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# CUBA

## Prisoners of conscience: New convictions overshadow releases

### I. INTRODUCTION

*Currently several hundred people, 21 of whom have been identified by Amnesty International as prisoners of conscience detained for peaceful exercise of the freedom of expression, association or assembly, are imprisoned for political offences in Cuba.<sup>1</sup> In addition to these prisoners of conscience, Amnesty International continues to be concerned at the severe harassment to which dissidents, including journalists, members of political organizations and human rights advocates, are subjected. (For the most recent public information on specific incidents of harassment, see Amnesty International's report "Cuba: short term detention and harassment of dissidents" (AMR 25/04/00), of March 2000. This practice is ongoing, and Amnesty International continues to monitor it closely although such information is not included in the scope of the present report.)*

*Repression of dissent has a long history in Cuba. The Cuban Government has traditionally argued that it is justified in depriving dissidents of fundamental freedoms of expression, association and assembly in order to maintain the unity of the country against hostile forces abroad.<sup>2</sup> In response to this argument, Amnesty International*

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<sup>1</sup> Amnesty International is aware that there may well be additional such prisoners of conscience in Cuba, and is in the process of verifying information with regard to several ongoing cases not mentioned in the present report.

<sup>2</sup> The United States of America's embargo against Cuba has been repeatedly condemned by the United

has maintained that all states, irrespective of any external threat, the political character of the government concerned or any other situation-specific factors, are under obligation to fulfil the duties laid out in the Universal Declaration of Human Rights, including the duty to respect fundamental freedoms. Therefore, Amnesty International protests against the human rights violations covered by its mandate in all countries where they occur.

In Cuba, repression of dissent is legitimised by the Constitution and the Penal Code. Some offences against state security, such as “propaganda enemiga”, “enemy propaganda”, as well as offences against authority, such as “desacato”, “disrespect”, have been widely applied to silence critics. Others, like “peligrosidad”, “dangerousness”, are ill-defined and open to politically-motivated misuse. At times dissidents have been convicted of criminal offences, believed to have been fabricated in order to discredit them or their organization or in retaliation for peaceful expression of their beliefs.

Detained dissidents are at times held for long periods without trial, or are convicted after procedures that do not meet international standards for fair trial due to issues involving the independence and impartiality of the judiciary and the access of the accused to defence counsel.

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Nations General Assembly. While Amnesty International’s mandate does not permit it to take a position on this or any other type of sanction, the organization recognizes that the embargo has increased hardship within Cuba and added to the economic difficulties faced by the country, while at the same time its very existence continues to be used by the authorities as justification for continued repression of dissent. The most recent example of this is the February 1999 adoption of Law 88, the Law for the Protection of the National Independence and Economy of Cuba [for tr: “Ley de Protección de la Independencia Nacional y la Economía de Cuba”]. This law allows for penalties of up to 20 years’ imprisonment for activities viewed as supporting the embargo. These activities, as laid out in the law, include 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.

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## II. PRISONERS OF CONSCIENCE RELEASED CONDITIONALLY OR AFTER EXPIRY OF THEIR SENTENCE

Nine prisoners of conscience have been released since the beginning of 2000. Amnesty International notes these releases and renews its call for the Cuban government to unconditionally release all remaining prisoners of conscience and to stop detaining citizens for the peaceful exercise of fundamental freedoms.

One of the releases came after the person concerned had completed his prison term. **Víctor Rolando Arroyo Carmona**, a journalist, was sentenced to six months' imprisonment in January 2000 for collecting toys which he planned to give away to children. His home was reportedly searched by State Security officers who confiscated toys paid for with money raised by Cuban exile groups in Miami as part of a Christmas appeal called *Proyecto Reyes Magos del Milenio*, the Millennium Three Wise Men Project. Víctor Rolando Arroyo was subsequently convicted and sentenced for "acaparamiento", "hoarding" (Article 230 of the Cuban Penal Code).

Amnesty International believes that his conviction was motivated by his work for the independent press agency *Unión de Periodistas y Escritores Cubanos Independientes*, Union of Cuban Independent Journalists and Writers, and his links with Miami exile groups opposed to the government. Víctor Rolando Arroyo had been previously jailed for one year and nine months in 1996, for "desacato", "disrespect", reportedly after an incident involving a policeman. His arrest in January took place during a period of clampdown on dissidents, in the aftermath of the Ibero-American Summit in Havana.

