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## U.S. Department of State

### Cuba Country Report on Human Rights Practices for 1996

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#### CUBA

Cuba is a totalitarian state controlled by President Fidel Castro, who is Chief of State, Head of Government, First Secretary of the Communist Party, and Commander in Chief of the armed forces. President Castro exercises control over all aspects of Cuban life through the Communist Party and its affiliated mass organizations, the government bureaucracy, and the state security apparatus. The party is the only legal political entity, and President Castro personally chooses the membership of the select group that heads the party. The party controls all government positions, including judicial offices.

The Ministry of Interior is the principal organ of state security and totalitarian control. The Revolutionary Armed Forces (FAR), led by President Castro's brother Raul, exercises control over this Ministry. In addition to regulating migration and controlling the Border Guard and the police forces, the Interior Ministry investigates and actively suppresses organized opposition and dissent. It maintains a pervasive system of vigilance through undercover agents, informers, the Rapid Response Brigades, and the Committees for the Defense of the Revolution (CDR's). While the Government traditionally used the CDR's to mobilize citizens against dissenters, impose ideological conformity, and root out "counterrevolutionary" behavior, severe economic problems have reduced the willingness of citizens to participate in the CDR's and thereby lessened their effectiveness. Other mass organizations also inject government and Communist Party control into every citizen's daily activities at home, work, and school. There were instances in which members of the security forces committed human rights abuses.

The Government continued to control all significant means of production and remained the predominant employer, despite permitting some carefully controlled foreign investment and legalization of some

minor categories of self-employment. Although the Government forecast a 5 percent economic growth rate for 1996, the economy remained in a slump due to the inefficiencies of the centrally controlled economic system, the collapse of Cuba's trade relations with the former Soviet bloc, and the end of the \$4 to \$5 billion in annual Soviet subsidies. Despite some economic recovery, gross domestic product is still only about two-thirds the 1989 level, and total foreign trade about one-fourth the 1989 level. For the sixth straight year, the Government continued its austerity measures known euphemistically as the "special period in peacetime." Agricultural markets, legalized in 1994, gave consumers wider access to meat and produce, although at prices beyond the routine reach of most Cubans living on peso-only incomes. The system of "tourist apartheid" continued, in which foreign visitors receive preference over citizens for food, consumer products, and government services, as well as access to hotels and resorts from which Cuban citizens remain barred.

The Government's human rights record worsened in 1996 with the large-scale crackdown against the prodemocracy umbrella group "Concilio Cubano," the shutdown of two U.S. civilian airplanes in international airspace, increased reports of deaths due to the excessive use of force by police, further restrictions on the distribution of foreign publications, increased use of exile and internal exile to control the activities of independent journalists and human rights advocates, antagonism to any foreign diplomatic criticism of human rights practices, restrictions on foreign contacts with human rights activists, the denial of visas to prominent U.S. journalists, and the expulsions of visiting foreign journalists. The authorities continued routinely to harass, threaten, arbitrarily arrest, detain, imprison, defame, and physically attack human rights advocates and members of independent professional associations, including journalists, economists, and lawyers, often with the goal of encouraging them to leave Cuba. Members of the security forces and prison officials continued to beat and otherwise abuse detainees and prisoners. The Government continued to restrict sharply basic political and civil rights, including: The right of citizens to change their government; the freedoms of speech, press, assembly, association, religion, and movement; the right to privacy; and various worker rights. The judiciary is completely subordinate to the Government and to the Communist Party. The Government denied human rights advocates due process and subjected them to unfair trials. Political prisoners were offered the choice of exile or continued imprisonment. Prison conditions remained harsh.

In April the United Nations Human Rights Commission (UNHRC) once again passed a resolution endorsing the report of the UNHRC Special Rapporteur, which detailed Cuba's violations of human rights. The Government continued to refuse the Special Rapporteur permission to visit Cuba.

