

INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
ORGANIZATION OF AMERICAN STATES

**PETITION FOR IMMEDIATE RELIEF
AGAINST HUMAN RIGHTS VIOLATIONS
COMMITTED BY REPÚBLICA DE CUBA**

CUBAN AMERICAN BAR ASSOCIATION, INC.
On Behalf of Persons Affected by Human Rights Violations

v.

REPÚBLICA DE CUBA

I. PERSON, GROUP OF PERSONS, OR ORGANIZATION FILING THE PETITION

Name: Cuban American Bar Association, Inc., a Florida, USA not for profit corporation (“CABA”).

Contact Information:

A. Dax Bello
Stewart Tilghman Fox Bianchi & Cain
1 SE 3 Avenue, Suite 3000
Miami, Florida 33131

Attention: A. Dax Bello

Do you want the Commission to keep the identity of the Victims confidential during the procedure: No.

II. NAMES OF THE PERSONS AFFECTED BY THE HUMAN RIGHTS VIOLATIONS

These citizens, victims, dissidents, protestors, demonstrators, and activists are referred to collectively as the “Dissidents.”

Luis Manuel Otero Alcántara
Daniel Joel Cardenas Diaz
Jose Daniel Ferrer Garcia
Lorenzo Rosales Fajardo
Virgilio Mantilla Arango
Lorenzo Rosales Fajardo
Jorge Serrano Alfonso
Lisandra Gongora Espinosa
Maikel Puig Bergolla
Samuel Pupo Martínez
Dánger Acosta Justiz
Yusmeli Moreno González
Angelica Garrido Rodriguez
Maria Cristina Garrido Rodriguez
Francisco Navarro Rodriguez
Emmanuel Robles Perez and Mailene Noguera Santiesteban
Yeremin Salcine Janes
Michael Gerardo Carey Abadin

Yoandris Gutierrez Vargas
Enrique Mustelier Sosa
Julian Manuel Mazola Beltran
Yunior Iglesias Velazquez
Francisco Rangel Manzano
Rowland Jesús Castillo Castro
Pedro Castillo Mauri
Yasmani Porra Pérez
Rolando Yusef Pérez Morera
Santiago Vázquez León
Anibal Yasiel Palau Jacinto
Jaime Alcides Firdó Rodríguez
Omar Herrera Moré
Juviel Jiménez Gómez
Rosa Jany Millo Espinosa
Ramón Enrique Montero Meriño
Leylandis Puentes Vargas
Joel Diaz Hernandez
Jose Antonio Gómez León
Manuel de Jesús Guillén Esplugas
Maikel Martínez Sirey
Lisdani Rodríguez Isaac and Lisdiani Rodriguez Isaac
Evert Luis Hidalgo Ladrón de Guevara

III. MEMBER STATE OF THE O.A.S. RESPONSIBLE FOR THE HUMAN RIGHTS VIOLATIONS ALLEGED

República de Cuba (“Cuba”).

IV. THE COMMISSION HAS JURISDICTION OVER CUBA FOR THESE HUMAN RIGHTS VIOLATIONS

1. The Charter of the Organization of American States (the “Charter” or the “OAS Charter”), as amended by the Protocol of Buenos Aires, grants the Inter-American Commission on Human Rights (the “Commission”) jurisdiction over the member states of the Organization of American States (the “OAS”).¹ Cuba ratified the OAS Charter on July 8, 1952.

2. Although Cuba does not currently participate in the Organization of American

¹ Charter, Art. 112.

States (OAS) and has not signed the American Convention on Human Rights, Cuba is a party to the American Declaration on the Rights and Duties of Man (American Declaration).² Accordingly, the Inter-American Commission on Human Rights Commission (Commission or IACHR) has the authority to monitor and take authorized actions with respect to the protection of human rights in Cuba under Art. 106 of the Charter and under the American Declaration.³

3. The Commission “has always held that the Cuban State is a party to the international instruments initially adopted in the Western hemisphere to protect human rights: the American Declaration of the Rights and Duties of Man, and the Charter of the Organization of American States.”⁴

4. The Commission has noted that although the American Declaration was initially embraced as a declaration and thus not legally binding, it is today a source of international obligations for OAS member states.⁵

5. The Commission has expressly stated that “the Cuban State is legally accountable before the Inter-American Commission as regards human rights.”⁶ The Commission recognizes a distinction between the Cuban State and the Cuban government, the latter having been excluded from participating in the OAS.⁷ However, “the Commission has always considered that the purpose of the Organization of American States in excluding Cuba from the inter-American system was not to leave the Cuban people without any protection. The exclusion of that Government from

² IACHR. The Situation of Human Rights in Cuba. 2020. Executive Summary. Par. 3. OAE/Ser.L/V/II.Doc. 2. February 3, 2020.

³ Ibid.

⁴ IACHR. Annual Report 2001. Human Rights Developments in the Region. Cuba. Par. 3. OAE/Ser.L/V/II.114 doc. 5 rev. April 16, 2002.

⁵ IACH. Interpretation of the American Declaration of the Rights and Duties of Man Within the Framework of Article 64 of the American Convention on Human Rights. Advisory Opinion OC-10/89. Paras. 35-45. July 14, 1989

⁶ IACHR. Annual Report 2001. Human Rights Developments in the Region. Cuba. Par. 5. OAE/Ser.L/V/II.114 doc. 5 rev. April 16, 2002.

⁷ IACHR. The Situation of Human Rights in Cuba. 2020. Executive Summary. Par. 3. OAE/Ser.L/V/II.Doc. 2. February 3, 2020.

the regional system in no way implies that it can cease to carry out its international obligation in the area of human rights.”⁸

6. The Commission’s regulations state that it “shall receive and examine any petition that contains a denunciation of alleged violations of the human rights set forth in the American Declaration on the Rights and Duties of Man, concerning the member states of the Organization that are not party to the American Convention on Human Rights.”⁹ In particular, Article 23 of the Rules of Procedure of the Inter-American Commission on Human Rights (Rules of Procedure) provides that “[a]ny person or group of persons or nongovernmental entity legally recognized in one or more of the Member States of the OAS may submit petitions to the Commission, on their behalf or on behalf of third persons, concerning alleged violations of a human right recognized in the American Declaration ...”

7. CABA is a legal entity duly incorporated in Florida, USA and files this Petition on behalf of the Dissidents in Cuba. Accordingly, pursuant to all of the authorities noted above, the Commission has jurisdiction over this Petition.

V. **FACTS DENOUNCED**

Background

8. The Commission may consider facts that have not been expressly denied by Cuba and accept those claims that have not been expressly controverted.¹⁰ “The facts alleged in the petition...shall be presumed to be true if the State has not provided responsive information during the set period set by the Commission...as long as other evidence does not lead to a different

⁸ Ibid., and IACHR. Annual Report 2001. Human Rights Developments in the Region. Cuba. Par. 7. OAE/Ser.L/V/II.114 doc. 5 rev. April 16, 2002.

⁹ IACHR. Annual Report 2001. Human Rights Developments in the Region. OAE/Ser.L/V/II.114 Doc. 20 rev. at 1495 (2000).

¹⁰ IACHR. Article 41.3, Rules of Procedure.

conclusion.”¹¹

9. The Commission has long recognized that Cuba violates even the most basic human rights:

[D]espite its repeated recommendations to the State to reform its legal system so as to achieve the unhampered enjoyment of human rights in Cuba, the authorities have not changed their practice of systematic violations of freedom of expression, assembly, and association, nor have they reformed the constitutional and criminal statutory provisions on which they are based. The harassment and the accusations, the adoption of disciplinary measures, the official warnings, and the penalties involving deprivation of liberty continue to be applied routinely by the Cuban authorities, who, day after day, subjugate any individual or group that expresses disagreement with government policies, orally or in writing.¹²

10. As previously recognized by the IACHR and as evident in the facts denounced in this Petition, Cuba continues its pattern of violating human rights. Composite Exhibit “A.”

11. On July 11, 2021, “thousands of people poured out onto the streets [of Cuba] in at least 40 towns and cities in the country...to peacefully demand civil liberties and changes in the country’s political structure, as well as to protest the lack of access to economic, social, and cultural rights.”¹³

12. On July 11, 2021, Cuba willfully and deliberately violated the Dissidents’ human rights as part of its efforts to silence internal opposition to Cuba’s totalitarian and repressive government. “The Inter-American Commission on Human Rights (IACHR) said it has received reports of police and government supporters attacking an AP photojournalist and his camera operator, as well as the arrest of at least 10 journalists, and police raids that allegedly prevented

¹¹ IACHR. Article 38, Rules of Procedure.

¹² IACHR. Annual Report 2001. Human Rights Developments in the Region. Cuba. Par. 19. OAE/Ser.L/V/II.114 doc. 5 rev. April 16, 2002.

¹³ IACHR. *The IACHR and Its Special Rapporteurships Condemn State Repression and the Use of Force during Peaceful Social Protests in Cuba, and Call for Dialogue on Citizens Demands*. Press Release of July 15, 2021. http://www.oas.org/en/IACHR/jsForm/?File=/en/iachr/media_center/PReleases/2021/177.asp.

other reporters from leaving their homes. On July 15, 2021, the IACHR Condemned the state repression of the protests and said it considers that official statements branding demonstrators as enemies are inadmissible and reckless. These statements stigmatize protest, foster an atmosphere that tolerates violence, may encourage clashes between citizens, and are incompatible with international standards to protect the right to protest.”¹⁴ Composite Exhibit “A.”

13. From July 11, 2021, through the present, Cuba has continued its historical pattern of repression and systematically arrested and detained over one thousand Dissidents. Many of the Dissidents are involved with the San Isidro Movement, Independent and Democratic Cuba (CID), Cuban Patriotic Union (UNPACU), Autonomous Pinero Party, Party for Democracy, 27N Movement, Archipiélago, and other groups that seek basic human rights from the Cuban government. Other Dissidents arrested in the July 11, 2021 crackdown were independent artists, musicians, journalists, human rights activists, and members of the public who spontaneously participated in freedom marches on July 11, 2021, all of whom advocate the emergence of a democratic civil society in Cuba. Composite Exhibit “A.”

14. On July 11th and days following the mass country-wide protests, the government of Cuba shut down Internet access to the Country, preventing its citizens from documenting and sharing the demonstrations, use of force, and resulting violation of human rights by the Cuban Government. Composite Exhibit “A.” The Government of Cuba has always viewed the Internet with suspicion and considered it a “subversive medium.”¹⁵ Consequently, Cuban authorities have systematically obstructed use and access to the internet. “Internet access in Cuba is seriously

¹⁴ Amnesty International. *Cuba Protests: latest information*. July 14, 2021. <https://www.amnesty.org/en/latest/news/2021/07/cuba-protests-updates/>

¹⁵ IACHR. Special Report on the Situation of Freedom of Expression in Cuba. Par. 198. OEA/Ser.L/V/II. CIDH/RELE/INF. 21/18. December 31, 2018.

hindered by the blocking of websites that criticize or dissent from the party of the government.”¹⁶ “Cuba continues to be the only country in the hemisphere where there are no guarantees for the exercise of the right of freedom of expression.”¹⁷ ¹⁸ The Commission has recognized that the Internet has become a crucial platform to exercise the right to protest in Cuba.¹⁹ And, Cuba continues a very public campaign to thwart its citizens’ right to protest via the Internet or social media.²⁰ Given the historical suppression of Internet access by the Cuban authorities, and, specifically, the shut down on July 11th and the days following, Cuba continues to obstruct the right to expression and to protest.

15. For the first time in history, these human rights violations were exposed by electronic means (almost or actually in real time) and denounced internationally.

16. This systemic oppression is nothing new in Cuba, as has been documented in the Commission’s own reports cited herein.

17. In its 2001 Annual Report, the Commission cited the report of Reporters without Borders, which noted, among other things, the mistreatment of journalists:

In Cuba, where control continues to be exercised over the information disseminated to the population, there are a hundred independent journalists, treated as “counterrevolutionaries” by the authorities; they are a favorite target of repression, just at a time when the Internet gives their work a larger potential audience.²¹

18. As victims of political persecution, the Dissidents were subjected to violent

¹⁶ Ibid., par. 231.

¹⁷ Ibid., par. 248.

¹⁸ See also IACHR. Concerned About New Telecommunications and Cybersecurity Regulations in Cuba, IACHR and Its Special Rapporteurship for Freedom of Expression Note the Risks these New Regulations Pose for the Exercise of Fundamental Liberties on the Internet. Press Release of September 21, 2021.

¹⁹ Ibid.

²⁰ Article published in reuters.com, *Cuba threatens to sue Facebook, alleging it aided dissidents*, November 10, 2021; <https://www.reuters.com/world/americas/cuba-alleges-facebook-aiding-dissident-movement-threatens-legal-action-2021-11-10/>

²¹ IACHR. Annual Report 2001. Human Rights Developments in the Region. Cuba. Par. 22. OAE/Ser.L/V/II.114 doc. 5 rev. April 16, 2002.

arrests—often in front of family members—that were intended to terrorize and intimidate the Dissidents, their families and friends, and, ultimately, the Cuban people. Additionally, Cuba violated the Dissidents’ rights through humiliating searches of their homes intended to torment them and their families. Composite Exhibit “A.”

19. Human Rights Watch/Americas has stated that “[t]he denial of basic civil and political rights is written into Cuban law.”²²

20. In the twenty years since the Commission’s denouncement of Cuba’s criminalization of political and human rights in its 2001 Annual Report, Cuba has continued to contumaciously disregard fundamental standards of due process and basic human rights. As recently as 2020, the Commission stated:

The IACHR and its special rapporteur have consistently expressed concern at the information received about the misuse of the criminal law - - using charges such as contempt, attempted commission, and public disorder—as a mechanism for subsequent imposition of liability on those who express opinions, information, or any kind of criticism on matters of public interest or in relation to authorities or government officials. It is one of the most severe tactics used against certain groups.²³

21. The July 11th demonstrations brought about a newly fabricated crimes – “propagation of the pandemic” and “maliciously spreading an epidemic.” Composite Exhibit “A.” In the absence of any indication that the individual was positive for COVID-19 on July 11th, it is unconscionable to charge anyone with this crime.

22. For years, the harsh conditions that prisoners must bear in Cuba’s prisons after being unfairly convicted of vague crimes have been one of the Commission’s principal concerns.²⁴

²² Ibid., par.33.

²³ IACHR. The Situation of Human Rights in Cuba. 2020. Par. 208. OAE/Ser.L/V/II.Doc. 2. February 3, 2020.

²⁴ IACHR. Annual Report 2001. Human Rights Developments in the Region. Cuba. Par. 79. OAE/Ser.L/V/II.114 doc. 5 rev. April 16, 2002; IACHR. Report No. 67/06. Case 12.476. Oscar Elias Biscet, et al. (Cuba); IACHR. The Situation of Human Rights in Cuba. 2020. Par.19. OAE/Ser.L/V/II.Doc. 2. February 3, 2020.

