



## **SUBMISSION FOR THE UNIVERSAL PERIODIC REVIEW OF CUBA OF MAY 2018**

NGO Submission  
regarding the voluntary commitments of the state  
and its international obligations  
as member of the United Nations Human Rights Council

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# **SYSTEMATIC VIOLATIONS OF THE RIGHT TO LIFE BY THE CUBAN STATE**

## **Submission for the May 2018 Universal Periodic Review of Cuba to the UPR Working Group of the United Nations Human Rights Council**

### **I. INTRODUCTION.**

1. The right to life is considered the most absolute human right, “the foundation and basis of all other rights.”<sup>1</sup> Cuba is party to numerous international instruments that protect human rights — and specifically, the fundamental right to life — and has repeatedly expressed its commitments in the international system. Notwithstanding, the Cuban state has since January 1, 1959 been represented by a “revolutionary” government that has displayed a systematic and continuing disregard for human life in its laws and practices. Regrettably, its widespread violations of the right to life — present and historic — remain unpunished.

### **II. CUBA’S INTERNATIONAL COMMITMENTS AND THE RIGHT TO LIFE.**

2. Cuba is a signatory of two milestone documents in the history of human rights: 1.) The Universal Declaration of Human Rights (UDHR), adopted by the United Nations’ General Assembly on December 10, 1948, whose Article 3 states: “Everyone has the right to life, liberty and security of person.” and; 2.) The American Declaration of the Rights and Duties of Man, adopted by the Ninth International Conference of American States in 1948, which sets forth: “Every human being has the right to life, liberty, and the security of his person.”
3. Cuba has repeatedly expressed and confirmed its commitment to human rights and to the right to life. It has undertaken concrete obligations by subscribing to several international instruments. In 1995, it ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment “in accordance with the principles proclaimed in the Charter of the United Nations” and recognizing the “inalienable rights of all members of the human family” that “derive from the inherent dignity of the human person.” In 2008, it signed — though has not yet ratified — the International Covenant on Civil and Political Rights, whose Article 6 states: “Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.” In 2007, it signed and in 2009 ratified the International Convention for the Protection of All Persons from Enforced Disappearance.
4. Cuba ratified the United Nations Charter in 1945 and its continuing membership in the U.N. presupposes its adherence. This charter proclaims that the protection of fundamental human rights is at the core of the very existence of the United Nations, whose purpose expressly includes: (3) “To achieve international co-operation in solving international problems ... in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion.”
5. To warrant its membership in the U.N. Human Rights’ Council, Cuba must demonstrate its contribution to the promotion and protection of human rights as well as its voluntary commitments in this regard. That includes cooperating with all its special procedures and periodic reviews. In its UPR of 2013, Cuba made assurances that it “has an extensive and

effective inter-agency system, also involving political and social organizations, to receive, process and answer any complaint or request from individuals or groups of individuals in respect of the enjoyment of any human rights.”

6. For the 2013 UPR, Cuba accepted three recommendations to improve the legal and institutional framework for the promotion and protection of human rights human rights,<sup>2</sup> as well as many more regarding the exercise of human rights.<sup>3</sup>
7. Cuba has also voluntarily expressed its commitments to human rights on occasions. As recently as July 2016, the Deputy Permanent Representative of Cuba to the U.N. stated at the High-Level Thematic Debate on Human Rights: “Adherence to international law and the Charter of the United Nations are irreplaceable prerequisites for the promotion and protection of human rights ... Cuba ratifies its unwavering commitment to the promotion and observance of all human rights for everyone.<sup>4</sup>

### **III. CUBA’S INTERNAL LEGISLATION VIS-À-VIS ITS INTERNATIONAL COMMITMENTS.**

8. Cuba’s national legislation is not harmonized with its international commitments on the issue of human rights, including the right to life — in fact, there are numerous impediments to human rights in Cuban law. To start, the Cuban Constitution of 1976 (as amended 1992) does not recognize the right to life, and as Human Rights Watch has noted:

“although Cuba’s Constitution guarantees the full freedom and dignity of men, [and] the enjoyment of their rights ... multiple constitutional provisions undermine these guarantees. The constitution nullifies freedoms when they are contrary to ‘the goals of the socialist State,’ ‘socialist legality,’ or the ‘people’s decision to build socialism and communism.’ The breadth of these terms allows for arbitrary, politicized denials of fundamental rights. The constitution has been used to undermine international human rights treaties ratified by Cuba by providing that any treaty, pact, or concession that disregards or diminishes Cuba’s ‘territorial sovereignty’ is illegal and void. In international fora for the protection of human rights, Cuba often invokes sovereignty as a justification for non-compliance and non-cooperation.”<sup>5</sup>

9. The complete subordination of Cuba’s judicial branch to the executive, the absence of prosecutorial independence, and the systematic denial of due process guarantees prevents citizens from finding justice or remedy and or preventing further abuses. This has enormous repercussions for the right to life, as safeguards are absent and remedies for abuses are not available.
10. Although Cuba stated in its 2013 review that it has “an effective inter-institutional system for protecting citizens’ rights which allows for the participation of social and grass-roots organizations and which guarantees that complaints will be addressed,” its Associations Law effectively bars the legalization of any independent organization. Furthermore, state agents retaliate against and persecutes individuals and groups who denounce or file complaints on human rights abuses (in violation of Article 20 of the UDHR). Civil society

groups, thus, cannot participate in promoting or guaranteeing the observance of any rights, including of the families of victims of violations of the right to life.

