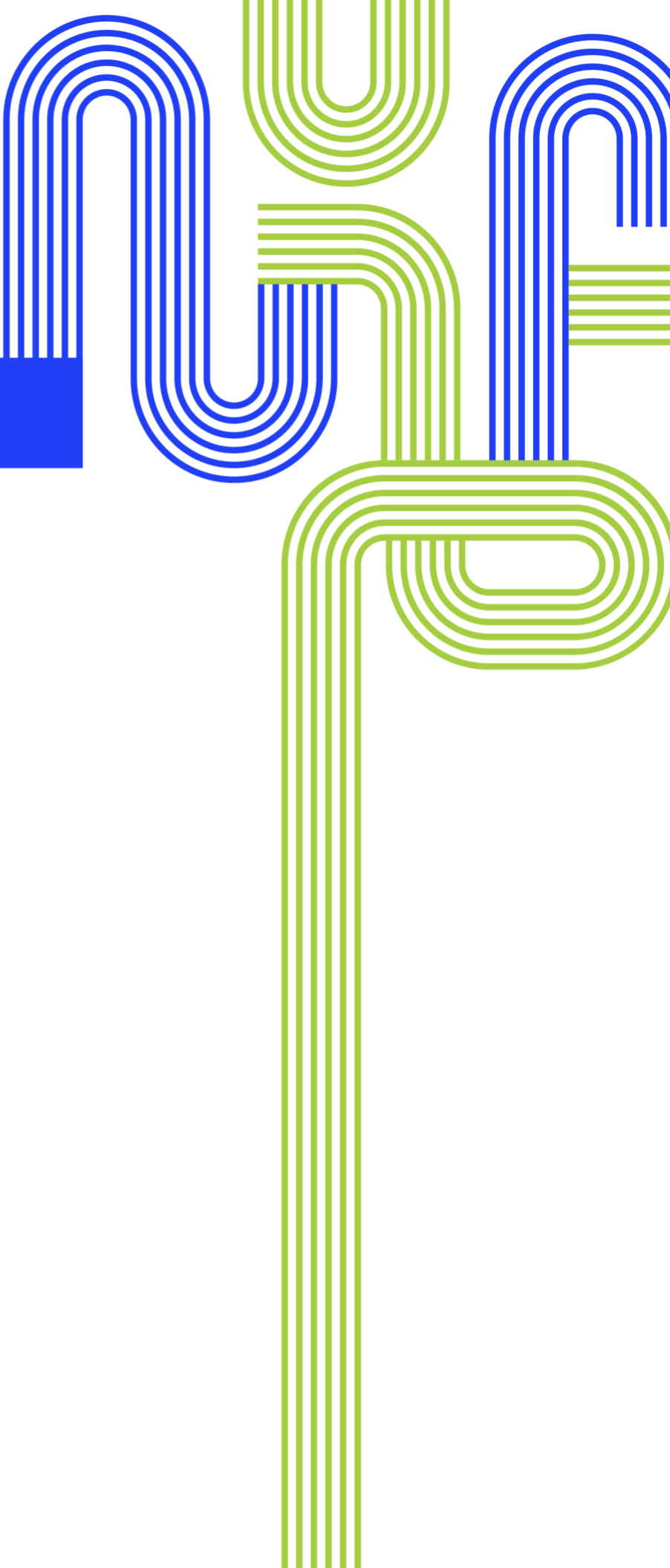




## CHAPTER IV.b

### Cuba

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**ANNUAL REPORT OF THE INTER-AMERICAN  
COMMISSION ON HUMAN RIGHTS**

**2022**

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## CHAPTER IV. B

### CUBA<sup>1</sup>

#### I. INTRODUCTION

1. In the exercise of its competence to promote and protect human rights in the Americas, the Inter-American Commission on Human Rights (the IACHR or the Commission) monitored the human rights situation in Cuba, in particular events in 2022 that could be relevant to the full exercise of human rights.

2. In June 2020, the IACHR published its latest Country Report on Cuba, which provides an overview of the status of human rights in that country between 2017 and 2019.<sup>2</sup> After the publication of that report, the IACHR continued to monitor the human rights situation in Cuba, observing that the main problems identified in the report had persisted and worsened in 2021 and 2022.

3. In particular, the Commission observes that the failure to uphold the essential elements of representative democracy and its institutions, as well as the lack of provisions to ensure the separation of powers and the absence of guarantees of judicial independence, are persistent structural factors that profoundly affect the exercise of human rights and fundamental freedoms in Cuba.

4. During 2022, the IACHR also continued to learn of various hindrances to the exercise of rights by persons under Cuban State jurisdiction. These included arbitrary restrictions on the rights of assembly and association and on freedom of thought and expression, especially in the context of various social protests that have taken place in Cuba since July 2021. The IACHR continued to receive numerous complaints of massive violations of freedom, security, and personal well-being; of protection against arbitrary detention; of the inviolability of the home; and of freedom of movement of Cubans. It also continues to observe persistent, grave violations of essential judicial guarantees and judicial protection.

5. The Commission observed that these human rights violations have mainly affected human rights defenders, dissident social and political leaders, activists and independent journalists, people of African descent, women, and LGBTI persons, among other at-risk groups.

6. During 2022, the Commission has paid special attention to repercussions from the protests of July 11, 2021, in Cuba, which have led to increased repression of dissent and to serious human rights violations. Since the beginning of those protests, the Commission has received, from civil society organizations, numerous reports of the systematic criminalization and persecution of peaceful demonstrators, activists, and members of the political opposition in the form of harassment, arbitrary arrest, and criminal proceedings in which the essential guarantees of due process under law are disregarded. The Commission will devote a special section of this report to analysis of the intensified repression of dissent since the protests that began on July 11, 2021, in Cuba, discussing the various waves of state repression.

7. In assessing the status of human rights in Cuba in 2022, the IACHR decided to include the country in Chapter IV-B of its annual report, reasoning that the Cuban situation falls within the parameters of Article 59, paragraph 6.a.i, of its Rules of Procedure, i.e.:

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<sup>1</sup> Commissioner Stuardo Ralón Orellana approved the report and issued a reasoned vote. Commissioner Carlos Bernal Pulido approved the report and issued a partial reasoned vote. These reasoned votes are available at the Executive Secretariat of the IACHR.

<sup>2</sup>IACHR, [Report on the Situation of Human Rights in Cuba](#), February 3, 2020.

- (a) A serious breach of the core requirements and institutions of representative democracy mentioned in the Inter-American Democratic Charter, which are essential means of achieving human rights, including:
  - (i) there is discriminatory access to or abusive exercise of power that undermines or denies the rule of law, such as systematic infringement of the independence of the judiciary or lack of subordination of State institutions to the legally constituted civilian authority;

8. Likewise, the IACHR found that the situation falls within the parameters of Article 59, paragraph 6.c, of those Rules of Procedure, i.e.:

- (c) The State has committed or is committing massive, serious, and widespread violations of human rights guaranteed in the American Declaration, the American Convention, or the other applicable human rights instruments.

9. In accordance with the provisions of Article 59.5 of its Rules of Procedure, in preparing this report the Commission has received information from international organizations, civil society, and the Government itself through the website of the Ministry of Foreign Affairs of Cuba and other official media. The IACHR has also drawn on information obtained through its other monitoring and protection mechanisms, such as the system of petitions and cases, precautionary measures, and public hearings. The IACHR analyzes the information received in the light of inter-American human rights provisions and standards, identifies good governance practices, and issues recommendations to the State. It also takes the opportunity to provide an account of activities carried out in 2022 in relation to Cuba.

10. In preparing this Report, the Commission received ample information from civil society organizations, especially in the context of the 10 meetings of the network of civil society organizations regarding the situation of human rights in Cuba (RED Cuba), which was launched on July 12, 2021, in conjunction with the Office of the Special Rapporteur on Economic, Social, Cultural, and Environmental Rights (REDESCA). With this initiative, the IACHR and its REDESCA enhanced their strategic monitoring of human rights in Cuba through their various mechanisms and mandates, while promoting inter-American human rights protection standards more synergistically, in direct, ongoing cooperation with civil society. The RED Cuba meetings have increased information-sharing and the receipt of complaints and specialized inputs from civil society.

11. On January 27, 2023 the Commission sent the Cuban State a copy of the preliminary draft of this report, in accordance with Articles 59.7 and 59.10 of its Rules of Procedure, with a deadline of one month for the State to submit its observations. The State did not submit observations. The IACHR approved this report on December 11, 2022.

## II. DEMOCRACY AND STATE INSTITUTIONS

### A. Representative democracy and political rights

12. The 1948 American Declaration of the Rights and Duties of Man establishes in its Article XX that: "Every 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."<sup>3</sup>

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<sup>3</sup>OAS, [American Declaration of the Rights and Duties of Man](#). Adopted at the Ninth International Conference of American States, Bogotá, Colombia, 1948.

13. In addition, the OAS member states, in adopting the Inter-American Democratic Charter in 2001, recognized that representative democracy is the system in which stability, peace, and development in the region can be achieved, and is fundamental to achieving the full exercise of fundamental rights. Article 3 of the Inter-American Democratic Charter establishes that:

Essential elements of representative democracy include, *inter alia*, respect for human rights and fundamental freedoms, access to and the exercise of power in accordance with the rule of law, the holding of periodic, free, fair elections based on secret balloting and universal suffrage as an expression of the sovereignty of the people, the pluralistic system of political parties and organizations, and the separation of powers and independence of the branches of government.<sup>4</sup>

14. In turn, the Inter-American Court of Human Rights (“the Inter-American Court”), in the case of *San Miguel Sosa et al. v. Venezuela* (2018), stated that the Inter-American Democratic Charter “is a rule of authentic interpretation of the treaties to which it refers, since it reflects the interpretation that the OAS Member States themselves, including the States Parties to the Convention, make of the provisions pertaining to democracy in both the OAS Charter and the Convention.”<sup>5</sup> In this regard, the Inter-American Court concluded that “the effective exercise of democracy in the American States is, therefore, an international legal obligation and they have sovereignly agreed that such exercise is no longer a matter solely for their domestic, internal or exclusive jurisdiction.”<sup>6</sup>

15. On the other hand, IACHR doctrine states that exercising the right to political participation entails “the right to organize parties and political associations, which through open discussion and ideological struggle, can improve the social level and economic circumstances of the masses and prevent a monopoly on power by any one group or individual.”<sup>7</sup> The Commission has also found that:

The governments have, in the face of political rights and the right to political participation, the obligation to permit and guarantee: the organization of all political parties and other associations, unless they are constituted to violate human rights; open debate of the principal themes of socioeconomic development; the celebration of general and free elections with all the necessary guarantees so that the results represent the popular will.<sup>8</sup>

16. In addition, the IACHR has postulated a direct relationship between the exercise of political rights and the concept of democracy as a form of governmental organization, which, in turn, implies the exercise of other fundamental human rights. Indeed, for the IACHR, the concept of representative democracy is based on the principle that political sovereignty resides with the people and that, in the exercise of that sovereignty, they elect their representatives to exercise political power. These representatives are also elected by citizens to implement specific policy measures, which in turn implies that there has been broad debate on the nature of the policies to be applied – freedom of expression – among organized political groups – freedom of association – that have had the opportunity to express themselves and meet publicly – right of assembly.<sup>9</sup> The exercise of political rights is therefore inseparable from other fundamental human rights.

17. Regarding Cuba, the Commission has noted a persistent failure to adhere to the essential elements of representative democracy, especially in the absence of free elections and political pluralism, with the continuation of a one-party system in which association for political purposes is not allowed. In particular,

<sup>4</sup>OAS, [Inter-American Democratic Charter](#), Art. 3. Adopted at the twenty-eighth special session, September 11, 2001, Lima, Peru.

<sup>5</sup>I/A Court H. R., [Case of San Miguel Sosa et al. v. Venezuela](#), Merits, Reparations and Costs. Judgment of February 8, 2018. Series C No. 348, par. 114.

<sup>6</sup>I/A Court H. R., [Case of San Miguel Sosa et al. v. Venezuela](#), Merits, Reparations and Costs. Judgment of February 8, 2018. Series C No. 348, par. 114.

<sup>7</sup>IACHR, [Annual Report, Chapter IV. Cuba, “a. Political rights.”](#) 2002, par. 12.

<sup>8</sup>IACHR, [Annual Report, Chapter IV. Cuba, “a. Political rights.”](#) 2002, par. 12.

<sup>9</sup>IACHR, [Report on the Situation of Human Rights in Haiti](#), OAS/Ser.L/V/II.77. rev. 1 Doc. 18, May 8, 1990, Chapter 1. “Political rights,” par. 15.

the Commission finds that the constitutional provision of a single party not only prevents a higher level of political discussion – which is essential to democracy – but also curtails the rights of those who do not share the political beliefs of the Communist Party.<sup>10</sup> The result is that dissidents neither participate in governance nor occupy public office in Cuba, in clear contravention of the provisions of Article XX of the American Declaration of the Rights and Duties of Man.<sup>11</sup>

18. In its 2020 country report on Cuba, the Commission also stressed that “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.”<sup>12</sup> The IACHR believes that this silencing of dissent impacts the effective exercise of human rights and fundamental freedoms in Cuba.

19. Likewise, the IACHR has observed that, after the adoption of the new Constitution in 2019, state institutions did not undergo major changes, except for the creation of the post of Prime Minister. The Cuban Communist Party (PCC) remains the single political force and dominant leader of society and the State.<sup>13</sup> Similarly, the official departure of former President Raúl Castro from the party leadership in 2021 did not bring about changes in terms of political participation or openness to plural parties and ideologies.<sup>14</sup>

20. In particular, the IACHR notes that, although the Cuban electoral law of 2019<sup>15</sup> does not establish the Communist Party as an entity with electoral authority and enshrines the active and passive suffrage of Cuban citizens without ideological restrictions, in practice, according to statements received by the IACHR,<sup>16</sup> the Nominating Committees<sup>17</sup>—bodies responsible for drafting and presenting the slates of candidates for deputies to the People’s National Assembly and filling those posts through voting by that Assembly and the people’s municipal assemblies—indeed act as an ideological filter, so that people not identified with the state government apparatus and the PCC will not occupy elective public office.

21. Similarly, the Commission takes note of the report on the incompatibility of the Cuban electoral system with the Inter-American Democratic Charter, written by the International Institute on Race, Equality and Human Rights in October 2021. The report demonstrates that the Nominating Committees, charged with nominating candidates for the principal elective public offices in Cuba, consist of mass social organizations oriented and directed by the Cuban Communist Party, which is thus the decisive arbiter of who will staff state structures.<sup>18</sup>

22. The Commission observes that, although the law technically permits free political participation by citizens, in practice the Communist Party continues to regulate, control, and direct Cuba’s electoral processes.

<sup>10</sup> IACHR, *Report on the Situation of Human Rights in Cuba*, OEA/Ser.L/V/II. Doc. 2, February 3, 2020, par. 141.

<sup>11</sup> OAS, *American Declaration of the Rights and Duties of Man*. Adopted at the Ninth International Conference of American States, Bogotá, Colombia, 1948.

<sup>12</sup> IACHR, *Report on the Situation of Human Rights in Cuba*, OEA/Ser.L/V/II. Doc. 2, February 3, 2020, par. 137.

<sup>13</sup> IACHR, *Report on the Situation of Human Rights in Cuba*, OEA/Ser.L/V/II. Doc. 2, February 3, 2020, pars. 98 and 99.

<sup>14</sup> IACHR, *Annual Report, Chapter IV.B: Cuba*, 2021, par. 15.

<sup>15</sup> Official Gazette of the Republic of Cuba, Law No. 127 “Electoral Law” (GOC- 2019-735-060), August 19, 2019. Available at [www.gacetaoficial.gob.cu/](http://www.gacetaoficial.gob.cu/).

<sup>16</sup> Official Gazette of the Republic of Cuba, Law No. 127 “Electoral Law” (GOC- 2019-735-060), August 19, 2019. Available at [www.gacetaoficial.gob.cu/](http://www.gacetaoficial.gob.cu/).

<sup>17</sup> Official Gazette of the Republic of Cuba, Law No. 127 “Electoral Law” (GOC- 2019-735-060), August 19, 2019. Available at [www.gacetaoficial.gob.cu/](http://www.gacetaoficial.gob.cu/).

<sup>18</sup> Institute on Race, Equality and Human Rights, *Incompatibility of the Cuban Electoral System with the Inter-American Democratic Charter*, October 2021.

23. As for municipal elections, the IACHR notes that, although electoral law allows the nomination of candidates by citizens without involving the Nominating Committees,<sup>19</sup> various means of limiting civic participation by those ideologically opposed to the Government or the Communist Party have been documented.

24. The 2020 country report on Cuba documented, as one such measure, the criminalization of political opponents and dissidents to limit their political participation. The IACHR has been told that dissidents intending to run have been criminally prosecuted and convicted to prevent their participation in electoral processes.<sup>20</sup>

25. During the 2017 electoral process, the IACHR received numerous complaints of harassment, threats, and reprisals; arbitrary detentions; home searches and confiscations of property, usually linked to “fabricated” criminal charges; obstacles to gathering for political purposes; undue restrictions on leaving the country and deportations from Havana to other provinces in the interior; and stigmatization and vilification. According to reports, these actions were intended, among other aims, to hinder the nomination of independent candidates at the Candidate Nominating Assemblies and impede the legalization of civic organizations.<sup>21</sup>

26. In November 2022, during municipal elections of delegates to the People’s Municipal Assemblies (AMPP), a high voter abstention rate was reported to the Commission. Official data from the National Electoral Council of Cuba (CEN) indicate a participation rate of 68.58% of eligible voters.<sup>22</sup> For their part, civil society organizations reported that the abstention rate—about 31%—was the highest recorded since the first elections of the Castro era, in 1976; combined with blank and void ballots, this represents rejection of the Cuban political model by at least 40% of voters.<sup>23</sup>

27. Civil society organizations have also denounced the absence of free elections and the lack of plurality among representatives—mainly the exclusion of independent or opposition candidates. According to the organization *Transparencia Electoral*, “In the absence of secret balloting to select candidates, mass organizations subordinate to the Cuban Communist Party (PCC), together with State Security, acted to prevent the nomination of any member of the opposition to run for municipal delegate.”<sup>24</sup> Also reported to the IACHR was the exclusion of candidate José Antonio Cabrera Parada, allegedly the only independent candidate to be nominated. In particular, the Commission noted the complaint by the Council for Democratic Transition in Cuba (CTDC) that Cabrera Parada had been detained and threatened with firing from his job if he did not withdraw his nomination.<sup>25</sup>

28. In this regard, the Inter-American Court, in the 2008 case of *Castañeda Gutman v. Mexico*, stated that, although the inter-American system does not impose a specific electoral system or means of exercising the right to vote and to be elected, there are general guidelines as to essential political rights that must be upheld.<sup>26</sup> Consequently, as emphasized by the Court in *Yatama v. Nicaragua* of 2005, “the full scope of political rights cannot be limited in such a way that their regulation or the decisions adopted in application of this regulation prevent people from participating effectively in the governance of the State or cause this

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<sup>19</sup> Official Gazette of the Republic of Cuba, Law No. 127 “Electoral Law” (GOC- 2019-735-060), August 19, 2019. Available at [www.gacetaoficial.gob.cu/](http://www.gacetaoficial.gob.cu/). Title VI. Of the municipal elections, Article 88 et seq.

<sup>20</sup> IACHR, *Report on the Situation of Human Rights in Cuba*, OEA/Ser.L/V/II. Doc. 2, February 3, 2020, par. 161. Request for a thematic hearing on violations of civil and political rights in the electoral process in Cuba, submitted by #Otro18 and Somos+, on August 2, 2017.

<sup>21</sup> IACHR, *Report on the Situation of Human Rights in Cuba*, OEA/Ser.L/V/II. Doc. 2, February 3, 2020, pars. 158-160.

<sup>22</sup> National Electoral Council of Cuba, Municipal Elections 2022, *Preliminary Final Results*, November 2022.

<sup>23</sup> Transparencia Electoral, *Transparencia Electoral Urges Cuba’s National Electoral Council to allow an independent audit of the results* [in Spanish], November 28, 2022.

<sup>24</sup> Transparencia Electoral, *Abstention was the winner in Cuba’s municipal elections* [in Spanish], November 27, 2022.

<sup>25</sup> *Diario de Cuba*, *The Cuban regime takes even further the violation of its own laws to cancel the candidacy of an opponent* [in Spanish], December 1, 2022.

<sup>26</sup> I/A Court H. R. *Case of Castañeda Gutman v. Mexico*. Preliminary Objections, Merits, Reparations and Costs. Judgment of August 6, 2008. Series C No. 184, par. 166.

participation to become illusory, depriving such rights of their essential content.”<sup>27</sup> With respect to Cuba, the IACHR notes that undue restrictions on the exercise of political rights persist and are selectively applied to citizens who oppose the government and its ideology, so that an absence of democratic institutions persists in Cuba.

## **B. Independence of branches of government, procedural guarantees, and judicial protection**

29. By the foregoing considerations, Article 3 of the Inter-American Democratic Charter lists among the constituent elements of representative democracy the separation and independence of branches of government. On this, the Inter-American Court specified, in the context of Advisory Opinion No. 28 of 2021, that “The separation of State powers into different branches and organs is linked closely with the aim of preserving related freedoms, with the understanding that concentration of power leads to tyranny and oppression. At the same time, the separation of State powers allows for the efficient fulfillment of the various aims entrusted to the State.”<sup>28</sup>

30. In this sense, the Inter-American Court finds that “the separation and independence of powers presupposes the existence of a system of control and oversight to constantly regulate the balance of powers.”<sup>29</sup> This system of “checks and balances” requires, therefore, the existence of guarantees that allow the branches to act freely and autonomously, without interference or subordination of one to another.

31. As for judicial independence, the Court finds that “the right to be tried by an impartial judge or court is a fundamental guarantee of due process. In other words, it must be ensured that the judge or court hearing a case does so based on the utmost objectivity. Furthermore, the independence of the Judiciary from the other State powers is essential for the exercise of judicial functions.”<sup>30</sup>

32. On the right to justice, the American Declaration provides in Article XVIII that: “Every 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, violate any fundamental constitutional rights.”<sup>31</sup>

33. In contrast, in the 2020 country report, the Commission observed that there remains in Cuba an institutional model contrary to these postulates that prevents a system of separation of powers. In particular, the IACHR stressed that:

The foundations of the State and the characteristics of the branches of government show that the main powers for the conduct of public affairs remain concentrated in a small number of authorities. The National Assembly of People’s Power has a very high concentration of functions, including the appointment of those who will hold other positions in the State. In addition, the possibility of removing

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<sup>27</sup> I/A Court H. R. [Case of Yatama v. Nicaragua](#). Preliminary Objections, Merits, Reparations and Costs. Judgment of June 23, 2005. Series C No. 127, par. 204.

<sup>28</sup> I/A Court H. R. [Presidential reelection without term limits in the context of the inter-American human rights system](#) (Interpretation and scope of Articles 1, 23, 24, and 32 of the American Convention on Human Rights, XX of the American Declaration of the Rights and Duties of Man, 3(d) of the Charter of the Organization of American States and of the Inter-American Democratic Charter). Advisory Opinion OC- 28/21 of June 7, 2021. Series A No. 28, par. 80.

<sup>29</sup> I/A Court H. R. [Presidential reelection without term limits in the context of the inter-American human rights system](#) (Interpretation and scope of Articles 1, 23, 24, and 32 of the American Convention on Human Rights, XX of the American Declaration of the Rights and Duties of Man, 3(d) of the Charter of the Organization of American States and of the Inter-American Democratic Charter). Advisory Opinion OC- 28/21 of June 7, 2021. Series A No. 28, par. 82.

<sup>30</sup> I/A Court H. R. [Case of Palamara Iribarne v. Chile](#). Merits, Reparations, and Costs. Judgment of November 22, 2005. Series C No. 135, par. 145.

<sup>31</sup> OAS, [American Declaration of the Rights and Duties of Man](#). Adopted at the Ninth International Conference of American States, Bogotá, Colombia, 1948.

officials without substantial protection to prevent reprisals against them for their decisions would seem to undermine independent and impartial decision-making.<sup>32</sup>

34. Likewise, although the Commission notes that the Cuban Constitution provides that magistrates and judges are independent in dispensing justice and owe obedience only to the law,<sup>33</sup> statements by Cuban former judges, prosecutors, and lawyers show that this constitutional provision is not observed in practice.

35. In particular, one of the statements received on August 12, 2022, by the IACHR reports a total lack of autonomy among branches of government, including the Judiciary and the Prosecutor's Office. In this regard, a Cuban former prosecutor stressed that:

Judicial independence, as established by the Constitution and the laws governing courts and prosecutors, is not enforced. Every judicial proceeding is arbitrary in every sense. From the lodging of the complaint to the investigation and the court proceedings, instances of arbitrariness are evident. Everything is run by the Communist Party and the interests of the Government—which have the “leading voice” in all processes in which they take or express interest.<sup>34</sup>

36. Likewise, the Cuban former prosecutor has reported how interference by the Communist Party in the administration of justice works:

Before a case is sent to the court, the matter must be reviewed by the municipal and provincial chief prosecutors, with prior Party approval, because there is a Party-core secretary at the municipal prosecutor's office who must take part in the decisions, especially in political cases (cases in which the Party takes interest in those involved or accused). In this way, from the political point of view, the ruling is predetermined by agreements established at this stage through decisions by police inspectors who know how and what evidence should be admitted and considered to guide the final ruling, and who exclusively provide the incriminating evidence for conviction.<sup>35</sup>

37. Regarding the lack of impartiality and nonobservance of the law in judicial proceedings, interviews conducted by the IACHR with former members of the Cuban justice system highlight the following:

To the police, investigators, and prosecutors, legality is irrelevant. The state prosecutor's office acts, rather than as guarantor of the law, as accuser and arbiter. Police chiefs talk with the chief prosecutors and presidents of courts or tribunals involved to decide the case. That is why, no matter how much an attorney prepares, researches, and presents evidence, he knows he must accept what the Cuban Communist Party decides. The lawyer cannot speak outside his bounds; if he tries, he is somehow censured and scrutinized. The head of the ONBC (National Organization of Collective Law Firms) gives instructions on how to proceed, how to stay within bounds, and how to express oneself in the technical defense, which means that the case has been decided before going to trial. An example of advance preparation is the summary proceeding called *atestado directo*, which is rushed through the prosecution, with instructions and arrangements reached with the police and the court. It is settled and decided in an unbroken chain. There is no guarantee of procedural independence.<sup>36</sup>

38. In this regard, the IACHR observes that the established machinery of justice administration in Cuba reveals its subordination to political power, resulting in an absence of true independence and autonomy among branches of government and a complete lack of legal certainty, access to justice, and effective judicial protection.