23. In its 2002 World Report, Human Rights Watch/Americas described the situation in Cuba's prisons as inhumane:

Whether detained for political or common crimes, inmates were subjected to abusive prison conditions. Prisoners frequently suffered malnourishment and languished in overcrowded cells without appropriate medical attention. Some endured physical and sexual abuse, typically by other inmates with the acquiescence of guards, or long periods in punitive isolation cells.²⁵

24. As of this year, the IACHR does not have current information on Cuba's prison population. The last official figures reveal that Cuba has the sixth largest prison population in the world. The conditions of Cuban prisons are documented and "deplorable," including: overcrowding, insufficient medicine, food, and clean water, inadequate hygiene and sanitation, deficient medical care, and the wide discretion that Cuban agents have in keeping order inside the prisons.²⁶

25. When the July 11th demonstrations were underway, Cuba's President, Miguel Diaz-Canel, appeared on national television, in a video clip seen around the World, and urged supporters and security forces to respond violently to the protests. He stated, "[t]he order to fight has been given."²⁷ Diaz-Canel continued to incite violence and a civil war stating, "[w]e're ready for anything and we'll be in the streets fighting. There are many of us revolutionaries in this town who are willing to give our lives...And this is not a slogan, it is a conviction. They [protesters] have to go over our dead bodies if they want to confront the revolution."²⁸

26. Cuba's actions are a continuation of its 62-year-old strategy of repression, resulting

²⁵ IACHR. Annual Report 2001. Human Rights Developments in the Region. Cuba. Par. 80. OAE/Ser.L/V/II.114 doc. 5 rev. April 16, 2002.

²⁶ IACHR. The Situation of Human Rights in Cuba. 2020. Paras. 371, 373. OAE/Ser.L/V/II.Doc. 2. February 3, 2020.

²⁷ Human Rights Watch. Cuba: Peaceful Protesters Systematically Detained, Abused – Arbitrary Detention, Ill-Treatment, Abusive Trials Affect Hundreds. October 19, 2021.

²⁸ Article published in [bbc.com](https://www.bbc.com/news/world-latin-america-43795286). Miguel Diaz Canel: The man succeeding the Castros. July 27, 2021. <https://www.bbc.com/news/world-latin-america-43795286>

in multiple condemnations by international entities and one of the worst human rights records in the world. Cuba's political persecution of the Dissidents violates almost every human rights provision of international treaties and conventions recognized in the Inter-American system, primarily the American Declaration. Here, Cuba has violated, among others, the Dissidents': (1) right to freedom of expression, assembly, and dissemination of ideas; (2) right to a fair trial; (3) right to humane treatment; (4) right to liberty and to be free from arbitrary arrest and detention; (5) right to protection, honor, dignity, privacy, and inviolability of the home; (6) right to vocation; and (7) right to participate in government.

27. The Dissidents are among countless Cuban citizens who have been detained, arrested, tortured, summarily tried, sentenced, and imprisoned in violation of internationally-recognized human rights standards, as part of Cuba's attempt to silence its critics and destroy the hope of a change to democracy from the current totalitarian, oppressive system. As in 2001, when the Commission issued its Annual Report on Human Rights Developments in Cuba, "the pattern of State repression of all who attempt peacefully to exercise their rights to freedom of expression, association, and assembly persists."²⁹

28. The Commission has previously deemed "censurable the limitations and restrictions imposed by the Cuban State on freedom of expression, assembly, and association, as well as the pressures, systematic harassment, and punishment to which independent journalists who endeavor to exercise their fundamental rights day after day are subjected."³⁰

29. Even now, many of the Dissidents remain incarcerated or otherwise detained.

²⁹ IACHR. Annual Report 2001. Human Rights Developments in the Region. Cuba. Par. 32. OAE/Ser.L/V/II.114 doc. 5 rev. April 16, 2002; IACHR. The Situation of Human Rights in Cuba. 2020. Paras. 17, 25, 82, 162. OAE/Ser.L/V/II.Doc. 2. February 3, 2020;

³⁰ IACHR. Annual Report 2001. Human Rights Developments in the Region. Cuba. Par. 34. OAE/Ser.L/V/II.114 doc. 5 rev. April 16, 2002; IACHR. Special Report on the Situation of Freedom of Expression in Cuba. OEA/Ser.L/V/II. CIDH/RELE/INF. 21/18. December 31, 2018.

Based on reports from persons close to the Dissidents, Cuba is subjecting the Dissidents to cruel and humiliating treatment. Their families fear for the Dissidents' lives, safety, and physical integrity. Here, a precautionary measure may stop Cuba from continuing to disregard the Dissidents' human rights.

30. The evidence submitted herein is representative of Cuba's systemic and institutionally sanctioned violation of human rights.

31. The Commission has the authority to adopt precautionary measures, as discussed in further detail below, in order to prevent Cuba's continued abuse of the Dissidents.

Individual Dissident – Facts

The following information was compiled primarily from dissident interviews, information in the public domain, including social media and news reports, and communications authored by the dissidents themselves and/or family members or other activists. Composite Exhibit "B."

32. **Luis Manuel Otero Alcántara**, age 33, is an internationally recognized Cuban dissident and performance artist who is a member of the San Isidro Movement, and was recognized in Time Magazine as one of the 100 most influential people in the world for 2021 for his opposition to the Cuban government.³¹ In August 2019 he was arrested in Havana during a performance for wearing a Cuban flag draped over his shoulders, in defiance of a 2019 Cuban law dictating how the flag could be used.³² In November 2020, Mr. Otero Alcántara participated in a hunger strike as part of the San Isidro Movement, and was twice detained by police during the protest.³³ On

³¹ Article published in Time Magazine. The 100 Most Influential People of 2021: Luis Manuel Otero Alcántara. September 15, 2021. <https://time.com/collection/100-most-influential-people-2021/6096092/luis-manuel-otero-alcantara/>.

³² Article published in The Miami Herald. Cuban artist jailed for using flag as performance art. March 11, 2020. Composite Exhibit A.

³³ Article published in Diario de las Americas. Movimiento San Isidro pide conocer paradero de huelguistas. November 27, 2020. <https://www.diariolasamericas.com/movimiento-san-isidro-pide-conocer-paradero-huelguistas-n4211369>

July 11, 2021, he participated in a peaceful demonstration in Havana and was detained by Cuban police.³⁴ He was transferred, without a court hearing, to the Guanajay maximum-security prison and was charged with “contempt,” “incitement,” and “public disorder.”³⁵ During his imprisonment he has been denied any family visits.³⁶ On September 13, 2021, Mr. Otero Alcántara tested positive for COVID-19 while imprisoned, and, on September 27, 2021, he declared himself on a hunger strike, calling for the release of all political prisoners in Cuba.³⁷ He has been denied the following human rights under the American Declaration: (i) right to liberty; (ii) right to be free from arbitrary arrest; (iii) right to humane treatment while detained; (iv) right to freedom of thought, expression and dissemination of ideas; (v) right to assembly; (vi) right to freedom of association; (vii) right to participate in government; (viii) right to due process and fair trial; (ix) right to vocation.

33. **Daniel Joel Cardenas Diaz**, age 36, participated in the July 11th demonstrations as a peaceful protestor. He was forcibly and brutally arrested three days later. At the time of his arrest, special brigade forces and a police attack dog arrived, broke down his front door, shot him in the head, and removed him from the home, leaving a trail of his blood behind. His wife and three minor children, ages 12 and 2-year-old twins were present and witnessed the entire incident, which was captured on video and disseminated via the internet. Mr. Cardenas Diaz was transferred to Agüica en Colon prison in Matanzas, where he remains incarcerated. He was charged with: “public disorder,” “propagation of the pandemic,” “sabotage,” “corruption of minors,” and strong-

³⁴ Human Rights Watch. Luis Manuel Otero Alcántara, Case descriptions of protestors detained by the Cuban government. July 2021. <https://www.hrw.org/video-photos/interactive/2021/10/19/case-descriptions-protestors-detained-cuban-government-july>

³⁵ Article published in Havana Times. Cuban Artist Luis Manuel Otero on Prison Hunger Strike. September 30, 2021, <https://havanatimes.org/news/cuban-artist-luis-manuel-otero-on-prison-hunger-strike/>

³⁶ Article published by nenroll. Luis Manuel Otero Alcántara is serving four months in prison.” November 11, 2021. <https://www.nenroll-nenroll.com/luis-manuel-otero-alcantara-is-serving-four-months-in-prison/835552021/>

³⁷ Ibid.

armed robbery. Since his incarceration, his family has not been able to visit him. He has been denied the following human rights under the American Declaration: (i) right to liberty; (ii) right to be free from arbitrary arrest; (iii) right to humane treatment while detained; (iv) right to freedom of thought, expression and dissemination of ideas; (v) right to assembly; (vi) right to freedom of association; (vii) right to protection of family life and inviolability of the home; (viii) right to participate in government; and (ix) right to due process and fair trial.³⁸

34. **José Daniel Ferrer Garcia**, 51, is an opposition leader, human rights defender, political prisoner, and general coordinator and founder of the Cuban Patriotic Union (UNPACU). He was brutally detained along with his son José Daniel Ferrer Cantillo, on his way to a demonstration on July 11th. A YouTube video of his abduction by government officials is incorporated by reference herein.³⁹ He has been charged with "public disorder" and was placed in pretrial detention. In August, it was ruled that he would have to serve more than four years in prison in connection with a 2020 conviction. Ferrer Garcia was one of the 75 dissidents arrested, and received a 25-year sentence, during the "Black Spring" of 2003 and included in this Commission's Report.⁴⁰ Almost twenty years later, he is still a target of Cuba's oppressive and brutal tactics of suppressing fundamental human rights. He has been denied the following human rights under the American Declaration: (i) right to liberty; (ii) right to be free from arbitrary arrest; (iii) right to humane treatment while detained; (iv) right to freedom of thought, expression and dissemination of ideas; (v) right to assembly; (vi) right to freedom of association; and (vii) right to due process and fair trial; (viii) right to participate in government; and (ix) right to vocation.⁴¹

³⁸ <https://newsbinding.com/news/cuba-video-shows-police-shoot-protester-in-front-of-toddlers/>

³⁹ Ibid.

⁴⁰ IACHR. Report No. 67/06. Case 12.476. Oscar Elias Biscet, et al. (Cuba)

⁴¹ <https://www.youtube.com/watch?v=FFyorkhDtEs>; <https://www.nbcnews.com/news/latino/leading-cuban-dissident-jose-daniel-ferrer-ordered-serve-four-year-pri-rcna1701>

35. **Virgilio Mantilla Arango**, age 51, is a member of the opposition group Camagüey's Unit for Human Rights and had been previously arrested and sentenced to seven months of imprisonment in December of 2020 for his support for the San Isidro Movement. He was detained and arrested by Cuban police minutes after he participated in a small protest. During his arrest he was threatened by members of a rapid response brigade, who wielded baseball bats. On July 23, 2021, he was sentenced to nine months in prison for “public disorder,” “contempt,” and “inciting the masses” (for having shouted slogans in favor of freedom and human rights from his doorstep).⁴² On August 10, a higher court upheld the conviction. During his hearing, multiple witnesses, including a lead police officer, testified that they did not hear Mr. Mantilla Arango insult any police officers and that he had peacefully cooperated with his arrest. Mr. Mantilla Arango has suffered several health complications while imprisoned, including infection with COVID-19. Mr. Mantilla Arango is currently on a hunger strike which he plans to end when he is released from prison. He has been denied the following human rights under the American Declaration: (i) right to liberty; (ii) right to be free from arbitrary arrest; (iii) right to humane treatment while detained; (iv) right to freedom of thought, expression and dissemination of ideas; (vi) right to participate in government; and (viii) right to due process and fair trial.⁴³

36. **Lorenzo Rosales Fajardo**, age 50 and leader of the Monte de Sion Independent Church was detained by police following the July 11th protests, after multiple members of his church participated in peaceful protests in Palma Soriano. Mr. Rosales Fajardo was charged with “disrespect,” “public disorder,” and “assault” and the prosecutor is seeking a 10-year sentence. He was imprisoned in a state-security prison in Santiago where he was severely beaten, causing him

⁴² <https://www.cubacenter.org/articles-and-events/2021/9/15/press-release-cuban-prisoner-of-conscience-virgilio-mantilla-arango-faces-new-political-trial>

⁴³ <https://www.cubacenter.org/articles-and-events/2021/9/15/press-release-cuban-prisoner-of-conscience-virgilio-mantilla-arango-faces-new-political-trial>

to lose a tooth; prison guards have even urinated on him. His family was repeatedly denied contact and blocked from bringing food and hygienic items to him. Mr. Rosales Fajardo's wife, Maridilegnis Carballo, was only allowed a 90-minute visitation and a few three-minute phone calls in the last 3 months. On August 3, 2021, Mr. Rosales Fajardo was transferred to the Boniato maximum-security prison where he will be held until trial, though no trial date has yet been issued by the government. Ms. Carballo has been threatened with imprisonment for speaking out on her husband's case and his family fears for his deteriorating health due to his medical conditions, and concern for additional beatings and abuse in prison. Mr. Rosales Fajardo was denied the following human rights under the American Declaration: (i) right to liberty; (ii) right to be free from arbitrary arrest; (iii) right to humane treatment while detained; (iv) right to freedom of thought, expression and dissemination of ideas; (v) right to assembly; (vi) right to protection of family life; (vii) right to participate in government; (viii) right to due process and fair trial; and (ix) right to vocation.

