because of his father's activities. Former prisoner of conscience **Eduardo Blanco Tolosa** was dismissed from his job and then threatened with being returned to prison and charged with "*peligrosidad*", "dangerousness", if he did not find new employment. In November 1999 **Alvaro González Vento**, a legal adviser of a company in Pinar del Río, received notification of his dismissal. The reason given was reportedly that he "maintains an attitude which is not in accordance with the principles of the revolution, which affects his reputation as a lawyer", "*mantener una actitud no acorde a los principios de la revolución, lo cual afecta su reputación como abogado*". Alvaro González is a member of the illegal *Partido Pro Derechos Humanos en Cuba*, *Cuban Human Rights Party*.

University Professor, **Dr. Pedro Emilio Pacheco Pérez**, received a formal notification from the *Instituto Superior de Ciencias Médicas*, Superior Institute of Medical Science, dated 12 May 1997, that he had been dismissed from his position due to activities “not in accordance with our revolutionary principles”, “*no acorde a nuestros principios revolucionarios*”.

In March 1999 **Oswaldo Payá Sardiñas** was informed by authorities of the *Instituto Superior José Antonio Echevarría* where he was studying bio-engineering that he was no longer able to study there. The authorities of that educational establishment reportedly reacted after an editorial in the Cuban Government newspaper *Granma* referred to Oswaldo Payá as a “*cabecilla contrarrevolucionario*”, “counter-revolutionary leader”. This expulsion will reportedly invalidate him from working as an engineer as it is a legal requirement that public health workers obtain a certain level of education in that sphere.

Various members of the *Partido Solidaridad Democrático* have either been dismissed from their jobs or have been unable to find employment due to their political activities: For example, **Juan Pedroso Esquivel** was unable to find an official job. In November 1998 he was summoned to the headquarters of the *Sistema Unico de Vigilancia y Protección (SUVVP)*, Unified Vigilance and Protection System, where he was reportedly told that he had two weeks to find a job or else he would be charged with “dangerousness”. One week later, on 6 December 1998, he was detained and subsequently convicted of “dangerousness” and sentenced to two years’ imprisonment.

Damaris Reinol Almanza, a mother of an eight-year-old child, is reportedly unable to find employment and repeatedly harassed. In December 1999 **Reinaldo Delgado Rodríguez** was dismissed from his job in spite of having twenty years experience in his trade.

Those who attempt to leave the country illegally by boat and are subsequently repatriated often encounter problems trying to find employment.

House searches

Many Cuban dissidents have had their homes searched and had possessions such as cameras, typewriters, tape-recorders and documents confiscated. Amnesty International is concerned that such practices, particularly when used to sanction or deter the exercise of freedom of expression, association or assembly, undermine respect for international standards. Those standards include article 12 of the Universal Declaration of Human Rights which states that “No one shall be subjected to arbitrary interference with his privacy, family, home....” and articles 5 and 9 of the American Declaration of the Rights and Duties of Man.

For example, in July 1997 **Orestes Rodríguez Horruitiner**, vice-president of the unofficial *Movimiento Pro Derechos Humanos Seguidores de Chivás*, Followers of Chivás Human Rights Movement, in Santiago de Cuba, was reportedly detained after his home was searched and several leaflets, books and documents were found which were considered by the government to be counter-revolutionary. He is currently serving a four year prison sentence, charged with “enemy propaganda” following his conviction in November 1997.

In August 1997 **Raúl Rivero Castañeda**, the founder of *Cuba Press*, was temporarily detained by State Security officials at his home in Havana. Officials are also reported to have searched his home for several hours, removing several files relating to *Cuba Press*, as well as books, documents and a typewriter. Some of his belongings removed during the search were reportedly returned to him but not his typewriter.

On 8 January 2000 State Security officers searched the home in Pinar del Río province of **Víctor Rolando Arroyo Carmona**, a journalist for the independent press agency *Unión de Periodistas y Escritores Cubanos Independientes* (UPECI), Union of Cuban Independent Journalists and Writers, and confiscated some 140 toys. He had apparently bought the toys to give away to the poor children of the province, with money raised by Cuban exile groups in Miami in a Christmas appeal called *Proyecto Reyes Magos del Milenio*, the Millennium Three Wise Men Project. Víctor Arroyo had reportedly already handed out over 100 toys to children in the area. He was subsequently sentenced to six months’ imprisonment, charged with “*acaparamiento*”, “hoarding” the toys. Amnesty International believes the charges against him are politically motivated, and considers him a prisoner of conscience.

Independent libraries in Cuba have also been subjected to searches and the confiscation of books. The first independent library in Cuba, the *Biblioteca "Felix Varela"*, was established in April 1998 by **Berta Mexidor Vázquez** and her husband, **Ramón Humberto Colás Castillo**. Since then several other independent libraries have emerged. However, most have reportedly been subjected to searches and the confiscation of books and magazines.

House arrest

Sometimes dissidents are told not to leave their homes and threatened with punishment if they do so. The tactic of house arrest is often used when the government wishes to keep a large number of dissidents away from events such as international meetings, public events or trials; as such, Amnesty International is concerned that it is at times politically-motivated, intended as punishment for exercise of internationally-protected freedom of expression, association and assembly, and therefore likely to be arbitrary.

During November 1999 hundreds of dissidents were put under house arrest in a crackdown by the government around the time of the Ibero-American Summit.

In July 1999 independent journalist **Jesús Labrador Arias** was put under house arrest prior to official celebrations carried out every year on 26 July to celebrate “Rebellion Day”¹⁴.