<sup>32</sup> IACHR, *The Situation of Human Rights in Cuba*, OEA/Ser.L/V/II. Doc. 2, February 3, 2020, par. 113.

<sup>33</sup> Cuban Constitution, 2019, Article 150.

<sup>34</sup> IACHR, interview with P.O.R. August 12, 2022. IACHR archives.

<sup>35</sup> IACHR, interview with P.O.R. August 12, 2022. IACHR archives.

<sup>36</sup> IACHR, interviews with P.O.R., F.Y.Y., A.R.Y., and S.F.M., August 12, 2022. IACHR archives.

39. The IACHR also took note of the concluding observations of the United Nations Committee against Torture (CAT) in the third periodic report on Cuba, adopted at its 1904th session, on May 9, 2022. Among the main concerns identified by the CAT with regard to human rights institutions, their independence, and guarantees of due process are: (i) the absence of an independent national human rights body; (ii) the subordination of the Office of the Attorney General to the President of the Republic; (iii) the lack of information on conditions for the appointment of judges and on grounds for their dismissal; (iv) restrictions on the independent practice of law and on the autonomy of the National Organization of Collective Law Firms; (v) the competence of military tribunals to prosecute and determine the responsibility of accused persons and third parties in criminal proceedings involving an accused military member, even if any of the persons concerned is a civilian; and (vi) the lack of effective application of procedural guarantees established under Cuban law, especially in the case of persons imprisoned for political reasons, and the use of coercive interrogation methods.<sup>37</sup>

### III. SITUATION OF HUMAN RIGHTS IN CUBA

#### A. Serious and systematic human rights violations in the context of state repression of political dissent and activism not aligned with the ruling party

40. For decades, the IACHR continued to receive extremely worrisome reports of arbitrary restrictions on the people's right of assembly and free expression and ongoing violations of the human rights to liberty, security, well-being, protection against arbitrary detention, the inviolability of the home, essential judicial guarantees, and judicial protection, to which political dissidents, social leaders, activists, human rights defenders, and independent journalists are subjected. During 2021 and 2022, the IACHR observed increased repression of dissent, especially since the July 2021 protests in Cuba.<sup>38</sup>

41. As the IACHR has noted in the past, systematic repression is carried out in Cuba by state agents and groups allied with the ruling party, the aim being to prevent peaceful gatherings, demonstrations, or protests organized by political dissidents, social leaders, activists, human rights defenders, artists, and journalists. The Commission finds that political and ideological dissent remain the principal factors that trigger the silencing, repression, and prosecution of those who express thoughts or opinions that are critical of, or divergent from, the state party line imposed in Cuba.<sup>39</sup>

42. The Commission finds these state practices to be serious and systematic human rights violations. This conclusion is based on the large number of victims, the grave nature of the violations, and certain patterns of action carried out with state resources in response to policy defined and endorsed at the highest government level.

#### B. Intensified crackdown on dissent since the July 2021 protests

43. As highlighted by the Commission in Chapter IV.B on Cuba of the 2021 Annual Report, on July 11, 2021, thousands of Cubans took to the streets, in over 40 Cuban cities, in a peaceful protest to claim their civil liberties and demand changes to the country's political structure. They were also protesting the lack of access to economic, social, and cultural rights – especially because of persistent food and medicine shortages and the escalating impacts of the COVID-19 pandemic.<sup>40</sup> According to civil society and international bodies –

<sup>37</sup> United Nations Committee against Torture, [Concluding observations on the third periodic report on Cuba](#), 1904th session, May 9, 2022.

<sup>38</sup> IACHR, [Annual Report, Chapter IV.B: Cuba](#), 2021, par. 19.

<sup>39</sup> IACHR, [Annual Report, Chapter IV.B: Cuba](#), 2021, par. 20.

<sup>40</sup> IACHR, [Annual Report, Chapter IV.B: Cuba](#), 2021, par. 33.

such as the European Parliament – the massive protest of July 11 was among the largest demonstrations in Cuba’s recent history.<sup>41</sup> These protests triggered immediate state reactions against the demonstrators.

44. Since July 11, 2021, the IACHR has documented eight waves of repression by the State, in which it observed: (1) the use of force and intimidation and smear campaigns; (2) arbitrary arrests, mistreatment, and deplorable prison conditions; (3) criminalization of protesters, judicial persecution, and violations of due process; (4) closure of democratic forums through repression and intimidation to discourage new social demonstrations; (5) ongoing incarceration, trials without due process guarantees, and harsh sentences; (6) legislative proposals aimed at curtailing, surveilling, and punishing dissent and criticism of the Government and at criminalizing the actions of independent civil society organizations; (7) harassment of relatives of persons detained and charged for taking part in the protests; and (8) deliberate cuts in Internet access.<sup>42</sup>

45. The Commission notes that, although the waves of repression began in the second half of 2021, they have continued throughout 2022. In this sense, to contextualize the current situation in the country, particularly the events that occurred as a consequence of the protests, a summary of each of the waves documented by the IACHR (from July 11, 2021, to end of 2022) is bellowed. This analysis includes a summary of the repressive waves identified in Chapter IVB of the 2021 Annual Report, as well as the new repressive strategies that have been identified in 2022.

## 1. The use of force and intimidation and smear campaigns

46. Regarding the *first wave of repression*, the Commission heard complaints, through civil society, that dozens of people were injured by police through the disproportionate use of force. Also reported were threats, harassment, and defamatory official statements targeting demonstrators and their supporters.<sup>43</sup> In a July 15 press release, the Commission and its special rapporteurs condemned the state repression and use of force in connection with the protests. They also rejected government statements identifying the demonstrators as enemies.<sup>44</sup>

## 2. Arbitrary arrests, mistreatment, and deplorable prison conditions

47. In the weeks following the protest, the Commission was informed of a *second wave of repression*, including hundreds of arbitrary arrests and other due process violations, mistreatment, deplorable prison conditions, increased street surveillance throughout the country, and the monitoring of activists’ homes.

48. In particular, the IACHR takes note of the registry compiled in July 2022 by civil society upon the first anniversary of the protests of July 11, 2021. According to this registry, 1,512 people have been arrested for participating in the July 11 demonstrations. Also reported was the use of violence and force by the State during the arrests, transfers, and detention of individuals. According to civil society, at least 58 arbitrarily detained persons were disappeared temporarily, by force, in 10 of the 15 provinces, including a 14-year-old boy.<sup>45</sup>

49. Allegations received by the Commission state that a large number of people who took part in the demonstrations were subjected to beatings, abuse, and other acts of violence in connection with their

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<sup>41</sup> European Parliament, [European Parliament resolution of 16 September 2021 on the government crackdown on protests and citizens in Cuba](#) (2021/2872(RSP)), September 16, 2021; and Human Rights Watch, [Cuba Responds to Landmark Demonstrations with Brutal Repression](#), July 20, 2021.

<sup>42</sup> Disclaimer: The identification of waves of repression does not imply that a previous wave has disappeared upon the emergence of a new one. That is, through its various monitoring mechanisms, the Commission has been observing mounting strategies of repression that form a systemic and continuous pattern of state response.

<sup>43</sup> Prisoners Defenders, [Communiqué from 44 NGOs and independent media on repression in Cuba](#) [in Spanish], July 13, 2021.

<sup>44</sup> IACHR, Press Release 177/21, [The IACHR and its Special Rapporteurs condemn State repression and the use of force during peaceful social protests in Cuba, and call for dialogue on citizen demands](#), July 15, 2021.

<sup>45</sup> IACHR, [Annual Report, Chapter IV.B: Cuba](#), 2021, par. 61.

arrests, and their prison conditions were deplorable.<sup>46</sup> In its 2021 Annual Report, the Commission reported the following prison conditions: (i) severe overcrowding; (ii) lack of access to safe drinking water and adequate food; (iii) use of isolation measures; and (iv) structurally defective cells.<sup>47</sup> In a press release of August 12, 2021, the Commission and its special rapporteurs expressed deep concern in this regard and called on the State to cease repression, guarantee due process, and treat persons in its custody properly.<sup>48</sup>

50. As for such prison conditions, on July 17, 2022, at the event marking the first anniversary of the protests of July 11, the journalist Orelvys Cabrera described what he experienced that day after being arrested by the State Security forces:

They abducted me on July 11 at around four in the afternoon, it was an abduction. A patrol vehicle arrived, they grabbed me by the neck, they threw me head-first into the patrol car, they put very tight handcuffs on me, my hands became cyanotic, they turned black, they kept me in a fetal position from six in the evening until 12 at night, which was when they decided what they were going to do with me. I thought I would die that day. I came to feel death because I saw the police hunting human beings among the demonstrators. It was hard, it was sad, and it makes me upset and anxious even to recall those images. My final destination was the State Security Operations Center, the State Security headquarters in the province of Matanzas. [...]

This story is not my story, I repeat, it is the story of thousands of us Cubans who went out that July 11, who have been politically persecuted, who have been imprisoned in Castro's prisons, because a common prison is nothing like a political prison, in which those of us who disagree with the ideology are routinely tortured. The food we political prisoners get often contains stones, is off-color, stinks, and is half-cooked, because that is one of the tortures used on all political prisoners on the island.<sup>49</sup>

51. Another matter of great concern to the Commission are the allegations of violence, neglect, and abuse by state agents against women, persons with disabilities, and adolescents. During the hearing on the "human rights situation of vulnerable groups in Cuba," civil society organizations reported that various forms of gender-based violence by state agents were witnessed in the wake of the July protests, such as political harassment, persecution, and even sexual abuse against women, especially female human rights defenders. As for persons with disabilities who took part in these protests, the organizations reported beatings, deplorable prison conditions, and negligence in the provision of health services.<sup>50</sup>

52. During that hearing, the Commission received a complaint that a 17-year-old student – detained in the municipality of San Miguel del Padrón, in Havana – had been arrested by State Security agents in connection with the July 11 demonstration and forced to undress and touch her private parts. According to reports, the young woman was sentenced, without evidence, to eight months in prison.<sup>51</sup>

### 3. Criminalization of protesters, judicial persecution, and due process violations

53. A *third wave of repression* involved the criminalization of people who took part in the protests, against whom accusations of various offenses– including serious crimes like sedition – have been lodged through judicial proceedings with no guarantees of due process, resulting in requests for harsh sentences from the prosecutor. During the IACHR hearing on the "Human rights situation in the context of the protest in Cuba,"

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<sup>46</sup> Information provided by the organization Cubalex in the context of the 8th meeting of the Network of Civil Society Organizations regarding the situation of human rights in Cuba (Red Cuba); – Topic: Cuba: One year after 11], July 17, 2022.

<sup>47</sup> Information provided by civil society in the framework of the second meeting of the Network of Civil Society Organizations regarding the situation of human rights in Cuba (Red Cuba), August 4, 2022.

<sup>48</sup> IACHR, Press Release No. 211/21, [IACHR and its Special Rapporteurs express concern over reports of arbitrary detentions, incommunicado detention, lack of legal defense, and other violations of due process during the July 11 Protests in Cuba](#), August 12, 2021.

<sup>49</sup> Testimony by journalist Orelvys Cabrera at the event "Cuba: One year after 11]," on July 17, 2022.

<sup>50</sup> IACHR, Public hearing on the [Human rights situation of vulnerable groups in Cuba](#), 183rd period of sessions, March 15, 2022.

<sup>51</sup> Information provided by civil society at the public hearing on the [Human rights situation of vulnerable groups in Cuba](#), 183rd period of sessions, March 15, 2022.

held on October 21, 2021, civil society organizations reported that judicial proceedings have been instituted to criminalize such persons, and have involved violations of judicial guarantees, such as: (i) detainees held *incommunicado*; (ii) interrogations for purposes of intimidation; and (iii) no recourse to adequate legal defense.<sup>52</sup>

54. In a press release of November 5, 2021, the IACHR stressed its concern over the use of nonspecific accusations to criminalize people who took part in the July 11 protests. These include charges of public disturbance, assault, contempt, incitement to commit crimes, spreading of epidemics, sedition, unlawful demonstrations, and damage to and defamation of institutions, organizations, heroes, and martyrs. The Commission urged the State to ensure that criminal offenses defined in its law are not misused to restrict other rights or used against dissidents. It also recalled the State's obligation to adopt all necessary measures to prevent those who legitimately demand their rights through social protest from being subjected to unfair or groundless trials through state investigations.<sup>53</sup>

#### **4. Closure of democratic forums through repression and intimidation to discourage further social demonstrations**

55. After a civic rally was called for November 15 in Cuba, the Commission identified the implementation of a *fourth wave of repression* and intimidation by the Cuban State to prevent the demonstration and discourage further social protest. In a press release of November 29, 2021, the IACHR and its RELE reported that various acts of repression carried out between November 12 and 15 have led to a generalized scenario of fear and self-censorship, in addition to discouraging the exercise of the civil right to protest. These acts of repression include alleged house arrests with police surveillance, arbitrary arrests, acts of condemnation and harassment, summonses to interrogations at police stations, threats of criminal accusations, and deliberate cuts in Internet service.<sup>54</sup>

#### **5. Ongoing imprisonment, trials without guarantees of due process, and harsh sentences**

56. The Commission noted that on January 24, 2022, the Cuban Attorney General's Office issued an official note on the criminal proceedings arising from the July protests. According to this note, 790 people were accused of crimes linked to the protests, including 55 teenagers between the ages of 16 and 18. Of these, 28 were under pretrial detention, and the requested sentences for 18 defendants were changed to less severe punishments.<sup>55</sup>

57. In February 2022, the Commission documented a *fifth wave of repression* marked by the ongoing incarceration of more than 700 people and trials of persons who took part in the demonstrations, including adolescents, without due process. In its press release of February 16, the Commission stated that, according to available information, most of these detainees were under pretrial detention, which is contrary to international principles regarding such detention. Judicial proceedings were said to have been based on nonspecific criminal charges that were both unsubstantiated and disproportionate. Also reported were continuing violations of due process, such as restrictions on access to case files and copies of rulings and no adequate technical defense or contact with legal representatives.<sup>56</sup>

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<sup>52</sup> IACHR, Public hearing on the [Human rights situation in the context of the protest in Cuba](#), 181st period of sessions, October 21, 2021.

<sup>53</sup> IACHR, Press Release No. 295/21, [IACHR concerned about tougher repression and human rights violations in Cuba since the protests that took place in July](#), November 5, 2021.

<sup>54</sup> IACHR, Press Release No. 317/21, [IACHR and its Special Rapporteurship for Freedom of Expression concerned about State repression that prevented civic rally in Cuba on November 15](#), November 29, 2021.

<sup>55</sup> *Granma*, Office of the Attorney General of the Republic, [Information on the criminal proceedings derived from the unrest of July 11, 2021](#) [in Spanish], January 24, 2022.

<sup>56</sup> IACHR, Press Release No. 31/22, [IACHR expresses concern over ongoing detention and prosecution of people who took part in protests in Cuba](#), February 16, 2022.

58. Civil society organizations, moreover, reported to the IACHR that adolescents had been imprisoned and subjected to judicial proceedings that ignored the standards governing the juvenile criminal justice system, especially the monitoring of such proceedings by their parents. The CSOs stressed that these persons face charges of serious crimes, including harsh sentences of up to 20 years in prison. In this regard, the Commission stressed that the detention of adolescents should be a measure of last resort, used only in exceptional cases, for the shortest time possible, and called on the State to adopt the necessary measures to minimize contact between adolescents and the criminal justice systems.<sup>57</sup>

59. On June 13, 2022, the Cuban Attorney General's Office reported on 76 final rulings on persons accused of crimes related to the protests of July 11, 2021. According to the official statement:

Three hundred eighty-one individuals were punished, including 16 teenagers between the ages of 16 and 18, mainly for crimes of sedition; sabotage; robbery with force and violence; assault; contempt; and public disturbance. Two hundred ninety-seven defendants were sentenced to prison, considering the gravity and circumstances of the events and their personal conduct. For the crime of sedition, 36 were sentenced to between five and 25 years in prison. Eighty-four defendants were sentenced, rather than to prison, to alternative punishments, on condition of good conduct, consisting of correctional work with and without internment, and curtailed liberty; this ruling includes 15 of the young persons between the ages of 16 and 18.<sup>58</sup>

60. Similarly, the IACHR notes that, on June 22, 2022, the Cuban Attorney General's Office reported that "between June 16 and 21, final rulings were issued by the Courts in trials in Havana, Matanzas, and Santiago de Cuba for crimes of sedition, public disturbance, assault, and contempt." In that connection, the Attorney General's Office indicated that "seventy-four defendants were punished and two were acquitted. Prison sentences were imposed on 56 individuals--of these, 22 to up to 10 years, 30 to 11 to 15 years, and four to 16 to 18 years.<sup>59</sup>

61. The IACHR also took note of data compiled by the organizations Cubalex and Justicia 11J documenting the sentences of 635 individuals prosecuted in ordinary trials related to participation in the protests of July 11, 2021. They report that, as a result of these trials, 495 people are serving or have served prison terms. They also report that 285 people still await trials, with the prosecution requesting prison sentences of up to 15 years. The Commission notes with concern that, according to these organizations, persons tried for sedition – among the most serious crimes under the Cuban Criminal Code – make up 25% of those tried in connection with the July 2021 protests, resulting in harsh prison sentences of up to 25 years.<sup>60</sup>

## **6. Legislative proposals to curtail, monitor, and punish dissent and criticism of the Government**

62. The IACHR notes a *sixth wave of repression* linked to the design of legislative proposals to curtail, monitor, and punish dissent and criticism of the Government and to criminalize the work of independent civil society organizations. The Commission notes that the impact of this wave began with new regulations on telecommunications and cybersecurity in Cuba –Executive Order 35, on Telecommunications,

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<sup>57</sup> IACHR, Press Release No. 31/22, [IACHR expresses concern over ongoing detention and prosecution of people who took part in protests in Cuba](#), February 16, 2022.

<sup>58</sup> Office of the Attorney General of the Republic of Cuba, [Information from the Attorney General's Office on the criminal proceedings derived from the unrest of July 11, 2021](#), June 13, 2022.

<sup>59</sup> Office of the Attorney General of the Republic of Cuba, [Information from the Attorney General's Office on the criminal proceedings derived from the unrest of July 11, 2021](#), June 13, 2022.

<sup>60</sup> Information from Justicia 11J in its October 2022 newsletter.

and Resolution 105, on Response to Cybersecurity Incidents – of August 17, 2021,<sup>61</sup> and culminated with the adoption of a new Criminal Code on May 15, 2022.<sup>62</sup>

63. Regarding the new regulations on telecommunications and cybersecurity, the IACHR and its Special Rapporteur for Freedom of Expression (RELE) noted that some of the objectives that Executive Order 35 and Resolution 105 invoke to limit freedom of expression are inconsistent with inter-American human rights provisions. Examples are the protection of “the country’s reputation,” “social discipline,” and the stability of “mass structures.”<sup>63</sup> In this regard, the Inter-American Court has found that goals of preserving “law and order” cannot be invoked to suppress or distort a right or deprive it of real meaning; on the contrary, they must be interpreted in strict accordance with the just demands of a democratic society.<sup>64</sup>

64. As for the new criminal code, the IACHR observes that it establishes broad and imprecise categories, allowing the State arbitrary and discretionary application of criminal law. Likewise, it includes and heightens definitions of offenses that could be used to criminalize the legitimate exercise of the freedoms of expression, assembly, and association. In particular, the new Criminal Code maintains broad and imprecise language in its aims and in defining serious crimes related to “Internal Security of the State.”<sup>65</sup> The Commission emphasizes that the application of these provisions could pose special risks to democratic institutions in Cuba, especially in the absence of judicial independence and any separation among branches of government.

65. The Commission also views with concern the increased imposition of death sentences and life imprisonment, especially as punishments for crimes such as “sedition,” which has been cited to criminalize those who protested on July 11, 2021. It also notes that some novelties of the new Code are tied to the Legislature’s intent to discourage social demonstrations like the one on July 11, such as the characterization of more situations as “public disturbances.”<sup>66</sup>

66. On the other hand, the IACHR is pleased to note the elimination of pre-criminal dangerousness (*peligrosidad predelictiva*) as a criminal offense; the criminalization of torture and forced disappearance; and the inclusion of domestic violence and violence for reasons of gender or discrimination as aggravating factors in several criminal offenses. As for pre-criminal dangerousness, in its annual reports the Commission has already noted its incompatibility with inter-American standards, particularly in view of its summary procedure and because it could result in arbitrary incarceration.<sup>67</sup>

## **7. Harassment of relatives of persons arrested and charged for taking part in protests**

67. During 2022, the IACHR identified a *seventh wave of repression* involving acts of intimidation, harassment, and violence by State Security forces and Government supporters against relatives of persons

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<sup>61</sup> In this regard, see: IACHR, Press Release No. 249/21, [Concerned about new regulations on telecommunications and cybersecurity 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](#), September 22, 2021; and Cuba, Ministry of Justice, [Official Gazette of the Republic No. 92](#), August 17, 2021.

<sup>62</sup> The Act on the new Criminal Code of Cuba was approved by Cuban deputies at the Fifth Special Session of the People’s National Assembly (ANPP) on May 15, 2022, and will replace Act No. 62, Criminal Code, adopted in 1987. The preliminary draft of the Criminal Code was proposed by the People’s Supreme Court, based on Article 148 of the 2019 Cuban Constitution.

<sup>63</sup> IACHR, Press Release No. 249/21, [Concerned about new regulations on telecommunications and cybersecurity 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](#), September 22, 2021.

<sup>64</sup> I/A Court H. R., [Advisory Opinion OC-5/85](#), November 13, 1985.

<sup>65</sup> Official Gazette of the Republic of Cuba, Ministry of Justice, [Law 151/2020 “Criminal Code”](#) (GOC-2022-861-093), Official Gazette No. 93 Ordinary, September 1, 2022, People’s National Assembly, Book II, Title I (Crimes against the security of the State), Chapter II (Crimes against the internal security of the State).

<sup>66</sup> Official Gazette of the Republic of Cuba, Ministry of Justice, [Law 151/2022 “Criminal Code”](#) (GOC-2022-861-093), Official Gazette No. 93 Ordinary, September 1, 2022, People’s National Assembly, Title VII (Crimes against public order), Chapter I (Public disorder).

<sup>67</sup> In this regard, see: IACHR, [Annual Report, Chapter IV.B: Cuba](#), 2021, pars. 29 and 30; IACHR, [Annual Report, Chapter IV.B: Cuba](#), 2020, pars. 40 and 41.

arrested and charged for taking part in the demonstrations when the family members objected to the trials and harsh sentences imposed on the demonstrators.

68. In particular, the Commission notes the report published by Cubalex and Justicia 11J, “One year without justice: Patterns of state violence against 11J protesters,” which says that relatives of demonstrators – especially mothers of detained adolescents– have been harassed by the State over the last 10 months for demanding the release, and defending the innocence, of their family members. According to the report, the most common means of repression against them were interrogations, police surveillance, and threats to extend the sentences of their imprisoned relatives.<sup>68</sup>

## 8. Deliberate cuts in internet access

69. Finally, the IACHR observed an *eighth wave of repression*, involving deliberate internet cuts by the State. In Cuba, the only official internet service provider is Empresa de Telecomunicaciones de Cuba S.A. (ETECSA), a public entity under the Ministry of Information Technology and Communications that, according to evidence gathered by the IACHR, continues to use its authority for purposes of censorship, especially in connection with social and political conflict. Similarly, as it noted in its 2021 Annual Report, the Commission found that deliberate cuts in internet service on the day of the protest had been employed to prevent the movement from spreading over social networks and the independent press.<sup>69</sup>

70. Additionally, in 2022, the Special Rapporteur for Freedom of Expression of the IACHR (RELE) documented several reports of internet shutdowns during social protest. On July 15, 2022, there were reports of internet cuts that could be linked to citizen demonstrations, one of them in Los Palacios, in Pinar del Río, and another in the city of Havana.<sup>70</sup>

71. Likewise, according to information released by Proyecto Inventario, on the night of September 30, 2022, an interruption in internet service was detected; this was a time of heightened tensions related to public demonstrations against countrywide power cuts in the wake of Hurricane Ian, on September 27.<sup>71</sup> The internet blackout allegedly lasted more than seven hours. Similarly, various internet monitoring laboratories, such as Netblocks, Internet Outage Detection and Analysis (IODA), and Cloudflare Radar reported a “total interruption of the internet during the night” and “an almost total collapse of internet traffic from Cuba.”<sup>72</sup> Although ETECSA did not provide an official response on the facts, information reported by journalist Luz Escobar indicates that an employee of the company admitted there was a “nationwide interruption of service.”<sup>73</sup>

72. In this regard, the IACHR and its RELE recall that internet access is a *sine qua non* for the effective exercise of human rights. In the 2011 Joint Declaration on Freedom of Expression and the Internet, the Special Rapporteurs of the UN, OSCE, IACHR, and ACHPR stated that “[g]iving effect to the right to freedom of expression imposes an obligation on States to promote universal access to the Internet. Access to the Internet is also necessary to promote respect for other rights, such as the rights to education, health care and work, the right to assembly and association, and the right to free elections.”<sup>74</sup> They also recalled that “[t]he mandatory

<sup>68</sup> Cubalex and Justicia 11J, [One year without justice: Patterns of state violence against 11J protesters](#) [in Spanish], July 2022.

<sup>69</sup> IACHR, [Annual Report, Chapter IV.B: Cuba](#), 2021, par. 36.