## **RESPECT FOR HUMAN RIGHTS**

### **Section 1 Respect for the Integrity of the Person, Including Freedom from:**

#### **a. Political and Other Extrajudicial Killing**

Reports increased of deaths due to the excessive use of force by police. Policeman Jose Angel Merino Fragoza of the Sixth Precinct of Marianao in Havana reportedly shot and killed 30-year-old Renzo Falbello Gallego on the night of September 14 for not stopping when Merino called out, "Halt, Jose." Falbello apparently did not believe that the policeman was addressing him. The Government tried Merino for manslaughter and a court sentenced him to 7 years in prison on December 20.

On May 24, a policeman shot and killed 28-year-old Ivan Agramonte Arencibia in Havana. Agramonte, who was reportedly carrying contraband pizza dough on the back of his bicycle, had fled a policeman's order to halt. Policemen Yosvani Maturell Fernandez and Omar Castro pursued Agramonte, knocking him off his bicycle and then beating him. While Agramonte lay semi-conscious on the ground, Maturell

took out his pistol and shot him in the head. He died shortly thereafter at a nearby hospital. On September 6, the Government tried Maturell for manslaughter and sought a prison sentence of 14 years. The court had not issued its verdict at year's end. The authorities detained Omar Castro for 5 days and then released him.

On March 9, policeman Francisco Valdes shot and killed 26-year-old Osmany Campos Valle on his family's small ranch in Guane, in the province of Pinar del Rio; Valdes had just returned from a party at which alcoholic beverages had been served. On seeing some movement on the ranch, Valdes had asked the person's identity and, although Campos reportedly repeated his nickname several times, Valdes shot him. The authorities tried Valdes on May 22 in a Ministry of Interior courtroom for "special cases." The prosecution sought a 12-year prison sentence and monthly support payments of about \$1.50 (30 pesos at the prevailing legal exchange rate) for each of Campos' two young children. On appeal, the court sentenced Valdes to 8 years' imprisonment.

Late in the evening of December 16, 1995, a policeman in Camaguey shot at Yoel Leyva and Pedro Roque, whom he had ordered to halt. The 18-year-old Leyva died the following day. The youths reportedly had told the policeman that they could not stop because the bicycle they were riding had no brakes. At the wake, Carlos Diaz Barranco, First Secretary of the Communist Party of Camaguey, pledged to bring the policeman to justice. The policeman was tried on December 16, 1995 and released in February.

On April 18, the Government tried the prison officials and inmates alleged to have been involved in the September 12, 1995 death in police custody of Estanislao Gonzalez Quintana. While the court determined that Gonzalez' death was the result of alcoholism-related heart problems, not the beating he received at the hands of the defendants, the prosecution nevertheless sought prison sentences of 10 years for the prison guard, 12 years for one of the inmates, and from 1 to 4 years on the charge of dereliction of duties for other prison officials. Gonzalez' widow denied that Gonzalez had suffered from heart problems or alcoholism. The court sentenced the prison guard and the inmate to 2 years' imprisonment and the other prison officials to 8 months' house arrest. The widow appealed the sentences, and appeals trials were pending as of November.

On February 24, the Cuban Air Force shot down two unarmed civilian aircraft from the United States, killing all four people aboard. The report issued by the International Civil Aviation Organization (ICAO) found that the shootdown occurred in international airspace and without warning. The ICAO Council "reaffirmed its condemnation of the use of weapons against civil aircraft in flight as being incompatible with elementary considerations of humanity and the rules of customary international law." The U.N. Security Council endorsed the report and the ICAO Council resolution and "noted that the unlawful shooting down by the Cuban Air Force of two civil aircraft on 24 February 1996 violated the principle that states must refrain from the use of weapons against civil aircraft in flight and that, when intercepting civil aircraft, the lives of persons on board and the safety of the aircraft must not be endangered." The UNHRC expressed its "dismay [over] the loss of human life and disregard for human rights norms shown by the Government of Cuba."

On October 16, the Inter-American Commission on Human Rights (IACHR) issued its final report on the Government's July 13, 1994 sinking of the "13th of March" tugboat in which 41 individuals died. The Government did not respond to the IACHR's preliminary report issued on May 3. The IACHR concluded that the Government violated Article I of the American Declaration on the Rights and Duties of Man, which guarantees the rights to life and the integrity of the person, and Articles VIII and XVIII, which guarantee the rights of transit and justice, respectively. The report found the Government legally obligated to indemnify the survivors and the relatives of the victims for the damages caused.

