



**Committee on Government Reform
Subcommittee on Wellness and Human Rights**

**Castro's Cuba: What's the Proper United States Response to Ongoing Human
Rights Violations in Our Hemisphere?
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Introduction:

On behalf of Amnesty International, I thank you for the opportunity to testify before the Committee on Government Reform's Subcommittee on Wellness and Human Rights on human rights conditions in Cuba.

The crackdown on political dissidents that began on March 18th, and the execution of three would-be hijackers on April 11th, are alarming and deeply disappointing occurrences that AI has denounced vociferously. Sadly, they represent the latest chapter in a long line of grave human rights violations committed by the government of Cuba.

From its earliest days, Amnesty International has taken up the cases of Cubans that it believed had been detained for the peaceful expression of their views, so-called *prisoners of conscience*. AI has always defined *prisoners of conscience* as "people who are held in prison solely because their views are unacceptable to their Government." In addition to its work on behalf of *prisoners of conscience*, Amnesty International also raised concerns about prison conditions and treatment of detainees, fair trials for political prisoners, and the death penalty.

Amnesty International's current work on Cuba has focused on the growing number of *prisoners of conscience*, the harassment of perceived dissidents, and the ongoing recourse to the death sentence. One of the most disturbing recent developments in Cuba has been the termination of the three-year de facto moratorium on executions, and the sentencing to harsh prison terms, after manifestly unfair trials, of dissidents targeted in mass arrests.

Developments within Cuba:

Recent Crackdown on Dissent

Beginning on March 18, 2003 the most recent wave of targeted arrests culminated in the detention of approximately 80 Cuban citizens for the non-violent exercise of their rights to freedom of expression and association. These incidents have amounted to the biggest crackdown in over a decade in which independent journalists, members of human rights groups, political activists and other perceived dissidents have been detained in a major police operation. What distinguishes this crackdown from many previous examples of mass arrest is not the number, which is unusually large, but the summary trials and very harsh sentences handed down shortly after the detentions took place.

In an official statement issued by the Cuban government after the March 18 arrests, the detainees were accused of being linked to ‘acts of conspiracy’ through their contact with the head of the US Interests Section in Havana, Mr. James Cason. While Mr. Cason has been accused of undiplomatic behavior by the Cuban government, no actions justify the subsequent flagrant violations of basic human rights norms by the Cuban government.

Among the latest group of dissidents arrested, 75 have received sentences ranging from 6 to 27 years. Several more are believed to be awaiting trial and could face equally harsh penalties. Some of the prisoners were convicted under the Law for the Protection of the National Independence and Economy of Cuba, or Law 88, passed in February 1999. The law calls for seven to 15 years’ imprisonment for passing information to the United States that could be used to bolster anti-Cuban measures such as the US economic embargo. The punishment could rise to 20 years if the information were acquired surreptitiously. The legislation also bans the ownership, distribution or reproduction of ‘subversive materials’ from the US government, and proposes terms of imprisonment of up to five years for collaborating with radio and TV stations and publications deemed to be assisting US policy.

On the basis of information currently available, Amnesty International considers the newly detained to be *prisoners of conscience*. As a result, the number of confirmed *prisoners of conscience* in Cuba has risen from 6 in February 2002, to 90 today.

Authorities in Cuba have especially harassed individuals who have petitioned the government to hold a referendum on the future of Cuba’s economic and political system through an initiative known as the Proyecto Varela (Varela Project). Among the prisoners detained this past March is the leading organizer of Proyecto Varela, Héctor Palacios Ruiz; and its regional coordinator for Santiago de Cuba province, José Daniel Ferrer.

Executions

Cuba’s use of the death penalty has long been a subject of international concern. President Castro reportedly announced to an international human rights delegation his

intention to introduce a bill in the National Assembly that would abolish the death penalty. However, since then, there has been little indication of movement in this direction. In fact, the situation started to worsen in March 1999 when, Cuba expanded the use of the death penalty by modifying articles of the penal code to allow for capital punishment for crimes of large scale international drug trafficking, the corruption of minors, and trafficking for prostitution. In April 2000, the Cuban government instituted a de facto moratorium on the death penalty, and once again the tides seemed to shift in a positive direction.

