

URGENT ACTION

AUTHORITIES FAIL TO RELEASE ARTIST AS PROMISED

Cuban graffiti artist Danilo Maldonado Machado remains in prison after the authorities failed to uphold their promise to release him by 15 October. He is a prisoner of conscience and must be released immediately and unconditionally.

On 1 October **Danilo Maldonado Machado**, known by his artistic name 'El Sexto', ended his hunger strike after a state official, acting as a mediator, promised that he would be released unconditionally in 15 days if he stopped the strike.

Danilo Maldonado Machado initiated the hunger strike on 8 September to protest his detention without trial in Cuba since December 2014. He is believed to be accused of "aggravated contempt" after he was arrested for transporting two pigs with the names "Raúl" and "Fidel" painted on them, which he intended to release in an art show in Havana's Central Park.

On 15 October his mother visited the Valle Grande prison in the outskirts of Havana, the capital, where he is being held. Officials told her that Danilo Maldonado Machado would not be released on 15 October as promised. They did not give her a new release date, but an official told her that it would be sooner than she expected.

In late September his lawyer requested a modification of the precautionary measures seeking his release during the judicial proceeding. It is still awaiting a decision from the office of the public prosecutor.

Danilo Maldonado Machado told his mother on 10 October that he would re-start his hunger strike if the Cuban authorities failed to release him by 15 October.

Please write immediately in Spanish or your own language:

- Calling on the authorities to release Danilo Maldonado Machado immediately and unconditionally, as he is a prisoner of conscience, imprisoned solely for peacefully exercising his right to freedom of expression;
- Calling on them to repeal all legislation which unduly limits freedom of expression, assembly and association;
- Urging them to ensure that, pending his release, he is provided with any medical care which he may require; not tortured or otherwise ill-treated; and that he is granted regular access to family and lawyers of his choosing.

PLEASE SEND APPEALS BEFORE 27 NOVEMBER 2015 TO:

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

Salutation: Your Excellency

Attorney General
Dr. Darío Delgado Cura
Fiscal General de la República
Fiscalía General de la República
Amistad 552, e/Monte y Estrella
Centro Habana
La Habana, Cuba
Salutation: Dear Attorney General

And solidarity letters to:
Danilo Maldonado Machado's mother
María Victoria
gorkiaguila@gmail.com and
liavillares@gmail.com

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

Name Address 1 Address 2 Address 3 Fax Fax number Email Email address Salutation Salutation

Please check with your section office if sending appeals after the above date. This is the second update of UA 214/15. Further information: www.amnesty.org/en/documents/amr25/2573/2015/en/

**AMNESTY
INTERNATIONAL**



URGENT ACTION

AUTHORITIES FAIL TO RELEASE ARTIST AS PROMISED

ADDITIONAL INFORMATION

Danilo Maldonado Machado is a Cuban graffiti artist who regularly collaborates with the artistic group Estado de SATS, an organization which seeks “to create a plural space of participation and debate, where civil liberties, practically annulled in Cuba, can be exercised, and to redesign everything based on our worries, and immediate future”. The group also campaigns for human rights through artistic experiences. They recently campaigned for the ratification by Cuba of the International Covenants on Civil and Political Rights, and on Economic, Social and Cultural Rights, and are currently demanding an amnesty law for all those imprisoned on politically-motivated charges.

Local activists believe Danilo Maldonado Machado’s continuous detention without trial seeks to sanction him for his activism and send a message to other activists and dissidents. In recent months, his lawyer has requested a modification of the precautionary measures seeking the release of Danilo Maldonado Machado during the judicial proceeding, but it was denied by the prosecutor. A new demand was presented in late September and is awaiting a new decision from the office of the public prosecutor.

Article 144 of the Cuban Penal Code defines the crime of contempt (*desacato*), making all forms of disrespect of state officials an offence and providing for longer prison terms where the disrespect is directed against government members or other top state officials.

Article 144 states: “1. Anyone who threatens, slanders, defames, insults, harms or in any way outrages or offends, orally or in writing, the dignity or honour of an authority, public official, or their agents or auxiliaries, in the exercise of their functions or on the occasion of or because of them will incur a penalty of between three months and one year’s loss of liberty or a fine... or both. 2. If the deed established in the previous paragraph is directed against the President of the Council of State, the President of the National Assembly of Popular Power, the members of the Council of State and the Council of Ministers or the deputies at the National Assembly of Popular Power, the penalty will be between one and three years’ loss of liberty.”

Danilo Maldonado Machado is believed to be accused of “aggravated contempt” as the outrage was understood to be directed against Raúl and Fidel Castro Ruz, President of the Council of State and of Ministers of the Republic, and Deputy at the National Assembly of Popular Power, respectively. This provision, which is often used to silence dissent and to shield public officials from legitimate criticism, constitutes an illegitimate restriction on freedom of expression. According to the Inter-American Commission on Human Rights (IACHR): “[a] law that targets speech that is considered critical of the public administration by virtue of the individual who is the object of the expression, strikes at the very essence and content of freedom of expression” and “may affect not only those directly silenced, but society as a whole”.

Amnesty International believes that public officials should tolerate more criticism than private individuals. The use of defamation laws with the purpose or effect of inhibiting legitimate criticism of government or public officials violates the right to freedom of expression. Amnesty International opposes laws prohibiting insult or disrespect of heads of state or public figures, the military or other public institutions or flags or symbols (such as *lèse majesté* and *desacato* laws). Amnesty International also opposes laws criminalizing defamation, whether of public figures or private individuals, which should be treated as a matter for civil litigation. Public officials should not receive state assistance or support in bringing civil actions for defamation.

Name: Danilo Maldonado Machado
Gender m/f: m

Further information on UA: 214/15 Index: AMR 25/2673/2015 Issue Date: 16 October 2015