<sup>70</sup> Twitter account of Cloudflare Radar (@CloudflareRadar). [July 15, 2022](#); Twitter account of YucaByte (@YucaByte). [July 15, 2022](#).

<sup>71</sup> Twitter account of Proyecto Inventario (@invntario). [September 30, 2022](#); Article 19. October 5, 2022. [NGOs demand an end to repression and human rights violations against participants in demonstrations in Cuba](#) [in Spanish].

<sup>72</sup> Radio Televisión Martí. September 30, 2022. [Amid protests, Cuban regime cuts off internet; ETECSA confirms whole country affected](#) [in Spanish]; Swissinfo. September 30, 2022. [Internet traffic almost completely down after protests in Cuba](#) [in Spanish]; Twitter account of Cloudflare Radar (@CloudflareRadar). [September 30, 2022](#); Twitter account of Netblocks (@Netblocks). [September 30, 2022](#); Twitter account of YucaByte (@YucaByte). [September 30, 2022](#).

<sup>73</sup> Twitter account of Luz Escobar (@Luz\_Cuba). [September 30, 2022](#); *Periódico Cubano*. September 30, 2022. [What does Etecsa say about the internet outage that affected Cubans last night?](#) [in Spanish].

<sup>74</sup> United Nations (UN) Special Rapporteur for Freedom of Opinion and Expression, the Representative on Freedom of the Media of the Organization for Security and Cooperation in Europe (OSCE), the Special Rapporteur of the Organization of American States (OAS)

blocking of entire websites, IP addresses, ports, network protocols or types of uses (such as social networking) is an extreme measure – analogous to banning a newspaper or broadcaster – which can only be justified in accordance with international standards.”<sup>75</sup>

73. In light of all those considerations, the Commission states that the patterns of human rights violations observed in Cuba during the various waves of repression, aimed at silencing dissident voices and citizen demands for sociopolitical changes, occur as part of a structure rooted in the very absence of democratic institutions in Cuba.

### C. Social protests in the second half of 2022

74. The IACHR and its RELE observe that the factors that set off the July 2021 protests, i.e., lack of access to basic services such as electricity and the shortage of food and medicines, together with demands for observance of civil and political rights, continued to be the subject of citizen complaints in 2022.

75. Between August and October 2022, the IACHR and the RELE learned of at least 155 protest events in 14 of Cuba’s 15 provinces.<sup>76</sup> A report by the organization Justicia 11J characterized most of these demonstrations as massive. That report also indicates that, although citizen demands for restored electric service were among the main reasons for the protests, other demonstrations raised questions about systemic or structural crises in Cuba and the limited avenues for civic participation or expressed rejection of political officeholders.<sup>77</sup>

76. Also reported to the Commission and its RELE were the deployment of police to break up protests, excessive use of force, arrests of demonstrators, and recurring internet cuts.<sup>78</sup> In particular, on September 1, 2022, the IACHR expressed concern over reports of arbitrary arrests of peaceful demonstrators in Nuevitas, Camagüey. At that time, the Commission recalled that states are obliged to refrain from employing mass, collective, or indiscriminate arrests in social protest situations, to adapt their institutional norms, procedures, and practices to prevent arbitrary detentions, and to investigate and punish such acts when necessary.<sup>79</sup>

77. Additionally, in late September, during protests over power cuts following Hurricane Ian, criminal proceedings were allegedly instituted against demonstrators.<sup>80</sup> On those proceedings, the Attorney General’s Office said in an official note of October 14, 2022, that it “monitors criminal proceedings in which disturbances of the peace and public order are investigated,” allegedly involving “the burning of facilities, vandalism, blocking of public roads to prevent the circulation of vehicles and people, assaults on and offenses

for Freedom of Expression, and the Special Rapporteur on Freedom of Expression and Access to Information of the African Commission on Human and Peoples’ Rights (ACHPR). June 1, 2011. [Joint Declaration on Freedom of Expression and the Internet](#).

<sup>75</sup> United Nations (UN) Special Rapporteur for Freedom of Opinion and Expression, the Representative on Freedom of the Media of the Organization for Security and Cooperation in Europe (OSCE), the Special Rapporteur of the Organization of American States (OAS) for Freedom of Expression and the Special Rapporteur on Freedom of Expression and Access to Information of the African Commission on Human and Peoples’ Rights (ACHPR). June 1, 2011. [Joint Declaration on Freedom of Expression and the Internet](#).

<sup>76</sup> Data from Proyecto Inventario ([Map of protests in Cuba 2022](#)) and Justicia 11J, *Report on protests and repression of protests in Cuba (August, September, and October)*, November 4, 2022.

<sup>77</sup> Justicia 11J, *Report on protests and repression of protests in Cuba (August, September, and October)*, November 4, 2022.

<sup>78</sup> Radio Televisión Martí. October 2, 2022. [“Brutal repression” ends protest on Calle Línea \(Video+Photos\)](#) [in Spanish]; Article 19. September 30, 2022. [ARTICLE 19 calls on Cuban government to guarantee the right to social protest in the context of the power and internet outages](#) [in Spanish]; CiberCuba. October 2, 2022. [Third night of protests in Havana ends in clashes with police](#) [in Spanish]; Radio Televisión Martí. October 3, 2022. [24 demonstrators arrested in recent protests in Cuba \(Video+Photos\)](#) [in Spanish]; Infobae. October 11, 2022. [After intense protests over electricity outages, number of political prisoners of the Cuban regime rises to 1,026](#) [in Spanish]; Article 19. August 22, 2022. [Authorities attack and detain demonstrators protesting power outages in Cuba](#) [in Spanish]; Infobae. September 30, 2022. [Repression in Cuba: Human rights organization calls on the EU to impose sanctions to avoid ‘a bloodbath’](#) [in Spanish].

<sup>79</sup> IACHR [CIDH]. ([September 1, 2022](#)). “IACHR expresses concern over new reports of arbitrary detentions of people participating in peaceful demonstrations in #Nuevitas #Camaguey, including Mayelín Rodríguez” [in Spanish]. Twitter.

<sup>80</sup> Radio Televisión Martí. September 29, 2022. [‘We want electricity’: Protests in Havana over blackouts; Díaz Canel booed in Batabanó](#) [in Spanish]; France 24. October 15, 2022. [Cuba opens criminal proceedings against demonstrators who protested during blackouts](#) [in Spanish]; CNN en Español. October 15, 2022. [After Hurricane Ian left Cuba in the dark, protesters took to the streets. Now the government is ready to file charges](#) [in Spanish].

against officials and law enforcement agencies, and incitement to violence.” Likewise, the Attorney General’s Office affirmed that “the events under investigation will receive the appropriate response under criminal law” and that constitutional rights and guarantees of due process were upheld.<sup>81</sup>

78. The Commission also received complaints that people arrested in connection with the protests were held incommunicado when there were no exceptional reasons to justify such a measure. According to the report of the organization Justicia 11J, relatives of those arrested had no information as to the status of the detainees; they said that “at the police stations they were told that the demonstrators would be released soon, while at that same time the protestors were being prepared for transfer to the detention center.” The IACHR notes that this practice violates essential guarantees of due process and the right to protection against arbitrary arrest, as set forth in Article XXV of the American Declaration of the Rights and Duties of Man.

79. Finally, the IACHR expresses concern over data compiled by civil society indicating that 1,760 people have been detained in Cuba –751 of whom are said to be in prison still – for participating in social protests in Cuba since July 2021, including those of July 2021, the Civic March scheduled for November 15, 2021, and recent protests in the second half of 2022.<sup>82</sup>

80. In this regard, the IACHR and the RELE recall that social protest, including exercise of the rights to freedom of peaceful, unarmed assembly, association, and expression, are essential means of defending democracy and human rights, and the State is obliged to respect, protect, facilitate, and safeguard these rights.<sup>83</sup>

81. With regard to the obligation to respect, the IACHR and its Special Rapporteur have indicated that “the exercise of the right of assembly through social protest should not be subject to permission by the authorities or excessive requirements that hinder its realization.”<sup>84</sup> Furthermore, on the obligation to protect and facilitate, the Commission has stressed that “the overriding social interest in the right to take part in public demonstrations gives rise to a general presumption in favor of its exercise.”<sup>85</sup> As mentioned in the report *Protest and Human Rights*, States must act on the basis of the lawfulness of public protests and demonstrations and under the assumption that they do not constitute a threat to public order, even in cases where they are conducted without prior notice.<sup>86</sup> As for the obligation to guarantee, the IACHR has established that “this obligation entails first and foremost the duty to investigate and punish any violation that occurs within the framework of a public demonstration.”<sup>87</sup> This implies the need to implement mechanisms of monitoring and accountability regarding the actions of State agents during social protest.<sup>88</sup>

82. The IACHR and its RELE also reiterate that the use of force in the context of protests should be understood as “a last resort that, qualitatively and quantitatively limited, is intended to prevent a more serious occurrence than that caused by the State’s reaction” and that, in this context of exceptionality, the State must abide by the principles of legality, absolute necessity, and proportionality.<sup>89</sup> Lastly, they recall that “in principle,

<sup>81</sup> Office of the Attorney General of the Republic of Cuba, [Information Bulletin](#), October 14, 2022.

<sup>82</sup> Information received by the IACHR at meetings with Red Cuba. In particular, based on the records of the organizations Justicia 11J and Cubalex, updated in October 2022.

<sup>83</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Protest and Human Rights](#). OEA/Ser.L/V/II CIDH/RELE/INF.22/19. September 2019, pars. 2, 4, and 17.

<sup>84</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Protest and Human Rights](#). OEA/Ser.L/V/II CIDH/RELE/INF.22/19. September 2019, par.56.

<sup>85</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Protest and Human Rights](#). OEA/Ser.L/V/II CIDH/RELE/INF.22/19, par. 91.

<sup>86</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Protest and Human Rights](#). OEA/Ser.L/V/II CIDH/RELE/INF.22/19, par. 93.

<sup>87</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Protest and Human Rights](#). OEA/Ser.L/V/II CIDH/RELE/INF.22/19, par. 246.

<sup>88</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Protest and Human Rights](#). OEA/Ser.L/V/II CIDH/RELE/INF.22/19, par. 245.

<sup>89</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Protest and Human Rights](#). OEA/Ser.L/V/II CIDH/RELE/INF.22/19, par. 102.

criminalization per se of demonstrations in public thoroughfares is inadmissible<sup>90</sup>; and that States must refrain from mass, collective, or indiscriminate arrests in public demonstrations.<sup>91</sup>

## D. Situation of freedom of expression

### 1. Journalism and democracy

83. The Cuban legal framework and government practices aimed at restricting any expression that differs from, or is not aligned with, government interests increasingly hinder the exercise of independent journalism in Cuba and, consequently, the formation of public opinion and the accountability and scrutiny of branches of government and public authorities. The trends of harassment, intimidation, and criminalization of journalists identified by the Special Rapporteur for Freedom of Expression in prior reports persist in 2022, and are based both on norms that remain in force and on arbitrary state practices.

84. As noted by the RELE in previous reports, the arrests of journalists are among the main forms of government intimidation or reprisal for their work and are usually carried out with no court order or legal grounds. For example, on April 30, 2022, journalists Henry Constantín, director, and Neife Rigau, photographer, of the periodical *La Hora de Cuba* was arrested in the city of Camagüey as they left an event at the city's Teatro Principal.<sup>92</sup> According to reports, the State Security agents neither presented legal documents justifying the arrest nor identified themselves. The list of journalists who reported being arbitrarily detained in 2022 includes Vladimir Turro Páez, who also reportedly was threatened, by agents of the Ministry of the Interior, with criminal charges for the crime of instigation to commit crimes should he continue to practice independent journalism.<sup>93</sup> The journalist is said to have been arrested twice in August.<sup>94</sup>

85. Government repression strategies also include summonses and interrogations for purposes of intimidation and the imposition of fines based on Executive Order 370 on the computerization of society in Cuba. In 2022, the Special Rapporteur learned that State Security officials had intimidated journalist Cynthia de la Cantera, demanding that she publicly announce she would retire from journalism and hand-write her resignation at the same police station. According to reports to the Special Rapporteur, during the interrogation, the State Security official told de la Cantera that she must understand “the magnitude of what she had gotten into.”<sup>95</sup> The journalist had already been questioned on previous occasions, in 2020.<sup>96</sup> The Rapporteur also learned of the summonses for questioning of journalists Jorge Enrique Rodríguez, of *Diario de Cuba*, and Ismarío Rodríguez, of *Periodismo de Barrio*.<sup>97</sup> Ismarío Rodríguez reported that State Security officers

<sup>90</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Protest and Human Rights](#). OEA/Ser.L/V/II CIDH/RELE/INF.22/19, par. 187.

<sup>91</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Protest and Human Rights](#). OEA/Ser.L/V/II CIDH/RELE/INF.22/19, par. 138.

<sup>92</sup> *La Hora de Cuba*. February 2, 2022. [Breaking: Journalists Henry Constantín and Neife Rigau disappeared in Camagüey](#) [in Spanish]; CiberCuba. February 3, 2022. [Independent journalists ratify commitment to their work after arrest in Camagüey](#) [in Spanish]; Inter American Press Association (IAPA). May 5, 2022. [IAPA Condemns Repression and Detention of Journalists in Cuba](#); Cuban Institute for Freedom of Expression and the Press (ICLEP). August 16, 2022. [ICLEP registers record repression against the Cuban press in July](#) [in Spanish].

<sup>93</sup> Voces del Sur. August 29, 2022. [Cuban journalist threatened with prosecution for criminal incitement](#) [in Spanish]; CiberCuba. August 29, 2022. [State Security threatens to prosecute independent Cuban journalist](#) [in Spanish].

<sup>94</sup> CiberCuba. August 29, 2022. [State Security threatens to prosecute independent Cuban journalist](#) [in Spanish]; Twitter account of Article 19 Mexico (@article19mex). [August 18, 2022](#); CubaNet. August 18, 2022. [CubaNet journalist Vladimir Turro Páez assaulted and arrested](#) [in Spanish].

<sup>95</sup> Yucabyte. May 9, 2022. [State Security seeks to curb journalism work](#) [in Spanish]; CiberCuba. May 9, 2022. [Journalist Cynthia de la Cantera reports threats from State Security](#) [in Spanish]; ICLEP. May 10, 2022. [Journalist Cynthia de la Cantera systematically harassed by the Cuban regime](#) [in Spanish].

<sup>96</sup> Facebook account of Cynthia de la Cantera. [May 9, 2022](#); Radio Televisión Martí. May 10, 2022. [Young journalist denounces two years of intimidation and harassment by State Security](#) [in Spanish].

<sup>97</sup> Facebook account of Periodismo de Barrio. [September 15, 2022](#); Twitter account of ICLEP (@ICLEP). [September 16, 2022](#); ICLEP. September 19, 2022. [Cuban regime threatens journalist Ismarío Rodríguez with prison](#) [in Spanish]; *Diario de Cuba*. September 2, 2022. [Diario de Cuba journalist Jorge Enrique Rodríguez questioned about anti-regime graffiti](#) [in Spanish].

threatened to send him to prison for allegedly “spreading pernicious and counterrevolutionary information.”<sup>98</sup> Also, according to public information, on June 14, journalist Boris González Arenas, a contributor to *Diario de Cuba*, was fined by inspectors from the Ministry of Communications when he responded to a police summons at the Zapata y C unit in Havana. Allegedly, a fine of 3,000 pesos was issued to the reporter for his publications on social networks.<sup>99</sup>

86. The Rapporteur has also identified ongoing police sieges of journalists’ homes as a means of control and intimidation. Camila Acosta, a reporter for Cubanet, Luzbely (Luz) Escobar, of 14ymedio, and Boris González, of *Diario de Cuba*, were under police surveillance in 2022 on several occasions.<sup>100</sup> According to publicly available information, on August 5, the journalists were kept under home surveillance by security forces in Havana, who prevented them from leaving on the 28th anniversary of the 1994 anti-government protest known as the “Maleconazo.”<sup>101</sup> Also, on March 25, several journalists on social networks reported police cordons around their homes.<sup>102</sup>

87. Likewise, in 2022, the RELE was informed of attacks on journalists allegedly involving state agents. According to the information available, on April 1, two agents of the Department of State Security detained journalist Alberto Corzo, executive director of the Instituto Cubano por la Libertad de Expresión y Prensa (ICLEP), in the province of Matanzas, demanding that he tell them where he was going and what he was doing. When he refused, two unidentified plain-clothed individuals allegedly approached him and beat him violently. The journalist was reportedly hospitalized. According to his wife, while the reporter was in the hospital, numerous political police agents were present.<sup>103</sup>

88. The Rapporteur notes with concern that prison continues to be a frequent place for journalists who investigate and report on matters of public interest in Cuba. On July 28, a People’s Provincial Court of Havana sentenced journalist Lázaro Yuri Valle Roca to five years in prison for the alleged crimes of resistance and ongoing enemy propaganda, according to reports.<sup>104</sup> In the ruling, the judges pointed out that the journalist – along with other activists, also said to have received prison sentences – belonged to the nongovernmental organization Delibera, which they described as “illicit”; and that, in that connection, they held meetings “to conduct activities contrary to the current social and political system in Cuba.”<sup>105</sup> The decision also indicates that Lázaro Valle Roca and the other NGO members filmed these meetings and published them on their social networks “to spread to the world an image of social and political instability in the country.”<sup>106</sup> Among other grounds for the conviction, the judges stated that in June 2021, the journalist and the activists launched from a rooftop more than 500 handbills reading “Homeland and life” and “aimed at confusing and inciting the people to demand rights already attained by the Cuban Revolution,” such as “the people demand free elections, the people demand democracy,” “freedom for political prisoners and prisoners of conscience,” and “no more

<sup>98</sup> Twitter account of Ismarío Rodríguez Pérez (@IsmarioRodriguez). [September 16, 2022](#); Radio Televisión Martí. September 18, 2022. [Another journalist in Cuba threatened with jail for ‘spreading pernicious and counterrevolutionary information’](#) [in Spanish].

<sup>99</sup> Twitter account of Proyecto Inventario (@invntario). [June 22, 2022](#); ICLEP. July 4, 2022. [Journalist Boris González fined for the second time under Decree Law 370](#) [in Spanish].

<sup>100</sup> CiberCuba. March 25, 2022. [Journalists and activists besieged by police in Cuba](#) [in Spanish]; CubaNet. July 12, 2022. [Independent journalists remain under police surveillance this July 12](#) [in Spanish]; CiberCuba. September 26, 2022. [State Security prevents independent journalist Boris González Arena from leaving home](#) [in Spanish].

<sup>101</sup> ICLEP. August 8, 2022. [Harassment of independent press continues in Havana](#) [in Spanish]; Facebook account of Camila Acosta. [August 5, 2022](#); Facebook account of Luz Escobar. [August 5, 2022](#).

<sup>102</sup> CiberCuba. March 25, 2022. [Journalists and activists besieged by police in Cuba](#) [in Spanish]; Radio Televisión Martí. March 25, 2022. [Journalists and activists under police siege](#) [in Spanish].

<sup>103</sup> CPJ. April 11, 2022. [Cuban independent journalist Alberto Corzo assaulted after encounter with state security agents](#); 14ymedio. April 4, 2022. [Iclep director accuses State Security of aggression](#) [in Spanish].

<sup>104</sup> Deutsche Welle (DW). July 29, 2022. [Cuba sentences journalist Yuri Valle Roca to 5 years in prison](#) [in Spanish]; CPJ. August 3, 2022. [Cuban journalist Lázaro Yuri Valle Roca sentenced to 5 years in prison](#).

<sup>105</sup> Facebook account of Eraldis Fromenta. [July 29, 2022](#). [Contains the court’s ruling.]

<sup>106</sup> Facebook account of Eraldis Fromenta. [July 29, 2022](#). [Contains the court’s ruling.]

repression, no more dictatorship.”<sup>107</sup> According to public information, the journalist’s health deteriorated in prison and he did not receive adequate medical attention.<sup>108</sup>

89. The systematic harassment, surveillance, and judicial persecution of independent journalists by the authorities often cause them to stop reporting. In 2022, the Rapporteur was informed that journalist Nelson Julio Álvarez Mainata had resigned from his post at the CubaNet portal after various acts of government harassment, including pressure to leave journalism under threat of legal proceedings against him and even subpoenas to his mother. He announced publicly that, since 2019, he has been subjected to “grueling hours of interrogations, arrests, warning letters” and other forms of intimidation, such as the hacking of social networks to “mock his sexuality and gender identity.”<sup>109</sup> Similarly, the digital media elTOQUE publicly stated that at least nine members of its reporting team had resigned “due to direct and indirect pressure from the organs of Cuban State Security.”<sup>110</sup> These included Wimar Verdecia,<sup>111</sup> Aleiny Sánchez Martínez,<sup>112</sup> José Leandro Garbey,<sup>113</sup> Meilin Puertas Borrero,<sup>114</sup> and Mauro Roberto Díaz Vázquez.<sup>115</sup>

90. In addition to the resignation of independent journalists, the Rapporteur observes with deep concern that the forced exile of reporters is the ever-growing response to escalating government repression of the independent press. In 2022, the Rapporteur learned of the departure from Cuba of several journalists, including Orelvis Cabrera, a reporter for CubaNet,<sup>116</sup> who, in 2021, spent 37 days in prison after covering the mass protests that began on July 11, 2021. According to the reporter, pressure from the State increased after October 2021, when he launched the podcast “La Gusanera,” a joint project with CubaNet.<sup>117</sup> Likewise, journalists Esteban Rodríguez and Héctor Luis Valdés Cocho – both beneficiaries of IACHR precautionary measures<sup>118</sup> – were pressured by State Security to leave the country permanently in the first days of this year.<sup>119</sup> In its latest annual report, the RELE issued an alert concerning journalist Esteban Rodríguez, arrested in April 2021 and accused of public disturbance and resistance<sup>120</sup> – one of six representative cases of prisoners of conscience in Cuba, according to Amnesty International.<sup>121</sup> Until January 4, 2022, when he was escorted by State Security agents to the Havana airport, Esteban Rodríguez had been in prison for around eight months awaiting trial, where he was allegedly subjected to cruel, inhumane, and degrading treatment.<sup>122</sup>

<sup>107</sup> Facebook account of Eraldis Fromenta. [July 29, 2022](#). [Contains the court’s ruling.]

<sup>108</sup> Radio Televisión Martí. October 27, 2022. [Wife of Lázaro Yuri Valle Roca demands his release after 488 days in prison](#) [in Spanish].

<sup>109</sup> Facebook account of Nelson Julio Álvarez Mairata. [August 8, 2022](#); CubaNet. August 8, 2022. [CubaNet journalist Nelson J. Álvarez resigns due to State Security harassment](#) [in Spanish].

<sup>110</sup> elTOQUE. August 31, 2022. [Editorial: ‘The night will not last forever’](#) [in Spanish].

<sup>111</sup> ICLEP. September 12, 2022. [El Toque’s humor supplement closes following editor’s resignation](#) [in Spanish]; Twitter account of Wilmar Verdecia Fuentes (@Wimar Verdecia Fuentes). [September 8, 2022](#).

<sup>112</sup> Facebook account of Aleiny Sánchez Martínez. [August 30, 2022](#); LatAm Journalism Review. September 29, 2022. [Wave of journalist resignations in Cuba due to State Security harassment](#).

<sup>113</sup> Facebook account of José Leandro Garbey. [August 28, 2022](#).

<sup>114</sup> Facebook account of Meilin Puertas Borrero. [August 29, 2022](#); CiberCuba. August 29, 2022. [Another El Toque journalist resigns due to harassment by State Security](#) [in Spanish].

<sup>115</sup> Facebook account of Mauro Roberto Díaz Vázquez. [August 30, 2022](#); CiberCuba. August 30, 2022. [Independent journalist resigns under pressure from State Security](#) [in Spanish].

<sup>116</sup> Radio Televisión Martí. January 3, 2021. [Independent journalist Orelvis Cabrera leaves Cuba](#) [in Spanish]; *Diario de Cuba*. April 6, 2022. [Cuban independent journalist arrives in the U.S. after eventful journey](#) [in Spanish].

<sup>117</sup> 14ymedio. January 3, 2022. [Following threats from State Security, Cuban journalist Orelvis Cabrera traveled to Russia](#) [in Spanish].

<sup>118</sup> IACHR. February 11, 2021. [Resolution 14/2021](#). Precautionary Measure No. 1101-20. Twenty identified members of the San Isidro Movement (MSI) regarding Cuba; IACHR. December 1, 2021. [Resolution 100/2021](#). Precautionary Measure No. 705-21. Héctor Luis Valdés Cocho and “X” regarding Cuba.

<sup>119</sup> *ABC Internacional*. January 30, 2022. [Forced exile to silence dissent inside Cuba](#) [in Spanish]; 14ymedio. January 5, 2022. [Cuban journalists Esteban Rodríguez and Héctor Luis Valdés admitted to El Salvador](#) [in Spanish]; ADN Cuba. January 5, 2022. [ADN Cuba reporters stranded in El Salvador after forced exile from Castro regime](#) [in Spanish].

<sup>120</sup> IACHR. *Annual Report 2021*. [Report of the Office of the Special Rapporteur for Freedom of Expression](#), par. 309.

<sup>121</sup> IACHR. *Annual Report 2021*. [Report of the Office of the Special Rapporteur for Freedom of Expression](#), par. 314.

<sup>122</sup> 14ymedio. January 5, 2022. [The last Calle Obispo detainee, Esteban Rodríguez, leaves Cuba ‘fleeing terror’](#) [in Spanish]; *ABC Internacional*. January 30, 2022. [Forced exile to silence dissent inside Cuba](#) [in Spanish]; IAPA. April 9-22, 2022. [Report to the mid-year meeting](#) [in Spanish].