#### **IV. CUBA'S PRACTICES VIS-À-VIS ITS INTERNATIONAL COMMITMENTS: VIOLATIONS BY THE CUBAN STATE OF THE RIGHT TO LIFE.**

11. Numerous reports by reputable international organizations and many annual and special reports of the InterAmerican Commission on Human Rights of the Organization of American States have over the course of nearly six decades detailed numerous violations of the right to life by the Cuban state. The Cuba Archive initiative of the Free Society Project has for over 15 years researched and documented right to life violations that include numerous and widespread actions of the Cuban state and its agents since 1959 leading to death or involuntary disappearance; these have continued since the state's 2013 UPR.

##### **A. Death penalty by firing squad.**

12. In its 2013 UPR report,<sup>6</sup> the state declared regarding the death penalty: "Cuba is philosophically opposed to the death penalty. It is in favour of eliminating it when suitable conditions exist." Cuba has yet to do so, however, in April 2008, Cuba's Council of State decided to commute death sentences of all prisoners to 30 years to life imprisonment. Meanwhile, numerous countries made recommendations regarding the death penalty that were not accepted by Cuba.<sup>7</sup>
13. Cuba's Penal Code establishes the death penalty, delivered by firing squad, for a large number of causes including aggravated murder, rape, robbery, or drug trafficking, war crimes, crimes against humanity, genocide, and many acts against "the security, independence, or integrity of the state" that include espionage as well as very expansive definitions of:
  14. Terrorism-related offenses: acts to sabotage or impair social, economic or military resources resulting in death or serious injury to health or property, or threatening public security, as well as aiding such acts or possessing the means of aiding such acts.
  15. Treason: acts of "sedition" such as disrupting the socialist order, interfering with elections, and refusing to obey civil or military authorities, insurrection or usurpation, bringing about hostile relations between Cuba and another country, aiding the enemy, inciting war or taking up arms against Cuba, attempting by force of arms to change the constitution or the form of government, entering the country illegally with the intent of committing any act of treason or any other act aimed at harming the independence of the Cuban state (including threatening the life, liberty, or personal integrity of a state, government, or communist party official).<sup>8</sup>
16. In its 2013 UPR report, Cuba stated that the death penalty "may only be imposed by a duly empowered court, in extremely serious cases, concerning the small number of crimes for which it is the prescribed penalty, and is tempered by a wide range of obligatory requirements and guarantees, in line with the United Nations provisions." None of those assertions prove true since the very start of the revolutionary government. Cuba Archive's work in progress<sup>9</sup> has to date documented 3,125 executions attributed to the Cuban state from January 1, 1959 to October 2, 2017; 87% took place from 1959 to 1967, by which time the state had entirely crushed all operative opposition to the Communist government.<sup>10</sup>

17. Most executions have been carried out absent the most basic tenets of due process of law and even minors accused of joining or assisting the resistance have been executed. More than two dozen executions have been documented in punishment of Cuban citizens attempting to exit the country without government authorization (which is prohibited by law); some individuals have been executed after being taken by force from diplomatic installations where they had sought asylum. In 1963, for example, three Protestant ministers — **Reverends José Durado, Pablo Rodríguez, and Antonio González** — who had escaped Cuba by boat with 16 other persons, and arrived at Anguilla Key, Bahamas, where forcibly repatriated by Cuba’s border guard and swiftly executed for exiting the country “illegally.”<sup>11</sup>
18. The last three executions by Cuba took place April 11, 2003. Three young men — **Lorenzo Enrique Copello, Bárbaro Leodán, and Jorge Luis Martínez** — were executed for leading a group of ten that hijacked a passenger ferry to flee Cuba. Reportedly they were armed with one pistol and several knives, although no violence ensued. They were sentenced to death just nine days later in secret summary trials disregarding due process of law. Their families were not allowed to say farewell and were notified only after the bodies had been buried under cement.