37. **Jorge Serrano Alfonso**, age 50 and a member of the pro-democracy organization called Movimiento Recuperación Democrática de Cárdenas, was arrested by Cuban authorities on July 16, 2021 as part of the Cuban government crackdown after the July 11, 2021 national protests, according to reports from activist Eduardo Pacheco, who has been following this case. Cuban authorities removed him from his home and took him and other protestors to an abandoned factory in Matanzas, where they were all terribly beaten, while being forced to say pro-government slogans. Mr. Serrano Alfonso was kicked in the head and back and initially taken to Combinado del Sur prison in Matanzas, where he was reported to be suffering from blackouts following the severe beating. He was thereafter transferred and remains detained at the Canaleta de Perico Prison in Perico, Matanzas. While he has reportedly been charged with "public disorder," no charging

documents have been made available for review, and he has not been tried to date. According to reports, Cuban state authorities have been attempting to find video recordings and other evidence in order to establish Mr. Serrano Alfonso as a leader of the July 11, 2021 protests in Matanzas. Based on publicly available information and information provided by sources in Cuba, Mr. Serrano Alfonso has been deprived of several rights contained within the American Declaration: (i) right to liberty; (ii) right to be free from arbitrary arrest; (iii) right to humane treatment; (iv) right to freedom of thought, expression and dissemination of ideas; (v) right to assembly; (vi) right to vote and participate in government; and (vii) right to due process and a fair trial.⁴⁴

38. **Lisandra Gongora Espinosa**, age 36, is a known activist and member of Partido Republicano de Cuba and Fundación Vuelta Abajo por Cuba. She was arrested on July 22, 2021 for “attempt” and “public disorder.” Her husband attempted to have a lawyer appointed, but government officials told him she can have a lawyer only 5 days prior to any trial. A man appeared at her home, purporting to be her lawyer and asked to take pictures of the house and her children, under the pretext that it would help her case. Unbeknownst to the family, the pictures were really being taken to intimidate and torture Gongora Espinosa. In prison, a government official appeared at her cell and showed her the pictures, telling her that they were going to take her children away. Ms. Gongora Espinosa is awaiting trial. She has been denied the following human rights under the American Declaration: (i) right to liberty; (ii) right to be free from arbitrary arrest; (iii) right to humane treatment while detained; (iv) right to freedom of thought, expression and dissemination of ideas; (v) right to assembly; (vi) right to freedom of association; (vii) right to participate in government; and (viii) right to due process and fair trial; (ix) right to inviolability of the home; (x)

⁴⁴ <https://today.in-24.com/News/338829.html>; <https://www.radiotelevisionmarti.com/a/encarcelado-en-canaleta-tras-sumarse-a-las-protestas-de-c%C3%A1rdenas/304584.html>.

right to participate in government.⁴⁵

39. **Maikel Puig Bergolla**, 41, participated in the July 11th demonstrations. He was arrested in his home in front of his children. At the time of his arrest, his family was given no information regarding the charges he faced. He is being accused of a number of crimes, including: “public disorder,” “contempt toward officials,” “instigation to commit a crime,” and even attempted murder. According to Saily, Puig Bergolla's wife, the police also attempted to charge her husband with robbing a store, but they were forced to drop the charge because they had no evidence to show that he was involved. He faces up to 25 years in prison for his alleged crimes. Mr. Puig Bergolla is being held in the maximum-security prison in Mayabeque. Since questioning the whereabouts and charges of Puig Bergolla, his wife has been receiving threats from the authorities. Her phone has been being traced. He has been denied the following human rights under the American Declaration: (i) right to liberty; (ii) right to be free from arbitrary arrest; (iii) right to humane treatment while detained; (iv) right to freedom of thought, expression and dissemination of ideas; (v) right to assembly; (vi) right to freedom of association; (vii) right to participate in government; and (viii) right to due process and fair trial; (ix) right to inviolability of the home; (x) right to participate in government.⁴⁶

40. **Samuel Pupo Martínez**, age 47, human rights activist, is a leader of “Partido Union por Cuba libre,” (PUNCLI) was arrested after participating in a demonstration in Cardenas on July 11th. He is seen in videos and photos, screaming "Abajo el Comunismo" and "¡Patria y Vida!" Pupo Martínez has been detained since the demonstration, after one month in Cardenas, he

⁴⁵ <https://www.cibercuba.com/noticias/2021-07-03-u208227-e208227-s27061-madre-cubana-denuncia-amenazas-seguridad-estado-quitarse>

⁴⁶ <https://www.cibercuba.com/noticias/2021-10-22-u199482-e199482-s27061-fiscalia-cubana-pide-25-anos-carcel-contra-manifestante>

was transferred to a maximum-security prison (Agüica) in Matanzas. As an accused "leader," Pupo Martínez is facing 18 years in prison, however, he still awaits his charging documents. Mr. Pupo Martínez is diabetic and suffers from Scleroderma, a degenerative disease. He has been denied the following human rights under the American Declaration: (i) right to liberty; (ii) right to be free from arbitrary arrest; (iii) right to humane treatment while detained; (iv) right to freedom of thought, expression and dissemination of ideas; (v) right to assembly; (vi) right to freedom of association; and (vii) right to due process and fair trial; (viii) right to participate in government; (ix) right to vocation.⁴⁷

41. **Dánger Acosta Justiz**, age 43, was brutally arrested alongside his wife, Yusmeli Moreno Gonzalez. Neither Acosta Justiz nor his wife participated in the demonstrations that day. However, they were arrested and beaten by Cuban authorities when they attempted to intervene in the defense of their minor adolescent children, who were being beaten by the Cuban special forces for participating in the demonstrations. Their 17-year-old daughter suffered a head injury from the incident. Mr. Acosta Justiz was charged with “attempt” and is still awaiting trial. He has been denied the following human rights under the American Declaration: (i) right to liberty; (ii) right to be free from arbitrary arrest; (iii) right to freedom of thought, expression and dissemination of ideas; (iv) right to protection of family life; and (vi) right to due process and fair trial.⁴⁸

42. **Yusmeli Moreno González**, 43-year-old mother of four, has been detained since July 12th. Her husband, Dánger Acosta Jústiz, was also arrested the same day. According to family, the couple did not attend a demonstration. Their minor daughter, Yusmiel, attended a

⁴⁷ <https://elcorreodeespana.com/sucesos/951319777/Denuncio-ante-el-mundo-torturas-a-Carlos-Manuel-Pupo-Por-Dr-Oscar-Elias-Biscet.html>; <https://www.radiotelevisionmarti.com/a/cardenense-que-gritó-abajo-el-comunismo-el-11-de-julio-se-encuentra-en-prisión-preventiva-/302563.html>

⁴⁸ <https://www.periodicocubano.com/matrimonio-cubano-arrestado-el-11j-cumplira-dos-meses-sin-ver-a-sus-hijos/>

demonstration at the park across from their home. Yusmiel was brutally beaten by police and both parents witnessed the beating. The distressed parents ran to their daughter's defense and were both subsequently detained. Each parent is being charged with "attempt." Ms. Moreno Gonzalez is currently being held at "Prisión de Mujeres de Occidente" and awaiting trial. She has been denied the following human rights under the American Declaration: (i) right to liberty; (ii) right to be free from arbitrary arrest; (iii) right to freedom of thought, expression and dissemination of ideas; (iv) right to protection of family life; (v) right to participate in government; and (vi) right to due process and fair trial.⁴⁹

43. **Angelica Garrido Rodriguez**, age 41, participated in the July 11th demonstrations. She is a member of the Partido Republicano de Cuba. She was arrested along with her sister, Maria Cristina Garrido Rodriguez, also a Dissident named herein. The sisters were violently arrested by six uniformed officers. During the arrest, Angelica Garrido Rodriguez was beaten to the extent that she lost consciousness three times. She was charged with: "public disorder;" "propagation of an epidemic;" "attempt;" and "organizing the demonstration." Ms. Angelica Garrido Rodriguez is still awaiting trial. She has been denied the following human rights under the American Declaration: (i) right to liberty; (ii) right to be free from arbitrary arrest; (iii) right to humane treatment while detained; (iv) right to freedom of thought, expression and dissemination of ideas; (v) right to assembly; (vi) right to freedom of association; (vii) right to participate in government; and (viii) right to due process and fair trial.⁵⁰

44. **Maria Cristina Garrido Rodriguez**, age 38, participated in the July 11th

⁴⁹ <https://www.radiotelevisionmarti.com/a/pareja-lleva-más-de-dos-meses-en-la-cárcel-por-intentar-evitar-que-golpearan-a-su-niña-/304572.html>

⁵⁰ <http://www.nostalgiacuba.com/maria-cristina-garrido-y-angelica-garrido-rodriguez-fueron-detenido-10-de-la-ma/>; https://diariodecuba.com/derechos-humanos/1635340223_35112.html

demonstrations. She is a member of the Partido Republicano de Cuba. She was arrested along with her sister, Angelica Garrido Rodriguez, also a Dissident named herein. The sisters were violently arrested by six uniformed officers. A police officer beat Maria Cristina Garrido Rodriguez at the police station. In the afternoon, Maria Cristina was transferred to “Prision de Sida,” where she was beaten twice by a female prison guard, with such ferocity and brutality, that Maria Cristina urinated on her herself twice. She was then placed in a “torture cell” so small she did not even have room to sit down on the floor. During her detention, an officer punched her in the legs and arms and woke her up repeatedly in the early morning, demanding her to shout, “long live Fidel!, long live the revolution!” When she refused, they threw her in a “punishment cell,” which was dark and lacked water or bathroom facilities. She was charged with: “public disorder;” “propagation of an epidemic;” “attempt;” and “organizing the demonstration.” Ms. Maria Cristina Garrido Rodriguez is still awaiting trial. She has been denied the following human rights under the American Declaration: (i) right to liberty; (ii) right to be free from arbitrary arrest; (iii) right to humane treatment while detained; (iv) right to freedom of thought, expression and dissemination of ideas; (v) right to assembly; (vi) right to freedom of association; (vii) right to participate in government; and (viii) right to due process and fair trial.⁵¹

45. **Francisco Navarro Rodriguez**, age 68, is the president of the pro-democracy opposition Party for Democracy Pedro Luis Boitel, and is also active with the San Isidro Movement and is a member of the Cuba Decide platform. Following the July 11th protests, he went to a police station on July 12, 2021 to inquire about the mass detentions of several members of the Party for Democracy Pedro Luis Boitel, and was himself detained and imprisoned by government authorities and charged with “attack” and “public disorder.” He has been visited in prison by the

⁵¹ Ibid.

Bishop of Matanzas, who has confirmed that Mr. Navarro Rodriguez is on a hunger strike to protest his treatment. Mr. Navarro Rodriguez has stated that he intends to remain on a hunger strike until he is released from prison. As of September 17, 2021, his weight was down to 132 pounds. During his imprisonment, Mr. Navarro Rodriguez has contracted COVID-19, and his family has expressed fears for his life due to his poor health. Mr. Lopez Perez has been denied the following human rights under the American Declaration: (i) right to liberty; (ii) right to be free from arbitrary arrest; (iii) right to humane treatment while detained; (iv) right to freedom of thought, expression and dissemination of ideas; (v) right to assembly; (vi) right to protection of family life; (vii) right to participate in government; and (viii) right to due process and fair trial.⁵²

46. **Emmanuel Robles Perez** (and wife, Mailene Noguera Santiesteban), age 33, is a member of several pro-democracy organizations: Movimiento Opositores por una Nueva República, Movimiento Democracia, and is a promoter of Cuba Decide. He was detained, along with his wife and fellow activist, Mailene Noguera Santiesteban, on July 17, 2021 for “public disorder,” “disrespect,” “propagation of a pandemic,” and was accused of leading a July 11th protest. Mr. Robles Perez is imprisoned at Quivicán Prison, and has communicated to his family that he has been tortured and beaten several times while in prison. During such episodes of abuse, he is placed before a video camera and is instructed to recite the phrases, “Long Live Diaz Canel,” and “Fatherland or Death.” If he refuses to make the statements, he is beaten and tortured. When he utters the popular opposition phrase “Patria y Vida,” he is also beaten. Mr. Robles Perez has been denied the following human rights under the American Declaration: (i) right to liberty; (ii) right to be free from arbitrary arrest; (iii) right to humane treatment while detained; (iv) right to freedom of thought, expression and dissemination of ideas; (v) right to assembly; (vi) right to

⁵² <https://translatingcuba.com/felix-navarro-remains-on-a-hunger-strike-in-prison-bishop-of-matanzas-confirms/>

protection of family life; (vii) right to participate in government; and (viii) right to due process and fair trial.⁵³

47. **Yeremín Salcine Janes**, 31, was violently beaten and arrested on July 11th. He was beaten by Cuban special forces almost to the point of unconsciousness. For ten days following his arrest, his family did not know where he was. He was being held incommunicado. After learning of his whereabouts and during a visit, his girlfriend Irma, observed visible bruising on Mr. Salcine Janes. He told her of the continuous abuse and inhumane treatment that he was subjected to while imprisoned. One guard would beat him, and when he got tired, another one would continue the beating. During these beatings, he was on the floor, without being able to defend himself. In September, Mr. Salcine Janes was transferred to a prison in Guanajay, Artemisa where he was detained with murders and violent criminals, in order to further threaten his safety and as an intimidation tactic. He is charged with "contempt," "public disorder," and "attempt." He faces 14 years in prison. Human Rights violations under the American Declaration: (i) right to liberty; (ii) right to be free from arbitrary arrest; (iii) right to humane treatment while detained; (iv) right to freedom of thought, expression and dissemination of ideas; (v) right to assembly; (vi) right to protection of family life; (vii) right to participate in government; and (viii) right to due process and fair trial.⁵⁴

48. **Michael Gerardo Carey Abadin**, age 19, is a Canadian resident who was living in Old Havana with his mother when he was arrested on July 12. Mr. Carey Abadin was accused of throwing a rock at a patrol car during the protests. He was arrested, jailed, and charged with "damage to property." He denies any involvement in the July 11th protests. He is facing a potential

⁵³ <https://www.radiotelevisionmarti.com/a/en-prisión-matrimonio-de-opositores-de-batabanó-con-hijos-menores-de-edad-/300864.html>

⁵⁴ <https://adncuba.com/noticias-de-cuba/derechos-humanos/denuncian-ante-onu-arresto-de-joven-cubano>

prison sentence of five to six years. While incarcerated, Mr. Carey Abadin contracted COVID-19, hepatitis and HSV-1. His condition was so serious that he was transferred to a hospital, with lesions on his legs that are suppurating. Although the Canadian consulate is aware of Carey Abadin's case, the Cuban government has prohibited him from receiving consular visits. Carey Abadin is only allowed to speak to his mother every couple of weeks for a minute or two. In October, his mother finally was able to visit him, and she described him as emaciated, with yellow skin pockmarked with lesions, unfocused, shocked, and traumatized. Mr. Carey Abadin is still awaiting trial. He has been denied the following human rights under the American Declaration: (i) right to liberty; (ii) right to be free from arbitrary arrest; (iii) right to humane treatment while detained; (iv) right to freedom of thought, expression and dissemination of ideas; (v) right to assembly; (vi) right to freedom of association; and (vii) right to due process and fair trial.⁵⁵

49. **Yoandris Gutierrez Vargas**, 41, is known activist and independent journalist; he is also a member of the "Unión Patriótica de Cuba" and "Impacto Juvenil Republicano." He was arrested on July 13th, after peacefully demonstrating in the July 11th protests. He is charged with: "assault," "spreading the epidemic," "public disorder," and "contempt." He is being held with murderers and serious criminals, as an intimidation tactic. He went on a hunger strike while incarcerated to shed light on the inhumane conditions of his incarceration, resulting in his having to be hospitalized. Mr. Gutierrez Vargas has not been informed of any potential sentence by the Cuban authorities. He has been denied the following human rights under the American Declaration: (i) right to liberty; (ii) right to be free from arbitrary arrest; (iii) right to humane treatment while detained; (iv) right to freedom of thought, expression and dissemination of ideas; (v) right to assembly; (vi) right to freedom of association; (vii) right to participate in government;

⁵⁵ <https://www.cbc.ca/news/politics/cuba-michael-carey-abadin-democracy-protests-1.6220298>

and (viii) right to due process and fair trial; (ix) right to vocation; (x) right to participate in government.⁵⁶