91. This year the Rapporteur learned of the forced exile of independent journalist Ricardo Fernández Izaguirre, said to have left the country with his family after continual threats from the police.<sup>123</sup> The reporter said the police had given him “the ultimatum that he leave the country within a month.”<sup>124</sup> Fernández Izaguirre has been threatened and imprisoned several times in Cuba for his work.<sup>125</sup> Thus, for example, in its 2019 Annual Report, the RELE drew attention to his 29-hour detention in a cell in “Villa María Luisa,” in the city of Camagüey, after he responded to a police summons.<sup>126</sup>

92. The RELE reaffirms that journalism is the primary manifestation of freedom of expression, since journalists and the media keep society informed about matters of public interest and contribute to ample, robust, and pluralist public discussion.<sup>127</sup> For this reason, states have the obligation to create conditions under which journalists can work freely, independently, and safely.<sup>128</sup>

93. According to Principle 9 of the IACHR’s Declaration of Principles on Freedom of Expression, intimidation and threats targeting reporters violate people’s fundamental rights and severely inhibit freedom of expression.<sup>129</sup> The IACHR and its Special Rapporteur have found that such actions are intended to restrict or hinder journalists’ investigations into violations, abuses, irregularities, and crimes of all kinds, whether perpetrated by government officials or by individuals.<sup>130</sup> They are intended as a frightening message to all those in civil society who investigate irregularities in public administration.<sup>131</sup> The RELE has also maintained that this practice “seeks that the press, as a control mechanism, remain silent,” preventing society from being informed about events of public interest.<sup>132</sup>

94. As the Special Rapporteurs for Freedom of Expression maintained in their 2013 Joint Declaration, the State “has the duty to ensure that journalists and media workers ... are not arrested, threatened, assaulted, or limited in any manner in their rights as a result of practicing their profession.”<sup>133</sup> For all these reasons, the Special Rapporteur considers it imperative that the State of Cuba refrain from engaging in threats, intimidation, and criminalization; and that it guarantee exercise of the right to press freedom not only through formal and material law, but also by implementing measures to prevent, protect against, and investigate attacks against journalists and the media.

## 2. Freedom of expression, rule of law, and democratic institutions

95. As noted in the preceding sections, one year after the mass protests that began on July 11, 2021, in Cuba, a great number of demonstrators remain in prison for exercising their right to free expression. In 2022, the Special Rapporteur observes continuing State repression against those who publicly demonstrate against the Government, intended to restrict, and discourage citizen participation in civil and political matters.

<sup>123</sup> 14ymedio. September 1, 2022. [Journalist Ricardo Fernández and his family seek asylum in Germany](#) [in Spanish]; *Diario de Cuba*. September 2, 2022. [Black week for the press in Cuba: Journalist Ricardo Fernández goes into exile in Germany under pressure from the regime](#) [in Spanish].

<sup>124</sup> 14ymedio. September 1, 2022. [Journalist Ricardo Fernández and his family seek asylum in Germany](#) [in Spanish]; *Diario de Cuba*. September 9, 2022. [‘Pressure and blackmail’ from the political police lead to the closure of the Cuban graphic humor supplement Xel2](#) [in Spanish].

<sup>125</sup> CiberCuba. July 15, 2019. [Independent journalist Ricardo Fernández Izaguirre reported missing in Havana](#) [in Spanish]; CiberCuba. November 13, 2019. [Cuba jails independent journalist Ricardo Fernández Izaguirre](#) [in Spanish]; Radio Televisión Martí. February 18, 2020. [I am forbidden to leave my country, where I live and of which I am a citizen](#) [in Spanish].

<sup>126</sup> IACHR. *Annual Report 2019*. [Report of the Office of the Special Rapporteur for Freedom of Expression](#), par. 437.

<sup>127</sup> I/A Court H. R. [Compulsory Membership in an Association of Journalists \(Arts. 13 and 29 American Convention on Human Rights\)](#), Advisory Opinion OC-5/85 of November 13, 1985, par. 71; IACHR. Undated. [Background and Interpretation of the Declaration of Principles](#).

<sup>128</sup> IACHR. [The Inter-American Legal Framework regarding the Right to Freedom of Expression](#). OEA/Ser.L/V/II CIDH/RELE/INF. 2/09. December 30, 2009, par. 8 and pars. 165 et seq.

<sup>129</sup> IACHR. October 20, 2000. [Declaration of Principles on Freedom of Expression](#).

<sup>130</sup> IACHR. Undated. [Background and Interpretation of the Declaration of Principles](#).

<sup>131</sup> IACHR. Undated. [Background and Interpretation of the Declaration of Principles](#).

<sup>132</sup> IACHR. Undated. [Background and Interpretation of the Declaration of Principles](#).

<sup>133</sup> United Nations Special Rapporteur on the Protection and Promotion of the Right to Freedom of Opinion and Expression and IACHR Special Rapporteur for Freedom of Expression. [Joint declaration on violence against journalists and media workers in the context of protests](#). September 13, 2013.

96. On the other hand, the Rapporteur calls attention to the adoption of new norms that restrict the right to freed expression in Cuba, in contravention of international human rights standards. When examined together with the current regulations on which the Rapporteur has already spoken and the challenges to democratic institutions in Cuba, the new criminal laws that entered into force in 2022 solidify a coercive legal system that represses freedom of expression, assembly, and association.

97. On May 15, 2022, the National Assembly adopted a new Criminal Code aimed at “modernizing” criminal law and adapting it to the 2019 Constitution.<sup>134</sup> In this regard, the IACHR and the Special Rapporteur expressed concern over newly-defined offenses that could be cited to criminalize the legitimate exercise of freedom of expression, assembly, and association.<sup>135</sup> The Commission and its Special Rapporteur specified that the new text imposes harsher penalties and uses broad, imprecise language to define offenses, such as sedition and crimes against constitutional order.<sup>136</sup> They also expressed concern over the inclusion of a definition that would result in prison for anyone who “supports, encourages, finances, provides, receives, or has in their possession funds, or material or financial resources, to pay for activities contrary to the State and its constitutional order,” which could be used to criminalize journalists and media critical of the Government.<sup>137</sup> Various human rights organizations connected with journalism and freedom of expression expressed concern over the new criminal law.<sup>138</sup> For his part, the president of the Supreme Court, Rubén Remigio Ferro, said that the new regulations “criminalize the actions most serious and harmful to society” and “protect the interests of the State and the people.”<sup>139</sup>

98. Inter-American jurisprudence has established that any curtailment of the exercise of freedom of expression – whether arising from laws or from administrative, judicial, police, or any other type of decision or action – must meet the requirements of legality, legitimate purpose, necessity, and proportionality.<sup>140</sup> Likewise, the Inter-American Court has stated in multiple decisions that any measure to restrict expression that is of public interest or deals with public officials must be subject to a stricter and more demanding examination in order to be valid under the American Convention, since in democratic societies the actions and omissions of the State and its officials are subject to rigorous scrutiny, not only by internal monitoring bodies, but also by the press and public opinion.<sup>141</sup>

99. In the case of Cuba, the Inter-American Commission and its Special Rapporteur have expressed concern for decades over certain criminal definitions, and have warned of the existence of a legal framework that represses and punishes the exercise of freedom of expression.<sup>142</sup> The Office of the Rapporteur reiterates what it stated, in its special report on the situation of freedom of expression in Cuba, i.e., that Cuban law – beginning with the Constitution of the Republic and including norms of a lower rank and a different nature – is in many cases contrary to inter-American standards, insofar as it criminalizes conduct protected by the right to freedom of expression, is incompatible with the principle of legality, and does not meet the requirements of legitimate purpose, necessity, and proportionality.<sup>143</sup>

<sup>134</sup> Office of the Attorney General of the Republic. September 1, 2022. [Official Gazette publishes Criminal Code and Criminal Execution Law](#) [in Spanish]; *Granma*. May 15, 2022. [Cuba has a new Criminal Code, which is modern and reflects its reality](#) [in Spanish].

<sup>135</sup> Twitter account of the IACHR (@CIDH). [May 20, 2022](#).

<sup>136</sup> Twitter account of the IACHR (@CIDH). [May 20, 2022](#).

<sup>137</sup> Twitter account of the IACHR (@CIDH). [May 20, 2022](#).

<sup>138</sup> CPJ. May 17, 2022. [CPJ condemns Cuba's new penal code as a threat to independent media](#); WOLA. July 7, 2022. [Five Concerns About Cuba's New Penal Code](#); LatAm Journalism Review. May 20, 2022. [Reforms to the Cuban Criminal Code intensify the repression against journalism and criminalize foreign financing of independent media](#); Regional Alliance for Free Expression and Information. April 13, 2022. *Draft of Cuba's new Penal Code: Analysis and considerations*. Information sent by email to the Office of the Special Rapporteur.

<sup>139</sup> Deutsche Welle (DW). May 15, 2022. [Cuba toughens Criminal Code to prevent dissent](#) [in Spanish]; Euronews. May 16, 2022. [Amid criticism from dissidents and activists, Cuba reforms criminal code against subversion](#) [in Spanish].

<sup>140</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression, [The Inter-American Legal Framework regarding the Right to Freedom of Expression](#). OEA/Ser.L/V/II CIDH/RELE/INF. 2/09. December 30, 2009, par. 67.

<sup>141</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression, [The Inter-American Legal Framework regarding the Right to Freedom of Expression](#). OEA/Ser.L/V/II CIDH/RELE/INF. 2/09. December 30, 2009, pars. 33 et seq.

<sup>142</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression, [Special Report on the Situation of Freedom of Expression in Cuba](#). OEA/SER.L/V/II CIDH/RELE/INF. 21/18. December 31, 2018, par. 51.

<sup>143</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression, [Special Report on the Situation of Freedom of Expression in Cuba](#). OEA/SER.L/V/II CIDH/RELE/INF. 21/18. December 31, 2018, par. 51.

100. Violations of the right to freedom of expression in Cuba not only arise from, and are embodied in, formal law, but also originate in the unnecessary and disproportionate application of these laws by the Judiciary. In 2022, the RELE recorded several convictions of persons for reasons linked to the exercise of freedom of expression.

101. Among other cases registered by the Special Rapporteur, in June, the People's Municipal Court of Central Havana sentenced artists Luis Manuel Otero Alcántara and Maykel Castillo Pérez to five and nine years in prison, respectively.<sup>144</sup> Luis Manuel Otero Alcántara, leader of the San Isidro Movement (MSI), was convicted of insulting the symbols of the homeland, contempt, and public disturbance, in relation to performance art in which he appeared in public dressed in a Cuban flag. The Court based its decision on the existence of an "express intent, sustained over time, to insult the national flag by publishing photos on social networks where it is used in denigrating ways, accompanied by conspicuously offensive and disrespectful expressions, belittling the feelings of nationality and pride that the Cuban people profess toward our homeland."<sup>145</sup> During the trial, the Attorney General's Office argued that Luis Manuel Otero made "contemptuous" use of the flag, "employing it repeatedly as a towel, lying down with it on the sand, using it as a sheet, and covering himself with it while sitting on the toilet."<sup>146</sup>

102. The Court found Maykel Castillo Pérez guilty of contempt, assault, public disturbance, and defamation of institutions and organizations, heroes, and martyrs. The judges ruled that "with the manifest aim of insulting and attacking the honor and dignity of the country's highest officials, he used digitally manipulated false images of them, which he published on social networks; and to the same end he issued direct expressions on his personal profile to dishonor the role of law enforcement agents in society, which compromised social and collective coexistence and constituted an affront to them."<sup>147</sup>

103. The RELE was informed of a new conviction of the activist Aymara Nieto Muñoz, member of the Ladies in White and the UNPACU, who has been serving a five-year prison sentence since May 2018.<sup>148</sup> In February 2022, the Provincial Court of Havana sentenced Aymara Nieto to another five years and four months for the crime of public disturbance at a penitentiary center. According to reports, the activist was accused of being one of the organizers of a riot in 2020 at the Western Women's Penitentiary Center, in El Guatao, where she was being held at the time.<sup>149</sup> Reports indicate that due process guarantees were violated during the trial and her participation in the commission of such a crime had not been proven.<sup>150</sup> They also indicate that Aymara Nieto has been in a disciplinary cell since February 25 of this year and not allowed to telephone her family.<sup>151</sup> According to public information, in September, the People's Supreme Court denied an appeal filed in her favor.<sup>152</sup>

<sup>144</sup> Amnesty International. June 24, 2022. [Cuba: Amnesty International condemns sentences of Luis Manuel Otero Alcántara and Maykel "Osorbo" Castillo](#); ABC Internacional. June 24, 2022. [Cuban regime sentences artist Otero Alcántara to 5 years in prison and rapper Osorbo to 9 years](#) [in Spanish]; France 24. June 24, 2022. [Prison sentences for artists who participated in antigovernment protests in Cuba](#) [in Spanish].

<sup>145</sup> Office of the Attorney General of the Republic. June 24, 2022. [Information from the Office of the Attorney General of the Republic on the criminal proceedings brought against Luis Manuel Otero Alcántara, Maikel Castillo Pérez, Félix Roque Delgado, Juslid Justiz Lazo, and Reina Sierra Duvergel](#) [in Spanish].

<sup>146</sup> Office of the Attorney General of the Republic. June 27, 2022. [Neither political prisoners nor prisoners of conscience: a trial for common crimes](#) [in Spanish].

<sup>147</sup> Office of the Attorney General of the Republic. June 24, 2022. [Information from the Office of the Attorney General of the Republic on the criminal proceedings brought against Luis Manuel Otero Alcántara, Maikel Castillo Pérez, Félix Roque Delgado, Juslid Justiz Lazo, and Reina Sierra Duvergel](#) [in Spanish].

<sup>148</sup> Cubanos Libres en Uruguay. May 5, 2022. Situation of Cuban citizen Aymara Nieto Muñoz. Information sent by email to the Office of the Special Rapporteur.

<sup>149</sup> Cubanos Libres en Uruguay. May 5, 2022. Situation of Cuban citizen Aymara Nieto Muñoz. Information sent by email to the Office of the Special Rapporteur.

<sup>150</sup> Cubanos Libres en Uruguay. May 5, 2022. Situation of Cuban citizen Aymara Nieto Muñoz. Information sent by email to the Office of the Special Rapporteur.

<sup>151</sup> Cubanos Libres en Uruguay. May 5, 2022. Situation of Cuban citizen Aymara Nieto Muñoz. Information sent by email to the Office of the Special Rapporteur.

<sup>152</sup> Radio Televisión Martí. September 7, 2022. [Aymara Nieto's cassation appeal dismissed: prison sentence of more than 5 years handed down](#) [in Spanish]; *Diario de Cuba*. September 8, 2022. [Cuban regime ratifies five-year prison sentence for Cuban opposition leader Aymara Nieto](#) [in Spanish].

104. The IACHR and the Inter-American Court have stated that criminal law is the most restrictive and severe means of establishing responsibility for conduct involving the right to freedom of expression, particularly when custodial sentences are imposed,<sup>153</sup> and that its use to punish speech of public interest is incompatible with inter-American standards.<sup>154</sup> In this regard, the Special Rapporteur reaffirms that curtailing debate through criminal law has such serious effects on democratic oversight that, when used unnecessarily and disproportionately, it leads to abuse of the State's punitive power.<sup>155</sup>

### 3. Freedom of expression and the fight against discrimination and exclusion

105. As the Office of the Special Rapporteur noted in its most recent annual report, women are particularly affected by restrictions on freedom of expression in Cuba.<sup>156</sup> These restrictions involve, on the one hand, harassment and government pressure, which impel many of them to leave the profession and go into exile<sup>157</sup>; and, on the other hand, involve failure by the State to guarantee labor rights—a problem that affects citizens in general, but especially women.<sup>158</sup>

106. A report published by the organization Article 19 in January 2022 says that, among various strategies used by the Government of Cuba to “frighten, silence, and expel” women journalists, activists, human rights defenders, and artists in the public forum, the “favored method” is house arrest.<sup>159</sup> This is because “it affects them not only professionally but also in the family environment” by making it difficult or impossible for them to perform the care tasks for which they usually handle.<sup>160</sup> The report also mentions that many legal regulations are used repeatedly by State Security to threaten women journalists and the wives of journalists, activists, and artists, “using minors as an instrument of blackmail to achieve their mission and display their domination of women.”<sup>161</sup> In this regard, the IACHR emphasizes that children and adolescents have the right to be cared for by their parents on equal terms, and to grow and develop in their families, regardless of the makeup of those families, without arbitrary or illegitimate interference by any public or private actor.<sup>162</sup>

107. Similarly, discreditation campaigns have a special impact when women journalists are involved, insofar as they are stigmatized not only for their profession, as a way to undermine their credibility, but also for being women. Such attacks not only prompt self-censorship, but also – according to some of them – affect their mental and physical health.<sup>163</sup>

108. On the other hand, Cuban women journalists have reported on the precarity of employment in Cuba and the special impact this problem has on women.<sup>164</sup> They have denounced the failure to safeguard labor rights, for example, with regard to maternity leave and retirement.<sup>165</sup> The Rapporteur observes that these

<sup>153</sup> I/A Court H. R. [Case of Usón Ramírez v. Venezuela](#). Preliminary Objection, Merits, Reparations, and Costs. Judgment of November 20, 2009. Series C No. 207, par. 55.

<sup>154</sup> I/A Court H. R. [Case of Álvarez Ramos v. Venezuela](#). Preliminary Objection, Merits, Reparations, and Costs. Judgment of August 30, 2019. Series C No. 380, par. 121.

<sup>155</sup> I/A Court H. R. [Case of Tristán Donoso v. Panama](#). Preliminary Objection, Merits, Reparations, and Costs. Judgment of January 27, 2009. Series C No. 193, par. 119.

<sup>156</sup> IACHR. *Annual Report 2021*. [Report of the Office of the Special Rapporteur for Freedom of Expression](#), par. 323.

<sup>157</sup> ARTICLE 19, Office for Mexico and Central America. January 18, 2022. *Paper Democracy*, pp. 26 and 27; International Journalists' Network. October 3, 2022. [Straight to exile: the survival of independent journalists under Cuban totalitarianism](#) [in Spanish].

<sup>158</sup> IACHR. August 24, 2022. [IACHR and its Special Rapporteurship on Economic, Social, Cultural, and Environmental Rights concerned about precarious working conditions and lack of trade-union rights in Cuba](#). Press Release 185/22; IACHR. June 6, 2022. [IACHR and its Special Rapporteurship on Economic, Social, Cultural, and Environmental Rights concerned about socioeconomic conditions in Cuba and their effect on the rights of women and other groups](#). Press Release 127/22.

<sup>159</sup> ARTICLE 19, Office for Mexico and Central America. January 18, 2022. *Paper Democracy*, p. 26.

<sup>160</sup> ARTICLE 19, Office for Mexico and Central America. January 18, 2022. *Paper Democracy*, p. 26.

<sup>161</sup> ARTICLE 19, Office for Mexico and Central America. January 18, 2022. *Paper Democracy*, p. 26.

<sup>162</sup> IACHR, [The right of girls and boys to a family. Alternative care. Ending institutionalization in the Americas](#), OEA/Ser.L/V/II. Doc. 54/13, October 17, 2013, par. 54.

<sup>163</sup> ARTICLE 19, Office for Mexico and Central America. January 18, 2022. *Paper Democracy*, pp. 27.

<sup>164</sup> elDiarioAR. February 12, 2022. [Casa Palanca: An initiative to shelter women journalists in Cuba](#) [in Spanish]; elToque. January 28, 2022. [Casa Palanca: A safe space for women journalists in Cuba](#) [in Spanish].

<sup>165</sup> elDiarioAR. February 12, 2022. [Casa Palanca: An initiative to shelter women journalists in Cuba](#) [in Spanish]; elToque. January 28, 2022. [Casa Palanca: A safe space for women journalists in Cuba](#) [in Spanish].

obstacles, together with the aforementioned governmental pressures, strongly inhibit and censor women, excluding them from independent journalism and, consequently, from public debate.

109. In this context, in 2022 a group of 20 women journalists –inside and outside Cuba – launched a project to build a shelter for women journalists and communicators in Havana as “a space for bonding, protection, and emotional and psychological support.”<sup>166</sup> To do this, at the beginning of the year they began a fundraising campaign to establish “Casa Palanca,” which they describe as a safe place “of work, shelter, and leisure for all women linked to the world of journalism.”<sup>167</sup> In their proposal, the founders said that “being an independent journalist in Cuba is a risky job” and, for women, the difficulties are compounded by the mere fact that they are women. In addition, they point out that “the lack of institutional protection of women from any type of sexist violence, including political violence, is total, there are no adequate shelters or support processes to address cases of violence” and “the piling of all care tasks onto women, in an increasingly impoverished country, hinders their personal and professional development.”

110. In its report on Women Journalists and Freedom of Expression, the Office of the Special Rapporteur stressed that women journalists and media workers face specific additional risks in exercising their profession because of their gender and other intersecting factors of discrimination.<sup>168</sup> The report stated that “social norms and gender stereotypes still present an enormous challenge to the ability of women to begin, and pursue, a career in journalism on equal terms with men” and that “perceptions persist [...] that journalism is not an ‘appropriate’ profession for women, resulting in sometimes severe social pressure not to enter the profession, or to leave it.”<sup>169</sup> The Rapporteur also noted that, in this context, “women journalists and media workers are also affected by inflexible working hours, limited or no access to affordable quality childcare, poor parental leave policies.”<sup>170</sup>

111. In accordance with that report, the RELE reiterates that women journalists have the right to practice journalism free from discrimination and gender-based violence; and that “legal and policy measures to achieve this goal should form part of the broader framework of strategies aimed at guaranteeing the right to freedom of expression”<sup>171</sup> and involve not only the action of States, but also the cooperation of the media, online platforms, civil society, and all other stakeholders.<sup>172</sup>

## **E. Situation of economic, social, cultural, and environmental rights**

112. Under the various available mechanisms, the Inter-American Commission on Human Rights (IACHR), through the Office of the Special Rapporteur on Economic, Social, Cultural, and Environmental Rights (ESCER), has been constantly monitoring the situation of economic, social, cultural, and environmental rights (ESCER) in Cuba. In general terms, the IACHR and the SRESCER warn of worsening conditions for the exercise and protection of ESCERs in the country. This was the focus of the peaceful social protests that took place on July 11, 2021 (hereinafter, “11J Protests”).

113. According to information gathered, the protests continued in 2022 throughout the country, with September witnessing the highest number of demonstrations on ESCER issues--a total of 137

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<sup>166</sup>Verkami. Undated. [#CasaPalanca: Community of women journalists in Cuba](#); LatAm Journalism Review. January 19, 2022. [Activist collective in Cuba raises funds to provide shelter and protection to harassed women journalists](#).

<sup>167</sup>Verkami. Undated. [#CasaPalanca: Community of women journalists in Cuba](#); International Journalists' Network. October 3, 2022. [Straight to exile: the survival of independent journalists under Cuban totalitarianism](#) [in Spanish].

<sup>168</sup>IACHR. Office of the Special Rapporteur for Freedom of Expression, [Women Journalists and Freedom of Expression](#), OEA/SER.L/V/II CIDH/RELE/INF. 20/18. October 31, 2018, par. 163.

<sup>169</sup>IACHR. Office of the Special Rapporteur for Freedom of Expression, [Women Journalists and Freedom of Expression](#), OEA/SER.L/V/II CIDH/RELE/INF. 20/18. October 31, 2018, par. 16.

<sup>170</sup>IACHR. Office of the Special Rapporteur for Freedom of Expression, [Women Journalists and Freedom of Expression](#), OEA/SER.L/V/II CIDH/RELE/INF. 20/18. October 31, 2018, par. 21.

<sup>171</sup>IACHR. Office of the Special Rapporteur for Freedom of Expression, [Women Journalists and Freedom of Expression](#), OEA/SER.L/V/II CIDH/RELE/INF. 20/18. October 31, 2018, par. 165.

<sup>172</sup>IACHR. Office of the Special Rapporteur for Freedom of Expression, [Women Journalists and Freedom of Expression](#), OEA/SER.L/V/II CIDH/RELE/INF. 20/18. October 31, 2018, par. 165.

mobilizations--following the same trend as previous months.<sup>173</sup> The Commission and the SRESCER note that the main demands are linked to the worsening socioeconomic situation; the exponential increase in poverty; the deterioration of essential public services; the energy crisis; shortages of food, basic necessities, medicines, and medical supplies; restrictions on professional freedom of choice; and violations of fundamental labor rights.

114. Consequently, there is a worrisome generalized increase in rates of poverty and extreme poverty, while the country faces an economic crisis stemming from high inflation that shrinks the purchasing power of local currency and, therefore, the ability to buy basic supplies.<sup>174</sup> According to information published by the Cuban Observatory of Human Rights, 72% of Cubans live below the poverty line; that is, they have less than US\$1.90 per day – an international threshold used by the World Bank – for personal sustenance.<sup>175</sup>

115. Poverty and growing inequality have been heightened by national government restrictions implemented to deal with the COVID-19 pandemic health crisis. The Economic Commission for Latin America and the Caribbean (ECLAC) has stated that the contraction affected all countries in the region, but in diverse ways--in Cuba, a drop of over 10% in the per capita GDP.<sup>176</sup>

116. Moreover, the Commission and the SRESCER have been informed of increasingly frequent power cuts, deteriorating housing conditions, and the declining supply and quality of drinking water. Electrical blackouts have worsened over recent months in several areas of the country because of deficits in public energy supply and the damage caused by Hurricane Ian in September, which brought about the total collapse of the National Energy System.<sup>177</sup> According to reports, 72% of households experience recurring outages and only 3% receive continuous service.<sup>178</sup> This has brought growing social dissatisfaction, expressed in increasing street protests and *cacerolazos* (banging of pots and pans as a form of protest), both in the capital and in different cities of the interior, to demand better basic services.<sup>179</sup> The IACHR and the SRESCER note that constant power interruptions are seriously affecting Cuban daily life and also have impacts on other ESCERs, such as equal access to food suitable for consumption, proper health care, and education.