## b. Disappearance

There were no reports of politically motivated disappearances.

## c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution prohibits abusive treatment of detainees and prisoners, but there were instances in which members of the security forces and prison officials beat and otherwise abused human rights advocates, detainees, and prisoners. At the police station in Nueva Gerona, on the Isle of Youth, policeman Gerardo Acedia Frometa reportedly subjected detainee Octavio Rodriguez Gonzalez to electric shocks during an interrogation in June. Rodriguez allegedly was taken to an extremely cold interrogation room and seated on, and handcuffed to, a metal chair which was bolted to the floor. The policeman then reportedly applied electric shocks to the chair.

Individuals linked to state security forces subjected human rights advocates to physical aggression. Four men attacked Diosdado Gutierrez Hernandez, a member of the Human Rights Party of Cuba, on the street the night of April 20 in Pinar del Rio and whispered "take your human rights" while punching him in the stomach. They did not rob him.

In May the Cuban Psychiatric Society (CPS) withdrew its 1993 invitation to the American Psychiatric Association's (APA) Committee on International Abuse of Psychiatry and Psychiatrists which had planned to visit Cuba to investigate charges that the Government was repressing political dissidents through abusive psychiatric interventions. The CPS reportedly found APA's conditions that a Cuban-American psychiatrist be included on the delegation and that interviews with dissident psychiatrists be permitted to be "colored by political interests."

Prison conditions continued to be harsh. The Government claims that prisoners have guaranteed rights, such as family visitation, adequate nutrition, pay for work, the right to request parole, and the right to petition the prison director. However, police and prison officials often denied these rights and used beatings, neglect, isolation, denial of medical attention, and other abuse against detainees and prisoners, including those convicted of political crimes or those who persisted in expressing their views. There are separate prison facilities for women and for minors.

The IACHR reported that prison authorities subjected prisoners who protested the conditions or treatment to reprisals such as beatings, transfer to punishment cells, transfer to prisons far from their families, suspension of family visits, or denial of medical treatment.

A member of the France-Liberte delegation that interviewed political prisoners in May 1995 stated that lengthy and often incommunicado pretrial detention constitutes a form of psychological torture. State security officials also subjected dissidents to systematic psychological intimidation, including sleep deprivation, imprisonment in cells with common criminals, aggressive homosexuals, or state security agents, and threats of physical violence, in an attempt to coerce them to sign incriminating documents or to collaborate. Human rights advocate Alberto Perera Martinez, detained as part of the Government's crackdown against the Concilio Cubano (see Section 1.d.), reported that prison guards deprived him of sleep for 17 consecutive days, woke him at regular intervals throughout the night for questioning, and kept him in a cell with 24-hour-a-day illumination in order to pressure him to sign false statements. During the crackdown, the authorities held human rights advocate Eugenio Rodriguez Chaple, a diminutive man in poor health, in the same cell as a boxer who was detained on criminal charges.

At the Kilo 8 prison in Camaguey, Jesus Chamber Ramirez, who sentenced to 10 years' imprisonment

for enemy propaganda and disrespect against government authority, was regularly denied family visits because of his insistence on treatment as a political rather than a common prisoner. Prison authorities often placed political prisoners in cells with common and sometimes violent criminals and required that they comply with the rules for common criminals.

The rights to adequate nutrition and medical attention were also regularly violated. The IACHR described the nutritional and hygienic situation in the prisons, together with the deficiencies in medical care, as "alarming." Both the IACHR and the U.N. Special Rapporteur, as well as other human rights monitoring organizations, reported widespread incidence in prisons of tuberculosis, scabies, hepatitis, parasitic infections, and malnutrition. In the Guamajal prison in Villa Clara, several tuberculosis-infected prisoners staged a hunger strike in mid-July to protest the lack of appropriate medical care. On February 9, a guard at the same prison hit a hungry prisoner, Eleodoro Sanches, on the head with a metal spoon, causing a gash that required two stitches, for eating a stolen plate of boiled bananas in the kitchen where he worked.

The authorities regularly denied prisoners other purportedly guaranteed rights, such as the right of correspondence. At the Guamajal prison on January 15, political prisoners gave their personal correspondence to a prison official to send to their relatives. Those letters were found later that day torn and discarded in a wastepaper basket.