50. **Julian Manuel Mazola Beltran**, age 22, was detained in the July 11th protests in San Antonio de Los Baños. His family has spoken out and said that he is often beaten and placed in punishment cells, while being denied the right to speak with or to be visited by his family. He faces up to 12 years for his peaceful demonstration and remains in prison. Mr. Mazola Beltran has been denied the following human rights under the American Declaration: (i) right to liberty; (ii) right to be free from arbitrary arrest; (iii) right to humane treatment while detained; (iv) right to freedom of thought, expression and dissemination of ideas.⁵⁷

51. **Enrique Mustelier Sosa**, age 39, is a member of the opposition group Unión Patriótica de Cuba, and was beaten and detained by police on July 11, 2021 after peacefully marching in Guantanamo during the protests. He was charged with “disrespect” and “assault.” Mr. Mustelier Sosa has been denied the following human rights under the American Declaration: (i) right to liberty; (ii) right to be free from arbitrary arrest; (iii) right to freedom of thought, expression and dissemination of ideas; (iv) right to assembly; (v) right to participate in government; and (vi) right to due process and fair trial.⁵⁸

52. **Yunior Iglesias Velazquez**, 36, was arrested at gun point in his home on July 14th and held “incomunicado.” He participated in the July 11th demonstrations. He is charged with "public disorder," "propagation of the epidemic," "contempt," and "incitement to commit a crime." He has been denied the following human rights under the American Declaration: (i) right to liberty;

⁵⁶ <https://www.youtube.com/watch?v=kX4jDUZeq-s>

⁵⁷ <https://www.cibercuba.com/noticias/2021-10-30-u1-e199894-s27061-denuncian-maltrato-jovenes-cubanos-presomanifestarse-11j-san>; <https://today.in-24.com/News/529670.html>

⁵⁸ <https://www.radiotelevisionmarti.com/a/otro-caso-de-detenido-el-11j-en-cuba-ante-grupo-de-trabajo-para-las-detenciones-arbitrarias-de-onu/303590>; <https://www.local10.com/news/politics/2021/07/21/cuban-people-need-more-help-from-the-international-community-many-say/>

(ii) right to be free from arbitrary arrest; (iii) right to humane treatment while detained; (iv) right to freedom of thought, expression and dissemination of ideas; (v) right to assembly; (vi) right to freedom of association; (vii) right to participate in government; and (viii) right to due process and fair trial.⁵⁹

53. **Francisco Rangel Manzano**, age 60, is a member of the Opposition Party for Democracy Pedro Luis Boitel, and an activist for the Capitan Tondique project. He was detained by officers during a peaceful demonstration in the July 11th protests. Mr. Rangel Manzano was detained immediately after the start of the protests. He is in pretrial detention on charges of “public disorder.” In September, a prosecutor requested a seven-year prison sentence for “public disorder” and “contempt.” Through his activism, Mr. Rangel Manzano gives humanitarian aid and provides food for those in need in Cuba. He suffers from heart disease. Mr. Rangel Manzano is being held at Combinado Sur de Matanzas prison, and was recently allowed visitation by his family who notes that he has lost weight during custody and has suffered from a sharp pain in the chest. His wife has to deliver his medication to the prison due the prison’s lack of proper medical care and attention. He has been denied the following human rights under the American Declaration: (i) right to liberty; (ii) right to be free from arbitrary arrest; (iii) right to humane treatment while detained; (iv) right to freedom of thought, expression and dissemination of ideas; (v) right to assembly; (vi) right to freedom of association; (vii) right to participate in government; and (viii) right to due process and fair trial.⁶⁰

54. **Rowland Jesús Castillo Castro**, age 17, was arrested on July 16th. He was held

⁵⁹ <https://www.republicadecuba.org/prensa/decretan-prision-provisional-contra-activistas-de-derechos-humanos-en-villa-clara-cuba.html>; <https://twitter.com/CemiHolding/status/1421932847204638722?s=20>

⁶⁰ https://diariodecuba.com/derechos-humanos/1636129801_35346.html

incomunicado and transferred to various prisons until October 18th when his family was allowed to visit him. He is currently being held in the "Jóvenes de Occidente" prison. Upon visiting him, his mother learned that when Mr. Castillo Castro was incarcerated at Aldabó, he was severely mistreated and had contracted dengue. He is charged with "assault" and "public disorder," and even though he is an exemplary student athlete with no prior criminal record, the prosecution requests 23-year years in prison. The young man accepts that he was at a demonstration in "Toyo's Corner," and is even willing to serve his extremely unjust sentence; however, he remains passionate about fighting for justice for himself and others. He has been denied the following human rights under the American Declaration: (i) right to liberty; (ii) right to be free from arbitrary arrest; (iii) right to humane treatment while detained; (iv) right to freedom of thought, expression and dissemination of ideas; (v) right to assembly; (vi) right to freedom of association; (vii) right to participate in government; and (viii) right to due process and fair trial.⁶¹

55. **Pedro Castillo Mauri**, age 47, was detained on July 17th. He is a known member of the Cuban Patriotic Union, the largest Cuban dissident organization on the island. Mr. Castillo Mauri has been charged with "public disorder," and has not been granted a trial. It is unclear how many years the prosecutor requests, however, it is likely that he will receive a disproportionate sentence due to his involvement in the Cuban Patriotic Union. He has been denied the following human rights under the American Declaration: (i) right to liberty; (ii) right to be free from arbitrary arrest; (iii) right to humane treatment while detained; (iii) right to freedom of thought, expression and dissemination of ideas; (iv) right to assembly; (v) right to freedom of association; (vi) right to participate in government; and (vii) right to due process and fair trial.⁶²

⁶¹ <https://www.nenroll-nenroll.com/rowland-castillos-mother-calls-torture-at-prosecutors-request-for-23-years-in-prison-for-the-minor/681792021/>

⁶² https://blogforcuba.typepad.com/my_weblog/la-junta-patriótica-cubana/

56. **Yasmani Porra Perez**, age 35, was arrested on July 16th. He is charged with "public disorder," "forced theft," and "sabotage." He is currently held south of Matanzas. Mr. Porra Perez has been victim to brutal mistreatment by the prison guards and police chief. He has shared with his family that he is suicidal due to the gravely unjust charges and accusations. Moreover, his young son suffers from anxiety, which has been worsened since his father's incarceration. He has been denied the following human rights under the American Declaration: (i) right to liberty; (ii) right to be free from arbitrary arrest; (iii) right to humane treatment while detained; (iv) right to freedom of thought, expression and dissemination of ideas; (v) right to assembly; (vi) right to freedom of association; (vii) right to participate in government; and (viii) right to due process and fair trial.⁶³

57. **Rolando Yusef Pérez Morera**, age 49, is a known activist. Mr. Pérez Morera is a known member of "Movimiento Alianza Cívica Insurreccional," an activist group. He has been arrested in connection to his involvement in the past, most recently October 2015. He was arrested on July 11th following protests in his hometown of San Antonio de los Baños. Mr. Pérez Morera is being held on charges of "public disorder" and "contempt." The prosecutors seek up to 12 years in prison for these charges. He was arrested along with his brother, Adrián Rodríguez Morera (prosecution seeks 8 years for Adrián). He has been denied the following human rights under the American Declaration: (i) right to liberty; (ii) right to be free from arbitrary arrest; (iii) right to humane treatment while detained; (iv) right to freedom of thought, expression and dissemination of ideas; (v) right to assembly; (vi) right to freedom of association; (vii) right to participate in government; and (viii) right to due process and fair trial.⁶⁴

⁶³ <https://www.elnuevoherald.com/noticias/america-latina/cuba-es/article253123663.html>

⁶⁴ <https://translatingcuba.com/cuban-prosecutors-office-asks-for-sentences-of-6-to-12-years-for-the-san-antonio-protestors/>; <https://www.radiotelevisionmarti.com/a/en-prisión-preventiva-dos-hermanos-que-protestaron-en-san->

58. **Santiago Vázquez León**, age 21, was detained on July 12th, following the demonstrations of July 11th in Havana. He has been charged with “injury,” “attempt,” “contempt,” “public disorder,” and “vandalism.” Mr. Vázquez León and two of his brothers: José Antonio Gómez León and Frandy González León, are being detained in the “Combinado del Este.” His other brother, Adonis Alexander Remón León, was cited by the police and told that he would be charged with the maximum crimes if he were to attend another protest (November 15). In the meantime, Remón León is being held in home confinement pending the investigation of his case which also implicates his incarcerated brothers. Remón León was released because his employer wrote a letter stating that he was at work during the time of his accused crimes. Santiago is still awaiting his charging documents and has not been granted a trial. Mr. Vázquez León has been denied the following human rights under the American Declaration: (i) right to liberty; (ii) right to be free from arbitrary arrest; (iii) right to freedom of thought, expression and dissemination of ideas; (iv) right to assembly; (v) right to freedom of association; (vi) right to participate in government; and (vii) right to due process and fair trial.⁶⁵

59. **Anibal Yasiel Palau Jacinto**, 26, was detained on July 12, 2021. He is charged with “attempt” and “public disorder.” He is also under investigation for “suspected robbery of stores in Güine.” He is currently incarcerated at Quivican. Mr. Palau Jacinto has been subject to torment and physician abuse to the point that he lost control of bodily functions and urinated himself. He was then left in urinated clothing for multiple days as another form of torture and humiliation. He was forced to remain in clothes with urine on it for multiple days. Mr. Palau Jacinto has been denied the following human rights under the American Declaration: (i) right to liberty;

[antonio-de-los-baños/302788; https://www.nenroll-nenroll.com/demonstrators-of-july-11-in-san-antonio-de-los-banos-could-be-sentenced-to-up-to-12-years-in-prison/397492021/](https://www.nenroll-nenroll.com/demonstrators-of-july-11-in-san-antonio-de-los-banos-could-be-sentenced-to-up-to-12-years-in-prison/397492021/)

⁶⁵ https://diariodecuba.com/derechos-humanos/1634222558_34800.html

(ii) right to be free from arbitrary arrest; (iii) right to humane treatment while detained; (iv) right to freedom of thought, expression and dissemination of ideas; (v) right to assembly; (vi) right to freedom of association; (vii) right to participate in government; and (viii) right to due process and fair trial.⁶⁶

60. **Jaime Alcides Firdó Rodríguez**, age 22, was arrested on July 16th. He is charged with "public disorder," "subsequent sedition," and "other acts against the security of the State." He is currently detained in the "Prisión Combinado del Este, La Habana," awaiting sentencing and trial. Firdó Rodríguez has no prior criminal record. He has been denied the following human rights under the American Declaration: (i) right to liberty; (ii) right to be free from arbitrary arrest; (iii) right to freedom of thought, expression and dissemination of ideas; (iv) right to assembly; (v) right to freedom of association; (vi) right to participate in government; and (vii) right to due process and fair trial.

61. **Omar Herrera Moré**, 30, was detained on July 12th. He is being accused of "sabotage" and "public disorder." Herrera Moré is currently incarcerated and awaiting sentencing and trial. He has been denied the following human rights under the American Declaration: (i) right to liberty; (ii) right to be free from arbitrary arrest; (iii) right to freedom of thought, expression and dissemination of ideas; (iv) right to assembly; (v) right to freedom of association; (vi) right to participate in government; and (vii) right to due process and fair trial.

62. **Juviel Jiménez Gómez**, 51, was arrested on July 18th. He is charged with "leading," "contempt," "instigation," "propagation," and "violent acts against officials." He is being held without a trial in "La Pendiente." He has been denied the following human rights under the American Declaration: (i) right to liberty; (ii) right to be free from arbitrary arrest; (iii) right to

⁶⁶ <http://www.tophoy.com/denuncian-injusta-encarcelacion-de-manifestante-del-11j/>

freedom of thought, expression and dissemination of ideas; (iv) right to assembly; (v) right to freedom of association; (vi) right to participate in government; and (vii) right to due process and fair trial.

63. **Rosa Jany Millo Espinosa**, age 26, was arrested on July 11th. Ms. Millo Espinosa faces a total of 6 years in prison for her crimes of “contempt” and “public disorder.” She has been denied the following human rights under the American Declaration: (i) right to liberty; (ii) right to be free from arbitrary arrest; (iii) right to freedom of thought, expression and dissemination of ideas; (iv) right to assembly; (v) right to freedom of association; (vi) right to participate in government; and (vii) right to due process and fair trial.⁶⁷

64. **Ramón Enrique Montero Meriño**, 30, was detained on July 18th. He is charged with "public disorder" and "attempt," and faces 10 years in prison. He is currently being held at “Kilo 8” Prison in Camagüey. He has been denied the following human rights under the American Declaration: (i) right to liberty; (ii) right to be free from arbitrary arrest; (iii) right to freedom of thought, expression and dissemination of ideas; (iv) right to assembly; (v) right to freedom of association; (vi) right to participate in government; and (vii) right to due process and fair trial.⁶⁸

65. **Leylandis Puentes Vargas**, age 49, was arrested on July 13th. He is a member of the Pedro Luis Boitel Party. Ms. Puentes Vargas, a husband and father, is being charged with "public disorder," and facing 8 years in prison. Ms. Puentes Vargas is being held in the maximum-security prison, "Prison de Agüica, Colon, Matanzas." He has been denied the following human rights under the American Declaration: (i) right to liberty; (ii) right to be free from arbitrary arrest;

⁶⁷ <https://translatingcuba.com/cuban-prosecutors-office-asks-for-sentences-of-6-to-12-years-for-the-san-antonio-protestors/>

⁶⁸ <https://www.radiotelevisionmarti.com/a/detenidos-del-11j-sufren-un-castigo-por-adelantado-en-prisión-a-merced-de-la-justicia-del-régimen-cubano/304123.html>

(iii) right to freedom of thought, expression and dissemination of ideas; (iv) right to assembly; (v) right to freedom of association; (vi) right to participate in government; and (vii) right to due process and fair trial.⁶⁹

66. **Joel Díaz Hernández**, age 47, is a member of the Insurreccional Civil Alliance Movement. He was violently detained by police officers during a peaceful protest on July 11th. He was held incommunicado until August 10th, when officers finally allowed him to call his wife. He remains in pretrial detention on charges of “public disorder” “disrespect” and “attempt.” Diaz Hernandez is currently held in a prison in Guanajay, Artmeisa, and faces up to twelve years in prison for his charges. He has been denied the following human rights under the American Declaration: (i) right to liberty; (ii) right to be free from arbitrary arrest; (iii) right to freedom of thought, expression and dissemination of ideas; (iv) right to assembly; (v) right to freedom of association; (vi) right to participate in government; and (vii) right to due process and fair trial.

67. **Jose Antonio Gómez León**, age 34, was detained on July 12th following the July 11th protests. He was accused of "vandalism" "public disorder" "attack" "contempt" and "infliction of personal injury." Mr. Gómez León is one of four brothers who attended the protests, three of whom are currently imprisoned. The fourth brother was released from prison after fifty-four days. Mr. Gómez León is being held in the Combinado del Este prison and awaiting trial. He has been denied the following human rights under the American Declaration: (i) right to liberty; (ii) right to be free from arbitrary arrest; (iii) right to freedom of thought, expression and dissemination of ideas; (iv) right to assembly; (v) right to freedom of association; (vi) right to participate in government; and (vii) right to due process and fair trial.