On April 11, 2003 however, Cuban authorities ended the moratorium on executions by sending Lorenzo Enrique Copello Castillo, Bárbaro Leodán Sevilla García, and Jorge Luis Martínez Isaac to their deaths before a firing squad. The three men along with several others were imprisoned after they hijacked a Cuban ferry on April 2, 2003 with the intention of escaping to the United States. The hijackers were convicted under toughened anti-terrorism legislation passed in December 2001, allowing for the use of the death penalty in the most extreme cases. Their appeals to the Supreme Court and the Council of State were rapidly dismissed and they were executed within a week of the start of their trial. Four of the hijackers received life sentences and four others received shorter prison terms. Presently, at least 52 people in Cuba are on death row. Given the moratorium's end, Amnesty International is concerned that these people may also face imminent execution.

Furthermore, Amnesty International remains concerned about the conditions in which death penalty prisoners are kept. Amnesty has received disturbing reports from a variety of sources of some death penalty prisoners being subjected to cruel, inhumane or degrading treatment. In July 2000 nongovernmental sources in Cuba indicated that one death row prisoner had been held in solitary confinement in a closed cell for 18 months, at a temperature of approximately 32 degrees centigrade. Allegations of beatings by guards have also been received. Prisoners on death row in Cuba are only entitled to visits from their family every three months, and in some cases even this has been denied. Family members of these prisoners have reported being harassed by the authorities in retribution for their efforts to push for better treatment of their loved ones.

Amnesty International opposes the death penalty unconditionally as a violation of the right to life and the right to not be subjected to cruel, inhuman or degrading treatment in any country in which it is implemented, including the United States. Amnesty International urges both the Cuban and the U.S. governments to abolish it, and to commute the sentences of those facing capital punishment.

Proyecto Varela

The Proyecto Varela campaign is promoting a petition calling on the government of Cuba to hold a referendum on 5 issues related to the country's future. In May 2002, project organizers presented Cuban authorities with petitions reportedly signed by over 11,000 voters. The petitioners all reside within Cuba and were participating in a process guaranteed by the Cuban Constitution. Article 88 of the Constitution permits citizens to

gather signatures and request a referendum on matters of national importance. Once 10,000 valid signatures are gathered they are presented to Cuba's National Assembly of People's Power, which must then publicize the request and hold a debate concerning the petition.

The Proyecto Varela petitioners ask that a referendum be held on key issues that seek to promote greater personal, political and economic freedoms, as well as amnesty for political prisoners. Petitioners also seek to open up opportunities for Cubans to start private businesses, and a new electoral law including direct election of political candidates by voters.

Since presenting the petition to the Cuban authorities, there have been credible reports of harassment of Proyecto Varela organizers, as well as those who signed the petition. A large number of these activists have been subjected to threats, short-term detention, summons, confiscation of material and other forms of persecution. In a particularly disturbing development, prosecutors initially called for the death penalty against Mr. Ferrer, one of Proyecto Varela's regional coordinators, although he was later sentenced to 25 years in prison.

In the 14 months prior to the March 18 crackdown, there had also been a number of large-scale arrests of political dissidents by Cuban authorities. On February 27, 2002, 21 Cuban men were arrested after they hijacked a bus and attempted to enter the Mexican Embassy apparently to seek asylum. This incident set off a chain of arrests and numerous other dissidents were also detained in sweeps conducted by state officials. On December 6, 2002, another 17 dissidents were arrested after they attempted to meet in Havana apparently to discuss human rights and to reportedly form a grassroots project for the promotion of these rights. Most of these detainees have since been released. Again, it is important to keep in mind that although the 2002 raids and detentions were reprehensible, the March 2003 crackdown included trials that were manifestly unfair and the March 2003 crackdown has resulted in unusually long sentences.

Recommendations

The recent crackdown on dissent is a continuation of the Cuban government's policy of detaining people for their political, religious, or other conscientiously held beliefs, and to restrict the freedom of expression and association both in law and in practice. The modest signs of tolerance that were evident just a few months ago have once again been swept away by a wave of repression.

In this context, Amnesty International feels it is important to carefully consider policy options that could effectively contribute to improving human rights in Cuba. Part of Amnesty International's mission is to make recommendations to governments on how to improve compliance with international standards. Some of the most recent and pressing recommendations we have issued to the Cuban government follow:

With regard to prisoners of conscience

Amnesty International calls on the Cuban government

- to immediately and unconditionally release all prisoners of conscience;
- to bring Cuban legislation into line with international human rights standards so that the human rights of all Cuban citizens are protected;
- to provide full judicial guarantees to ensure that, in accordance with international human rights standards, all detainees accused of politically-motivated offences have access to a fair trial, including immediate access to a lawyer of their choice.