117. Likewise, the Commission and the SRESCER observe with concern the precarity of housing in Cuba. They note the scarcity of housing units and the low level of execution of planned construction to narrow social gaps. In this context, the Cuban Ministry of Construction (Micons) acknowledged having completed only 42% of the homes it planned to build in 2021 and 41% of the planned upgrades, that is, only 18,645 of the nearly 44,400 homes planned by the State were completed, and 14,245 were upgraded, when the plan called for some 34,745.<sup>180</sup> Many homeless people and families were thus forced to choose state transitional shelters with allegedly unacceptable living conditions, or to occupy empty or unused buildings to stay off the street.<sup>181</sup>

118. The housing crisis in Cuba is especially alarming in view of the climate emergency and the island's geographic vulnerability. The rainy season and the impact of extreme weather events reveal a lack of infrastructure maintenance and of public policies or building plans to meet the overall housing demand. The Commission and the SRESCER have received reports of collapses and losses of roofs, balconies, and facades in

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<sup>173</sup> Cuban Conflict Observatory, [Cuba: 364 protests in September. Cuba: more than 4 million Cubans reject socialism at the polls and thousands in the streets](#) [in Spanish], October 3, 2022.

<sup>174</sup> *Diario de Cuba*, [Inflation in Cuba breaks the 200% barrier and remains out of control](#) [in Spanish], October 3, 2022.

<sup>175</sup> Cuban Human Rights Observatory, [Fifth Report on the state of social rights in Cuba](#), October 20, 2022.

<sup>176</sup> Economic Commission for Latin America and the Caribbean (ECLAC), [Preliminary Overview of the Economies of Latin America and the Caribbean, 2021](#) (LC/PUB.2022/1-P), Santiago, 2022.

<sup>177</sup> BBC, [Why there are more and more blackouts in Cuba and how an entire neighborhood took to the streets to protest](#) [in Spanish], July 16, 2022; Infobae, [Protests continue in Cuba over the blackouts that remain unsolved after days: much of the country without electricity, water, or internet](#) [in Spanish], September 30, 2022.

<sup>178</sup> Cuban Human Rights Observatory, [Fifth Report on the state of social rights in Cuba](#), October 20, 2022.

<sup>179</sup> *El País*, [Social unrest grows in Cuba after blackout caused by Hurricane Ian](#) [in Spanish], September 30, 2022.

<sup>180</sup> *Periódico Cubano*, [Authorities acknowledge 42% noncompliance with 2021 home building plan](#) [in Spanish], March 18, 2022.

<sup>181</sup> Cuban Conflict Observatory, [Cuba: 263 protests in July: 1.713 in the first half of the year: 3.266 since July 11](#) [in Spanish], August 1, 2022.

hurricane seasons,<sup>182</sup> in addition to the devastation wrought by Hurricane Ian, with at least five people dead, thousands evacuated, widespread and simultaneous blackouts, and over 100,000 homes damaged in Pinar de Río alone—nearly 60% of all households in the westernmost province of Cuba.<sup>183</sup>

119. As for the availability of drinking water, the Commission and the SRESCER stress that the situation remains especially worrisome, having learned that around 15% of Cuban households are not receiving potable water.<sup>184</sup> Through the end of 2021, only 18% of the Cuban population reportedly had round-the-clock water supply.<sup>185</sup>

120. There is persisting concern, moreover, about the precarious, scarce supply of essential foods on the island, which is becoming a chronic, structural problem.<sup>186</sup> The scarcity of these products has caused their prices to soar, both in freely convertible currency shops and on the informal market, making them inaccessible to a large part of the Cuban population affected by inflation.<sup>187</sup> There are still long queues at shop doors for food and basic supplies.<sup>188</sup> On the other hand, in line with their previous pronouncements, the IACHR and SRESCER reiterate their concern about the persistence of the economic blockade imposed on Cuba by the United States of America and the importance of its end to guarantee the human rights that are seen affected by it.<sup>189</sup> In particular, the Commission and its SRESCER observe that this external circumstance limits the capacity of the State to achieve the progressive development of social and economic rights in the country, including the right to food for its population. Likewise, in section IV.B of this report, the IACHR details its analysis of the blockade of Cuba.

121. The Commission and the SRESCER welcome the efforts of the Cuban regime to implement a national food sovereignty plan establishing a legal framework to guarantee full food and nutritional security to its population.<sup>190</sup> However, it notes with concern that this measure will be insufficient to correct problems of ongoing critical malnutrition and ever-fewer meals in a great many Cuban households, which disproportionately affect those most vulnerable.<sup>191</sup> According to a survey published by the Cuban Observatory of Human Rights, family nutrition remains poor, most of the population eats only two meals, if that, each day, and this trend has worsened over previous years.<sup>192</sup>

122. In terms of health, the IACHR and the SRESCER consider the medicine shortage a vital concern that must be addressed with the utmost urgency by state authorities, since it has become more acute than in previous years.<sup>193</sup> According to official media, through May 2022, only 59% of the basic catalog of medicines intended for the public health system had been produced.<sup>194</sup> Likewise, eight of 10 Cubans needing medicines have been unable to get them in pharmacies because of the shortage, or have found them, but by other means.<sup>195</sup> In many cases, the shortages lead to more acute disease, since many people have no choice but to use expired medicines to treat their ailments or pay high prices on the informal market for health items and basic necessities.<sup>196</sup>

<sup>182</sup> AP News, [Rains reveal housing vulnerability in Cuba](#) [in Spanish], June 22, 2022.

<sup>183</sup> DW, [Ian leaves five dead and more than 100,000 homes damaged in Cuba](#) [in Spanish], October 2, 2022; Agencia EFE, [Cuba left without electricity following breakdown related to Hurricane Ian](#) [in Spanish], September 27, 2022.

<sup>184</sup> Cuban Human Rights Observatory, [Fifth Report on the state of social rights in Cuba](#), October 20, 2022.

<sup>185</sup> Cuban Human Rights Observatory, [The State of Social Rights in Cuba](#), October 20, 2021.

<sup>186</sup> Radio Televisión Martí, [Food shortages hit bottom in Cuba: "People are crazy with hunger"](#) [in Spanish], April 18, 2022.

<sup>187</sup> Radio Televisión Martí, [Buying food and medicines 'a luxury' in the midst of the crisis. Cubans say](#) [in Spanish], March 22, 2022.

<sup>188</sup> CiberCuba, [Odyssey to buy food in Havana: "Two days without sleep and no certainty of anything"](#) [in Spanish], May 23, 2022.

<sup>189</sup> IACHR, [Report on the Situation of Human Rights in Cuba](#), February 3, 2020, parr. 49.

<sup>190</sup> Official Gazette of the Republic of Cuba, Law No. 148, [Law on Food Sovereignty and Food and Nutritional Security](#), July 2022.

<sup>191</sup> IACHR, Hearing on the [Human rights situation of vulnerable groups in Cuba](#), 183rd Period of Sessions. Held on March 15, 2022.

<sup>192</sup> Cuban Human Rights Observatory, [Fifth Report on the state of social rights in Cuba](#), October 20, 2022.

<sup>193</sup> Radio Televisión Martí, [Cuba admits the medicines crisis is worse than 2021](#) [in Spanish], September 15, 2022.

<sup>194</sup> *Granma*, [Only 59% of an adjusted basic drug basket is produced](#) [in Spanish], May 14, 2022.

<sup>195</sup> Cuban Human Rights Observatory, [Fifth Report on the state of social rights in Cuba](#), October 20, 2022.

<sup>196</sup> Cuban Human Rights Observatory, [The State of Social Rights in Cuba](#), September 26, 2021.

123. While continuing to monitor the consequences of COVID-19, the curve of contagion, and the availability of vaccines, the IACHR and the SRESCER are following with special attention the sustained increase in dengue fever cases over recent months in several provinces.<sup>197</sup> They have learned of a large number of documented outbreaks, which, by July 2022, had increased by 21.7% compared to the same period in the previous year.<sup>198</sup> The Commission and the SRESCER also note faulty building and health conditions at hospital centers and a lack of medical supplies, drugs, and ambulances for proper care of those infected by the virus.<sup>199</sup>

124. Also of extreme concern to the Commission and the SRESCER are the prison conditions and health situations of persons incarcerated as a result of the 11J protests.<sup>200</sup> The IACHR has issued precautionary measures in favor of demonstrators, in which it has expressed concern over their health in view of the lack of medical care.<sup>201</sup> Along these lines, a report published by the civil society organization Cubalex gives an account of various violations of the fundamental rights of incarcerated persons, which are clear affronts to their dignity.<sup>202</sup> The publication reports overcrowding, unsanitary conditions, insufficient food, lack of medicines and supplies, and denial of medical care, as well as coercive practices in retaliation for complaints or hunger strikes, especially targeting the most vulnerable, such as human rights defenders, women, children and adolescents, members of the LGBTI community, people of African descent, and elder adults.

125. As for the protection and safeguarding of labor and trade union rights on the island, of particular concern is the absence of official state data on the formal and informal labor market or disaggregated official statistics to allow better understanding of the situation of workers, especially historically invisible people and groups, such as women, LGBTI persons, persons of African descent, or the rural population, and particularly in view of the country's unique socioeconomic context.<sup>203</sup>

126. According to reports from civil society organizations, the scenario includes clear obstacles to, and systematic violations of, labor-related human rights, such as deteriorating working conditions and fewer decent, dignified jobs; increasing informal labor, which affects women differently; persisting discriminatory gender stereotypes, with women as the foremost providers of care and housekeeping, deepening and perpetuating the existing gender gap; structural and institutional discrimination towards certain groups – such as the Afro-Cuban population, LGBTI persons, persons with disabilities, and the rural population – who face serious difficulties in finding employment; lack of freedom of expression in the workplace, which leads to discriminatory conduct; disciplinary punishments, expulsions, and even unjustified dismissals for political reasons; persecution and harassment of workers who express views that differ from those of the Cuban regime; and noncompliance by the State and the private sector – as in the tourism industry – with existing international and inter-American standards on business and human rights.<sup>204</sup>

127. In that sense, the IACHR and the SRESCER emphasize the need for proper guarantees of, and respect for, labor rights in Cuba, especially for workers belonging to the various social groups that face vulnerability or historical discrimination. According to the Compendium on Labor and Trade Union Rights, the State must fully guarantee these rights, equally and without discrimination, this being a keyway to eradicate poverty and extreme poverty and ensure the autonomy and empowerment of women and other population groups.<sup>205</sup>

<sup>197</sup> Ministry of Public Health of Cuba, [Dengue demands accelerated action in all scenarios](#) [in Spanish], September 19, 2022.

<sup>198</sup> *Granma*, [Steps taken to curb increase in dengue transmission in the country](#) [in Spanish], July 7, 2022.

<sup>199</sup> CubaNet, [Ambrosio Grillo Hospital in Santiago de Cuba overloaded by dengue](#) [in Spanish], October 1, 2022.

<sup>200</sup> IACHR, Press Release 31/2022, [IACHR expresses concern over ongoing detention and prosecution of people who took part in protests in Cuba](#), February 16, 2022.

<sup>201</sup> IACHR, Press Release 152/2022, [IACHR grants precautionary measures in favor of Walnier Luis Aguilar Rivera and Ibrahim Domínguez Aguilar in Cuba](#), July 9, 2022; IACHR, Press Release 172/2022, [IACHR grants precautionary measures in favor of Félix Navarro Rodríguez, found to be in poor health and bad conditions of detention in Cuba](#), July 29, 2022; IACHR, Press Release 178/2022, [IACHR grants precautionary measures in favor of Luis Robles Elizástegui in Cuba](#), August 10, 2022.

<sup>202</sup> Cubalex, Report: [One year without justice: Patterns of state violence against 11J protesters](#), July 2022.

<sup>203</sup> IACHR, Press Release 185/2022, [IACHR and its Special Rapporteurship on Economic, Social, Cultural, and Environmental Rights concerned about precarious working conditions and lack of trade-union rights in Cuba](#), August 24, 2022.

<sup>204</sup> IACHR, Hearing on the [Situation of labor and union rights in Cuba](#), 184th Period of Sessions. Held on June 23, 2022.

<sup>205</sup> IACHR, [Compendium on Labor and Trade Union Rights](#), October 30, 2020, par. 45.

128. The IACHR and the SRESCER have also been informed of a lack of guarantees for exercising trade-union rights and the right to free association. Indeed, the enjoyment of collective labor rights is said to be nonexistent in Cuba, given the politicization and monopoly exercised by the only trade union center in the country, which is said to be controlled by the State – the Central de Trabajadores Cubanos or CTC. This reportedly has led to repression of those who disagree with official unions and seek to freely join independent trade unions; they are attacked, harassed, and persecuted – through arrests, assaults, and dismissals, among other acts of discrimination and anti-union interference – as evidenced in active case no. 3271 before the ILO Committee on Freedom of Association.<sup>206</sup>

129. At the same time, in view of the economic crisis, the Commission and the SRESCER welcome the decision of the Cuban Government to newly recognize more nonstate actors with their own forms of ownership and management, such as MSMEs.<sup>207</sup> However, in terms of nonstate employment, they note that workers in the private or self-employed sector not only face numerous legal, fiscal, and bureaucratic restrictions imposed by the State as they seek to conduct their activities or enterprises in a lawful manner but are seriously harmed by the shortage of raw materials and inputs, by inflation, and by the currency exchange rate.<sup>208</sup>

130. As for the labor and trade-union rights of healthcare personnel on international medical missions, persisting complaints of worker exploitation and wage confiscation must be noted. According to reports, the State of Cuba withholds up to 90% of the wages other governments pay for medical cooperation.<sup>209</sup> Health professionals are also said to be subjected to other types of violations, such as long work shifts and on-call hours; pressure to take part in the program without receiving a copy of their employment contract; and underpayment of staff or retaliation against them and their families if they do not comply.<sup>210</sup> Serious restrictions of personal liberty, freedom of expression, and freedom of association have been alleged.<sup>211</sup>

131. As for the right to education and academic freedom, the IACHR and SRESCER express concern over persisting Cuban Government measures to undermine access to education, academic freedom, university autonomy, labor and association rights, and related human rights. In particular, the IACHR and the Special Rapporteur for ESCER have learned of specific cases in which university professionals and academic staff are subjected to unjustified or unlawful dismissal,<sup>212</sup> under a systemic Cuban Government policy based on criminalization,<sup>213</sup> persecution, harassment, and even imprisonment<sup>214</sup> of academics and students who speak against the regime. According to reports published by the Observatory on Academic Freedom (OLA) and Aula Abierta, through April 2022, a total of 78 cases involving such arbitrary actions by Cuban authorities were recorded.<sup>215</sup>

## F. Groups facing vulnerability and discrimination

### 1. Human Rights Defenders

<sup>206</sup> International Labour Organization (ILO). Committee on Freedom of Association. *Interim Report No. 397*, March 2022.

<sup>207</sup> Official Gazette, *Decree Law 46*, August 19, 2021.

<sup>208</sup> Independent Trade Union Association of Cuba (ASIC) and Cuban Association of Autonomous Workers and Entrepreneurs (ACTAE), *Survey: Situation of the Cuban self-employed sector in 2022*, September 2022.

<sup>209</sup> Prisoners Defenders, Report: *The military truth behind Cuban medical missions in Mexico*, August 25, 2022.

<sup>210</sup> IACHR, Public hearing on the *Situation of labor and union rights in Cuba*, 184th Period of Sessions, June 25, 2022.

<sup>211</sup> Prisoners Defenders, Report: *The military truth behind Cuban medical missions in Mexico*, August 25, 2022.

<sup>212</sup> IACHR, Public hearing on the *Situation of labor and union rights in Cuba*, 184th Period of Sessions, June 25, 2022; Meetings of the Network of Civil Society Organizations regarding the human rights situation in Cuba (Red Cuba). Academic Freedom Observatory (OLA), *Report 22*, June 2022.

<sup>213</sup> Academic Freedom Observatory (OLA), *Report 12*, August 2021.

<sup>214</sup> Academic Freedom Observatory (OLA), *Professor Pedro Albert Sánchez taken to hospital after a week on hunger strike* [in Spanish], September 21, 2022.

<sup>215</sup> Derechos Universitarios, *Unjustified teacher dismissals in Cuba indicate the constant violation of academic and labor rights* [in Spanish], August 15, 2022.

132. The IACHR observes that the human rights situation of defenders is still worrisome in 2022. According to reports received and monitoring by this Commission, human rights defenders in Cuba continue to face harassment and arbitrary violations of the rights to free movement, liberty, safety, and well-being.

133. For the first half of 2022, civil society data record at least 90 acts of aggression against human rights defenders, including arbitrary arrest, imprisonment, house arrest, and prevention from entering or leaving the country.<sup>216</sup>

134. In its follow-up on precautionary measures, the Commission was informed of ongoing arbitrary arrests of various members of the Ladies in White, beneficiaries of Precautionary Measure 264-13. Their detentions lasted a few hours or in some cases several days. It was also informed of threats by state agents towards members of this group to dissuade them from future visits, and the imposition of fines.<sup>217</sup> The Commission learned, for example, of the detention of Berta Soler by State Security agents.<sup>218</sup> According to information from civil society, such arrests have been made since the organization resumed its Sunday protests to demand the release of people imprisoned for exercising their right to freedom of expression in Cuba.<sup>219</sup>

135. The Commission also received information on de facto prohibitions to keep the Ladies in White from freely leaving their homes; state operatives at their homes or periodic home surveillance by state agents and/or persons in plain clothes, which might last for several consecutive days; state agents following them when they went out or took part in demonstrations; initiation of proceedings against them without due notice, with certain beneficiaries having no initial knowledge of the charges against them; and arrests not necessarily linked to judicial procedures, with subsequent transfers to police units for varying amounts of time.<sup>220</sup>

136. For its part, the United Nations Committee against Torture reiterated its concern over civil society reports of brief arbitrary detentions, restrictions on freedom of movement, surveillance for purposes of intimidation, physical aggressions, “acts of repudiation” in front of the homes, workplaces, and places of study of political opponents, forced exile, and other acts of intimidation and harassment allegedly committed by agents of the National Revolutionary Police and State Security against human rights defenders.<sup>221</sup>

137. The IACHR has also learned of cases of criminalization of defenders during 2022. It has found that human rights defenders in Cuba are regularly imprisoned for certain offenses – such as contempt, assault, and public disturbance – and are sometimes attacked, threatened, and abused inside prisons.<sup>222</sup> The Commission learned, for example, of the case of Luis Manuel Otero Alcántara, a member of the San Isidro Movement (MSI), and Maykel Castillo Pérez, who were sentenced on June 24, 2022, by the People’s Municipal Court of Central Havana to five and nine years, respectively, in prison for insulting symbols of the homeland, contempt, defamation of institutions, organizations, heroes, and martyrs, assault, resistance, and public disturbance.<sup>223</sup> According to public information, their trials lasted less than 48 hours and were conducted

<sup>216</sup> Article 19, [Freedom of expression in Cuba: Biannual analysis in figures from January to June 2022](#), September 11, 2022.

<sup>217</sup> IACHR, [Resolution 48/2022](#), Precautionary Measure No. 264-13, Members from Damas de Blanco (Ladies in White) regarding Cuba, September 28, 2022.

<sup>218</sup> Radio Martí, [At least 16 Ladies in White reported arrested; another 15 able to attend mass](#) [in Spanish], October 17, 2022; CiberCuba, [Berta Soler arrested on the eve of her wedding anniversary](#) [in Spanish], October 15, 2022; CiberCuba, [State Security arrests Berta Soler and other Ladies in White in Cuba](#) [in Spanish], March 27, 2022.

<sup>219</sup> Institute on Race, Equality and Human Rights, *Information Bulletin on the situation of human rights in Cuba*, May 2022 / No. 13, in the IACHR archives.

<sup>220</sup> IACHR, [Resolution 48/2022](#), Precautionary Measure No. 264-13, Members from Damas de Blanco (Ladies in White) regarding Cuba, September 28, 2022, par. 50.

<sup>221</sup> United Nations, Committee against Torture, [Concluding observations on the third periodic report of Cuba](#), CAT/C/CUB/CO/3, June 9, 2022, par. 40.

<sup>222</sup> 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, par. 136.

<sup>223</sup> Office of the Attorney General of the Republic of Cuba, [Information from the Office of the Attorney General of the Republic on the criminal proceedings brought against Luis Manuel Otero Alcántara, Maikel Castillo Pérez, Félix Roque Delgado, Juslid Justiz Lazo, and Reina Sierra Duvergel](#) [in Spanish], June 24, 2022; Amnesty International, [Cuba: Amnesty International condemns sentences of Luis Manuel Otero Alcántara and Maykel “Osorbo” Castillo](#), June 24, 2022; Article 19, [Rights groups and organizations repeat demands for the release of Cuban artists, following the court’s conviction](#) [in Spanish], June 28, 2022.

behind closed doors and under a heavy military presence.<sup>224</sup> Luis Otero had been arrested and held in preventive detention since July 11, 2021, in connection with the protests, while Castillo Pérez had been in preventive detention since May 18, 2021.<sup>225</sup>

138. Information was also received on the sentencing to eight years in prison of Sayli Navarro, a member of the Ladies in White, after she took part in the protests of July 11.<sup>226</sup>

139. As for other acts of harassment, the IACHR was informed of the siege conducted by State Security agents on various activists and human rights organizations. According to public information, several activists reported police officers near their homes prior to the anniversary of the July 11 protests.<sup>227</sup> For example, a State Security agent reportedly appeared at the home of Osvaldo Navarro Veloz and Marthadela Tamayo, leaders of the Citizens Committee for Racial Integration (CIR), to inform them that they would not be allowed to leave their home on May 1, when a pro-government march would be held at the Plaza de la Revolución, and that they would be watched on July 11, 12, and 13.<sup>228</sup>

140. The Commission also learned that Osvaldo Navarro and María Elena Mir Marrero were denied permission to leave the country on June 5, 2022, to attend the Ninth Summit of the Americas, held in the city of Los Angeles, California, in the United States.<sup>229</sup> On October 6, 2022, they were again denied permission to leave the country on the grounds of “national security,” when they tried to attend the Defenders Day 2022 Conference in Stockholm, Sweden.<sup>230</sup> The IACHR is particularly concerned about possible violations of their freedom of movement, despite the fact that, in 2021, the Commission granted precautionary measures in their favor, finding Marthadela Tamayo and Osvaldo Navarro Veloz to be in jeopardy that was likely to continue and escalate over time.<sup>231</sup>

141. In addition, the Commission continued to receive information on the fining of human rights defenders to discourage them from continuing their defense activities. On August 15, 2022, Leticia Ramos Herrería, a member of the Ladies in White, and Armando Abascal Serrano were arrested, then fined 2,000 Cuban pesos at the police station in Santa Marta, Varadero, for the crime of “illicit economic activity.”<sup>232</sup>

142. The IACHR has warned that imposing fines or other sanctions on the work of defenders and imprisoning them is intended mainly to criminalize their promotion and defense of human rights and dissuade them from continuing to promote their causes.<sup>233</sup> The bodies of the inter-American system have said that reprisals against human rights defenders have a chilling effect that multiplies beyond defenders to intimidate others who fight for similar causes.<sup>234</sup>

<sup>224</sup> CNN en Español, [Trials against activists Luis Manuel Otero Alcántara and Maykel Castillo Pérez conclude in Cuba](#) [in Spanish], June 1, 2022; *El País*, [Sentence imminent in trial against the two artists who led the San Isidro Movement in Cuba](#) [in Spanish], May 31, 2022.

<sup>225</sup> Amnesty International, [Cuba: Release Imprisoned Artists](#), May 26, 2022.

<sup>226</sup> *Diario Las Américas*, [Cuba: Regime takes Sayli Navarro to prison, chained hand and foot](#) [in Spanish], April 19, 2022; CiberCuba, [U.S. rejects upheld convictions of Cuban dissidents Felix and Sayli Navarro](#) [in Spanish], April 19, 2022.

<sup>227</sup> *Diario de Cuba*, [Police deployment in Havana, surveillance, and threats to activists on the anniversary of 111](#) [in Spanish], July 11, 2022.

<sup>228</sup> *Diario de Cuba*, [Police deployment in Havana, surveillance, and threats to activists on the anniversary of 111](#) [in Spanish], July 11, 2022; CiberCuba, [State Security against activists of the Committee for Racial Integration](#) [in Spanish], May 1, 2022.

<sup>229</sup> CiberCuba, [Regime prevents activists Marthadela Tamayo and Osvaldo Navarro from attending Summit of the Americas](#) [in Spanish], June 6, 2022; *Diario de Cuba*, [‘No Summit or anything’: Cuban regime prevents activists Marthadela Tamayo and Osvaldo Navarro from traveling](#) [in Spanish], June 6, 2022.

<sup>230</sup> ADN Cuba, [Regime prohibits Osvaldo Navarro and María Elena Mir Marrero from leaving the country](#) [in Spanish], October 6, 2022.

<sup>231</sup> IACHR, [Resolution 7/2021](#), Precautionary Measure No. 211-20, Juan Antonio Madrazo Luna, Marthadela Tamayo, and Osvaldo Navarro Veloz regarding Cuba, January 19, 2021.

<sup>232</sup> ADN Cuba, [Activists fined 2000 pesos while waiting for transport home](#) [in Spanish], August 15, 2022; Radio Martí, [Two activists fined 2000 pesos while waiting for transport home](#) [in Spanish], August 15, 2022.

<sup>233</sup> IACHR, [The Situation of Human Rights in Cuba](#), OEA/Ser.L/V/II. Doc. February 23, 2020, par. 193.

<sup>234</sup> IACHR, [Second Report on the Situation of Human Rights Defenders in the Americas](#), OEA/SER.L/V/II/Doc.66, approved on December 31, 2011, par. 25.

143. The Commission also expresses concern over the entry into force of the new Criminal Code, approved by the People's National Assembly of Cuba on May 15, 2022. In particular, the Commission is concerned that Article 143 of this new Code treats as actors against state security those "who, by themselves or on behalf of nongovernmental organizations, institutions of an international character, associations, or any natural or legal person of the country or of a foreign State, support, promote, finance, provide, receive, or have in their possession funds, or material or financial resources, with the aim of paying for activities against the Cuban State and its constitutional order," with a prison sentence of between four and 10 years.<sup>235</sup>

144. In this regard, the Commission reminds the State that the right to receive international cooperation funds for the defense and promotion of human rights is protected by the freedom of association and the State is obliged to respect this right without imposing restrictions beyond those permitted under the right to freedom of association.<sup>236</sup>

145. Likewise, during 2022, the IACHR has monitored with concern the State Security repression of members of Justicia 11J, an organization of Cuban women who, since July 11, 2021, have been documenting the state response to public demonstrations in the country. In December 2022, the Commission was informed of the forced exile, after months of threats and harassment for their social activism and defense of human rights, of the organization's general coordinator, Camila Rodríguez, and three of its founders in Cuba: journalists Cynthia de la Cantera and María Matienzo and activist Kirenia Yalit Nuñez.