⁶⁹ <https://www.nenroll-nenroll.com/they-ask-for-6-to-15-years-in-prison-for-cuban-opponents-in-matanzas-who-protested-on-june-11/446552021/>

68. **Manuel de Jesús Guillén Esplugas**, age 26, is a member of the Patriotic Union of Cuba and an activist for Cuba Decide. He was detained during the July 11th protests, and is charged with “mistreatment to government property.” He was first sanctioned to correctional work without interment due to the "dangerousness" index of the crimes charged. The prosecutor is asking for twenty-five years of deprivation of liberty in his case. He has been denied the following human rights under the American Declaration: (i) right to liberty; (ii) right to be free from arbitrary arrest; (iii) right to freedom of thought, expression and dissemination of ideas; (iv) right to assembly; (v) right to freedom of association; (vi) right to participate in government; and (vii) right to due process and fair trial.

69. **Maikel Martínez Sirey**, age 44, is a member of Cuba Decide. He was arrested on July 12th following the July 11th protests. He was sentenced to two years for "contempt" and "spread of epidemic" on July 15th. He has been denied the following human rights under the American Declaration: (i) right to liberty; (ii) right to be free from arbitrary arrest; (iii) right to freedom of thought, expression and dissemination of ideas; (iv) right to assembly; (v) right to freedom of association; (vi) right to participate in government; and (vii) right to due process and fair trial.

70. **Lisdani Rodríguez Isaac** and her sister, **Lisdiani Rodríguez Isaac**, 23-year-old twin sisters, are members of the Free Yoruba Association. The sisters were summoned by a state security agent to a police station, and were arrested on charges of “contempt” “public disorder” and “assault” for allegedly hitting an officer in a July 11th demonstration. A prosecutor has officially charged the sisters with one count of “public disorder” and two counts of “assault” and “attack” for a total of ten years with additional travel restrictions. The sisters are being threatened with the highest penalty out of all the members who marched with them. They are currently held

in a Guamajal, Villa Clara prison. After months of detention, the sisters were informed that they would face eight years for “maliciously spreading an epidemic.” Their mother denies the prosecutor's claims that the sisters intervened in an arrest and hit and shoved an officer during the protests. Their mother has not been able to see the sisters and is currently taking care of one of the sister's three-and-a-half-year-old daughter. They have been denied the following human rights under the American Declaration: (i) right to liberty; (ii) right to be free from arbitrary arrest; (iii) right to freedom of thought, expression and dissemination of ideas; (iv) right to assembly; (v) right to freedom of association; (vi) right to participate in government; and (vii) right to due process and fair trial.⁷⁰

71. **Evert Luis Hidalgo Ladrón de Guevara**, 25, is a known activist and member of the “Union Patriótica de Cuba” and promoter of Cuba Decide. He was violently arrested by a group of officers for filming demonstrations from his home on July 11th. He was subsequently freed with a bond of 3,000 pesos. Hidalgo Ladrón is accused of “public disorder” and “contempt.” He has been denied the following human rights under the American Declaration: (i) right to liberty; (ii) right to be free from arbitrary arrest; (iii) right to freedom of thought, expression and dissemination of ideas; (iv) right to assembly; (v) right to freedom of association; (vi) right to participate in government; and (vii) right to due process and fair trial.⁷¹

Available Evidence

72. The Dissidents themselves possess the greatest information and evidence of Cuba’s human rights violations. Pursuant to Article 39 of the Rules of Procedure, the

⁷⁰ <https://www.globallibertyalliance.org/gla-news/case-update-prosecutor-seeks-maximum-sentence-in-case-against-free-yorubas-lisdiani-lisdani-rodriguez-isaac>

⁷¹ <https://www.google.com/amp/s/www.periodicocubano.com/liberan-con-fianza-de-3-000-pesos-al-activista-evert-luis-hidalgo-miembro-de-la-unpacu/amp/>

Commission is empowered to conduct onsite investigations. CABA strongly urges the Commission to interview the Dissidents in connection with its investigation of the violations detailed in this Petition. Additionally, under Article 30 of the Rules of Procedure, CABA urges the Commission to request pertinent information from the Government of Cuba, including all records relating to investigation, arrest, detention, prosecution, or legal proceedings relating to the dissents.

73. CABA reasonably fears for the lives and safety of other persons in Cuba who may provide additional evidence against Cuba in connection with Cuba's violation of the Dissidents' human rights. Therefore, CABA is requesting protection within the Commission's jurisdiction to protect them from retaliation by Cuba.

74. Cuba is in exclusive possession of the charging documents, government files, transcripts and evidence, judgments, and other documentary evidence relating to the arrest, summary trials, and incarceration of the Dissidents. Therefore, CABA delineates the necessary evidence and it respectfully requests that the Commission to obtain in the Relief Requested section below.

VI. HUMAN RIGHTS VIOLATED

75. The numerous arrests, summary trials, and incarceration of the Dissidents violate the following human rights guaranteed to all persons, as enshrined in the articles of the American Declaration of the Rights and Duties of Man:

Right to Liberty; Right to be Free from Arbitrary Arrest

76. Article I of the American Declaration, Right to life, liberty and personal security, provides that, "[e]very human being has the right to life, liberty and the security of his person."

77. Article XXV, Right of protection from arbitrary arrest, provides:

No person may be deprived of his liberty except in the cases and according to the procedures established by pre-existing law.

No person may be deprived of liberty for nonfulfillment of obligations of a purely civil character.

Every individual who has been deprived of his liberty has the right to have the legality of his detention ascertained without delay by a court, and the right to be tried without undue delay or, otherwise, to be released. He has also has the right to humane treatment during the time he is in custody.

78. Here, the arbitrary arrest and imprisonment of the Dissidents—for peacefully demonstrating, expressing their beliefs, and speaking out against the government—fails to comport with established human rights standards recognized by the American Declaration. This Petition is only the most recent example of Cuba’s systematic and arbitrary deprivation of liberty of those who oppose the repressive, totalitarian regime.⁷²

79. In 2001, the Commission noted that “[t]he problem of arbitrary detention and imprisonment for political motives . . . [has] been one of the Commission’s foremost concerns with respect to Cuba.”⁷³

80. In 2020, the IACHR issued a Country Report on Cuba, wherein it analyzed the Cuban government’s amendments to its Constitution in 2019, noting the restriction of rights at the time of adoption of the new Constitution, including “arbitrary deprivations of liberty and detentions, impediments to the right of internal and external movement, as well as violations of the physical and psychological integrity of defenders, activists, journalists and regime opponents.” The IACHR further noted that Cuba failed to enact corresponding legislation to implement the exercise of any of these rights.⁷⁴

⁷² IACHR. The Situation of Human Rights in Cuba. 2020. Par. 153-1683. OAE/Ser.L/V/II.Doc. 2. February 3, 2020; IACHR. Report No. 67/06. Case 12.476. Oscar Elias Biscet, et al. (Cuba).

⁷³ IACHR. Annual Report 2001. Human Rights Developments in the Region. Cuba. Par. 79. OAE/Ser.L/V/II.114 doc. 5 rev. April 16, 2002.

⁷⁴ IACHR. The Situation of Human Rights in Cuba. 2020. Paras. 12, 24. OAE/Ser.L/V/II.Doc. 2. February 3, 2020.

81. The IACHR has also drawn attention to criminalization and misuse of criminal and administrative law against human rights activists, who have been charged with such crimes as “assault, contempt, pre-criminal social dangerousness, non-payment of fines, public disorder, and resistance or rebellion, in order to discourage their work of defending and promoting human rights.”⁷⁵ In particular, the criminal classification of “pre-criminal dangerousness” is of concern to the IACHR due to its summary procedures, formulation, that may result in the arbitrary deprivation of liberty through trial proceedings that do not include the minimum judicial guarantees set forth in the American Declaration.⁷⁶ As of 2020, the IACHR had not been informed of any changes effectuated via such purported guarantees for persons who had been deprived of their liberty.⁷⁷

82. The Office of Special Rapporteur has also reiterated to Cuba its position that provisions on “dangerous state” and “pre-criminal security measures” should be removed from the Criminal Code, as the lack of precision and subjective content of the law allows Cuban authorities to take arbitrary action.⁷⁸

83. In light of the above, and in order to enhance the access to information regarding persons deprived of liberty in Cuba, the IACHR has previously recommended that Cuba establish an independent mechanism with the power to undertake unannounced and unhindered visits to any place that may hold any persons deprived of liberty.⁷⁹

84. Deprivation of liberty of human rights defenders for the crime of “non-payment of fines” has similarly been addressed by the IACHR, with a finding that the primary aim of imposing

⁷⁵ Ibid., par. 188.

⁷⁶ Ibid., paras. 188, 189.

⁷⁷ Ibid, par. 377.

⁷⁸ IACHR. Special Report on the Situation of Freedom of Expression in Cuba. Par. 172. OEA/Ser.L/V/II. CIDH/RELE/INF. 21/18. December 31, 2018.

⁷⁹ IACHR. The Situation of Human Rights in Cuba. 2020. Par. 378. OAE/Ser.L/V/II.Doc. 2. February 3, 2020.

such fines “is to criminalize their activities in promoting and defending human rights, as well as deterring them from continuing to advance their causes.”⁸⁰ Such actions by Cuba serve to produce a chilling effect on any Cuban citizens defending similar causes.⁸¹

85. The IACHR has addressed Cuba’s use of arbitrary detention or arbitrary arrests to prevent political participation in successive annual reports, and has similarly received information about the use of repressive tactics, or by persons acting with its authority, support, or acquiescence, to the detriment of anyone whose activities are identified as a threat to the current system of government.⁸²

86. Arbitrary arrests have been regularly used as a method of harassment by Cuban police and State security agents to discourage the expression of views critical of the government and hinder the free expression of opinions and ideas, remain a common feature of Cuba’s response to the Cuban people’s calls for political change and freedom. The IACHR has previously commented on the Cuban government’s particular focus on repression of activists from the San Isidro Movement, noting the use of arbitrary arrests, threats, police intimidation, and prison sentences, resulting in several members of the movement fleeing into exile.⁸³

87. The IACHR similarly expressed concern “at the large amount of testimonies and public information denouncing arbitrary arrests of activists and regime opponents as a practice on the island.”⁸⁴ Cuban citizens that have been detained without trial or imprisoned following summary trials face such deplorable conditions as overcrowding, insufficient medicine, food and clean water, inadequate hygiene and sanitation, deficient medical care, and are subject to the

⁸⁰ Ibid., paras. 192, 193.

⁸¹ Ibid.

⁸² Ibid., par. 157.

⁸³ Ibid., par. 249.

⁸⁴ Ibid., par. 12.

essentially unlimited powers wielded by state agents in such settings.⁸⁵

88. Based on the above, the IACHR has previously communicated to Cuba that “every person deprived of liberty has the right to be treated humanely, with absolute respect for his or her inherent dignity, rights, and fundamental guarantees” and further emphasizing that “[t]reating every person deprived of liberty with humanity and respect for their dignity is a universal norm that must be applied without any type of distinction, and that cannot depend on the material resources of the State.”⁸⁶ Such formal statements by the IACHR have been accompanied with formal recommendations that have been issued to Cuba in regard to the Right of Liberty and Right to be Free from Arbitrary Arrest, which are again requested herein in the Relief Requested.⁸⁷

89. As expected, Cuba has thus far failed to comply with said recommendations.

Right to Humane Treatment; Right to the Preservation of Health and to Well-being

90. Article XXV of the American Declaration, Right of protection from arbitrary arrest, provides that every individual “has the right to humane treatment during the time he is in custody.”

91. Additionally, Article XI of the American Declaration, Right to the preservation of health and well-being, provides that “[e]very person has the right to the preservation of his health through the sanitary and social measures relating to food, clothing, housing and medical care, to the extent permitted by public and community resources.”

92. Cuba’s record on its violation of the Right to Humane Treatment and the Right to the Preservation of Health and to Well-being is well-known to the IACHR. In 2019, the IACHR granted precautionary measures to independent journalists Manuel Alejandro León Velázquez, Osmel Ramírez Álvarez, Adriana Zamora García and their families, on the grounds that their rights

⁸⁵ Ibid., paras. 19, 373.

⁸⁶ Ibid., par. 382.

⁸⁷ Ibid., Recommendations 14-17; 46-48.

to life and humane personal integrity were "at serious and urgent risk."⁸⁸ This petition presents strikingly similar circumstances and abuses.

93. The condition of the Dissidents' incarceration, specifically, some were forced to squat naked, apparently deliberately deprived of sleep, brutally beaten, and held in cells without natural light where they lost track of time, and with little access to clean water, while being held incommunicado for days or weeks, and subjected to repeated interrogations in the middle of the night (questioned about the "organization" and "financing"), demonstrate the abusive and inhumane treatment of the July 11th demonstrators.⁸⁹

94. As noted in this Petition, the IACHR has previously issued formal recommendations to Cuba to "ensure that persons held in detention receive the medical assistance that their particular health status requires, are provided sufficient food of high nutritional value, and are held in sanitary conditions."⁹⁰

95. By 2001, the Commission had already received abundant information on the prison situation in Cuba, which described: "the persistence of overcrowding, scarcity and low quality of the food, deficient medical care, beatings, use of solitary confinement for punishment—with shuttered doors and no light—the mixing of common prisoners with those jailed for political reasons, and of convicts and those in pre-trial detention, limited family visits, etc."⁹¹

96. As noted above, in 2020, almost twenty years thereafter, the conditions of Cuba's prisons remain deplorable, with overcrowding, insufficient medicine, food, and clean water,

⁸⁸ *Ibid.*, par. 206; Report No. 67/06. Case 12.476. Oscar Elias Biscet, et al. (Cuba). Paras. 148-158.

⁸⁹ Human Rights Watch. Cuba: Peaceful Protesters Systematically Detained, Abused – Arbitrary Detention, Ill-Treatment, Abusive Trials Affect Hundreds. October 19, 2021.

⁹⁰ IACHR. The Situation of Human Rights in Cuba. 2020. Recommendation 47. OAE/Ser.L/V/II.Doc. 2. February 3, 2020.

⁹¹ IACHR. Annual Report 2001. Human Rights Developments in the Region. Cuba. Par. 80. OAE/Ser.L/V/II.114 doc. 5 rev. April 16, 2002.

inadequate hygiene and sanitation, deficient medical care, and the abuse of Cuban agents in keeping order inside the prisons.⁹²

97. Because the condition of the Dissidents' incarceration in Cuba is, at best, deplorable, their rights to humane treatment continue to be violated by Cuba. The dismal conditions of incarceration imposed on the Dissidents places in jeopardy their lives and health.