With regard to harassment of dissidents:

Amnesty International urges the government of Cuba

- to put an immediate end to all forms of harassment and intimidation directed against dissidents who are solely attempting to exercise their fundamental human rights as set out in the Universal Declaration of Human Rights;
- to guarantee to all Cuban citizens their legitimate rights to freedom of expression, association and assembly, in accordance with articles 19, 20, and 21 of the Universal Declaration of Human Rights and articles 4, 21, and 22 of the American Declaration of the Rights and Duties of Man; and that punitive measures, including detention, taken against individuals for exercising these rights immediately cease;
- to permit independent journalists, independent librarians and others to carry out their legitimate work without interference.

With regard to the death penalty:

Amnesty International is extremely disappointed with the reinstatement of executions and is deeply concerned over the possibility that the Cuban government will permanently terminate the *de facto* moratorium on capital punishment. Thus, Amnesty International calls on the Cuban government

- to immediately abolish the death penalty from its legal system, and to reform all laws and legal texts that refer to it accordingly;
- to immediately commute the sentences of those on death row to prison terms;
- to ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, adopted by the UN General Assembly in 1989.

Likewise, Amnesty International believes that the U.S. government has an important role to play in promoting human rights in Cuba. It is our fervent hope that the policies the Administration implements will lead to an improvement in human rights conditions and that any potential risks to the safety and human rights of Cubans will be weighed carefully.

Cuba bears the ultimate responsibility for its treatment of its citizens, but the U.S., too, has a responsibility to pursue a foreign policy that promotes human rights and avoids

worsening human rights conditions. In this context, Amnesty International proposes the following as guidelines for ensuring that the US policy response contributes to the betterment of human rights in Cuba:

- AI urges the US government to place human rights concerns at the center of its decision-making on Cuba. The United States should take into account the impact its policies will have on day-to-day life for average Cubans and their enjoyment of basic human rights.
- AI is particularly concerned about measures that could spark a humanitarian crisis in Cuba, as such a crisis may lead to a worsening of the human rights situation. AI rejects proposals that would contribute to a worsening of humanitarian conditions in Cuba and are primarily aimed at destabilizing the country. Political instability and humanitarian crisis place civilians at risk of further human rights violations, and should not be considered as an option.
- In light of human rights concerns during past population flows from Cuba, and of the dangers faced by Cubans trying to make the voyage to the US by sea at the best of times (and given concerns about the treatment faced in particular by those who do not manage to reach US soil), AI urges the US not to take measures that could prompt any migration crisis that would put people's lives at risk.
- AI encourages the U.S. government to reconsider the wisdom and efficacy of the economic embargo and travel ban on Cuba. The 40+ years of the embargo does not appear to have had the intended consequence of punishing Castro nor has it contributed to the betterment of human rights in Cuba; in some instances it has had negative impacts on human rights. The embargo has had ramifications on not only economic and social rights and but also it has been used by Cuban officials who cite it as a justification for repressive measures. The same holds true for the ban on travel.
- AI recommends that the U.S. look seriously at ways to reduce hostilities with Cuba and lower the tensions that contributed to the broader negative political context for the latest crackdown. Some specific steps the U.S. might take include:
 1. seek a variety of ways to relate to the dissident community including to allow U.S. non-governmental groups to use their own resources to provide assistance and support to dissidents instead of providing assistance primarily through official channels and from USAID monies;
 2. build a broader and more effective coalition with European and Latin American nations to both engage and confront the Cuban government on human rights issues. The international outcry, even among Cuba's allies, in response to the latest crackdown suggests that there is a growing willingness in the international community to deal openly and honestly with Cuba's human rights problems. It would be best if the U.S. sought to

work patiently with those countries with a history of engagement with Cuba to promote a consistent message from the international community, rather than pursuing punitive policies against potential allies in the effort to promote human rights in Cuba;

3. immediately implement model conditions for the five Cuban prisoners convicted of spying in the U.S. and currently in custody with the U.S. Bureau of Prisons. This should include easy access to lawyers, full visitation by families for all prisoners (3 families have been granted visas; two families remain without) and that they be detained in humane prison conditions. The U.S. government should assure that the prisoners' physical conditions are humane. This simple and unquestionably appropriate step will do much to lower tensions and signal US interest in upholding human rights for all.

Thank you for your attention and I will be glad to take your questions.