146. Therefore, the Inter-American Commission still considers the situation of human rights defenders worrisome. It has observed that the minimum conditions to guarantee the defense of human rights do not exist in Cuba. On the contrary, these activities take place in a hostile environment, with intimidation and harassment by state authorities and subjection to groundless criminal proceedings intended to criminalize those who seek to defend human rights in the country or to forced exile to other countries.

147. The IACHR reaffirms the importance of the right to protect human rights and the irreplaceable role of human rights defenders in guaranteeing the rule of law and building a democratic, cohesive, and lasting society.<sup>237</sup> The IACHR thus repeats its call to the State that it adopt effective measures to guarantee and protect the rights of human rights defenders, activists, journalists, and other social leaders. In particular, the Commission urges the State to foster an environment free of hostility, one of respect for essential freedoms, since these are indispensable to the work of human rights defenders.

## 2. Persons Deprived of Liberty

148. As for persons deprived of liberty, the Commission reaffirms its concern over the lack of up-to-date official data about those in prison. It also notes that high incarceration rates, excessive use of pretrial detention in certain circumstances, deplorable prison conditions that endanger the lives and well-being of this population, torture, and abuse all persist.

149. As for the lack of data and the high detention rates, the Commission notes that the Cuban State still refuses to publish official information on persons deprived of liberty in Cuba.<sup>238</sup> The most recent official data were published in 2012, when there were 57,337 people in Cuban prisons.<sup>239</sup> However, as the IACHR

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<sup>235</sup> Official Gazette of the Republic of Cuba, Ministry of Justice, [Law 151/2022 "Criminal Code"](#) (GOC-2022-861-093), Ordinary Official Gazette No. 93 of September 1, 2022, People's National Assembly, Article 143; WOLA, [Five Concerns About Cuba's New Penal Code](#), July 7, 2022; Article 19, [Cuba's new Criminal Code violates human rights](#) [in Spanish], September 6, 2022.

<sup>236</sup> IACHR, [Second Report on the Situation of Human Rights Defenders in the Americas](#), OEA/Ser.L/V/II. Doc. 66, December 31, 2011, par. 186.

<sup>237</sup> IACHR, [Criminalization of the Work of Human Rights Defenders](#), OEA/Ser.L/V/II., Doc. 49/15, December 31, 2015, par. 22; IACHR, Press Release No. 288/19, [IACHR and UN human rights presences once again call for the creation of a safe, favorable environment for human rights defenders in the Americas](#), November 7, 2019.

<sup>238</sup> See, in this regard: IACHR, [Annual Report, Chapter IV.B: Cuba](#), 2021, par. 121. See also: Committee Against Torture, [Concluding observations on the third periodic report of Cuba](#), May 9, 2022, pars. 22 and 24.

<sup>239</sup> Institute for Crime & Justice Policy Research, [World Prison Brief Database: Cuba](#), 2022.

pointed out in its 2021 Annual Report, this number is far removed from the most recent civil society figure, which reports nearly twice that number – as of March 30, 2021, almost 100,000 people in prison.<sup>240</sup> Considering its total number of inhabitants, as reported by the World Bank,<sup>241</sup> and the aforementioned figures, Cuba has the world's highest rate of incarceration per capita. This means about 882 people per 100,000 inhabitants are deprived of their liberty.

150. As for prison occupancy, the IACHR takes note of the State's responses to the second round of questions by experts of the UN Committee against Torture (CAT), which refer to a "downward trend in the prison population" resulting from application of the principle of discretion, the use of alternative measures other than detention, and the exceptional and reasonable use of pretrial detention.<sup>242</sup> According to this scenario, prisons would be at 81% of their capacity.<sup>243</sup>

151. As for pretrial detention, the Commission notes that, according to official data reported by the CAT in its concluding observations on the third periodic report, adopted in May, approximately 12% of the prison population is held under this precautionary measure. This low percentage reportedly stems from prosecutorial improvements in case management in the preparatory phase and the registration of incarcerated persons by the Ministry of the Interior. However, the same agency reports prolonged use of pretrial detention for alleged political prisoners.<sup>244</sup> In this regard, the IACHR reiterates that pretrial detention must take account of the right to presumption of innocence, of the exceptionality of the measure, and of the criteria of legality, necessity, and proportionality.<sup>245</sup>

152. As for prison conditions, the IACHR takes note of official statements indicating that all inmates "have beds and mattresses and there are no triple-deck beds."<sup>246</sup> It observes, however, that the problems it has identified on repeated occasions prevail in Cuban penitentiaries. These include overcrowding, neglect of medical care, inadequate food, scarcity of water suitable for drinking and bathing, and unhealthy, unsanitary conditions.<sup>247</sup> According to public information, these conditions lead to diarrhea, stomach illnesses,<sup>248</sup> and scabies.<sup>249</sup>

153. The CAT also expressed concern over data indicating a great number of hunger strikes, unjustified visiting restrictions, transfers to prisons far from the detainee's family, and prolonged solitary confinement. During the period under review, the State allegedly recorded an average of 100 deaths in custody per year, with cardiovascular disease as the main cause of death.<sup>250</sup>

154. The Commission notes even worse prison conditions for political prisoners. Specifically, the IACHR has been told that they receive rotting or undercooked food.<sup>251</sup> As for neglect of health care, the OAS has found that several political prisoners have been denied medical assistance, specialized care, and medicine,

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<sup>240</sup> IACHR, *Annual Report, Chapter IV.B: Cuba*, 2021, par. 121. See also: Cuban Human Rights Observatory, [OCDH denounces the COVID-19 situation at prisons in Camagüey, Cuba, and the lack of government transparency in the management of the pandemic](#) [in Spanish], March 30, 2021.

<sup>241</sup> World Bank, *Population – total Cuba*, 2020.

<sup>242</sup> Government of Cuba, Replies of the Cuban delegation to the second round of questions from the experts of the Committee against Torture, April 29, 2022, p. 6. IACHR archive.

<sup>243</sup> Committee Against Torture, *Concluding observations on the third periodic report of Cuba*, May 9, 2022, par. 22.

<sup>244</sup> Committee Against Torture, *Concluding observations on the third periodic report of Cuba*, May 9, 2022, par. 24.

<sup>245</sup> IACHR, *Report on Measures Aimed at Reducing the Use of Pretrial Detention in the Americas*, par. 231. Recommendation A: "General Measures Related to Matters of State Policy," par. 1.

<sup>246</sup> Government of Cuba, Replies of the Cuban delegation to the second round of questions from the experts of the Committee against Torture, April 29, 2022, p. 7. IACHR archive.

<sup>247</sup> IACHR, *Annual Report, Chapter IV.B: Cuba*, 2021, par. 123. See also: Committee Against Torture, *Concluding observations on the third periodic report of Cuba*, May 9, 2022, par. 22; *Diario de Cuba*, *Torture in Cuba: punishment cells, denial of medical care, and more, in civil society reports* [in Spanish], May 19, 2022.

<sup>248</sup> ADN Cuba, *Outbreak of diarrhea and vomiting reported in Valle Grande prison* [in Spanish], April 12, 2022.

<sup>249</sup> ADN Cuba, *Cuba: Reports of scabies outbreak and medicine shortages in Guanajay prison* [in Spanish], January 6, 2022.

<sup>250</sup> Committee Against Torture, *Concluding observations on the third periodic report of Cuba*, May 9, 2022, pars. 22 and 30.

<sup>251</sup> IACHR, Information provided to the IACHR by a person who was deprived of liberty for demonstrating on July 11 at the eighth meeting of Red Cuba, July 17, 2022.

resulting in conditions such as scabies, dengue fever, hepatitis, and Covid-19.<sup>252</sup> Accordingly, the Commission reiterates that States must guarantee persons deprived of their liberty detention conditions compatible with their human dignity. These include sufficient, proper medical care; enough food of quality; safe, secure drinking water; and adequate hygienic conditions.<sup>253</sup>

155. The IACHR is also concerned about persisting abuse and torture in Cuban prisons. The CAT received complaints of patterns of mistreatment and torture of prisoners, including physical and verbal abuse.<sup>254</sup> Similarly, civil society has identified 15 types of torture, including damp, insect-infested punishment cells with cement beds and no ventilation; immobilization of prisoners with handcuffs on their feet and hands behind their backs; use of pepper spray inside cells; suspending victims from bars or ceilings for hours or days; and denial of food and/or water for long periods. According to the same source, these practices are inflicted specifically on political prisoners.<sup>255</sup>

156. The Commission also laments the absence of an independent mechanism for presentation and investigation of such complaints, and shares the concern expressed by the CAT over the infrequent punishment of abuse and the lack of data in this regard. According to official data from this agency, between 2017 and 2021, the Attorney General's Office dealt with 11,151 complaints from prisoners or their families, of which seven percent were resolved in favor of the complainants. Additionally, between 2012 and 2019, the Military Prosecutor's Office investigated 2,076 complaints against service members for alleged mistreatment, resulting in 293 disciplinary measures, 37 criminal penalties, and three administrative measures.<sup>256</sup>

157. In this regard, the IACHR reaffirms its condemnation of all forms of cruel, inhuman, or degrading treatment, emphasizing that such acts must be absolutely prohibited and prevented under every circumstance. It also recalls that States have the obligation to condemn such acts and to penalize every intellectual author or material perpetrator thereof.<sup>257</sup> Finally, it reaffirms that, in accordance with its Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas, prisoners have the right to file complaints or reports of acts of torture, prison violence, corporal punishment, or cruel, inhuman, or degrading treatment or punishment.<sup>258</sup>

### 3. Afro-descendants

158. The Commission takes note of public government statements on the fight against racial discrimination in Cuba. At the celebration of "Zero Discrimination" day, the President of the Republic expressed the intent to move ahead in fighting any expression of discrimination.<sup>1</sup> Recently, the Ambassador and Permanent Representative of Cuba to international organizations ratified, at the 51st regular session of the Human Rights Council, the Cuban State's commitment to eradicating racism, particularly by implementing the National Program against Racism and Racial Discrimination.<sup>259</sup>

159. In keeping with its 2020 country report and other annual reports, however, the IACHR observes that patterns of racial discrimination persist in Cuba and persons of African descent still suffer from historical inequalities. The Commission emphasizes that structural racism has generated denial by the State of the very existence of racism and the absence of government policies to counteract it. Similarly, the Commission

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<sup>252</sup> OAS, Press Release No. C-04/22. [OAS General Secretariat expresses concern over health of political prisoners in Cuba](#). Washington, D.C., May 3, 2022.

<sup>253</sup> In this regard, see: IACHR, [Report on the Human Rights of Persons Deprived of Liberty in the Americas](#), OEA/Ser.L/V/II, approved on December 31, 2011, pars. 432 and 557.

<sup>254</sup> Committee Against Torture, [Concluding observations on the third periodic report of Cuba](#), May 9, 2022, par. 22.

<sup>255</sup> Prisoners Defenders, [Prisoners Defenders denounces more than 100 Cuban torture victims to the UN](#) [in Spanish], March 29, 2022.

<sup>256</sup> Committee Against Torture, [Concluding observations on the third periodic report of Cuba](#), May 9, 2022, par. 32.

<sup>257</sup> In this regard, see: IACHR, [Report on the Human Rights of Persons Deprived of Liberty in the Americas](#), pars. 343 and 350.

<sup>258</sup> IACHR, [Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas](#), Principle V.

<sup>259</sup> Radio Rebelde, [Cuba ratifies commitment to eradicate racism](#) [in Spanish], October 4, 2022.

continues to note a lack both of disaggregated official statistics and of campaigns to raise social awareness of ethnic and racial self-identification.<sup>260</sup>

160. Likewise, in its 2021 Annual Report, the Commission highlighted racial inequality as one of triggers of the July 11 social protests, given that persons of African descent have been excluded from various economic and social sectors and that the prevailing economic model in Cuba exacerbates the inequality they have faced historically.<sup>261</sup> In addition, various civil society organizations have informed the IACHR that law enforcement officers have applied racial profiling and excessive use of force against Afro-Cubans who participated in social protests.

161. In particular, the IACHR notes the report “One year without justice: Patterns of state violence against 11J protesters,” in which civil society organizations state that:

Although it has not been possible to identify the racial profile of all demonstrators, there is a significant sample, which allows us to affirm that, despite the arrest of more people with white skin (553) than of mestizo or Afro-descendant persons (410), a higher percentage of the latter group remain in prison and more of them have been tried. Among Whites, 57% (316) have been released, compared to 47% (195) of mestizo or Afro-descendant persons. While 40% (226) of Whites have been tried, 50% (210) of mestizo or Afro-descendant people have been tried.<sup>262</sup>

162. Lastly, the IACHR notes with concern that some Afro-descendant civil society projects and organizations have announced their dissolution, while repression of journalists and activists has been reported, especially attacks on leaders of these organizations by State agents.<sup>263</sup>

#### 4. Women

163. As for the status of women’s rights, the Commission notes that the Family Code, published in August 2022, introduces progress towards gender equality in the family--in particular, regulations on equitable distribution of responsibility for housework and care duties; women’s right to choose what happens to their bodies; full exercise of sexual and reproductive rights in the family; and liability for damages arising from discrimination and violence in the family.<sup>264</sup>

164. The Commission also notes that the Criminal Code, approved in 2022, includes gender-based violence as an aggravating factor and circumstance in certain crimes.<sup>265</sup> However, criticisms of that Code for not criminalizing femicide are also cited.<sup>266</sup> The Commission points out that the Cuban State is not yet a party to the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women<sup>267</sup>; and did not adopt a legislative framework in line with the guiding principles on the eradication of gender-based violence against women.<sup>268</sup>

165. The Commission continues to note the absence of official statistics about gender-based violence against women. Available public data indicate that, through October 2022, approximately 33 violent

<sup>260</sup> IACHR, *Situation of Human Rights in Cuba*, OEA/Ser.L/V/II. Doc. 2, February 3, 2020, par. 293; IACHR, *Annual Report 2021, Chapter IV.B: Cuba*; IACHR, *Annual Report 2020: Chapter IV.B: Cuba*, par. 114.

<sup>261</sup> IACHR, *Annual Report 2021, Chapter IV.B: Cuba*.

<sup>262</sup> Cubalex and Justicia 11J, *One year without justice: Patterns of state violence against 11J protesters*, July 2022, p. 15.

<sup>263</sup> Cyber Cuba, *Afro-Cuban project dissolves amid repression against journalists and activists* [in Spanish], September 10, 2022.

<sup>264</sup> Official Gazette of the Republic of Cuba, *Law 156/2022 “Family Code.”* People’s National Assembly, August 17, 2022, Arts. 4-

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<sup>265</sup> Radio Televisión Martí, *Two more murders of women in Cuba for a total of 31 femicides in 2022* [in Spanish], October 30, 2022; Swissinfo.ch, *Average age of femicide victims in Cuba down 7 years* [in Spanish], July 6, 2022.

<sup>266</sup> Ameco Press, *Cuba: New Criminal Code punishes gender violence without criminalizing femicide* [in Spanish], May 19, 2022.

<sup>267</sup> OAS, Multilateral Treaties, *Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women* (“Convention of Belém do Pará”). Accessed December 20, 2022.

<sup>268</sup> IACHR, *Annual Report, Chapter IV.B: Cuba*, 2021, par. 111.

deaths of women for reasons of gender were recorded, mostly involving young women killed by their partners or ex-partners.<sup>269</sup>

166. The Commission was also informed of persecution, political violence, and sexual assaults against women by state agents in the context of social protests; this is reported to be even more severe in the case of female human rights activists and defenders.<sup>270</sup> Also reported were the arrests of members of the Ladies in White in Cuba, who are beneficiaries of IACHR precautionary measures and have been noted as facing greater risk in light of their gender and their status as human rights defenders.<sup>271</sup>

167. Accordingly, the IACHR calls on the State to strengthen prevention, protection, and treatment policies in relation to violence against women, taking a comprehensive and gender-based approach that addresses the various manifestations of violence and considers the different risks faced by women working in the public arena, such as human rights activists and defenders, journalists, and those who take part in politics.<sup>272</sup> To this end, it reiterates its call to produce, compile, organize, and periodically release complete, updated, and disaggregated statistics on the causes, consequences, and frequency of violence against women.<sup>273</sup>

168. On the socioeconomic status of women in Cuba, the Commission and its SRESCER expressed concern over the exponential rise in poverty, the deterioration of essential public services, the shortage of food and basic necessities, and violations of labor rights, which have specific and different impacts on women because of historical and structural discrimination.<sup>274</sup> In the same vein, note is taken of public information that indicates a persisting gender-based wage gap in the workplace.<sup>275</sup>

## 5. LGBTI persons

169. With respect to the human rights of LGBTI persons, the Commission observes that trans, non-binary, and gender-diverse persons may rectify their names on official documents without documenting surgical procedures. This stems from the publication of instruction 1 of 2022 of the Ministry of Justice, which eliminated that requirement.<sup>276</sup> The IACHR emphasizes that this process must be included in specific legislation that, in addition to the name, recognizes the right of trans, non-binary, and gender-diverse persons to rectify the sex or gender component of their birth certificates, identity cards, and other legal documents without submitting medical, psychological, or psychiatric evaluations or certificates and without other invasive or excessive requirements, through simplified procedures. This is to comply with the inter-American standards established in Advisory Opinion 24/17 of the Inter-American Court.<sup>277</sup>

170. On the other hand, the IACHR notes the entry into force of the new Family Code, which gives equal access to marriage and related legal institutions, following a citizen referendum.<sup>278</sup> While the Commission

<sup>269</sup> CiberCuba, [32 femicides reported in Cuba so far in 2022](#) [in Spanish], November 2, 2022; Radio Televisión Martí, [Two more murders of women in Cuba for a total of 31 femicides in 2022](#) [in Spanish], October 30, 2022.

<sup>270</sup> IACHR, [Thematic hearing on the human rights situation of vulnerable groups in Cuba](#), March 15, 2022; IACHR and REDESCA, Press Release 127/22, [IACHR and its Special Rapporteurship on Economic, Social, Cultural, and Environmental Rights concerned about socioeconomic conditions in Cuba and their effect on the rights of women and other groups](#), June 6, 2022.

<sup>271</sup> IACHR, [Resolution 48/2022](#), Precautionary Measure No. 264-13, Members from Damas de Blanco (Ladies in White) regarding Cuba; Radio Televisión Martí, [At least 16 Ladies in White reported arrested; another 15 able to attend mass](#) [in Spanish], October 17, 2022.

<sup>272</sup> IACHR, [Violence and Discrimination against Women and Girls](#), OEA/Ser.L/V/II.Doc.233, November 14, 2019, paras. 118-130

<sup>273</sup> IACHR, [Annual Report, Chapter IV.B: Cuba](#), 2021, par. 113

<sup>274</sup> IACHR, Press Release 127/22, [IACHR and its Special Rapporteurship on Economic, Social, Cultural, and Environmental Rights concerned about socioeconomic conditions in Cuba and their effect on the rights of women and other groups](#), June 6, 2022.

<sup>275</sup> Alas Tensas Gender Law Observatory, [Situation of women in Cuba portrayed misleadingly by official Cuban media](#) [in Spanish], October 8, 2022.

<sup>276</sup> Alas Tensas, [Name changes for trans persons in Cuba from the perspective of current legislation and individual experiences](#) [in Spanish], September 20, 2022; Semlac, [Name changes and other transgender identity rights](#) [in Spanish], August 3, 2022;

<sup>277</sup> I/A Court H. R. [Gender identity, and equality and non-discrimination of same-sex couples](#), Advisory Opinion OC-24/17 of November 24, 2017. Series A No. 24, par. 160.

<sup>278</sup> Official Gazette of the Republic of Cuba, [Law 156/2022 "Family Code" \(GOC-2022-819-087\)](#), amending Title VI (On Marriage); National Electoral Council, [Cuba endorses new Family Code](#), September 25, 2022; *Granma*, [Following publication in the Official Gazette, Family Code comes into effect](#) [in Spanish], September 27, 2022.

welcomes advances related to equal marriage and related rights, which are consistent with inter-American standards established by the Inter-American Court of Human Rights,<sup>279</sup> it reiterates that human rights, such as equal marriage rights, should not be subject to popular referendums, because human rights cannot be undermined or restricted by the lack of consensus, opinion, or political power of majority groups.<sup>280</sup> In addition to this, the IACHR observes that this citizen participation mechanism received criticism from independent civil society jurists because it is only used in cases of consultations that do not conflict with the official positions of the Cuban government or with the current political model<sup>281</sup>.

171. In a similar vein, the IACHR notes the enactment of the Criminal Code, which includes sexual orientation and gender identity as categories protected against discrimination, under its definition “crime against the right to equality,” as grounds for increased penalties for injury and murder, and as aggravating circumstances in terms of criminal liability.<sup>282</sup> The IACHR reminds the State that, in addition to legal reforms, it must address the underlying causes of violence and discrimination against LGBTI persons and meet its obligation of due diligence to prevent, investigate, prosecute, punish, and bring about reparations for human rights violations against LGBTI persons.

172. Without prejudice to the normative progress reported, the Commission reaffirms its concern over the lack of forums for peaceful organization and protest not authorized by the State, as well as the lack of official, disaggregated statistics on violence against LGBTI persons, and recalls that these data are instrumental in meeting the standard of due diligence to prevent, investigate, punish, and make reparations for such violence.<sup>283</sup>

## 6. Persons with disabilities

173. The Commission takes note of progress in recognizing the right of persons with disabilities to legal capacity. In particular, it notes that the final provisions of the new Family Code<sup>284</sup> make amendments to the Civil Code recognizing the right to legal capacity of persons with disabilities, under equal conditions and in all aspects of life, and establishes that persons who so require may request support and reasonable accommodations to exercise this right.<sup>285</sup> Safeguards are also established to guarantee respect for persons requesting such supports and reasonable accommodations and their will, wishes, and preferences.<sup>286</sup> While the IACHR welcomes these advances, it will continue to monitor the rights of persons with disabilities in terms of effective implementation of this law.

174. At the public hearing on the human rights situation of vulnerable groups in Cuba (2022), the IACHR expressed worry over the politicization of access to care for persons with disabilities.<sup>287</sup> The petitioning

<sup>279</sup> IACHR (@CIDH), [September 27, 2022](#). “IACHR welcomes the legalization of #MarriageEquality and the elimination of child marriage through the approval of a new Family Code that increases protection for women, girls, boys, adolescents, older persons, and #LGTBIQ persons, on #Sept25”, Twitter; I/A Court H. R. [Gender identity, and equality and non-discrimination of same-sex couples](#). Advisory Opinion OC-24/17 of November 24, 2017. Series A No. 24, pars. 199 and 220 to 228.

<sup>280</sup> IACHR, [Annual Report, Chapter IV.B: Cuba](#), 2021, par. 108; I/A Court H. R. [Gender identity, and equality and non-discrimination of same-sex couples](#). Advisory Opinion OC-24/17 of November 24, 2017. Series A No. 24, pars. 83 and 219.

<sup>281</sup> In this sense: El toque, [HOW DEMOCRATIC IS THE REFERENDUM ON THE FAMILY CODE IN CUBA?](#) August 16, 2022. Along the same lines, see: El país, [Cuba ‘debates’ the regulation of equal marriage](#), 23 February 2022.

<sup>282</sup> Official Gazette of the Republic of Cuba 93. [Law 151/2022 “Criminal Code” \(GOC-2022-861-093\)](#) Ordinary, September 1, 2022. Art. 388

<sup>283</sup> Information received by the IACHR during Red Cuba meetings held in 2022.

<sup>284</sup> Official Gazette of the Republic of Cuba. [Law 156/2022 “Family Code” \(GOC-2022-819-087\)](#), “First Final Provision,” amending Article 29 of Section Two (Exercise of Civil Legal Capacity), Chapter I (Natural Persons), Title II (Subjects of the Legal Relationship), Book I (Legal Relationship) of Law No. 59, “Civil Code,” of July 16, 1987.

<sup>285</sup> Official Gazette of the Republic of Cuba. [Law 156/2022 “Family Code” \(GOC-2022-819-087\)](#), amending Article 30 of Section Two (Exercise of Civil Legal Capacity), Chapter I (Natural Persons), Title II (Subjects of the Legal Relationship), Book I (Legal Relationship) of Law No. 59, “Civil Code,” of July 16, 1987.

<sup>286</sup> Official Gazette of the Republic of Cuba. [Law 156/2022 “Family Code” \(GOC-2022-819-087\)](#), Final Provisions. Section Two, amending Article 30 of Section Two (Exercise of Civil Legal Capacity), Chapter I (Natural Persons), Title II (Subjects of the Legal Relationship), Book I (Legal Relationship) of Law No. 59, “Civil Code,” of July 16, 1987.

<sup>287</sup> IACHR, Public hearing on the [Human rights situation of vulnerable groups in Cuba](#), 183rd Period of Sessions, March 15, 2022.

organizations highlighted the restrictions faced by persons with disabilities in their political and civic participation. In this regard, they indicate that the Cuban Association of the Physically Handicapped (ACLIFIM), the National Association of the Blind and Visually Impaired (ANCI), and the National Association of the Deaf of Cuba (ANSOC), in their statutes, set forth membership requirements such as being in favor of the Cuban regime. The petitioners warn that these three associations are the only ones authorized to officially group people with disabilities, and, through their political discrimination, impede participation by this community in public and civic forums to discuss and represent their rights and interests.<sup>288</sup>

175. Also at that hearing, the organizations reported abuses and human rights violations against persons with disabilities who participated, or were accused of participating, in the protests of July 11, 2021. In particular, they reported prejudice and the use of stigmatizing stereotypes related to disability status, beatings in detention centers, humiliation, mockery, denial of medications and health services, and indecent living conditions during their detention. The organizations report that relatives of these individuals fear that violence against them will continue, and that their vulnerability is not considered during their detention and judicial proceedings.<sup>289</sup>

176. Within this framework, the Commission reminds the State of its obligation to guarantee the rights of persons with disabilities, equality, and non-discrimination of this population, as well as to develop actions that mitigate the intersectional violence faced by this population.