Right to Freedom of Thought, Expression and Dissemination of Ideas

98. Article IV of the American Declaration, Right to freedom of investigation, opinion, expression and dissemination, states: “[e]very person has the right to freedom of investigation, of opinion, and of the expression and dissemination of ideas, by any medium whatsoever.”

99. Article X of the American Declaration, Right to the inviolability and transmission of correspondence, states: “[e]very person has the right to the inviolability and transmission of his correspondence.”

100. The Office of the Rapporteur for Freedom of expression confirmed in 2001, and the Commission noted, that “numerous sections of [Cuba’s] Penal Code are used to suppress journalists and others who speak out against the government. Many of the offenses, which subject the accused to prison terms, are vaguely defined so as to apply to a wide range of speech.”⁹³

101. Moreover, as Human Rights Watch/America noted in its World Report 2002: “Cuba’s restrictions on human rights were undergirded by the country’s legal and institutional structure. The rights to freedom of expression, association, assembly, movement and of the press were strictly limited under Cuban law. . . . The authorities also imprisoned . . . individuals who

⁹² IACHR. The Situation of Human Rights in Cuba. 2020. Paras. 371, 373. OAE/Ser.L/V/II.Doc. 2. February 3, 2020.

⁹³ IACHR. Annual Report 2001. Human Rights Developments in the Region. Cuba. Par. 27. OAE/Ser.L/V/II.114 doc. 5 rev. April 16, 2002.

had committed no illegal act, relying upon laws penalizing ‘dangerousness’”⁹⁴

102. For more than three decades, this Commission has recognized the practice of tight control by Cuba that shows intense intolerance of those that raise questions of the political system or the correctness of the ruling group.⁹⁵ The Commission has further recognized the hostility, persecution, and harassment against human rights defenders by the Cuban authorities.⁹⁶ The arbitrary deprivation of liberty for lawful expression that is criminalized in Cuba under certain types of concocted “crimes” such as contempt of public authority, attack against public authority, or public disorder, permeated the July 11th demonstrations.

103. In 2018, the IACHR adopted a report on merits (No. 27/18) concerning arbitrary detentions of persons with dissident political ideas.⁹⁷ The report concluded that “the detention of the four victims (before, during, and after their trial and conviction) was designed to punish them for their political opinions and civic activism—in other words, it was based on a restriction of the exercise of their rights to freedom of thought and expression and freedom of association, and was part of a systematic pattern of arrests and imprisonment for the exercise of human rights that has been clearly identified by the IACHR in its annual reports on Cuba.”⁹⁸

104. The Cuban Constitution of 2019 subverts all civil and human rights to its overriding dictate that the Cuban Communist Party serves as the sole political party in Cuba, thereby limiting the exercise of all political rights, including freedom of expression and freedom of thought, to statements and actions in favor of the Cuban Communist Party, a reality that has deeply troubled

⁹⁴ Ibid., par. 20.

⁹⁵ IACHR. Special Report on the Situation of Freedom of Expression in Cuba. Par. 127. OEA/Ser.L/V/II. CIDH/RELE/INF. 21/18. December 31, 2018.

⁹⁶ Ibid., par. 139.

⁹⁷ IACHR. The Situation of Human Rights in Cuba. 2020. Par. 162. OEA/Ser.L/V/II.Doc. 2. February 3, 2020.

⁹⁸ Ibid.

the IACHR.⁹⁹ The IACHR has found that the preponderance of the Cuban Communist Party results in human rights guarantees being stipulated on an individual's membership and active support of a political party, which "is contrary to the political pluralism that fuels a democracy and adversely affects several rights, including the right to freedom of expression and thought; it can even give rise to situations of discrimination on political grounds."¹⁰⁰ The IACHR has similarly expressed concern that the Cuban Constitution of 2019 "restricts political pluralism and does not provide for judicial or administrative mechanisms that could be considered effective at fully protecting the right to freedom of thought or conscience."¹⁰¹

105. The IACHR has also concluded that with regard to the freedom of expression in Cuba, "there is serious discrimination on political grounds in the exercise of human rights against anyone who thinks or wishes to express himself or herself differently from the socialist regime."¹⁰² In curtailing, controlling, and criminalizing the freedom of expression, the Cuban government has issued several laws and decrees.

106. Decree 349 was one of the first laws signed by Cuba's President Miguel Diaz-Canel in April 2018, and served as a blanket censorship on the arts in Cuba, prohibiting all artists from operating in public or private spaces without prior approval by the Ministry of Culture, and authorizing the confiscation of art materials and imposition of substantial fines.¹⁰³ The issuance of Decree 349 served as the impetus to the creation of the San Isidro Movement, a coalition of artists, poets, LGBT activists, academics, and independent journalists that organized to challenge the law, and which were met with arbitrary detentions and harassment by government

⁹⁹ Ibid., par. 82.

¹⁰⁰ Ibid.

¹⁰¹ Ibid., par. 91.

¹⁰² Ibid., par. 17.

¹⁰³ Amnesty International. Cuba: New administration's Decree 349 is a dystopian prospect for Cuba's artists. August 24, 2018. <https://www.amnesty.org/en/latest/news/2018/08/cuba-new-administrations-decree-349-is-a-dystopian-prospect-for-cubas-artists/>

authorities.¹⁰⁴

107. As recognized by the Office of the Special Rapporteur in its 2018 special report on the state of freedom of expression in Cuba, the slow and gradual spread of communications technologies in Cuba, even with severe restrictions, have become an important development in Cuba.¹⁰⁵ Such technologies have allowed Cubans to promote the exchange of information and opinions without governmental authority, a reality that was evident in the genesis of the July 11, 2021 protests. These demonstrations emerged spontaneously and organically in response to a post on a Facebook group for residents of the small Cuban town of San Antonio de los Baños on July 10, 2021, stating “[f]ed up of having to listen to the impudence of a government that doesn’t care about you?” and “[i]t’s time to go out and to make demands. Don’t criticize at home: let’s make them listen to us.”¹⁰⁶ The posts were accompanied with an announcement of a protest on July 11, 2021 at a church park at 11:00 A.M., which spread by word-of-mouth and messaging applications.¹⁰⁷ The local protest went viral on social media accounts and triggered protests that spread throughout Cuba within hours and culminated in massive street protests throughout the island and corresponding Cuban government violent crackdown of such protesters.¹⁰⁸ Since that time, the Cuban government has sharply curtailed internet access to Cuba’s citizens, resulting in an information blackout both internally and with the outside world.¹⁰⁹

¹⁰⁴ Amnesty International. Cuba: Harassment of San Isidro movement exemplifies ongoing assault on freedom of expression. November 20, 2020. <https://www.amnesty.org/en/latest/press-release/2020/11/cuba-harassment-exemplifies-ongoing-assault-freedom-expression/>

¹⁰⁵ IACHR. Special Report on the Situation of Freedom of Expression in Cuba. OEA/Ser.L/V/II. CIDH/RELE/INF. 21/18. December 31, 2018; IACHR. The Situation of Human Rights in Cuba. 2020. Par. 219. OAE/Ser.L/V/II.Doc. 2. February 3, 2020.

¹⁰⁶ Article published in nbcnews.com. The Facebook group that began Cuba’s wave of protests. August 10, 2021. <https://www.nbcnews.com/news/latino/facebook-group-began-cubas-wave-protests-rcna1643>

¹⁰⁷ Ibid.

¹⁰⁸ Ibid.

¹⁰⁹ Article published in reuters.com, Faced with rare protests, Cuba curbs social media access, watchdog says. July 13, 2021; , <https://www.reuters.com/world/americas/cuba-curbs-access-facebook-messaging-apps-amid-protests-internet-watchdog-2021-07-13/>.

108. Such developments are consistent with previous findings issued by the IACHR and the Office of the Special Rapporteur that internet access is severely obstructed in Cuba by: (i) highly restrictive and ambiguous legal provisions, (ii) the limited connectivity of the Cuban population, (iii) blocking and censorship of critical media, and (iv) on-line surveillance.¹¹⁰

109. The Office of the Special Rapporteur for Freedom of Expression of the IACHR issued in its 2019 Special Country Report an overview of the situation of the freedom of thought and expression in Cuba, concluding that Cuba fails to observe the essential elements of freedom of expression and that “[d]espite the years that have passed and the repeated recommendations in this regard, intolerance continues to be the rule in the Cuban authorities’ treatment of all forms of criticism or opposition and the main stumbling block for fundamental rights and freedoms.”¹¹¹

110. The Office of the Rapporteur has noted that Resolution No. 56 of 1999, governing the authorization of serial publications on the Internet, requires specific approval by the Cuban National Registry of Serial Publications, and serves as a form of prior censorship in serious contravention of the principles of universal access, pluralism, and network neutrality.¹¹²

111. As to email and chat technologies, the Cuban government has implemented Resolution No. 92 of 2002, which requires government authorization for email accounts and establishes that persons who may have access to national internet browsing may not use international chat services.¹¹³ The Special Rapporteur has considered such restrictions to “amount to a disproportionate interference with individual liberty, without any explanation or justification.”¹¹⁴

¹¹⁰ IACHR. The Situation of Human Rights in Cuba.Par. 220. OAE/Ser.L/V/II.Doc. 2. February 3, 2020.

¹¹¹ Ibid., par. 25.

¹¹² Ibid., par. 224.

¹¹³ Ibid., par. 225.

¹¹⁴ Ibid.

112. In July 2019, the Cuban government issued Decree-Law 370, governing computer usage in Cuba, which establishes as a violation "the dissemination, through public data transmission networks, of information contrary to the social interest, morals, good customs and integrity of persons."¹¹⁵ The IACHR has stated that this provision fails the triple test of legality, necessity, and proportionality for implementing reasonable limits on freedom of expression online, and would allow Cuban judges the discretion to impose undue restrictions on the exercise of the rights to freedom of expression and affecting the free flow of information.¹¹⁶ The IACHR also noted the severe and disproportionate penalties included in Decree-Law 370, which included confiscation of equipment, license suspension, and imposition of fines of up to several hundred U.S. dollars, which are substantial when converted to Cuban pesos.¹¹⁷

113. Recognizing the above-cited record of the Cuban government, the IACHR recommended that Cuba "adopt the legislative and other measures necessary to ensure an electoral system that is inclusive and ensures the free circulation of ideas and thought, making possible free political participation for all Cuban citizens on an equal footing."¹¹⁸

114. The IACHR and the Office of the Special Rapporteur for Freedom of Expression have noted the Cuba remains the only country in the Western Hemisphere in which there are no guarantees of any kind for the exercise of the right to freedom of expression, noting the Cuban government's state monopoly over all media, targeting and persecution of independent media, and restrictive legal provisions that limit internet connectivity for the Cuban population.¹¹⁹

115. Cuba has violated basic human rights by blocking its citizens' access to the internet,

¹¹⁵ Ibid., par. 229.

¹¹⁶ Ibid.

¹¹⁷ Ibid., par. 230.

¹¹⁸ Ibid., Recommendation 5.

¹¹⁹ IACHR. Special Report on the Situation of Freedom of Expression in Cuba. Par. 248. OEA/Ser.L/V/II. CIDH/RELE/INF. 21/18. December 31, 2018.

thereby preventing further dissemination of the events of July 11th, in an attempt to thwart protests. The brutalization, harassment, intimidation, and assault upon dissidents, protesters, and journalists on July 11th was well documented precisely because of the use of technology to capture and disseminate events in real time.¹²⁰

116. As Human Rights Watch/America noted in its World Report 2002: “By criminalizing enemy propaganda, the spreading of ‘unauthorized news,’ and insult to patriotic symbols, the government curbed freedom of speech under the guise of protecting state security.”

117. Notably, in 2001, Amnesty International sent a communication to Cuba stating that, “[t]he growing number of people jailed for the peaceful exercise of their right to freedom of expression clearly shows how far the government is willing to go to weaken the peaceful opposition and eliminate dissent.”¹²¹

118. With regard to the July 11th massive protests, Amnesty International’s Americas Director, Erika Guevara-Rosas, stated, “[i]n a historic day for Cuba, thousands of people took to the streets to demonstrate peacefully in several parts of the country, exercising their rights of freedom of expression and peaceful assembly. It is unacceptable that the Cuban government has denied these rights for decades and continues to do so today.”¹²²

119. In light of the above-cited deficiencies, the Office of the Rapporteur in 2018 issued

¹²⁰ For example, see Manuel Questa and Amaury Pacheco. Case descriptions of protestors detained by the Cuban government. July 2021. <https://www.hrw.org/video-photos/interactive/2021/10/19/case-descriptions-protestors-detained-cuban-government-july> Human Rights Watch; Police interrupt live interview to take Cuban YouTuber Diana Stars. <https://www.cnn.com/videos/media/2021/07/14/cuban-youtuber-arrested-live-tv-mh-orig-duplicate-2.cnn/>; Article published in [businessinsider.com](https://www.businessinsider.com/cuba-protests-ap-photojournalist-bloodied-police-photos-2021-7). Photos show photojournalist attacked, bloodied by Cuban Police while covering protests. July 12, 2021. <https://www.businessinsider.com/cuba-protests-ap-photojournalist-bloodied-police-photos-2021-7>.

¹²¹ IACHR. Annual Report 2001. Human Rights Developments in the Region. Cuba. Par. 21. OAE/Ser.L/V/II.114 doc. 5 rev. April 16, 2002.

¹²² Amnesty International. Cuba: Massive protests are a desperate cry to a government that doesn’t listen. Press Release of July 12, 2021. <https://www.amnesty.org/en/latest/press-release/2021/07/cuba-protestas-masivas-grito-desesperado-gobierno-no-escucha/>

extensive recommendations intended to address the dismal state of freedom of expression in Cuba, all of which, if implemented by Cuba would have prevented the state actions that give rise to this Petition.¹²³

120. Instead of incorporating these recommendations, the instant Petition demonstrates the Cuba, ever more forcefully, has cracked down on freedom of thought, expression, and dissemination of ideas. Composite Exhibit “A.”

Right to Assembly; Right to Freedom of Association

121. Article XXI of the American Declaration, Right of assembly, grants “[e]very person the right to assemble peaceably with others in a formal public meeting or an informal gathering in connection with matters of common interest of any nature.”

122. Article XXII of the American Declaration, Right of association, recognizes that “[e]very person has the right to associate with others to promote, exercise and protect his legitimate interests of a political, economic, religious, social, cultural, professional, labor union or other nature.”