Three prison guards severely beat Ramon Varela Sanchez, Vice President of the Marti Civic League, on his head, back, and chest on May 3 after he intervened on behalf of another prisoner who was denied medical attention for an abscessed molar. Due to the severity of his injuries, the authorities transferred Varela to a prison hospital where he remained for 6 days. Varela's lawyer presented a formal complaint to the Ministry of Interior official responsible for prisons, but no action was taken against the prison guards. Varela, who had been held without charges since July 30, 1995, was finally tried on September 25. The Government alleged that Varela was the intellectual author of an arson attack on a train station in the Calabazar municipality of Havana and sought 5 years' imprisonment. During the trial, however, the authorities changed the charge, and the court sentenced him to 2 years' imprisonment for inciting to commit delinquent acts.

Prison officials also confiscated medications and food brought by family members for political prisoners. In March a prison official at the Kilo 8 prison seized the medications and food brought by relatives for political prisoners Eduardo Gomez Sanchez, Jorge Luis Garcia Perez, Alejandro Mustafa Reyes, and Luis Gustavo Dominguez Gutierrez. They were threatened with beatings if they complained.

In March the prison warden at Kilo 8 denied pastoral visits and confiscated religious books, including the Bible, from political prisoner Jorge Luis Garcia Perez. Garcia, who staged several hunger strikes in protest, is a member of the group of political prisoners at Kilo 8 who publicly denounce human rights violations occurring in the prison.

Prison officials at Kilo 8 mounted a campaign to find and seize any reports of human rights violations within the prison. In a meeting with a group of prisoners in mid-April, a prison official promised that those who passed notes from counterrevolutionary prisoners to visiting relatives would be expelled from their prison jobs, while those who turned them in to the authorities would receive conjugal visits and other benefits.

The Government does not permit independent monitoring of prison conditions by international or national human rights monitoring groups.

#### d. Arbitrary Arrest, Detention, or Exile

The Law of Penal Procedures requires police to file formal charges and either release a detainee or bring the case before a prosecutor within 96 hours of arrest. It also requires the authorities to provide suspects with access to a lawyer within 10 days of arrest. However, the Constitution states that all legally recognized civil liberties can be denied anyone actively opposing the "decision of the Cuban people to build socialism." The authorities routinely invoke this sweeping authority to deny due process requirements to those detained on purported state security grounds.

The authorities routinely engage in arbitrary arrest and detention of human rights advocates, subjecting them to interrogations, threats, and degrading treatment and conditions for hours or days at a time. The police detained Ronald Faxas Maceo on January 31 in Old Havana for distributing copies of the Spanish-language version of the Miami Herald and the magazine Dissident. They held him overnight, fined him about \$5 (100 pesos) for disrespect, and warned that he could be imprisoned for 4 to 5 years for spreading enemy propaganda. On July 22, police detained Marvin Hernandez and Benito Fojaco and held them for 4 days in Cienfuegos for meeting with a foreign diplomat. The authorities detained human rights advocate Osmel Lugo Gutierrez on May 22, held him for a month at the state security headquarters in Havana, and then transferred him to the 1580 prison pending trial on charges of disrespect and inciting to commit a delinquent act. The secretary of his human rights organization, Grisel Galera Gomez, faced similar charges but was released on bail. The charges reportedly stemmed from their organization's petition drive and other efforts to protest the forcible eviction of squatters in a shantytown in the San Miguel del Padron municipality of Havana. As of November, no trial date had been set.

On January 6, state security agents arrested John Sweeney, a visiting researcher with the Heritage Foundation, and interrogated him for 4 hours about the purpose of his visit and his contacts in Cuba. They reportedly said that they had "accompanied" him since his arrival in Cuba.