## 7. Children and Adolescents

177. The Inter-American Commission has continued its ongoing monitoring of the situation of children and adolescents in Cuba, especially with respect to their criminalization, arbitrary arrest, mistreatment, and prison conditions, in relation to the 2021 social protests.<sup>290</sup> On the other hand, while the Commission welcomes the promulgation of the Family Code,<sup>291</sup> it notes with concern the failure to address structural and legal issues that continue to affect the right of children and adolescents to grow and develop in a family environment. The Commission is also concerned over the inaccessibility of decent living conditions, which is exacerbated by the profound economic crisis in Cuba.

178. As noted by the Committee on the Rights of the Child, Cuba is facing the worst economic crisis in recent years, marked by acute shortages of food, medicine, raw materials, and other supplies.<sup>292</sup> The IACHR has been observing how the crisis has generated food security problems for children,<sup>293</sup> which, coupled with the energy crisis – blackouts of up to 16 hours – severely hinders their access to basic health care, nutrition, water, sanitation, hygiene, education, and recreation.<sup>294</sup> According to reports from the United Nations Children’s Fund (UNICEF), Hurricane Ian led to the closure of over 2,271 schools and 475 childcare centers and has left more than 200,000 minors in need of humanitarian assistance.<sup>295</sup>

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<sup>288</sup> IACHR, Written information submitted as part of the request for a public hearing on the [Human rights situation of vulnerable groups in Cuba](#), 183rd Period of Sessions, March 15, 2022.

<sup>289</sup> IACHR, Written information submitted as part of the request for a public hearing on the [Human rights situation of vulnerable groups in Cuba](#), 183rd Period of Sessions, March 15, 2022.

<sup>290</sup> IACHR, Press Release 153/22. [One year after historic protests, IACHR condemns persistent repression of demonstrators in Cuba](#), July 11, 2022. See also: IACHR, Press Release 31/22. [IACHR expresses concern over ongoing detention and prosecution of people who took part in protests in Cuba](#), February 16, 2022.

<sup>291</sup> IACHR [@CIDH]. [\(September 27, 2022\)](#). “IACHR welcomes the legalization of marriage equality and the elimination of child marriage through the approval of a new Family Code that increases protection for women, girls, boys, adolescents, older persons, and LGBTIQ persons.” Twitter.

<sup>292</sup> Committee on the Rights of the Child, [Concluding observations on the combined third to sixth periodic reports of Cuba](#), June 16, 2022, par. 42. See also: Cuban Human Rights Observatory, [The State of Social Rights in Cuba, Report V-2022](#), Cuba, 2022, p. 2.

<sup>293</sup> IACHR, Press Release 136/21. [IACHR and its Special Rapporteurship on Economic, Social, Cultural and Environmental Rights concerned about persistent food shortages in Cuba](#), May 25, 2021.

<sup>294</sup> Radio Televisión Martí, [Power outages cause new day of protests in Cuba](#) [in Spanish], October 14, 2022.

<sup>295</sup> UNICEF, [Humanitarian Situation Report](#), October 11, 2022, p. 1. See also: UNICEF, [Cuba: Hurricane Ian Humanitarian Situation Report No. 1](#), p. 1.

179. In this regard, the IACHR reminds the State of Cuba that children and adolescents have the right to a decent life, which entails conditions that ensure their well-being, meet their nutritional needs, and allow them to develop self-reliance.<sup>296</sup> The Commission emphasizes that education and health care for children and adolescents are essential to their enjoyment of the right to a decent life.<sup>297</sup> Consequently, the State must adopt measures to ensure children's exercise of these rights, preventing setbacks and unjustified delays and allocating the greatest available resources to that end.<sup>298</sup>

180. According to public information, while social protests have been sustained during 2022 in Cuba, they intensified in October. The energy crisis, heightened by Hurricane Ian at the end of September, has caused hundreds of people, including children, to take to the streets in several cities because of prolonged blackouts and food and water shortages.<sup>299</sup> Since the July 2021 protests, the Commission has received numerous complaints from civil society organizations of systematic criminalization and persecution of peaceful demonstrators, including children. This includes harassment, arbitrary arrests, criminal trials that violate essential guarantees of due process, and differential treatment in terms of prison privileges<sup>300</sup>.

181. According to reports from Prisoners Defenders, dozens of children, some as young as 12, have been violently arrested, disappeared from their families for days or weeks, tortured, and finally criminally prosecuted for taking part in peaceful demonstrations.<sup>301</sup> As of September, 36 children are serving sentences, or are being prosecuted, including for sedition, facing average prison sentences of four to six years, similar to those of adult political prisoners before the July 2021 protests.<sup>302</sup> Additionally, the Office of the Attorney General of the Republic of Cuba, with respect to the protests, has indicated that it monitors criminal proceedings in which disturbances of the peace and public order are investigated, and that it would take preventive measures against parents who have exposed their minor children to risk or neglect,<sup>303</sup> further heightening the criminalization of minors who participate in forums of protest.<sup>304</sup>

182. The Commission also is concerned about reports that children and adolescents detained as a result of the protests are subjected to cruel, inhuman, and degrading treatment. As noted by the Committee on the Rights of the Child, many children have been forcibly removed from their homes at night, with no notice to their families as to their whereabouts, held incommunicado, and transferred to different facilities for long hours of questioning.<sup>305</sup> Reports to the Committee against Torture by civil society organizations say that children and adolescents are among those arrested because of the protests and subjected to torture and other cruel treatment.<sup>306</sup>

<sup>296</sup> I/A Court H. R., [Juridical Condition and Human Rights of the Child](#), Advisory Opinion OC-17/2002, August 28, 2002, par. 80-86.

<sup>297</sup> I/A Court H. R., [Juridical Condition and Human Rights of the Child](#), Advisory Opinion OC-17/2002, August 28, 2002, par. 80-86.

<sup>298</sup> I/A Court H. R., [Juridical Condition and Human Rights of the Child](#), Advisory Opinion OC-17/2002, August 28, 2002, par. 80-86.

<sup>299</sup> Radio Televisión Martí, [Power outages cause new day of protests in Cuba](#) [in Spanish], October 14, 2022. See also: INFOBAE, [Cuba expects blackouts in up to 27% of the country this Monday](#) [in Spanish], October 24, 2022.

<sup>300</sup> IACHR, Press Release 153/22. [One year after historic protests, IACHR condemns persistent repression of demonstrators in Cuba](#), July 11, 2022. See also: IACHR, Press Release 31/22. [IACHR expresses concern over ongoing detention and prosecution of people who took part in protests in Cuba](#), February 16, 2022.

<sup>301</sup> Prisoners Defenders, [Systematic violations of children's rights in Cuba: Quantitative and qualitative research on more than 5,000 documented cases, with scientific evidence of their after-effects](#), Report/complaint to the United Nations Committee on the Rights of the Child, Cuba, April 15, 2022, p. 3.

<sup>302</sup> Prisoners Defenders, [Hundreds of arrests and dozens of new political prisoners is the response to the new demonstrations](#) [in Spanish], Cuba, September 8, 2022, p. 3.

<sup>303</sup> Office of the Attorney General of the Republic of Cuba, [Information Bulletin](#) [in Spanish], October 14, 2022.

<sup>304</sup> Committee on the Rights of the Child, [Concluding observations on the combined third to sixth periodic reports of Cuba](#), June 16, 2022, par. 26a.

<sup>305</sup> Committee on the Rights of the Child, [Concluding observations on the combined third to sixth periodic reports of Cuba](#), June 16, 2022, par. 25.

<sup>306</sup> Social Organizations, Torture in Cuba, [Report of Civil Society Organizations to the United Nations Committee Against Torture](#), 2022, pp. 5, 20, 35, 36.

183. As stated by the Committee on the Rights of the Child, freedom of expression includes the right of minors to state their opinions and to seek and receive information and ideas of all kinds, and the consequent obligation of the State to refrain from limiting or interfering in any way with such expression.<sup>307</sup> That Committee has also established the duty of the State to provide conditions in which children and adolescents can exercise their right to free expression in an environment of respect.<sup>308</sup> In this regard, the IACHR recalls that social protest is a manifestation of the right to free expression and peaceful assembly and constitutes an essential means of political participation and the defense of human rights.<sup>309</sup> The Commission therefore urges the State of Cuba to respect, protect, and ensure children's freedom of expression and peaceful assembly, which includes putting an end to any form of criminalization of these rights.

184. Furthermore, the Commission reminds the State of Cuba that the detention of adolescents is a measure of last resort, applicable only under exceptional circumstances and for the shortest time possible.<sup>310</sup> It is an obligation of the State to inform imprisoned adolescents and their families of the reasons for their detention and of the locations where they are held; to take immediate and urgent measures to protect their lives, health, and well-being; and to prevent, prohibit, and penalize any form of cruel, inhuman, or degrading treatment inflicted on them.<sup>311</sup>

185. The IACHR stresses that when children or adolescents are in an institution under the tutelage of the State, the State has an enhanced duty of care toward them, precisely because of the state of subjection or special relationship in which the State has placed them.<sup>312</sup> The Commission urges the State of Cuba to adopt the necessary measures to minimize contact between adolescents and the criminal justice system, and to limit the use of detention; and to bring about detention conditions that are compatible with the dignity of children, adhering to guarantees of due process.

186. In terms of legal provisions, the Commission welcomes the enactment of the Family Code, which recognizes important rights of children and adolescents within the family, in keeping with the postulates of the inter-American system for the protection of children and adolescents.<sup>313</sup> The Code notably includes the principles of the child's best interest, participation, autonomy and evolving capacity, the mainstreaming of prevention of and response to violence, the specialization of authorities who intervene in or resolve family matters, the prohibition of child marriage, and other issues that increase the protection of children, including maintenance obligations toward the pregnant person.<sup>314</sup>

187. The Commission also highlights the inclusion of the family unity principle in the Family Code and the express provision that separation of children and adolescents from their parents must meet the criteria of necessity, exceptionality, and temporality.<sup>315</sup> The Commission is, however, concerned about persisting structures and rules that prevent sons and daughters of professionals assigned to international missions from exercising their right to live and develop in a family environment.

<sup>307</sup> Committee on the Rights of the Child, [General Comment No. 12. The Right of the Child to be Heard](#), July 20, 2009, par. 81.

<sup>308</sup> Committee on the Rights of the Child, [General Comment No. 12. The Right of the Child to be Heard](#), July 20, 2009, par. 81.

<sup>309</sup> IACHR, [Protest and Human Rights](#); IACHR, [Second Report on the Situation of Human Rights Defenders in the Americas](#), 2011, par. 106. See also: IACHR, *Annual Report*. Volume II. [Report of the Office of the Special Rapporteur for Freedom of Expression. Chapter V. "Public demonstrations as an exercise of the right to freedom of expression and freedom of assembly."](#) 2005, par. 91; and IACHR, [Annual Report. Chapter IV.A: The Use of Force](#), 2015, par. 64-78.

<sup>310</sup> IACHR, [Juvenile Justice and Human Rights in the Americas](#), OEA/Ser.L/V/II. Doc. 78, July 13, 2011, par. 80.

<sup>311</sup> IACHR-RELE, [Protest and Human Rights](#), OEA/Ser.L/V/II CIDH/RELE/INF. 22/19, September 2019, par. 231. See also: I/A Court H. R. [Matter of Juan Sebastián Chamorro et al. regarding Nicaragua. Provisional Measures](#). Order of the Inter-American Court of Human Rights of June 24, 2021, par. 36.

<sup>312</sup> IACHR, [The right of girls and boys to a family. Alternative care. Ending institutionalization in the Americas](#), OEA/Ser.L/V/II. Doc. 54/13, October 17, 2013, par. 562.

<sup>313</sup> IACHR [CIDH]. [\(September 27, 2022\)](#). "IACHR welcomes the legalization of marriage equality and the elimination of child marriage through the approval of a new Family Code that increases protection for women, girls, boys, adolescents, older persons, and LGBTIQ persons." Twitter.

<sup>314</sup> UNICEF, [UNICEF Cuba recognizes the harmony between the Draft of the Code of Families and the Convention on the Rights of the Child](#), November 2, 2021. See also: Official Gazette of the Republic of Cuba, [Law 156/2022 "Family Code" \(GOC-2022-819-087\)](#), Arts. 42 and 43.

<sup>315</sup> Official Gazette of the Republic of Cuba, [Law 156/2022 "Family Code" \(GOC-2022-819-087\)](#), Art. 6

188. Monitoring by the IACHR reveals that persons with minor children are given priority for assignment to missions abroad, considering that they are less likely to decide not to return to Cuba.<sup>316</sup> Professionals are not allowed to take their families on the missions, which last two to three years, and have only one month of paid vacation in Cuba per year; any visit to their children requires special authorization from the State, even under grave circumstances, and the cost is covered by the professional.<sup>317</sup> Such travel costs are almost impossible for parents to pay.<sup>318</sup>

189. Along the same lines, the IACHR notes with concern civil society estimates that more than 20,000 children in Cuba have undergone forced separation from their parents under the so-called eight-year rule.<sup>319</sup> Under Cuban law, professionals who leave their mission or decide not to return to Cuba face prison sentences of up to eight years; since they cannot be arrested, they are declared deserters and denied entry into Cuba for at least eight years.<sup>320</sup> Civil society organizations report that such declarations of desertion are communicated to the minor children of such professionals during highly intimidating and traumatic visits; and the free movement of children and adolescents is prohibited, meaning they cannot leave the country and reunite with their parents.<sup>321</sup> These prolonged separations have had alarming impacts on the emotional, mental, cognitive, and physical condition of children.<sup>322</sup>

190. Consequently, the IACHR reminds the Cuban State of its obligation to adopt policies to prevent family separation and guarantee the right of children and adolescents to reunite with their parents. Likewise, the Commission joins the Committee on the Rights of the Child in calling on the Cuban State to adopt policies that guarantee effective protection of the rights of sons and daughters of personnel who are serving on international missions; and to repeal law that arbitrarily restricts the right of minors to live and develop within their family environment, in keeping with the enactment of the new Family Code.<sup>323</sup>

## 8. Human mobility

191. As for persons in human mobility situations, in its annual reports the Commission has constantly monitored restrictions on the full exercise of the right of movement and residence, both within the country and abroad. Since 1983, when it released its seventh report on the status of human rights in Cuba, the Commission has found the exercise of the right of residence and transit to be extremely restricted, both under law and in practice, especially for those who have taken positions critical of the Government.<sup>324</sup>

192. Likewise, in its 2020 Country Report, the IACHR observed that, although Article 52 of the new Constitution refers to freedom of movement within Cuban territory, there are constant complaints of

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<sup>316</sup>Cuba Archive, [Fact Sheet: Overview of Cuba's medical "collaboration."](#) Cuba, June 20, 2020, pp. 6-8. See also: Human Rights Foundation, [Human Trafficking in Cuba's Medical Missions](#), pp. 20-23.

<sup>317</sup>Cuba Archive, [Fact Sheet: Overview of Cuba's medical "collaboration."](#) Cuba, June 20, 2020, pp. 6-8. See also: Human Rights Foundation, [Human Trafficking in Cuba's Medical Missions](#), pp. 20-23. Special Rapporteur on trafficking in persons, especially women and children, [Communication CUB 6/2019](#) [in Spanish], November 6, 2019, pp. 2-3.

<sup>318</sup>Cuba Archive, [Fact Sheet: Overview of Cuba's medical "collaboration."](#) Cuba, June 20, 2020, pp. 6-8. See also: Human Rights Foundation, [Human Trafficking in Cuba's Medical Missions](#), pp. 20-23. Special Rapporteur on trafficking in persons, especially women and children, [Communication CUB 6/2019](#) [in Spanish], November 6, 2019, pp. 2-3.

<sup>319</sup>Cuba Archive, [Fact Sheet: Overview of Cuba's medical "collaboration."](#) Cuba, June 20, 2020, pp. 6-8. See also: Human Rights Foundation, [Human Trafficking in Cuba's Medical Missions](#), pp. 20-23.

<sup>320</sup>[Criminal Code](#), Art. 176.1. Cuba; Committee on the Rights of the Child, [Concluding observations on the combined third to sixth periodic reports of Cuba](#), June 16, 2022, par. 34c. Cuba Archive, [Fact Sheet: Overview of Cuba's medical "collaboration."](#) Cuba, June 20, 2020, pp. 6-8. See also: Human Rights Foundation, [Human Trafficking in Cuba's Medical Missions](#), pp. 20-23. Special Rapporteur on trafficking in persons, especially women and children, [Communication CUB 6/2019](#) [in Spanish], November 6, 2019, pp. 2-3.

<sup>321</sup>Cuba Archive, [Fact Sheet: Overview of Cuba's medical "collaboration."](#) Cuba, June 20, 2020, pp. 6-8. See also: Human Rights Foundation, [Human Trafficking in Cuba's Medical Missions](#), pp. 20-23.

<sup>322</sup>Cuba Archive, [Fact Sheet: Overview of Cuba's medical "collaboration."](#) Cuba, June 20, 2020, pp. 6-8. See also: Human Rights Foundation, [Human Trafficking in Cuba's Medical Missions](#), pp. 20-23. Special Rapporteur on trafficking in persons, especially women and children, [Communication CUB 6/2019](#) [in Spanish], November 6, 2019, pp. 2-3.

<sup>323</sup>Committee on the Rights of the Child, [Concluding observations on the combined third to sixth periodic reports of Cuba](#), June 16, 2022, pars. 34 and 35.

<sup>324</sup>IACHR, [The Situation of Human Rights in Cuba](#) (Seventh Report), OEA/Ser.L/V/II.61 Doc.29 rev. 1, October 4, 1983, [Conclusions](#), par. 13.

unjustified restrictions on this right. In statements compiled by the IACHR, people continually cited restrictions that had been placed on their departure from and return to the country because of their political beliefs.<sup>325</sup>

193. During 2022, the IACHR and its RELE observed a rising trend of such restrictions and obstacles to entering and leaving Cuba, applied by the authorities to human rights defenders, independent journalists, and activists, in order to silence dissent and hinder citizen participation in forums on the human rights situation.<sup>326</sup>

194. Among other cases, the IACHR and the RELE learned that in February the Government had denied activist Anamely Ramos, a member of the San Isidro Movement (MSI), permission to return to Cuba from the United States. The Ministry of the Interior of Cuba, through its directorate of identification, immigration, and aliens, notified the U.S. carrier American Airlines, with respect to Anamely Ramos González, that her “entry into national territory was not permitted” and that “in case of her arrival, she will be returned on the same flight.”<sup>327</sup> The Commission emphasizes that Anamely Ramos is a beneficiary of precautionary measures by the IACHR, which in 2021 granted protection to 20 identified members of the MSI, finding them to be at serious and imminent risk of irreparable harm to their rights in Cuba.<sup>328</sup>

195. Similarly, in June of this year, art historian and activist Omara Ruiz Urquiola was reportedly prevented, by order of the Cuban authorities, from returning to Havana from the United States. The United Nations Special Rapporteur on the situation of human rights defenders spoke out on the case, stating that “she must be allowed to return.”<sup>329</sup>

196. In view of these situations, the RELE asked the United States of America to provide more information on the rules and procedures that airlines operating in the country must follow in authorizing the boarding of foreign passengers returning to their country of nationality.<sup>330</sup> In their response, the US authorities stated that:

Compliance with entry requirements is based on Article 13 of the Convention on International Civil Aviation (Chicago Convention), which obliges all 193 parties, including the United States and Cuba, to comply with the laws and regulations of a Contracting State regarding the admission to or departure from its territory of passengers, aircraft crew, or cargo, such as entry, clearance, immigration, passport, customs, and quarantine regulations. (...) U.S. carriers must receive economic authority from the U.S. Department of Transportation (DOT) in order to serve all international destinations. (...) The DOT requires U.S. carriers to respect the other’s entry, exit, and immigration laws and regulations, including the rules and procedures established for the entry of their own citizens. Failure to comply with the conditions of the DOT’s grant of economic authority could result in civil penalties, suspensions, or the revocation of U.S. carriers’ authority to operate internationally.”<sup>331</sup>

<sup>325</sup> IACHR. *Situation of Human Rights in Cuba*. OEA/Ser.L/V/II. Doc. 2. February 3, 2020, pars. 358, 364-368.

<sup>326</sup> Twitter account of the IACHR Special Rapporteurship for Freedom of Expression (@RELE\_CIDH). [March 11, 2022](#).

<sup>327</sup> Ministry of the Interior of Cuba. Directorate of Identification, Immigration, and Alien Affairs. “Notification to airlines about passengers inadmissible for entry to the national territory.” February 26, 2022. Archive of the Special Rapporteur for Freedom of Expression.

<sup>328</sup> IACHR. February 11, 2021. [Resolution 14/2021](#). Precautionary Measure No. 1101-20. Twenty identified members of the San Isidro Movement (MSI) regarding Cuba.

<sup>329</sup> Twitter account of Mary Lawlor, United Nations Special Rapporteur on human rights defenders (@MaryLawlorhrds). [July 8, 2022](#).

<sup>330</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression, “Request for information on the rules and procedures for foreigners boarding international flights to their countries of nationality and the implications for their visa status.” CIDH/RELE/Art.18/04-2022/250. April 12, 2022.

<sup>331</sup> Permanent Mission of the United States to the OAS. Response of the Government of the United States to information request CIDH/RELE/Art.18/04-2022/250. August 19, 2022.

197. Likewise, the United States indicated that it has urged the Cuban Government “to end this cruel and discriminatory policy of arbitrarily denying entry to their own people and to ensure that Cuban citizens can exercise their right of return to their country of origin.”<sup>332</sup>

198. The Special Rapporteur for Freedom of Expression also was informed of a decision by Ministry of the Interior to prevent six young journalists from the media outlet eTOQUE from boarding a flight from Havana to Argentina. The journalists were on their way to Buenos Aires to participate in the Media Party, a media innovation conference.<sup>333</sup>

199. On this subject, the Commission takes note of a study by the Institute on Race, Equality and Human Rights, which highlights three strategies it says the Government of Cuba uses to curtail the right of free movement of activists, human rights defenders, journalists, independent artists, and people who dissent politically from the official state ideology or regime. They are: (1) regulation – based on Article 25 of the Migration Law--which limits departures from Cuba by people “to whom reasons of national defense or security, or other reasons of public interest apply”; (2) forced exile stemming from persecution and threats against them and/or their families; and (3) refusal to allow citizens to return.<sup>334</sup>

200. The IACHR emphasizes that, in accordance with Article VIII of the American Declaration and Article 22 of the American Convention on Human Rights, the duty to guarantee civil and political rights includes the obligation of the State to take the necessary measures to fully guarantee the right of all persons to leave the country, to move within their territory, to choose their place of residence, and to enter or reenter their country of nationality.<sup>335</sup> This includes not preventing or hindering in any way their departure from, or entry into, Cuba to participate in forums on the country’s human rights situation.<sup>336</sup>

201. In addition, preventing citizens from returning to their country is considered a serious violation of nationality rights. The Commission has already referred to the link between the right to nationality and the right of residence and transit set forth in Article VIII of the American Declaration of the Rights and Duties of Man, and has emphasized that “the right of every person to live in his own country, to leave and return when he deems fit... is a basic right that is recognized in every international instrument that protects human rights.”<sup>337</sup>

202. On the other hand, despite the restrictions on movement, the IACHR noted a significant increase in migration of Cubans to the United States in 2022. According to the most recent statistical update by the Department of Customs and Border Protection (CBP), from January to November 2022, 269,396 Cubans arrived in the United States<sup>338</sup>—more than double the 125,000 who emigrated in 1980 during the Mariel exodus. It is already considered the largest exodus of Cubans to the United States in the entire history of the Island<sup>339</sup>. Likewise, the number of people who emigrated to the US would already represent about 2.45% of the 11 million inhabitants of the country<sup>340</sup>.

<sup>332</sup> Permanent Mission of the United States to the OAS. Response of the Government of the United States to information request CIDH/RELE/Art.18/04-2022/250. August 19, 2022.

<sup>333</sup> eTOQUE. August 25, 2022. [Cuban government prevents six eTOQUE journalists from attending the Media Party in Argentina](#) [in Spanish]; LatAm Journalism Review. September 29, 2022. [Wave of journalist resignations in Cuba due to State Security harassment](#).

<sup>334</sup> Institute on Race, Equality and Human Rights, [Cuba: migration crisis and repressive practices in the context of human mobility](#) [in Spanish], October 27, 2022.

<sup>335</sup> OAS, [American Declaration of the Rights and Duties of Man](#). Adopted at the Ninth International Conference of American States, Bogotá, Colombia, 1948, Article VIII; [American Convention on Human Rights](#). San José, Costa Rica, November 7-22, 1969, Article 22.

<sup>336</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression, [Special Report on the Situation of Freedom of Expression in Cuba](#). OEA/SER.L/V/II CIDH/RELE/INF. 21/18. December 31, 2018.

<sup>337</sup> IACHR. Country Report. [The Situation of Human Rights in Cuba](#), Seventh Report, OEA/Ser.L/V/II.61 Doc. 29 rev. 1, October 4, 1983, [Chapter VIII](#) (Right to residence and movement).

<sup>338</sup> U.S. Customs and Border Protection (CBP), [Nationwide Encounters](#), Data is available for the Northern Land Border, Southwest Land Border, and Nationwide (i.e., air, land, and sea modes of transportation) encounters. Last modified: December 14, 2022.

<sup>339</sup> El país, [The largest exodus in history from Cuba to the United States](#), December 29, 2022.

<sup>340</sup> Data on the total population in 2021. Available at: World Bank, [Data: Cuba](#). Access: December 29, 2022.

203. Drawing on statements received, and information reported by civil society organizations, the IACHR observes that this increase has resulted from the serious economic crisis in Cuba, the shortage of food and medicine, curtailments of the exercise of basic human rights, and intensified state repression of social protest, especially since the demonstrations of July 11, 2021.