123. “The Commission has repeatedly pointed out that the right of assembly and the right of association are interlinked. The right of association gives the individual the right to associate with whomever he or she chooses, without having the exercise of one’s other civil, political, economic and social rights in any way restricted as a consequence of that association. This includes the right to form associations, and the right to join existing associations. It encompasses all facets of life in modern society. The right of assembly, for its part, is every person’s right to assemble in groups, either publicly or privately, to discuss or defend his or her

¹²³ IACHR. Special Report on the Situation of Freedom of Expression in Cuba. Recommendations. OEA/Ser.L/V/II. CIDH/RELE/INF. 21/18. December 31, 2018.

ideas. Exercise of these rights cannot be subject to arbitrary restrictions.”¹²⁴

124. The freedom to associate and assemble is a fundamental right. It protects freedom to associate and assemble for ideological and political purposes, without intervention from the government. The protection afforded by the freedom of association “extends to all activities that are essential to its effective functioning, including the ability to express opinions and disseminate information in furtherance of the aims of the associated group.”¹²⁵

125. Here, the Dissidents were gathering to discuss, promote, and further the potential for democratic governance as well as discuss other social, economic, cultural, and professional matters. The right to associate for political and social purposes is obliterated by a State’s use of force in attempting to subdue peaceful protesters. For this, they were subject to police brutality at the hands of State law enforcement, arrested, tried, and incarcerated in violation of their fundamental human rights.

126. The Commission has recognized that one of the most worrying issues for the IACHR has been the restriction on the rights to freedom of expression, association, assembly...and access to public information in Cuba. The IACHR has continued to receive “disturbing information about unlawful restrictions on freedom of expression, freedom of association, and the right to peaceful assembly.”¹²⁶

127. The instant Petition demonstrates that Cuba, historically and through the present, systematically denies its citizens the right to assembly and the right to freely associate.

Right to Protection of Honor, Dignity, Privacy and Family Life; Inviolability of the Home

¹²⁴ IACHR. Report No. 67/06. Case 12.476. Oscar Elias Biscet, et al. (Cuba). Para. 219.

¹²⁵ IACHR. Special Report on the Situation of Freedom of Expression in Cuba. Par. 143. OEA/Ser.L/V/II. CIDH/RELE/INF. 21/18. December 31, 2018.

¹²⁶ IACHR. The Situation of Human Rights in Cuba. 2020. Par. 195. OAE/Ser.L/V/II.Doc. 2. February 3, 2020.

128. Article V of the American Declaration, Right to protection of honor, personal reputation, and private family life, provides that “[e]very person has the right to the protection of the law against abusive attacks upon his honor, his reputation, and his private and family life.”

129. Furthermore, Article IX of the American Declaration, Right to inviolability of the home, guarantees to “[e]very person . . . the right to the inviolability of his home.”

130. Cuba’s actions, including sending armed guards to search the Dissidents’ homes, searching homes without a court order, employing threats and intimidation tactics against Dissidents and their families, and use of unnecessary force in arresting Dissidents in front of their children, violate these articles.¹²⁷

131. The instant petition demonstrates Cuba’s continued violation of this right. Composite Exhibits “A” and “B.”

Right to Vocation

132. Article XIV of the American Declaration provides “[e]very person has the right to work, under proper conditions, and to follow his vocation freely, insofar as existing conditions of employment permit.”

133. Cuba has violated the Dissidents’ rights to follow their calling as artists, musicians, journalists, writers, and political commentators.¹²⁸

134. The violation of the right to vocation and threatening of dissenters’ livelihood customarily occurs in Cuba.¹²⁹

¹²⁷ For example, see article published in Havana Times. For Years of Forced Prison Labor for Cuban Protestor. October 30, 2021. [https://havanatimes.org/features/four-years-of-forced-prison-labor-for-cuban-protestor/\(fifteen-police-officers-to-arrest-a-single-woman,peaceful-protestor-of-july-11th](https://havanatimes.org/features/four-years-of-forced-prison-labor-for-cuban-protestor/(fifteen-police-officers-to-arrest-a-single-woman,peaceful-protestor-of-july-11th)

¹²⁸ For example, see article published in Committee to Protect Journalists. Camila Acosta speaks from house arrest about covering Cuba’s historic protests. July 26, 2021. <https://cpj.org/2021/07/camila-acosta-house-arrest-covering-cubas-protests/>; article published in Artforum. Artist-Led Movement Gains Ground As Protests Rock Cuba. July 13, 2021. <https://www.artforum.com/news/artist-led-movement-gains-ground-as-protests-rock-cuba-86214>

¹²⁹ IACHR. Special Report on the Situation of Freedom of Expression in Cuba. Paras. 108-110. OEA/Ser.L/V/II. CIDH/RELE/INF. 21/18. December 31, 2018.

135. Decree 349 is further evidence of legalized oppression in Cuba and violation of this right.¹³⁰

136. Moreover, it is documented that one of the repressive tactics used by the Cuban authorities is to threaten a citizen's employment, if he or she participates, joins, or even expresses support for dissenting political opinions.¹³¹ "Cubans marked as dissidents say it is nearly impossible to find work because of state controls over all areas of employment...even when candidates fulfilled the criteria for a particular job, they still had to be cleared by the State Security and Military Intelligence before being offered a job."¹³²

137. The right to vocation necessarily implies the absence of arbitrary governmental, content-based regulation in the exercise of the right.

138. The Cuban government has violated the Dissidents' right to vocation in preventing artists and musicians to be free from content-based, government dictated creation of works; it has violated the right to vocation in arresting and silencing independent journalists; and in preventing priests, pastors, and other religious leaders from performing their vocations. Composite Exhibit "B."

139. The Government's violation of the Dissidents' right of vocation is evident from its suppression, intimidation tactics, abuse of power, and threats, especially resulting from

¹³⁰ Amnesty International. Cuba: New Administration's Decree 349 is a dystopian prospect for Cuba's artists. August 24, 2018. <https://www.amnesty.org/en/latest/news/2018/08/cuba-new-administrations-decree-349-is-a-dystopian-prospect-for-cubas-artists/>

¹³¹ Article published in amazonaws.com. Regimen expulsa del trabajo a otro Cubano por su apoyo al 15N. November 11, 2021. <https://s3.eu-central-1.amazonaws.com/quarium/cubanet.org/noticias-regimen-expulsa-del-trabajo-a-otro-cubano-por-su-apoyo-al-15n.html>; <https://twitter.com/elvisleyG/status/1458266244927328259>; article published in diariodecuba.com. Repression in response to the events of 15N in Cuba: a university professor is fired for his 'loss of revolutionary ideology. October 21, 2021. https://diariodecuba.com/derechos-humanos/1634831738_34976.html.

¹³² Article published in Refworld.org. Cubans Dissidents Shut Out of Job Market. August 6, 2013. <https://www.refworld.org/docid/5204ca0a4.html>; Amnesty International. Cuba: Job Sector, a tool of repression as perceived critics face jobless life. November 16, 2017. <https://www.amnesty.org/en/latest/press-release/2017/11/cuba-job-sector-a-tool-of-repression-as-perceived-critics-face-jobless-life/>.

participation in the July 11th demonstrations.

Right to Vote and to Participate in Government

140. Article XX of the American Declaration, embraces the idea that “[e]very person having legal capacity is entitled to participate in the government of his country, directly or through his representatives, and to take part in popular elections, which shall be by secret ballot, and shall be honest, periodic and free.”

141. Many of the Dissidents were involved with the San Isidro, Independent and Democratic Cuba (CID), Cuban Patriotic Union (UNPACU), Autonomous Pinero Party, Party for Democracy, 27N Movement, Archipiélago and other groups, that seek change towards a democratic form of government; it is this drive for democracy that has resulted in their arrest, trial, and incarceration. Composite Exhibit “A.” On July 11, 2021, the Dissidents took to the streets in Cuba and demanded that the government respect their human rights, including their right to vote and participate in government. Cuba, in turn, responded by beating, arresting, and prosecuting these Dissidents for demanding that Cuba respect their human rights.

142. “Adverse voices to the government, in an effort to express their views and participate in the conduct of the country’s affairs, end up being suppressed because of the single-party system, the ban on association for political purposes and arbitrary restrictions on freedom of expression and the right of assembly, among other fundamental rights.”¹³³

143. The Commission stated, in connection with the interpretation of Article XX of the Declaration, that participation by citizens in government is necessary in the formation of a democracy and that it is the right of the people to govern and determine their destiny.¹³⁴ This

¹³³ IACHR. The Situation of Human Rights in Cuba. 2020. Par. 137. OAE/Ser.L/V/II.Doc. 2. February 3, 2020.

¹³⁴ Walter Humberto Vasquez Vejarano v. Peru, Case 11.166, Report No. 48/00, Inter-Am. C.H.R., OEA/Ser.L/V/II.106 Doc. 3 rev. at 1200 (1999).

significant emerging right to democracy and democratic governance is enjoyed in almost every state in the hemisphere except Cuba, where the State systematically deprives pro-democracy advocates of their basic human rights.

144. In its World Report 2002, Human Rights Watch/America condemned Cuba's repressive policies: "The Cuban government's intolerance of democracy and free expression remained unique in the region. A one-party state, Cuba restricted nearly all avenues of political dissent. Although dissidents occasionally faced criminal prosecution, the government relied more frequently on short-term detentions, house arrest, travel employment, and other forms of harassment."¹³⁵

145. Nothing has changed. Cuba continues to place significant restrictions on political participation, including the right to vote, through arbitrary detentions and unjustified searches and seizures designed to prevent the exercise of that right.¹³⁶ Cuba's electoral system does not allow genuine political participation for anyone outside of the communist party.¹³⁷

146. Testimonies received by the IACHR indicate that Cuba's Electoral Law contains "a system of filters designed to prevent persons who did not identify with the State from holding public office."¹³⁸ As one prominent Dissident, Guillermo Fariñas Hernandez has stated, "[t]he political role of the citizen is blotted out and it is the communist party that chooses the candidates and applicants."¹³⁹

147. The systematic repression by the Cuban authorities and prevention of peaceful protests and organization of groups opposing the government or its policies, denies citizens the

¹³⁵ IACHR. Annual Report 2001. Human Rights Developments in the Region. Cuba. Par. 20. OAE/Ser.L/V/II.114 doc. 5 rev. April 16, 2002.

¹³⁶ IACHR. The Situation of Human Rights in Cuba. 2020. Par. 152. OAE/Ser.L/V/II.Doc. 2. February 3, 2020.

¹³⁷ Ibid., paras. 149, 153.

¹³⁸ Ibid., par. 155.

¹³⁹ Ibid., par. 149 (citing IACHR, Guillermo Fariñas Hernandez, June 2019, IACHR archive).

right to a meaningful vote or to participate in government. That is exactly what happened when the Dissidents demanded their right to vote during the protests, in taking to the streets and their cries of “Libertad!” on July 11, 2021. Freedom from the single party government necessarily implies the right to vote and party pluralism. Composite Exhibit “A.”

148. Thus, the Dissidents right to vote is not respected in Cuba because the Cuban State has total control over all aspects of voting and exercises that power in order to ensure the complete supremacy of the communist party, in violation of the Article XX of the American Declaration.

Right to Due Process of Law; Right to a Fair Trial

149. Article XXVI of the American Declaration, right to due process of law, recognizes that “[e]very person accused of an offense has the right to be given an impartial and public hearing, and to be tried by courts previously established in accordance with pre-existing laws and not to receive cruel, infamous or unusual punishment.”

150. Article XVIII of the American Declaration, right to a fair trial: “[e]very person may resort to the courts to ensure respect for his legal rights. There should likewise be available to him a simple, brief procedure whereby the courts will protect him from acts of authority that, to his prejudice, violates any fundamental constitutional rights.”

151. The Commission defines due process as a set of provisions set forth in positive law whose purpose is to guarantee the justice, equity, and rectitude of the judicial proceedings in which an individual may be involved.¹⁴⁰

152. Additionally, the Commission has explained the parameters of due process rights, in particular the right to counsel, as an obligation of the state to allow a defendant the right to

¹⁴⁰ IACHR. Annual Report 2001. Human Rights Developments in the Region. Cuba. Par. 38. OAE/Ser.L/V/II.114 doc. 5 rev. April 16, 2002.

obtain, contact, and consult with their counsel.¹⁴¹

153. Here, Cuba has deprived the Dissidents of their due process rights as guaranteed by the American Declaration. Over one thousand (1,000) Dissidents were arrested or detained, some tried, and convicted in summary, secret trials, and sentenced to lengthy prison terms, while others remain in a legal “limbo” of house arrest without any formal charges or indefinitely detained with charges.¹⁴² “Some prisoners were held without charge, incommunicado and without representation, rights groups say.”¹⁴³

154. The Dissidents were singled out for their beliefs, and the law was arbitrarily applied. Adequate notice of the charges was insufficient and, in many cases, non-existent. Representation by defense counsel was rendered inadequate and meaningless. Reporters and the general public were not allowed to attend any proceedings.

155. The Commission has previously recognized and condemned such human rights abuses by Cuba.¹⁴⁴ Recent testimony from a former Cuban judge, makes clear that the Cuba continues to systematically violate the due process rights of anyone who dares to raise their voice in opposition to the dictatorship.¹⁴⁵ As the former judge stated, the Cuban judicial system is structured and operated in a manner which does not protect the accused’s right to a fair trial under Article XVIII:

The Cuban judicial system is full of legal shortcomings, which offer no protection to citizens, whether they be victims, witnesses or defendants. One such shortcoming undermines due process: defendants do not have access to a lawyer until seven working days have passed; if in those seven working days a precautionary measure

¹⁴¹ Leroy Lamey et al. v. Jamaica, Case 11.826, Report No. 49/01, Inter-Am. C.H.R., OEA/Ser.L/V/II.111 Doc. 20 rev. at 996 (2000).

¹⁴² Article published in reuters.com, Cuba approves laws granting greater rights as criticism of protesters’ arrests heats up. October 28, 2021. <https://www.reuters.com/world/americas/cuba-approves-laws-granting-greater-rights-criticism-protesters-arrests-heats-up-2021-10-28/>

¹⁴³ Ibid.

¹⁴⁴ IACHR. Annual Report 2001. Human Rights Developments in the Region. Cuba. Par. 51. OAE/Ser.L/V/II.114 doc. 5 rev. April 16, 2002.

¹⁴⁵ IACHR. The Situation of Human Rights in Cuba. 2020. Par. 130. OAE/Ser.L/V/II.Doc. 2. February 3, 2020.

is not imposed on the defendant, they do not have access to a lawyer. You have to wait for an injunction before you can hire a lawyer. In the meantime, the defendant is totally defenseless.¹⁴⁶

156. Moreover, the Commission has repeatedly noted that the lack of separation of powers in Cuba fails to guarantee judicial independence in the administration of justice.¹⁴⁷ In its most recent Report on Cuba, the Commission noted that “the institutional conditions that prevent a system of separation of powers persist in Cuba.”¹⁴⁸ The lack of judicial independence means that judges are not impartial and fail to protect a defendant’s right to a fair and public trial.¹⁴⁹

157. The legal procedures that exist in Cuba fail to comport with the basic requirements of human rights observance. Persons deprived of their liberty are being so deprived without the right to counsel, or the right to be heard by an independent judiciary. Both the judiciary and state-designated counsel, if any, exist only to serve the ends of the Cuban State. Moreover, those same courts are entrusted to evaluate the validity of the violations of the Dissidents’ rights. As a direct result, they lack independence and are simply tools of the Cuban State.¹⁵⁰

158. This is precisely what has occurred in the trials and legal proceedings involving the Dissidents at issue, failing to meet the most basic standards set out by international norms for just adjudication of matters.