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Víctor Rolando Arroyo was released in July after serving the full six months of his sentence.

Several other releases came before completion of the individuals' prison sentences, and were termed 'conditional releases' by the authorities.<sup>3</sup> In May prisoners of conscience **Marta Beatriz Roque**, **Felix Bonne Carcasés** and **René Gómez Manzano**, three members of the so-called "Group of Four", were released. The four members of the *Grupo de Trabajo de la Disidencia Interna para el Análisis de la Situación Socio-Económica Cubana* (The Internal Dissidents Working Group for the Analysis of the Cuban Socio-Economic Situation) who had been held in custody since July 1997, were sentenced amid much national and international protest to between three and a half and five years' imprisonment on a charge of "otros actos contra la seguridad del estado", "other acts against state security" (Article 125(c) of the Cuban Penal Code) in relation to a charge of "sedición", "sedition" (Article 100 (c) of the Cuban Penal Code).

The fourth member of the group, **Vladimiro Roca Antúnez**, remains in prison. On the eve of the third anniversary of his detention in July the three former prisoners of conscience held a press conference at which they called for his immediate release.

**Orestes Rodríguez Horruitiner** was placed on conditional release on 7 April 2000. He had been sentenced to four years' imprisonment in

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<sup>3</sup> 'Libertad condicional' is provided for under article 58 of the Cuban Penal Code. According to the Code, early release can be obtained after a third of the sentence when the inmate is under 20; after one half of the sentence for older first-time offenders; after two-thirds of the sentence for older recidivists; or in extraordinary circumstances.

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1997 for “*propaganda enemiga*”, “*enemy propaganda*” (Article 103 of the Cuban Penal Code), reportedly after authorities confiscated some publications from his home.

Several other prisoners of conscience were released after long periods without ever having been tried. Such detention without trial contravenes the international prohibition on arbitrary deprivation of liberty laid out in 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.<sup>4</sup>

*Maritza Lugo Fernández*, vice-president of the illegal *Partido Democrático 30 de Noviembre “Frank País”*, Frank País 30 November Democratic Party, was arrested on 23 December 1999. She planned to participate in a religious procession to celebrate Christmas but was detained along with six others, all of whom were released within a few days.

Maritza Lugo, who was detained on eleven different occasions in 1999, went on two hunger strikes to protest her arrest and continued detention without official charge. She was eventually charged with “*desórdenes públicos*”, “*public disorder*” (Articles 200-201 of the Cuban Penal Code), but was not tried; she was released on 1 June, over five months after her arrest. According to some sources, the charge against her still stands. Amnesty International has received reports that Maritza Lugo has been briefly re-detained and interrogated since this most recent release, and continues to monitor her situation closely.

*Angel Moya Acosta and the brothers Guido and Ariel Sigler Amaya, all*

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<sup>4</sup> 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.

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members of the illegal *Movimiento Opción Alternativa*, Alternative Option Movement, were detained on 15 December 1999 after they participated in a peaceful demonstration in Pedro Betancourt village, Matanzas province, on 10 December to celebrate the 51<sup>st</sup> anniversary of the Universal Declaration of Human Rights. Although they were charged with “*resistencia*”, “resistance” (Article 143 of the Cuban Penal Code), “*desórdenes públicos*”, “public disorder” (Articles 200–201 of the Cuban Penal Code), and “*instigación a delinquir*”, “instigation to commit a crime”, (Article 202 of the Cuban Penal Code) no trial or sentencing ever took place. According to statements made by Angel Moya Acosta since his release, the peaceful demonstration was broken up by members of the *Brigadas de Respuesta Rápida* under the instruction of members of the *Buró Municipal del Partido Comunista*.