In late February 1999 prior to the 1 March trial of four members of the members of the *Grupo de Trabajo de la Disidencia Interna para el Análisis de la situación Socio-Económica Cubana*, Internal Dissidents’ Working Group for the Analysis of the Cuban Socio-Economic Situation, **Félix A. Bonne Carcasés**, **René Gómez Manzano**, **Vladimiro Roca Antúnez** and **Marta Beatriz Roque Cabello**, over 100 dissidents, including journalists and human rights workers, were detained or held under house arrest. This was an apparent attempt by the authorities to prevent them campaigning on behalf of the detainees, or from attending or reporting on the trial, which generated worldwide media attention. Many dissidents also reportedly had their telephone lines cut.

Physical and verbal acts of aggression carried out by government supporters

Some dissidents are subjected to other forms of intimidation, such as physical attacks by individuals believed to be working for the *Departamento de Seguridad del Estado (DSE)*, Department of State Security. Others have been subjected to “*actos de repudio*”, “acts of repudiation”. These are organized by government officials using mass organizations that support the government and which involve being verbally abused and sometimes physically assaulted by government supporters for being a “counter-revolutionary”.

Government supporters are given certain rights to intimidate, threaten or even attack those seen to be counter-revolutionaries. According to Article 3 of the Constitution, “All citizens have the right to fight using all means, including armed struggle, when no other resort remains, anyone who tries to damage the political, social and economic order established by the Constitution.”

Such acts of physical and verbal aggression, particularly when apparently permitted or even encouraged by the authorities, undermine respect for article 3 of the Universal Declaration of Human Rights which states that “Everyone has the right to life, liberty and security of person”.

¹⁴ 26 July marks the 1953 attack led by Fidel Castro against an army Moncada Barracks in Eastern Cuba. The attack was repulsed but was the prelude to the revolution

On 10 November 1999 a demonstration demanding human rights was held by a small group of dissidents at the Dolores Park in Havana. It reportedly began peacefully but turned violent when government supporters who were holding a separate event at the same place tried to stop the demonstration. Government supporters reportedly attacked **Eduardo Díaz Fleitas**, vice-president of the illegal *Movimiento 5 de agosto*, 5 August Movement, and **Fermín Scull Zulueta**, beating them in the face and body. The two men were subsequently detained and charged with “public disorder”. On 25 February 2000 Fermín Scull was sentenced to one year’s imprisonment and Eduardo Díaz was sentenced to one year’s “restricted freedom”. Previously, on 29 June 1999 an unidentified person threw a stone at the front door of the home of Eduardo Díaz in Pinar del Río province in the early hours of the morning. A few days later he was reportedly detained for a few hours and threatened by a member of State Security.

On 28 October 1999 a large number of members of the Rapid Response Brigades surrounded the home of **Dr. Oscar Elías Biscet González** where his organization, the Lawton Human Rights Foundation, was holding a press conference. Members of the organization were reportedly verbally attacked and threatened with being beaten.

On 21 October 1999 the home of **Adalberto Yero**, an independent journalist working for *Cuba Press* was attacked with stones by a group of unidentified people. His home in Santiago de Cuba province had reportedly been attacked in the same way on four previous occasions. Also in October 1999, another journalist working for *Cuba Press*, **Jesús Labrador Arias**, also had stones thrown at his home in Granma province.

Following the detention on 1 October 1998 of **Manuel Antonio González Castellanos**, a reporter for the independent press agency *Cuba Press*, family members wrote anti-government slogans denouncing the arrest on the walls and doors of their home. The following day they were reportedly subjected to an *acto de repudio*. Their home was reportedly surrounded by several hundred people, reportedly lead by State Security agents and members of the Rapid Response Brigades, who chanted threats and abuse. Government agents then forced open the door and beat two members of the family, **Yoani and Leonardo Varona**, as well as a visitor at the house, **Roberto Rodríguez Rodríguez**.

On 26 October 1998 at least 200 people, led by a member of State Security, gathered outside the home of **Segundo Cabrera González**, a member of the *Comité Cubano Pro Derechos Humanos (CCPDH)*, Cuban Committee for Human Rights. The crowd reportedly threw stones and objects at his front door and threatened to take the Cabrera family to the main square so that the people could try them for their counter-revolutionary activities.

RECOMMENDATIONS TO THE CUBAN GOVERNMENT

Amnesty International makes the following recommendations to the Cuban Government:

- That **José Aguilar Hernández, Víctor Rolando Arroyo Carmona, Dr. Oscar Elías Biscet González, Félix Antonio Bonne Carcasés, René Gómez Manzano, Diosado González Marrero, Maritza Lugo Fernández, Angel Moya Acosta, Carlos Oquendo Rodríguez, Juan Pedroso Esquivel, Vladimiro Roca Antúnez, Orestes Rodríguez Horrúitiner, Marta Beatriz Roque Cabello, Ariel Sigler Amaya, Guido Sigler Amaya and Marcel Valenzuela Salt** be immediately and unconditionally released on the grounds that they are prisoners of conscience detained solely for peacefully attempting to exercise their rights to freedom of expression, association and assembly.
- That the family of ex-prisoner of conscience **Luis Grave de Peralta Morell**, who have been separated from him since his release and forced exile in February 1996, be granted permission to leave Cuba.
- 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 be permitted to carry out their legitimate work without interference.
- That the Cuban Government take all necessary measures to ensure that its national legislation is in conformity with relevant international standards and legal instruments, particularly with regard to the exercise of freedom of expression, association and assembly and with adequate character of conduct covered by criminal offences.
- That no one should be arbitrarily prevented from exercising their right to leave or to return to Cuba.
- That the Cuban Government ratify the International Covenant on Civil and Political Rights.

Note: Amnesty International does not take a position on the political aims of any independent groups in Cuba but supports the right of all Cuban citizens to peacefully exercise their legitimate rights to freedom of expression, association and assembly without undue interference from the Cuban authorities.