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Despite reform to migration law, Cuba continues to restrict freedoms of expression, association and assembly and to hold prisoners of conscience

Human Rights Council adopts Universal Periodic Review outcome on Cuba

Amnesty International welcomes many of the recommendations made to Cuba. Although a large number of states took part in the review, only a few of them expressed concerns about the continued denial of fundamental civil and political rights in the country, as during Cuba's first Universal Periodic Review.

Amnesty International regrets that Cuba has rejected recommendations aimed at improving respect for the rights to freedom of expression, association and assembly.¹ While reform to the migration law which entered into force in January 2013 as a positive step, which have facilitated travel abroad for Cubans, including human rights defenders and government critics, the organization shares concerns, expressed during the review, that peaceful demonstrators, independent journalists and human rights activists continue to be routinely harassed, detained and also sentenced for exercising their rights to freedom of expression, association and assembly. Amnesty International counters assertions made by Cuba during the Working Group session that the judiciary is independent,² that freedom of the press is guaranteed,³ and that arbitrary detention is not practised.⁴ The organization has documented many cases which would strongly challenge these assertions.

The organization also regrets Cuba's rejection of recommendations to repeal or amend legislation that criminalizes the legitimate exercise of freedom of expression, association and assembly, such as Article 72 of the Penal Code ("dangerousness") and other legal provisions which breach international human rights law.⁵ It is also disappointing that Cuba was unable to agree to release prisoners held solely for exercising their rights to freedom of expression, assembly and association.⁶

Other recommendations related to improved respect for civil and political rights fall within the category of recommendations which Cuba has "taken note of" and which it considers are being addressed or will continue to be examined.⁷ These include recommendations calling for full judicial guarantees and fair trials, in accordance with international human rights standards.⁸ Cuba goes on to state that it has institutionalized a system of independent courts and that its

¹ Report of the Working Group on the Universal Periodic Review, A/HRC/24/16, 8 July 2013, paragraphs 170.171 (Hungary); 170.172 (Spain); 170.173. (Switzerland); 170.177 (France); 170.179 (Canada).

² Report of the Working Group on the Universal Periodic Review, A/HRC/24/16, 8 July 2013, paragraph 108.

³ Ibid., paragraph 111.

⁴ Ibid., paragraph 152.

⁵ Ibid., paragraph 170.174 (United Kingdom of Great Britain and Northern Ireland); 170.175 (Ireland); 170.176 (United States of America)

⁶ Ibid., 170.184 (Poland)

⁷ Ibid.

⁸ A/HRC/24/16, 170.159 (United Kingdom of Great Britain and Northern Ireland); 170.160 (Austria); paragraph 170.161 (Canada);

legislation ensures fair and impartial hearings and full guarantees to the accused.⁹ However, this is patently contradicted by the continuing use in Cuba of trials which do not meet international standards of fairness.

Amnesty International is disappointed that Cuba felt unable to ratify key human rights instruments, including the International Covenants on Civil and Political Rights (ICCPR) and on Economic, Social and Cultural Rights (ICESCR), both of which Cuba signed in March 2008.¹⁰

While these recommendations were not outright rejected, Amnesty International is concerned that four and a half years on from its first review, Cuba continues to state that it needs to carry out consultations and legal analyses before it can move to ratification of these key human rights instruments.¹¹ Similarly, regarding recommendations to invite UN Special Rapporteurs,¹² Cuba has stated its willingness to cooperate with UN human rights representatives,¹³ which it had also declared in 2009, but not implemented. Amnesty International therefore urges Cuba to immediately act on its stated willingness by extending an open invitation to UN Special Procedures.

Amnesty International welcomes that no death sentence has been carried out since 2003 and that no one has been held on death row since the end of 2010. It is therefore disappointing that Cuba remains unable to accept recommendations calling for the abolition of the death penalty. The organization urges Cuba to reconsider its decision and to join the global trend towards abolition.

Independent journalist and prisoner of conscience Calixto Ramón Martínez Arias was released on 9 April after spending almost seven months in prison without charge. However, according to information available to Amnesty International, at least six prisoners of conscience are currently in detention, imprisoned solely for expressing their conscientiously held beliefs:

- Alexeis Vargas Martín and his 17 year-old twin brothers Diango and Vianco Vargas Martín, all members of the Patriotic Union of Cuba, were held without charge for nine months before being accused on trumped-up charges of “public disorder” at the end of August 2013.
- Emilio Planas Robert and Rafael Matos Montes de Oca were found guilty of *peligrosidad* (“dangerousness” or “special proclivity to commit crimes”) following summary trials in October 2012 and sentenced to three-and-a-half and two-and-a-half years’ imprisonment, respectively.
- Iván Fernández Depestre, member of the *Movimiento Opositor Juventud Despierta* (Opposition Movement Awake Youth), was also found guilty of “dangerousness” and sentenced to three years’ imprisonment following a summary trial in August 2013.

Amnesty International urges Cuba to immediately and unconditionally release these individuals and others arrested solely for exercising their right to freedom of expression.

Background

⁹ A/HRC/24/16/Add.1, paragraph 6

¹⁰ A/HRC/24/16, paragraphs 170.4 (Chile, Hungary, Estonia, Romania, Maldives, Australia, Germany, Poland, Slovakia, Japan, Slovenia, Montenegro, France, Tunisia, Canada, Austria, Switzerland, Czech Republic, Italy, Mexico, Norway, Hungary, Poland, Slovakia, Japan, Switzerland, Finland, Czech Republic); 170.5 (Sweden); Montenegro, Estonia; 170.8 Netherlands

¹¹ A/HRC/24/16/Add.1, paragraph 6

¹² /HRC/24/16., paragraphs 170.5 (Sweden); 170.106 (Sierra Leone); 170.111 (Spain); 170.112 (Mexico); 170.113 (Chile).

¹³ A/HRC/24/16/Add.1, paragraph 6

The UN Human Rights Council adopted the outcome of the Universal Periodic Review of Cuba on 20 September 2013 during its 24th session. Prior to the adoption of the review outcome, Amnesty International delivered the oral statement above.

Amnesty International had earlier submitted information on the situation of human rights in Cuba: <http://www.amnesty.org/en/library/asset/AMR25/027/2012/en/c232142f-3dba-41af-b196-02718ffa5a43/amr250272012en.pdf>

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