159. As demonstrated above and consistent with its long history of repression, Cuba failed to provide even the most basic due process rights to the Dissidents or ensure their right to a fair trial, all in violation of Articles XXVI and XVIII of the American Declaration.

¹⁴⁶ Ibid. (Citing IACHR, Widhner Jordani Ballester Cortez, June 2019, IACHR archive).

¹⁴⁷ IACHR. Annual Report 2001. Human Rights Developments in the Region. Cuba. Par. 51. OAE/Ser.L/V/II.114 doc. 5 rev. April 16, 2002.

¹⁴⁸ IACHR. The Situation of Human Rights in Cuba. 2020. Par. 113. OAE/Ser.L/V/II.Doc. 2. February 3, 2020.

¹⁴⁹ Ibid., par. 126.

¹⁵⁰ IACHR. The Situation of Human Rights in Cuba. 2020. Par. 114. OAE/Ser.L/V/II.Doc. 2. February 3, 2020; IACHR. Annual Report 2001. Human Rights Developments in the Region. Cuba. Par. 3. OAE/Ser.L/V/II.114 doc. 5 rev. April 16, 2002.

VII. NOVEMBER 15TH CUBAN GOVERNMENT REPRESSION

160. The mass detentions and arrests of hundreds of Cuban citizens (including the Dissidents referenced in this Petition) by the Cuban government in response to the peaceful July 11, 2021 protests, led to an organized effort by Cuban activists to organize a nationwide peaceful protest on November 15, 2021 to highlight the plight of the victims of the Cuban regime's crackdown in July.¹⁵¹ The effort was spearheaded by Yunior Garcia Aguilera, member of a group called Archipiélago, and called for protesters to take to the streets at 3:00 P.M. on November 15, 2021, dressed in white, and to demand respect for human rights and allow for democratic change in Cuba.¹⁵² In an escalation of its repressive tactics to stifle dissent and silence Cuban citizens, the Cuban government sent state security agents, many of them dressed as civilians, to the homes of known dissidents and activists, including Mr. Garcia Aguilera, to prevent them from participating in a protest.¹⁵³ In Santa Clara, Saily Gonzalez, and activist, posted a video of herself surrounded at her home by a government-sponsored mob, which shouted at her with insults in an act of repudiation.¹⁵⁴ As the day progressed, dissidents shared videos and photographs of police officers and government-organized mobs surrounding their homes, and several who were successful in taking to the streets were arrested.¹⁵⁵ Yet again, the Cuban government has demonstrated that its standard response to any dissent by Cuban citizens is uniform violations of the American Declaration's: right to liberty, right to be free from arbitrary arrest, right to freedom of thought, expression and dissemination of ideas, right to assembly, right to freedom of association, and right to participate in government. As noted herein, those Cuban citizens who

¹⁵¹ Article published in France24. Cuba deploys police as opposition prepares to defy ban on nationwide protest. November 15, 2021. <https://www.france24.com/en/americas/20211115-cuban-opposition-prepares-to-defy-government-ban-on-nationwide-protest>.

¹⁵² Ibid.

¹⁵³ Article published in New York Times. As Cuba Crushes Dissent, a Nationwide Protest Fizzles. November 15, 2021. <https://www.nytimes.com/2021/11/15/world/americas/cuba-protests.html>.

¹⁵⁴ Ibid.

¹⁵⁵ Ibid.

have been arrested or detained on November 15, 2021 can expect to suffer the same treatment as that of the Dissidents referenced in this Petition, by also being denied their right to humane treatment while detained, and right to due process and fair trial. As this new wave of repression demonstrates a continuation of the Cuba's tactics against its own citizens and repudiation of its international human rights obligations, the Petitioner will collect information on these new victims of the regime for inclusion and consideration by the IACHR in any supplemental or future filings by Petitioner.

VIII. EXHAUSTION OF DOMESTIC REMEDIES

161. Article 31.2 of the Rules of Procedure provides that the requirement to exhaust domestic remedies does not apply when: “the domestic legislation of the State concerned does not afford due process of law for protection of the right or rights that have allegedly been violated.”

162. Article 31.3 further provides, “[w]hen the petitioner contends that he or she is unable to prove compliance with the requirement indicated in this article, it shall be up to the State concerned to demonstrate to the Commission that the remedies under domestic law have not been previously exhausted, unless that is clearly evident from the record.” Therefore, the Cuban Government has the burden to demonstrate that it provides meaningful and concrete due process of law for the protections of rights at issue.

163. Further, in its IACHR's 2018 Report, the Commission stated:

However, the IACHR notes with great concern that, in view of the recommendations issued in Chapter IV of the Annual Reports of previous years and in light of the information collected in 2018, the Commission does not observe any improvement in aspects such as violations of the rights to liberty and personal integrity, arbitrary restrictions on the right to vote and to participation in government, freedom of expression and the dissemination of ideas, violations of the due process guarantees, unlawful limitations on the right of residence and movement, among other ones.¹⁵⁶

¹⁵⁶ IACHR. Annual Report 2018. Chapter IV.B. Cuba. Par. 122. OAE/Ser.L/V/II. Doc. 30. March 17, 2019.

164. Based on this, the IACHR urged the Cuban Government to:

Bring procedural laws in line with applicable international standards on due process, so that persons who come before the courts for a determination of their rights and responsibilities can have minimum legal guarantees for mounting their defense, such as the right to the presumption of innocence; to have a defense; to pursue effective remedies; to learn the charges or accusation leveled against them; to know the evidence and have to possibility to refute it, among other things.¹⁵⁷

165. Because this Petition and the Commission's own prior findings establish that the laws of Cuba do not afford due process of law to protect the Dissidents' human rights, the exception to establishment of exhaustion of domestic remedies applies.

IX. PRECAUTIONARY MEASURES

166. Article 25 of the Rules of Procedure authorizes the Commission to grant precautionary measures in "serious and urgent situations presenting a risk of irreparable harm to persons ..." A "serious situation" involves "a grave impact that an action or omission can have on a protected right ..." An "urgent situation" requires a "risk or threat that is imminent and can materialize, thus requiring immediate preventive or protective action ..." Lastly, "irreparable harm" is defined as an "injury to rights which, due to their nature, would not be susceptible to reparation, restoration or adequate compensation."¹⁵⁸ Article 25.3 further provides that precautionary measures may be issued collectively in order to protect groups of persons who are similarly situated in terms of the human rights violations at issue.¹⁵⁹

167. Because of the urgency of the situation, CABA requests that the Commission expedite its review of this Petition and the instant request for precautionary measures as authorized

¹⁵⁷ IACHR. Annual Report 2018. Chapter IV.B. Cuba. Par. 7. OAE/Ser.L/V/II. Doc. 30. March 17, 2019.

¹⁵⁸ Article 25 of the Rules of Procedure.

¹⁵⁹ Ibid., Article 25.3.

under Article 29 of the Rules of Procedure, since this Petition contains a request for precautionary measures and the Dissidents are persons deprived of liberty.

168. The Commission has a long record of approving precautionary measures against Cuba, given the government's extensive and consistent pattern of brutalizing the Cuban people and violating their rights under the American Declaration. In this year alone, the Commission has approved at least ten requests for precautionary measures against Cuba.¹⁶⁰ In 2020, the Commission granted eight precautionary measures against Cuba.¹⁶¹ Other Commission records further evidence the Commission's extensive history of granting precautionary measures against Cuba.¹⁶²

169. Here, the facts and supporting evidence presented show that all three of the above-stated requirements are met. The instant Petition makes clear that this is a serious situation given that the documented actions of the Cuban State are having a grave impact on the protected rights enumerated herein. The situation is also urgent, because the evidence presented establishes that the conduct of Cuba's repressive regime, which includes arbitrary arrests, detention in inhumane conditions, and torture, poses a serious risk to the life and personal integrity of the Dissidents. We also have irreparable harm, in that beatings and torture threaten the life and health of the Dissidents.

170. Therefore, CABA respectfully maintains that it has established the conditions for the Commission to grant collective precautionary measures, described in the Relief Requested section below, to protect the health, safety, and welfare of all the Dissidents.

X. RELIEF REQUESTED

1. On behalf of the Dissidents, CABA seeks, without limitation, the following relief:

¹⁶⁰ <https://www.oas.org/en/iachr/decisions/MC/precautionary.asp>

¹⁶¹ IACHR. The Situation of Human Rights in Cuba. 2020. Paras. 339-349. OAE/Ser.L/V/II.Doc. 2. February 3, 2020.

¹⁶² <https://www.oas.org/en/iachr/decisions/MC/precautionary.asp>

- a. Pursuant to 61 of the Rules of Procedure, CABA hereby respectfully requests a hearing.
- b. Pursuant to Articles 23 and 43 the Rules of Procedure, CABA hereby requests that the IACHR enforce Article 63 of the Rules of Procedure and require that Government of Cuba grant the necessary guarantees, inasmuch as the Government of Cuba shall facilitate and provide all necessary conditions, documents, and expedited procedures for foreign travel, without any reprisal or retribution. Alternatively, the Government of Cuba shall be required to facilitate the submission of testimony by allowing dissidents to testify by any means at a neutral location.
- c. Pursuant to Articles 64 and 65 of the Rules of Procedure, CABA hereby requests the above-named Dissidents and any Dissidents or witnesses included in any future supplement to this Petition, including any expert witness, to be allowed to testify.
- d. Pursuant to Article 30.2 of the Rules of Procedure, CABA hereby requests the Commission to obtain pertinent evidence from the Government of Cuba, including all records relating to investigation, arrest, detention, prosecution, or legal proceedings relating to the dissents.
- e. Pursuant to Article 38 of the Rules of Procedure, CABA hereby requests that the Commission apply the presumption of truth to the allegations of this petition, including all exhibits, supplements, testimony, and evidence provided.
- f. Article 39 of the Rules of Procedure provides for onsite investigation;

including inspection of prisons and health, welfare, and whereabouts, along with any court records and conduct interview with government officials named by Dissidents as aggressors. CABA hereby requests that the Commission perform an on-site investigation of facilities.

2. Precautionary Measures:

- g. Pursuant to Article 23 of the Rules of Procedure, CABA hereby requests that the Commission adopt precautionary measures to protect the life and personal integrity of the Dissidents and the witnesses in the case. And, that the Commission adopt precautionary, provisional measures regarding the Dissidents and the witnesses; including to:
 - i. Direct Cuba to immediately and unconditionally release all Dissidents who have been arbitrarily detained or imprisoned simply for exercising their rights under the American Declaration;
 - ii. Direct Cuba to immediately cease and desist from beating, torturing, or inflicting any other forms of inhumane treatment on the Dissidents who have been detained or imprisoned;
 - iii. Direct Cuba to provide all appropriate medical assistance and medication necessary to protect the health and welfare of the Dissidents who are detained or imprisoned; and
 - iv. All other measures and forms of relief that the Commission deems just and proper.

3. CABA, on behalf of the Dissidents, hereby requests humane treatment of the Dissidents by Cuba, in accordance with recognized standards of human rights, including:

- i. That Cuba refrain from imposing arbitrary restrictions on the right to free movement of human rights defenders, allowing them to freely exercise their right to freedom of movement on Cuban territory, as well as to depart and return to the country;
 - ii. That Cuba ensure that criminal offenses included in their legislation are formulated in a manner consistent with internationally recognized principles of legality and justice;
 - iii. That Cuba revise descriptions of criminal offense that address the protection of public order, disrespect of public officials, social dangerousness or peace or national security, in an effort to narrow their scope of application so that they are not applicable to the legitimate work of human rights defenders and Dissidents in the country; and
 - iv. That Cuba refrain from arbitrarily depriving of their liberty human rights defenders, who perform their legitimate work of defense of human rights in the country.
- h. The on-site monitoring by the Commission and other recognized international organizations to ascertain the condition of the Dissidents and ensure that Cuba does not continue to violate the Dissidents' human rights.
- i. The establishment of an independent mechanism with the power to undertake

unannounced and unhindered visits to any place that may hold any persons deprived of liberty.

- j. The nullification of the judgments and sentences of the Dissidents, or, in the alternative, that the Dissidents be tried by an independent judiciary in a disinterested forum outside of Cuba, with due consideration to the Dissidents' rights to due process and to a fair trial.
- k. The establishment of an up-to-date, public, readily accessible register of persons deprived of their liberty, updating it on an ongoing basis, including:
 - i. number of persons deprived of liberty at the respective detention facility;
 - ii. procedural status or situation;
 - iii. gender and age; and
 - iv. factors such as race, ethnicity, age, sexual orientation, gender identity and expression, interculturality, intersectionality, and disability status.
- l. The implementation of measures with a differential approach in order to be able to guarantee the rights of persons who, in the context of deprivation of liberty, are in a special situation of risk, such as foreign persons.
- m. Cuba to open ex officio and without delay, effective criminal and administrative investigations to identify, prosecute, and punish those responsible for ill treatment. Such investigations should be carried out using all available legal means, aimed at uncovering the truth, and conducted within a reasonable period of time. Likewise, the investigations must be governed by

the principles of independence, impartiality, competence, diligence and urgency.

- n. The recognition and protection of the right to peaceful assembly and freedom of expression, without discrimination on the basis of political opinion.
- o. The prevention of violence against journalists and dissidents during public demonstrations.
- p. The facilitation of citizens' unrestricted connection to the Internet, and guarantee free access to the Internet to all citizens without discrimination; this includes, but is not limited to, making Internet access cheaper and expanding and ensuring unrestricted connectivity.
- q. The immediate lifting of restrictions on Internet content, especially blocks on censored independent media.
- r. To ensure that Internet intermediaries are not subject to a regulatory regime that establishes liability for content they distribute or requires them to exercise supervisory functions over any content.
- s. To abstain from any kind of data surveillance or handling on the Internet, including storage, analysis, and disclosure of personal data, and take regulatory measures to prohibit such practices and establish effective and independent oversight mechanisms.
- t. To censure the Cuban State for its violation of the Dissidents' human rights; and
- u. All other available measures to ensure an immediate end to Cuba's violation of the Dissidents' human rights.

4. **CABA hereby reserves the right to amend and supplement this petition.**

XI. PETITION FILED WITH THE UNITED NATIONS COMMISSION ON HUMAN RIGHTS OR ANY OTHER INTERNATIONAL ORGANIZATION

None.

Respectfully submitted this 17th day of November, 2021, by CABA, through the undersigned legal representatives:



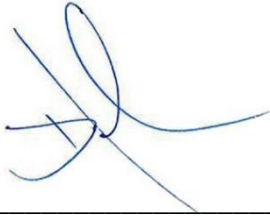
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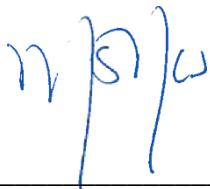


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