



**Testimony before the Subcommittee on Wellness and Human Rights,
Committee on Government Reform
United States House of Representatives
Presented by Eric L. Olson, Advocacy Director for the Americas
Amnesty International USA
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Mr. Chairman, Members of the Subcommittee, it is my pleasure to appear today before this subcommittee to discuss the human rights situation in Cuba, and, in particular, the status of 82 Cubans designated as *Prisoners of Conscience* by Amnesty International.

I would like to submit for the record an Amnesty International report released in March 2004 entitled, "One Year Too Many: Prisoners of Conscience from the March 2003 Crackdown." The report details the current physical and mental state of 79 prisoners of conscience arrested during the March 2003 crackdown in Cuba. Given our rather limited time I would like to briefly summarize parts of this report and other recommendations from Amnesty International.

Last October, I had the opportunity to appear before this subcommittee to analyze the crackdown on Cuban dissidents that began on March 18, 2003. Allow me to highlight a few of the main observations we made at that time:

- The March 2003 crackdown was the largest in recent Cuban history.
- Arrests were followed by summary trials and long prison sentences, in some cases up to 28 years.
- It broke what had appeared to be a trend away from long-term detentions for political dissidents.
- Finally, what distinguishes this crackdown from many previous examples of mass arrest is not the number, but the laws used to convict dissidents in Cuba.

This was the first time that the Cuban authorities used the so-called Law 88 in criminal proceedings. Law 88, officially known as the Law for the Protection of National Independence and the Economy of Cuba, is a direct response to perceived US aggression with the adoption in the United States of the "Cuban Liberty and Democratic Solidarity Act of 1996," known as the Helms –Burton Act.

Law 88 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. In the trials, dissidents were accused of engaging in activities that the authorities perceived as subversive and damaging to Cuba's internal order and/or beneficial to the embargo and related US measures against Cuba. Concretely, the prosecution accused them of activities such as publishing articles critical of economic, social or human rights issues in Cuba; being involved in unofficial groups considered by the authorities as counter-revolutionary; or having contacts with individuals viewed as hostile to Cuba's interests.

Overview of the situation of the 79 prisoners of conscience arrested in March 2003

In March 2004, Amnesty International issued a new report that reviewed the status of 75 of the 79 prisoners of conscience and called attention to a number of troubling issues related to their incarceration. Among Amnesty International's findings I would like to highlight the following:

1) Amnesty International has denounced the Cuban government's practice of deliberately incarcerating the 75 individuals in prisons located at extreme distances from their homes and families. This makes access to families and legal assistance particularly difficult, and can be construed as an additional penalty imposed upon the prisoners and their families. This practice contravenes the United Nations Body of Principles for the Protection of all Persons under any Form of Detention or Imprisonment, Principle 20.

For example, **Normando Hernández González**, who lives in Vertientes in the province of Camagüey, is serving his sentence in Pinar del Río province, nearly 700 kilometers away, while **Eduardo Díaz Fleitas** from Pinar del Río is being held in Kilo 8 prison in Camagüey.

In addition, the exchange of **correspondence and telephone communications** between many prisoners and their families has reportedly been restricted, and family visits limited, according to families as a form of harassment by prison officials.

In cases such as that of nine prisoners of conscience held in Kilo 8 prison in Camagüey province, prison authorities have reportedly made efforts to deter prisoners from carrying out activities such as studying the Bible, for example, by threatening to suspend family visits. This would also contradict the principles of the UN Standard Minimum Rules for the Treatment of Prisoners, paragraphs 41.3 and 42.

2) Amnesty International has received scattered allegations of ill-treatment by prison guards or by other prisoners, reportedly with the complicity of prison guards. Such instances would contravene article 4 of the Universal Declaration of Human Rights, which states that:

"No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment".(10)

In one such case, reports indicate that prisoner of conscience **Víctor Rolando Arroyo Carmona** was taken from his cell by three prison guards on December 31, 2003 and dragged to the floor while reportedly being struck in the face and body. Guards also allegedly trapped his leg in a door to immobilize him during the beating.