Amnesty International noted that the Government had changed its tactics in dealing with human rights advocates, and "rather than arresting them and bringing them to trial, the tendency was to repeatedly detain them for short periods and threaten them with imprisonment unless they gave up their activities or left the country." The Government applied this tactic to dozens of members of Concilio Cubano, a prodemocracy umbrella group composed of over 130 human rights, political opposition, and independent professional organizations, which was founded in October 1995. The harassment intensified in the weeks surrounding Concilio Cubano's planned February 24 meeting to discuss Cuba's future. State security agents visited, harassed, threatened, or briefly detained over 200 individuals, including 4 of the 5 members of the Concilio Cubano secretariat (see Section 1.e.). The UNHRC "deplored" the detention and harassment of Concilio Cubano members.

The authorities detained Concilio Cubano activists Eugenio Rodriguez Chaple, Rafael Solano, Alberto Perera Martinez, Nestor Rodriguez Lobaina, Heriberto Leyva, and Radames Garcia de la Vega for 6 to 8 weeks, much of the time incommunicado. They subjected them to physical threats, several interrogations daily, imprisonment in cells with aggressive common criminals, sleep deprivation, confiscation of food, vitamins, and medications brought by relatives, and strictly supervised and limited family visits. When released, all were told that they would be brought to trial and given lengthy prison terms if they did not leave the country.

The Penal Code also includes the concept of "dangerousness," defined as the "special proclivity of a person to commit crimes, demonstrated by his conduct in manifest contradiction of socialist norms." If the police decide that a person exhibits signs of dangerousness, they may bring the offender before a court or subject him to "therapy" or "political reeducation." Government authorities regularly threaten

prosecution under this article. Both the UNHRC and the IACHR condemned this concept for its subjectivity, the summary nature of the judicial proceedings employed, the lack of legal safeguards, and the political considerations behind its application. According to the IACHR, "the special inclination to commit crimes referred to in the Cuban Criminal Code amounts to a subjective criterion used by the Government to justify violations of the rights to individual freedom and due process of persons whose sole crime has been an inclination to hold a view different from the official view."

On May 7, a court tried human rights advocate Ernesto de la O Ramos in San Juan y Martinez in the province of Pinar del Rio and sentenced him to 2 years' imprisonment on the charge of dangerousness for belonging to a dissident organization and disseminating news about Cuba on foreign radio stations. As of November, De la O Ramos also faced trial on a separate charge of disseminating enemy propaganda.

The Government also used exile as a tool for controlling and eliminating the internal opposition. The Government regularly offered exile as the condition for release to political prisoners. In January the Government released political prisoners Luis Grave de Peralta Morell, Carmen Julia Arias Iglesias, and Eduardo Ramon Prida Gorgoy at the request of visiting U.S. Congressman Bill Richardson. They were taken from prison directly to the airport for departure.

In contrast to its general practice of offering exile only after imprisonment, the Government increasingly threatened to charge, try, and imprison human rights advocates and independent journalists if they did not leave the country. Human rights advocates Mercedes Parada Antunez, Eugenio Rodriguez Chaple, Alberto Perera Martinez, Luis Felipe Lores Nadal, Lucila Irene Almira, and Miguel Angel Aldana, and independent journalists Rafael Solano, Roxana Valdivia Castilla, and Olance Noguerras Rofe, were among those threatened. Amnesty International expressed "particular concern" about this practice, which "effectively prevents those concerned from being able to act in public life in their own country."

The Government also increasingly began to employ internal exile as a means to restrict the activities of independent journalists and human rights advocates. The authorities prohibited independent journalists Olance Noguerras Rofe and Roxana Valdivia Castilla from traveling to Havana from their hometowns of Cienfuegos and Ciego de Avila, respectively, unless the travel was for the purpose of making arrangements to leave the country.

On June 6, police arrested university reform advocates Nestor Rodriguez Lobaina and Radames Garcia de la Vega, who had remained in Havana following their release from detention in April despite orders to return to their homes in the eastern provinces. A court tried them on June 12 for resisting authority and disobedience and sentenced them to 6 months and 1 year, respectively, of restricted movement in their hometowns, 5 years of internal exile in their home provinces, and to report periodically to the local police. According to Amnesty International, "the sentence is believed to have been imposed to prevent them from returning to the capital to carry on with their activities." Rodriguez and Garcia remained in Havana pending the results of their appeal and the police arrested them again on June 25 for breach of sentence. The following day, when taken to the courthouse, Rodriguez reportedly appeared with facial bruises and accused a civilian-clad security agent of having beaten him. While handcuffed, he was attacked and again beaten by the agent. The authorities forcibly sent Rodriguez and Garcia to the provinces of Guantanamo and Santiago, respectively, on July 1. The authorities also confiscated their identity documents, which Cuban citizens are required to carry at all times, as a means of enforcing the restriction on their movement. In mid-July, state security agents threatened Rodriguez and Garcia with imprisonment if they continued their political activities.