204. The Commission also notes the report of the United Nations Office for the Coordination of Humanitarian Affairs (OCHA), dated September 12, 2022, which says that, between January and July 2022, U.S. border authorities stopped Cuban citizens attempting to enter the country through Mexico 155,000 times—more than a sixfold increase over the same period in 2021. From October 2021 to August 2022, the U.S. Coast Guard intercepted more than 4,600 Cubans, nearly six times more than in the entire previous fiscal year.<sup>341</sup>

205. The Commission also observes that migration of Cubans takes place mainly over dangerous routes and in an irregular manner, which exposes them to multiple risks. In particular, the IACHR expresses profound concern over the increase in maritime incidents involving vessels carrying Cuban migrants. These tragic events have resulted in numerous deaths and disappearances. According to data from the International Organization for Migration (IOM), between January 2021 and June 2022, at least 108 Cubans died in transit to the United States.<sup>342</sup>

206. Given this reality, the Commission urges the State of Cuba to adopt urgent and comprehensive measures to address the factors that prompt its nationals to leave the country, including violations of basic human rights and fundamental freedoms. It also calls on the States of the region to guarantee regular and safe channels that allow people to migrate without facing multiple risks and forms of discrimination, and to guarantee the international protection of people fleeing various forms of persecution and violence.

#### IV. THE STATE'S RELATIONS WITH OTHER ACTORS

##### A. Status of the Cuban State vis-à-vis the OAS and the IACHR

207. On January 31, 1962, the Government of Cuba was excluded from participating in the inter-American system by the adoption of Resolution VI at the Eighth Meeting of Consultation of Ministers of Foreign Affairs, held in Punta del Este, Uruguay.<sup>343</sup> Subsequently, during its Thirty-ninth Regular Session, held in San Pedro Sula, Honduras, on June 3, 2009, the General Assembly of the Organization of American States (OAS) set aside that resolution and, by means of resolution AG/RES. 2438 (XXXIX-O/09), established that “the participation of the Republic of Cuba in the OAS will be the result of a process of dialogue initiated at the request of the Government of Cuba, and in accordance with the practices, purposes, and principles of the OAS.”<sup>344</sup>

208. As of the adoption of this report, the revocation of the 1962 resolution that excluded the Cuban Government from the inter-American system has not resulted in Cuba's reincorporation into the OAS. For example, in 2018, Cuba sent a delegation to the Eighth Summit of the Americas and, despite walking out of the inaugural session prior to the address delivered by the OAS Secretary General, it announced that it would continue to “exercise [its] legitimate right to participate at a forum to which it should have been a party for a long time.” At the same event, Foreign Minister Bruno Rodríguez reiterated the position of the Cuban State with respect to what it views as the use of the OAS as an instrument of the geopolitical interests of the United States.

<sup>341</sup> OCHA, Latin America & the Caribbean, [Weekly Situation Update](#) (September 5-11, 2022) as of September 12, 2022.

<sup>342</sup> International Organization for Migration (IOM), [News – Global: Latest migrant tragedy in Texas highlights crisis along deadliest migration land route](#), July 1, 2022.

<sup>343</sup> The text of Resolution VI can be found in [Eighth Meeting of Consultation of Ministers of Foreign Affairs Serving as Organ of Consultation in Application of the Inter-American Treaty of Reciprocal Assistance](#), Punta del Este, Uruguay, January 22-31, 1962, Documents of the Meeting, Organization of American States, OEA/Ser.F/II.8, doc. 68, pp. 13-15.

<sup>344</sup> The text of resolution AG/RES. 2438 (XXXIX-O/09) can be found in [Thirty-ninth Regular Session, San Pedro Sula, Honduras, June 2-4, 2009](#), Proceedings and Documents, Volume I, Organization of American States, OEA/Ser.P/XXXIX-O.2, p. 12.

209. The exclusion of the Government of Cuba by the OAS has not impeded the Commission from fulfilling its mandate of promoting and protecting human rights,<sup>345</sup> inasmuch as it recognizes Cuba as “juridically responsible to the Inter-American Commission in matters concerning human rights” as “a party to the international instruments initially established to protect human rights in the American hemisphere” and because Resolution VI of the Eighth Meeting of Consultation “excluded the Government of Cuba and not the Cuban State from participation in the Inter-American system.”<sup>346</sup>

210. The Commission notes that those states that have not ratified the American Convention on Human Rights have granted the Commission the power “to pay particular attention to the observance of the human rights referred to in Articles I, II, III, IV, XVIII, XXV, and XXVI of the American Declaration of the Rights and Duties of Man,” as established in Article 20(a) of the Statute of the IACHR.

211. Under that mandate, the Commission has prepared eight country reports on Cuba, most recently in 2020. Similarly, Cuba has been included in Chapter IV, or the equivalent thereof, of the *Annual Report* from 1984-85 to 1994, and uninterruptedly from 1996 to 2018. As of the 2013 amendments to the Rules of Procedure, Cuba’s inclusion in the annual reports has been based on the criteria set out in Article 59, section 6, subsections (a)(i) and (c) of the Rules of Procedure.

212. Over the past ten years, the IACHR has held an average of two public hearings a year on Cuba. In 2022, the Commission held a hearing on the situation of labor rights in Cuba and another on the human rights situation of vulnerable groups there.

213. Additionally, under the powers granted by Article 18.d of the Statute, it has requested that the State provide information; likewise, individual petitions, cases, and requests for precautionary measures continue to be received, processed, and examined.

214. As of the drafting of this report, 46 precautionary measures were active with respect to Cuba. Of those, four were granted by means of three resolutions in 2022. The IACHR highlights the adoption of Resolution No. 48/22, following up on precautionary measure No. 264-13, Members from Damas de Blanco (Ladies in White). While the Cuban State does not reply to the IACHR’s communications and decisions, civil society organizations report experiencing a cessation or decrease in the intensity of the mistreatment, retaliation, harassment, and/or assaults they faced prior to the Commission’s actions, albeit on occasions only temporarily.

215. The table below details the precautionary measures granted by the IACHR in 2022.

| Resolution / PM                                  | Beneficiaries                                             | Recommendations to the State                                                                                                                               |
|--------------------------------------------------|-----------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <a href="#">Resolution No. 30/22</a><br>MC 46-22 | Walnier Luis Aguilar Rivera and Ibrahim Domínguez Aguilar | a. take the necessary measures to protect the rights to life, personal integrity, and health of Walnier Luis Aguilar Rivera and Ibrahim Domínguez Aguilar; |

<sup>345</sup> During 2018, the IACHR issued two letters requesting information from the State and published two press releases: IACHR, Press Release R82/2018, [IACHR publishes merit report in case related to the criminalization of political opinion and deliberation in Cuba](#), April 11, 2018; and IACHR, Press Release R152/2018, [Office of the Special Rapporteur expresses concern over criminal convictions for desacato laws in Cuba](#), July 17, 2018.

<sup>346</sup> IACHR, *Annual Report, Chapter IV. Human Rights Developments in the Region. Cuba*, 2002, OEA/Ser.L/V/II.117 Doc. 1 rev. 1, March 7, 2003, pars. 3-7; [Seventh Report on the Situation of Human Rights in Cuba](#), OEA/Ser.L/V/II.61, Doc.29 rev. 1, October 4, 1983, pars. 16-46.

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|-------------------------------------------------------|-------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                       |                         | <p>b. ensure that their detention conditions are following the applicable international standards on the matter;</p> <p>c. consult and agree upon the measures to be adopted with the beneficiaries and their representatives; and</p> <p>d. report on the actions undertaken to investigate the alleged events that led to the adoption of this precautionary measure, so as to prevent them from reoccurring.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <a href="#">Resolution No. 37/22</a><br><br>MC 768-21 | Félix Navarro Rodríguez | <p>a. adopt the necessary measures to protect the rights to life, personal integrity, and health of Félix Navarro Rodríguez;</p> <p>b. ensure that the conditions of detention of the proposed beneficiary are compatible with applicable international standards on the matter. In particular, among other measures, (i) provide medical care as prescribed by medical specialists, (ii) allow regular visits by family members and legal representation, (iii) assess in light of the conditions of detention and health of the proposed beneficiary whether the application of any alternative measure to deprivation of liberty is permitted, (iv) verify the sanitation and cleanliness of the place of detention, and (v) ensure access to food and drinking water for the proposed beneficiary, considering his age and medical condition;</p> <p>c. consult and agree upon the measures to be adopted with the beneficiary and his representatives; and</p> <p>d. report on the actions undertaken to investigate the alleged events that led to the adoption of this precautionary measure, so as to prevent them from reoccurring.</p> |

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|------------------------------------------------------|-------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <a href="#">Resolution No. 41/22</a><br><br>MC 30-21 | Luis Robles Elizástegui | <p>a. adopt the necessary measures to protect the rights to life, personal integrity, and health of Luis Robles Elizástegui;</p> <p>b. ensure that the conditions of detention of the proposed beneficiary are compatible with applicable international standards on the matter. In particular, among other measures: (i) provide medical care according to what is prescribed by the medical specialists, (ii) allow regular visits by family members and legal representatives, (iii) assess, in the light of the conditions of detention and health of the proposed beneficiary, the application of any alternative measure to deprivation of liberty, and (iv) take action in the face of threats, harassment, intimidation or acts of violence against the proposed beneficiary for denouncing his current situation;</p> <p>c. consult and agree upon the measures with the beneficiary and his representatives; and</p> <p>d. report on the actions taken in order to investigate the alleged facts that gave rise to the adoption of this precautionary measure, so as to prevent them from reoccurring.</p> |
|------------------------------------------------------|-------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

## B. The United States' economic blockade

216. The US economic blockade of Cuba, which began more than 60 years ago, is grounded on a series of U.S. laws and regulations that prohibit or limit commercial relations with the island, including the 1917 Trading with the Enemy Act, the 1961 Foreign Assistance Act, the 1992 Cuban Democracy Act, the 1996 Cuban Liberty and Democratic Solidarity (Libertad) Act (known as the Helms–Burton Act), and the 2000 Trade Sanction Reform and Export Enhancement Act.<sup>347</sup>

217. Over time, the intensity of the blockade has fluctuated between eased and tightened restrictions. Since the announcement of the reestablishment of relations between Cuba and the United States on December 17, 2014,<sup>348</sup> the Commission has continued to monitor the partial lifting of the economic blockade by the U.S. Congress.<sup>349</sup>

218. In 2019, the United States Government reactivated some of its sanctions on the Cuban Government.<sup>350</sup> In early 2020, the United States restricted private flights to all the country's airports, with the exception of José Martí International Airport in Havana,<sup>351</sup> and had previously restricted the sending of remittances to the island.<sup>352</sup> During 2021, the Commission noted that the United States Government did not resume its policy of rapprochement with Cuba.

219. In 2022, the IACHR observed that certain restrictions were relaxed. In May 2022, the United States Government announced measures to make its Cuba policy more flexible, reversing decisions taken by

<sup>347</sup> United States Department of State, [Cuba Sanctions](#).

<sup>348</sup> The White House, Press Release, [Fact Sheet: Charting A New Course On Cuba](#), December 17, 2014.

<sup>349</sup> IACHR, Press Release 156/2014, [IACHR welcomes announcement to reestablish relations between the United States and Cuba](#), December 18, 2014.

<sup>350</sup> United States Congressional Research Service, [Cuba: U.S. Policy in the 116th Congress](#), May 14, 2020, p. 24.

<sup>351</sup> *El Nuevo Herald*, [U.S. eliminates charter flights to Cuba except Havana](#) [in Spanish], January 10, 2020.

<sup>352</sup> United States Department of State, [United States restricts remittances and "U-turn" transactions to Cuba](#), September 6, 2019.

former president Donald Trump. Specifically, the State Department announced that commercial flights to several Cuban cities—restricted to Havana alone since August 2020—will be reinstated, that the US\$1,000 quarterly limit on remittances will be suspended, and that family reunifications will be assisted through the reactivation of the Cuban Family Reunification Parole Program (CFRP).<sup>353</sup>

220. The IACHR has, on several occasions, called for the lifting of the U.S. economic blockade on account of its impact on the Cuban people and their rights. At the same time, as the IACHR has also stressed on several occasions, the blockade “does not release the State of Cuba from its obligation to discharge its international obligations, nor excuse its violations of the American Declaration.”<sup>354</sup>

221. The blockade of Cuba has also been criticized by the United Nations on numerous occasions. Most recently, on November 3, 2022, for the thirtieth time, a resolution by the General Assembly called for the end of the economic embargo imposed by the United States on Cuba since 1962. The resolution was adopted by 185 votes in favor, with two members voting against and two abstentions. The text of the resolution invokes “the sovereign equality of States, non-intervention and non-interference in their internal affairs and freedom of international trade and navigation, which are also enshrined in many international legal instruments,” calls upon all states to refrain from promulgating and applying laws and measures that contravene those principles and urges the repeal of such measures by those states that still impose them. The IACHR also notes that, according to the official United Nations press coverage, “delegates stressed the unjustified harm that the embargo inflicts on the Cuban people by depriving them of vital income and of essential goods such as medicines.”<sup>355</sup>

## V. CONCLUSIONS AND RECOMMENDATIONS

222. Considering the information gathered in 2022 and taking into account the recommendations made in its most recent country report and in the fourth chapters of previous years’ annual reports, the IACHR notes with great concern that it does not see an improvement in structural issues or in terms of violations of the rights to personal liberty and integrity, arbitrary restrictions on the right to vote and to participate in government, freedom of expression, and dissemination of thought. In addition, violations of such rights as guarantees of due process continue, as do undue restrictions of the right of transit. The IACHR also regrets the limited official information available and the State’s historical distance from this regional human rights body.

223. The IACHR reiterates its interest in conducting its first country visit to Cuba, in order to reach out to and open a respectful dialogue with the Cuban State and provide any technical support in the area of human rights that may be required, in the interest of promoting respect for and upholding human rights on the island.

224. In consideration of the foregoing, and in compliance with its mandate, the Commission urges the State of Cuba to:

### Democratic institutions

#### Representative democracy and political rights

1. Adopt the legislative and other measures necessary to ensure an electoral system that is inclusive and that guarantees the free circulation of ideas and thought, thereby enabling free political participation for all Cuban citizens on an equal footing and bringing its legal system into line with the standards of the Inter-American Democratic Charter and the American Declaration.

<sup>353</sup> United States Department of State, [Biden Administration Measures to Support the Cuban People](#), May 16, 2022; BBC, [Cuba-USA: Biden administration relaxes its policy towards the island and undoes measures adopted by Trump](#) [in Spanish], May 17, 2022.

<sup>354</sup> IACHR, [Situation of Human Rights in Cuba](#), OEA/Ser.L/V/II. Doc. 2. February 3, 2020, par. 49.

<sup>355</sup> United Nations, [General Assembly overwhelmingly rejects the embargo on Cuba for the 30th time](#) [in Spanish], November 3, 2022.

2. Incorporate measures that guarantee respect for civil and political rights related to democratic participation in public administration into the framework of its domestic laws and constitutional precepts reformulated in accordance with previous recommendations.
3. Provide regular reports on the measures adopted to implement legislative and practical changes for institutionalizing representative democracy in the country and for upholding democracy-related human rights.
4. Open channels that allow real and vigorous participation by all political sectors of the population, thus contributing to the construction of democracy in Cuba.
5. Release all persons detained for political reasons and prisoners of conscience, including activists, artists, and journalists prosecuted by reason of their professions or activism.

#### **Independence of the branches of government, guarantees at trial, and judicial protection**

6. Adopt the measures necessary to ensure the full independence of the judiciary from the other branches of government. The IACHR recommends adopting measures to ensure that judges enjoy, from the time of their selection, guarantees that enable them to carry out their work independently, impartially, in accordance with the law, and with respect for human rights. Accordingly, appointments and removals must be conducted without affecting judicial independence.
7. Adopt measures so that lawyers can practice their profession without politically motivated restrictions and free from threats or harassment.
8. Investigate and punish human rights violations that are reported and take steps to avoid impunity arising from the absence of judicial independence.
9. Ensure that the criminal offenses provided for in its legislation are not used improperly to restrict other rights or against dissenting individuals.
10. Refrain from carrying out illegal or arbitrary arrests and, when persons are deprived of their freedom, ensure that custodial measures are exceptional and comply with all guarantees applicable to the restriction of that right, including the requirement to be brought immediately before a judge.

#### **Freedom of expression**

11. Guarantee the legal conditions necessary for full exercise, both online and offline, of the right to freedom of expression, freedom of the press, freedom of peaceful assembly, and freedom of association. This includes making domestic rules compatible with the applicable international human rights standards.
12. Guarantee that all individuals and groups—including journalists, artists, human rights defenders, political opponents, and others—can exercise their rights of freedom of expression, peaceful assembly, and association, without fear of reprisals or prosecution.
13. Refrain from arbitrarily hindering journalistic activities, even indirectly, including the local press and international correspondent services.
14. Immediately cease all forms of harassment, threats, intimidation, and censorship—including summonses, interrogations, arbitrary arrests, and police persecution—against individuals for causes related to the exercise of their freedom of expression, freedom of association, and freedom of assembly.

15. Provide full guarantees to persons facing administrative or judicial proceedings as a consequence of their exercise of the right to freedom of expression. In particular, observe the guarantees that ensure, depending on the proceedings in question, the right to due process, including access to technical defense; the public nature of criminal trials; the right to be heard by an independent, impartial, and competent court; and, in general, all conditions necessary for the effective conduct of proceedings in accordance with international human rights standards.
16. Respect, protect, and guarantee the right to social protest. In particular, refrain from imposing conditions that contravene international human rights law, such as requiring prior authorization, and refrain from imposing criminal penalties on persons solely for participating in public demonstrations.
17. Guarantee universal access to the internet, without restrictions, discrimination, blocking, or arbitrary interference with traffic. In particular, refrain from all types of discrimination in the treatment of data and internet traffic based on such factors as the device used, content, author, origin and/or destination of the material, service, or application, in accordance with the principle of net neutrality.
18. Guarantee the full exercise of civil and political rights, which includes the right of all persons, in accordance with international human rights standards, to leave the country, to travel within its territory, to choose their place of residence, and to enter or re-enter the country of which they are nationals. This includes, in particular, not preventing or hindering in any way exit from or entry into the country by persons intending to participate in legitimate activities.
19. Guarantee the right of access to public information, observing the guiding principles of maximum disclosure and good faith. This right includes the State's obligation to produce or collect information on human rights violations and on the related judicial investigations.
20. Facilitate the operation of international observation mechanisms regarding the situation of the right to freedom of expression in Cuba, including the provision of all official information deemed relevant.
21. Precisely define the concepts of "public order" and "national security" in accordance with the principle of legality and differentiate them from activities protected by the right to freedom of expression. Accordingly, refrain from using those concepts to suppress the right to freedom of expression, to undermine it, or to deprive it of its true sense.
22. Guarantee pluralism and diversity in the media and adopt measures to prevent the existence of public media monopolies. Similarly, adopt the measures necessary to ensure that media outlets belonging to the State are subject to appropriate legislation and regulation.

#### **Economic, social, cultural, and environmental rights**

23. Adopt deliberate and concrete measures to guarantee economic, social, cultural, and environmental rights, without discrimination and in conditions of equality, to combat poverty and to ensure the autonomy of the island's different vulnerable or historically discriminated groups, especially those affected by the social and economic crisis.
24. Take urgent and effective steps to guarantee all people, without discrimination, unhindered access to drinking water, as well as the unrestricted availability and accessibility of medicines and food in sufficient quantity and quality to ensure their nutritional well-being.

25. Adopt the legislative, political, and programmatic measures necessary to eradicate politically motivated discrimination in the workplace, urging the State to redouble its efforts to ensure free choice of employment, unhindered access to work, and workers' job stability.
26. Recognize and legitimize the creation of free, autonomous, and independent trade union organizations that guarantee and defend the rights of all workers, including the self-employed, and the exercise of such collective rights as the right to collective bargaining and the right to strike.
27. Take measures to guarantee the autonomy of universities and to put an end, as soon as possible, to all forms of persecution, harassment, and threats—including arbitrary arrests—against teachers and students for causes related to the exercise of academic freedom.

### **Persons deprived of liberty**

28. Establish a public, easily, and unrestrictedly accessible, and regularly updated register of persons deprived of their liberty. In particular, this register must contain information indicating, at least, the following details: (i) number of persons held at each detention center, (ii) procedural status or situation, (iii) if applicable, penalty imposed and estimated date of release, and (iv) reason for detention. In addition, specific factors such as gender, age, ethnicity, sexual orientation, gender identity and expression, interculturality, intersectionality, disability, and family composition should also be included.
29. Guarantee the decent treatment of persons deprived of liberty. Specifically, ensure that detainees receive adequate medical attention in accordance with their specific health conditions, receive sufficient food with high nutritional value, and have access to drinking water, and that infrastructure conditions comply with sanitation and hygiene standards.
30. Prohibit and prevent all acts of torture or mistreatment. To that end, create an independent mechanism to enable persons in the custody of the State to report those practices and to ensure that such acts are duly investigated and punished.

### **Human rights defenders**

31. Refrain from acts of harassment, threats, aggression, stigmatization, persecution, and criminalization, either committed by authorities of the State or with their acquiescence, that affect human rights defenders. In turn, take the steps necessary to foster a hostility-free environment that respects fundamental freedoms for the defense of human rights.
32. Refrain from imposing arbitrary restrictions on human rights defenders' right of free movement, allowing them to freely exercise their freedom of movement in the territory of Cuba and to leave and enter the country.
33. Refrain from arbitrarily depriving human rights defenders of their freedom when carrying out their legitimate work in defense of human rights in the country.

### **Afro-descendants**

34. The Commission reminds Cuba of its duty to ensure compliance with international standards on the use of force based on the principles of legality, proportionality, and absolute necessity, including a gender-aware approach and the prevention of racial profiling.
35. The IACHR urges Cuba to adopt special measures to combat all forms of discrimination and violence against people of African descent; in particular, it calls for the adoption of policies to ensure their effective access to and enjoyment of economic, social, cultural, and environmental rights.

36. It also urges the Cuban State to move forward with the implementation of the National Program against Racism and Racial Discrimination and of the National Program for the Advancement of Women, with the incorporation of an intersectional perspective.

### **Women**

37. Ratify the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women ("Convention of Belém do Pará").
38. Act with due diligence to prevent, investigate, and punish all forms of gender-based violence against women and girls of all ages, using all appropriate means and without undue delay.
39. Produce regular and complete statistics on violence and discrimination against women, and disaggregate that information by, at least, gender, age, ethnicity and racial origin, socioeconomic status, disability, sexual orientation, and gender identity/expression, as well as by the locations where such incidents take place, in order to construct an accurate picture of the specific ways in which violence and discrimination affect women.

### **LGBTI persons**

40. Adopt a gender identity law that recognizes the right of trans and gender-diverse persons to rectify their names, their photographic images, and the sex or gender fields on their birth certificates, identity cards, and other legal documents without requiring the presentation of medical certificates, psychological/psychiatric evaluations, or other invasive requirements, in accordance with the standards established in Advisory Opinion OC-24/17.
41. Guarantee comprehensive protection for LGBTI persons and address the underlying causes of violence and discrimination against them and comply with its obligation to act with due diligence to prevent, investigate, prosecute, punish, and provide redress for human rights violations against LGBTI persons.
42. Make efforts and allocate sufficient resources to systematically collect and analyze statistical data on the prevalence and nature of violence and prejudice-based discrimination against LGBTI persons or those perceived as such.
43. Guarantee the right of LGBTI people to association and peaceful protest outside of venues supervised by the State without fear of political or punitive reprisals.

### **Persons with disabilities**

44. Implement the system of supports and safeguards provided for in the Family Code for the practical and effective exercise of the right of legal capacity.
45. Take effective steps to eliminate disability-based discrimination in access to and the provision of health services.
46. Develop public policies to eradicate all forms of violence and discrimination against persons with disabilities and to guarantee their right of access to justice.

### **Children and adolescents**

47. Implement programs that guarantee food security for children and adolescents, prioritizing nutrition and adequate and sufficient food for children and adolescents and guaranteeing their access to water, sanitation, and electricity.

48. Adopt measures to ensure children and adolescents access to sufficient, adequate, and quality health and education services, avoiding setbacks and unjustified delays and allocating the maximum resources available.
49. Implement policies to prevent the separation of families and to guarantee the right of children and adolescents to be reunited with their parents.
50. Adopt measures that guarantee the effective protection of the rights of children and adolescents whose parents are personnel serving in international missions, including the elimination of practices and repeal of laws that arbitrarily restrict the right of children and adolescents to live and grow in a family environment, in line with the enactment of the new Family Code.
51. Ensure that decisions adopted in relation to the temporary separation of children from their parents are the result of a procedure that observes all applicable guarantees, with an objective, appropriate, and sufficient motivation based on the best interests and opinion of the child.
52. Refrain from using criminal mechanisms against children and adolescents in response to the legitimate exercise of their right to freedom of expression and peaceful assembly.
53. Minimize the contact of adolescents with the criminal justice system, limit the use of custodial measures, and ensure that detention conditions are compatible with the human dignity of children and adolescents and that guarantees of due process are respected.
54. Prevent, prohibit, and punish any form of cruel, inhumane, or degrading treatment of children and adolescents.

### Human mobility

55. Eliminate travel restrictions imposed on individuals on account of their activism or political activities.
56. Create a streamlined public procedure to establish the cases in which restrictions can be imposed on freedom of movement between provinces or on leaving the country and ensure that such measures in no case incur in discrimination of any kind, including for political reasons. This policy should clearly explain the valid constitutional and legal grounds for a person to be given “regulated” status. In any event, there must be a non-arbitrary, expeditious, and impartial procedure to enable citizens to denounce restrictions on leaving the country or on establishing a domicile elsewhere in Cuba and to receive a response within a reasonable delay, before preparing their trips.
57. Refrain from preventing or creating obstacles for nationals seeking to return to the country.
58. Adopt urgent and comprehensive measures to address the driving factors behind the departure of nationals from the country, including violations of basic human rights and fundamental freedoms.