Some prisoners have reportedly been held in **solitary confinement** for extended periods. Amnesty International believes that if solitary confinement is used, strict limits should be imposed on the practice, including regular and adequate medical supervision by a doctor of the prisoner's choice and the right to appeal prison authorities' decisions. Amnesty International believes that solitary confinement can have serious physical and psychological effects and in certain circumstances can constitute cruel, inhuman or degrading treatment or punishment.

Amnesty International has received information indicating that at least one of the prisoners, **Próspero Gainza Agüero**, was chained during his transfer to the prison infirmary, in contravention of these rules. The Standard Minimum Rules for the Treatment of Prisoners, paragraph 33 states that "**chains or irons** shall not be used as restraints."

3) With regard to **health issues**, Amnesty International is concerned at numerous reports of illnesses among the prisoners which have reportedly been aggravated by prison conditions, insufficient access to appropriate medical care and, at times, hunger strikes. The UN Body of Principles for the Protection of all Persons Under Any Form of Detention or Imprisonment states that:

"A proper medical examination shall be offered to a detained or imprisoned person as promptly as possible after his admission to the place of detention or imprisonment, and thereafter medical care and treatment shall be provided whenever necessary".(11)

According to reports, at the time of his arrest **Oscar Espinosa Chepe** had already been diagnosed with chronic cirrhosis of the liver and liver failure and bleeding from the digestive tract, among other illnesses. Since his arrest, his health has reportedly deteriorated. According to family members, the deterioration has been due in part to the poor conditions in which he is being held, including lack of running water and lack of clean drinking water, as well as by inadequate medical attention. While in detention he has reportedly been hospitalised several times due to liver problems. In July 2003, his family presented a judicial request for his release on the grounds of ill health; they have reportedly received no response from the authorities.

In addition, some family members of prisoners have reportedly been **harassed** by the authorities, due to their own dissident activities or their efforts on behalf of imprisoned family members. Such harassment has reportedly taken the form of threats, summons, interrogations and curtailment of access to prisoners.

Orlando Fundora Alvarez's wife, for example, was reportedly threatened with arrest

and with reprisals against her husband in prison, if she attended a reception given by the Polish Embassy in Havana in November 2003.

4) According to information we have received, five Prisoners were released from jail last week. Most of them appear to have been released on humanitarian grounds for health reasons. Leonardo Bruzon Avila has been in declining health for some months because of repeated hunger strikes. He, along with Emilio Leyva and Lazaro Rodriguez, also released, had been in prison without trial for 27 months. Miguel Valdez Tamayo, who is reportedly suffering from serious cardiovascular problems, was apparently given a “licencia extrapenal,” which means he continues serving his sentence under house arrest. The others have been granted “cambio de medidas” and granted immediate freedom. Bruzon has reportedly accepted refuge in France but has not departed the island.

While these releases are welcome, they do not satisfy AI’s call for immediate and unconditional release of all prisoners of conscience. In addition, AI urges the Cuban government to ensure that the newly released prisoners have access to any necessary health care services.

Recommendations:

Let me conclude by summarizing some of the recommendations Amnesty International has made to both the Cuban government and the United States government.

Amnesty International calls on the Cuban government:

- to order the immediate and unconditional release of all prisoners of conscience, including those arrested in the March 2003 crackdown as well as all other such prisoners recognized by the organization;
- to immediately and unconditionally release all those detained or imprisoned solely for having peacefully exercised their rights to freedom of expression, association and assembly;
- to provide prisoners with adequate medical care and treatment whenever necessary, as defined in the UN Body of Principles for the Protection of all Persons Under Any Form of Detention or Imprisonment (Principles 24 and 26).

Amnesty International urges the United States 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.
- to immediately suspend decisions on any measures that could toughen the embargo, would worsen humanitarian conditions in Cuba and are 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.

- 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, but, also, it has been used by Cuban officials who cite it as a justification for repressive measures.
- to 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. seeking 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. building 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.

Thank you.