#### e. Denial of Fair Public Trial

Although the Constitution provides for independent courts, it explicitly subordinates them to the National Assembly (ANPP) and the Council of State, which is headed by Fidel Castro. The ANPP and its lower level counterparts elect all judges. The subordination of the courts to the Communist Party further compromises the judiciary's independence.

Civil courts exist at municipal, provincial, and Supreme Court levels. Panels composed of a mix of professionally certified and lay judges preside over them. Military tribunals assume jurisdiction for certain counterrevolutionary cases. Cuban law and trial practices do not meet international standards for fair public trials. Almost all cases are tried in less than a day.

There are no jury trials. While most trials are public, trials are closed when state security is allegedly involved. Prosecutors may introduce testimony from a CDR member as to the revolutionary background of a defendant, which may contribute to either a longer or shorter sentence. The law recognizes the right of appeal in municipal courts but limits it in provincial courts to cases such as those involving maximum prison terms or the death penalty. The law requires that an appeal be filed within 5 days of the verdict.

Criteria for presenting evidence, especially in cases of human rights advocates, are arbitrary and discriminatory. Often the sole evidence provided, particularly in political cases, is the defendant's confession, usually obtained under duress and without the legal advice or knowledge of a defense lawyer. The authorities regularly deny defendants access to their lawyers until the day of the trial. Several dissidents who have served prison terms report that they were tried and sentenced without counsel and were not allowed to speak on their own behalf. Amnesty International stated that "trials in all cases fall far short of international standards for a fair trial."

The law provides the accused the right to an attorney, but the control that the Government exerts over the livelihood of members of the state-controlled lawyers' collectives--

especially when they defend persons accused of state security crimes--compromises their ability to represent clients. Attorneys have reported reluctance to defend those charged in political cases out of fear of jeopardizing their own careers.

The Government summarily tried and imprisoned four members of the Concilio Cubano (see Section 1.d.). The police arrested Concilio Cubano founder Leonel Morejon Almagro on February 15. A court sentenced him on February 23 to 6 months' imprisonment for resisting authorities; on appeal, it sentenced him to an additional 9 months' imprisonment for disobedience. The court also fined his defense attorney, Jose Angel Izquierdo Gonzalez, for characterizing the trial as a "sham." In August the authorities transferred Morejon from Vallegrande prison on the outskirts of Havana to Ariza prison in Cienfuegos, on the southern coast of Cuba, for refusing to accept the prison's reeducation system.

The police also arrested Concilio Cubano secretariat member Lazaro Gonzalez Valdes on February 15, and a court sentenced him on February 22 to 14 months' imprisonment for disobedience and disrespect. Izquierdo, who also represented Gonzalez, was only informed of the charges a few hours before the trial and was only able to speak to his client a few minutes beforehand. People believed to be members of the Government's Rapid Response Brigade, armed with iron bars and sticks, reportedly surrounded the courthouse during the trial.

The police arrested Juan Francisco Monzon Oviedo, an alternate member of the coordinating body of Concilio Cubano, on March 18, and a court sentenced him on March 21 to 6 months' imprisonment for illegal association. His attorney did not appear for the trial. The authorities detained human rights advocate Roberto Lopez Montanez on February 23, and held him until a court tried and sentenced him

on July 16 to 15 months' imprisonment for disrespect and falsification of documents. Despite serious health problems, the Government refused to release Lopez on bail pending trial.

According to Amnesty International, some 600 persons were imprisoned for various political crimes. Other human rights monitoring groups estimate that between 1,000 and 1,500 individuals--not including those held for dangerousness--were imprisoned on such charges as disseminating enemy propaganda, illicit association, contempt for authorities (usually for criticizing Fidel Castro), clandestine printing, or the