Guido Sigler Amaya was transferred from prison to house arrest on 10 June, and was freed on 9 July. Ariel Sigler Amaya was freed on 5 August and Angel Moya Acosta, on 7 August. In an interview after his release, Angel Moya Acosta reportedly said “*no queremos violencia, no practicamos la violencia, no queremos anarquía, pero sí somos partidarios de la desobediencia civil como método pacífico para obligar al gobierno a reconocer nuestros derechos y libertades fundamentales*” (“we neither want nor practice violence, we don’t want anarchy; but we do believe in civil disobedience as a pacific method to make the government recognize our fundamental rights and freedoms.”)<sup>5</sup>

### III. POLITICALLY MOTIVATED ARRESTS CONTINUE; NEW CASES OF

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<sup>5</sup> Reported via CubaNet posting, 9 August 2000.



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## PRISONERS OF CONSCIENCE

In July **Nestor Rodríguez Lobaina**, president of the unofficial Cuban Youth Movement for Democracy [for tr: *Movimiento de Jóvenes Cubanos por la Democracia*], was convicted in court of “*desacato*”, “disrespect” (Article 144 of the Cuban Penal Code), “*desórdenes públicos*”, “public disorder” (Articles 200-201 of the Cuban Penal Code) and “*daños*”, “damages” (Article 339 of the Cuban Penal Code). **Eddy Alfredo Mena y González**, another member of the movement, also stood trial with him on the same charges. The prosecution had called for sentences of 4 years 3 months for Nestor Rodríguez and 10 years for Eddy Alfredo Mena; Nestor Rodríguez was sentenced to six years and two months, while Eddy Alfredo Mena was sentenced to five years and one month. Amnesty International believes that the two have been imprisoned due to the non-violent exercise of the rights to freedom of expression and association, and calls for their unconditional release as prisoners of conscience.

Due to his opposition to the Cuban government, Nestor Rodríguez Lobaina has been arrested and imprisoned on a number of occasions. In 1996 he was arrested following peaceful attempts to organize a movement for university reform. After a summary trial in which he did not have access to defence counsel, he was sentenced to 12 months' restricted liberty, as well as to five years' “banishment” to his home town, on charges of “resisting authority” and “disrespect”. In 1997, he was again arrested and sentenced to 18 months' imprisonment, on the same charges as before, after criticizing the Fourteenth Youth and Student Festival scheduled for later that year in Cuba. He was detained again in December 1998, July 1999 and was last arrested in connection to the current case against him on 2 March 2000.

There were new developments in the case of **Dr. Oscar Elías Biscet González**, president of the *Fundación Lawton de Derechos Humanos*, Lawton Foundation for Human Rights, a humanitarian organization considered illegal by the Cuban authorities, was sentenced to three years' imprisonment on 25 February 2000. He was initially arrested on 3 November 1999 and charged with "*ultraje a los símbolos de la patria*", "insult to the symbols of the homeland" (article 203 of the Cuban Penal Code), which carries a maximum sentence of one year's imprisonment. The charge was reportedly brought against him because he hung a Cuban flag sideways on his balcony during a press conference at his home on 28 October 1999. (See "*Eleven remain in detention following government crackdown on dissent during the Ibero-American Summit in Havana*," AMR 25/02/00, of 31 January 2000). The prosecutor's petition against him, issued in February 2000, included two further charges: "*desórdenes públicos*", "public disorder", (Articles 200-201 of the Cuban Penal Code) and "*instigación a delinquir*", "instigation to commit a crime" (Article 202 of the Cuban Penal Code). Dr Biscet, who denied all these charges, said that he hung the flag in that manner as a means of non-violent protest. He was found guilty on all three counts.

#### IV. RECOMMENDATIONS TO THE CUBAN GOVERNMENT

Amnesty International urges the Cuban Government:

- To release immediately and unconditionally all those detained or imprisoned solely for peacefully exercising their rights to freedom of expression, association and assembly;

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- *To bring Cuban legislation into line with international human rights standards, particularly those regarding the exercise of the above-mentioned fundamental freedoms, so that the human rights of all Cubans are protected;*
  - *To grant full judicial guarantees for a fair trial, in accordance with international human rights standards, including immediate access to a lawyer of their choice, to all those who remain in detention and are accused of politically-motivated offences;*
  - *To cease immediately all forms of intimidation and harassment directed towards dissidents who are seeking solely to exercise their fundamental human rights as established in the Universal Declaration of Human Rights.*