### **B. Extrajudicial killings**

19. Cuba Archive’s work in progress has to date documented 1,199 extrajudicial killings or suspected extrajudicial killings attributed (with different degrees of certainty) to the Cuban state since January 1, 1959 to October 2, 2017, 35 of which took place in international waters or other countries, most were perpetrated against civilians, including 27 known political opponents. 487 persons were killed in prison or detention. Of these reported or suspected killings, 14 occurred after Cuba’s last UPR (of 2013) — 8 in 2104, 3 in 2015, 2 in 2016 and 1 in 2017. To cite just four cases:
20. **Diosbel Díaz Beoto**, age 32, a Cuban-born resident of Italy, disappeared at sea — presumed killed — December 16, 2014 when Cuban border guards sunk the boat in which he was traveling off the coast of Matanzas, Cuba. Diosbel had travelled to Cuba from Miami to pick up his wife and 5 year-old son in a smuggling operation. Cuban border guards attacked the boat that carried 32 passengers (including seven women and two children) as the passengers screamed in terror and begged for mercy. Insisting they had orders to prevent the departure, they shot at the boat and rammed it for two hours until it sunk. Cuban authorities rescued survivors, but detained them for interrogation, and reported that the smugglers would be tried.
21. **Darío Andino León**, age 18, died November 18, 2014 in a cell at the Red Beret (“Boinas Rojas”) Military Unit in Cienfuegos, Cuba. He had been completing his obligatory military service for six months, enduring conditions known to be extremely harsh. While out on pass, he took to sea with some neighbors in a rustic vessel attempting to flee Cuba. Five days later, after a terrible ordeal, they were rescued by the U.S. Coast Guard and returned to Cuba. After several days in a hospital, Darío was returned to Cienfuegos province and imprisoned for deserting his military service. He was kept in isolation in a punishment

cell, where sheets or garments are not allowed. Several days later, authorities reported he had hung himself with a sheet.

22. On October 30, 2015, 36 year-old **Maichel Cárdenas**, died hours after a brutal beating by anti-narcotics police. He had been intercepted at a Havana park with his girlfriend on a Friday night by eight members of the police force alleging he was carrying drugs (his girlfriend insisted he was not). They handcuffed, beat, and kicked him after throwing him to the floor. Initially transferred to a police station, he was taken to a local clinic, where he was pronounced dead. The doctor was pressured by authorities to state in the death certificate that the cause of death had been a heart attack.
23. In January 30, 2015, prisoner **Alexander Rossel**, age 34, who had been held since he was 17 for planning to steal doves, died after a beating by prison guards for demanding medical attention for a painful toothache.

#### Extrajudicial killings in exit attempts

24. 152 of Cuba Archive's documented extrajudicial killings were reported to have ensued in exit attempts from the national territory, as Cuban authorities on land and sea have historically shot at, rammed vessels or thrown sandbags from small aircraft and used other violence to prevent them from "escaping." Article 215 of Cuba's Penal Code forbids the citizens from leaving the island without prior government authorization, which constitutes a violation of the Universal Declaration of Human Rights (Art. 13 states: "Everyone has the right to leave any country, including his own, and to return to his country.") Attempting to leave without government authorization is punishable with years of prison. This has been perpetrated on defenseless individuals of ages and walks of life, including dozens of minors, and, there are several solidly substantiated instances of massacres, such as the **Canimar River Massacre** of July 8, 1980 and the **Tugboat Massacre** of July 13, 1994.<sup>12</sup>
25. For decades, and presently, a tropical version of the Berlin Wall exists in Cuba to prevent its citizens from reaching U.S. territory at the naval base Guantánamo. Barbed wire, high fences, mine fields, watch towers, dogs, and armed sharpshooters ready to fire at unarmed civilians were complemented in the early 1990s with a sea wall at Guantánamo bay to prevent people from swimming to the U.S. base. (It has a net in the middle to allow for authorized maritime traffic.) In its 59 years of existence, the Cuban wall is feared to have taken thousands of victims — with loss of life, limbs, and eyesight, or years of prison. Two such victims were **Iskander Maleras Pedraza**, age 26, and **Luis Angel Valverde**, age 30, shot by sharpshooters with long-range rifles from a watchtower on the Cuban side on January 19, 1994, as they were swimming with two friends towards the U.S. base. They were buried immediately in a large field at the Guantánamo cemetery where victims of foiled exit attempts are laid to rest in unmarked graves. The shooters were awarded medals. The victims' families were harassed, humiliated, persecuted, and eventually forced to leave the country.
26. The resolve to prevent citizens from fleeing is so staunch that the state has kept the town of Caimanera, near the U.S. Naval Base, under a permanent state of siege for decades.

Only residents (population of around 11,000) and heavily vetted visitors are allowed entry after passing three checkpoints.

27. This intentional and systematic killing of unarmed citizens attempting to escape their country arguably fits the definition of the crime of genocide. Cuba, meanwhile, is a signatory (1953) of the Convention on the Prevention and Punishment of the Crime of Genocide.
28. Since 2011, Cuba Archive has documented 8 mysterious deaths of political opponents, including of the two main opposition leaders, **Laura Pollán** (Ladies in White) on October 14, 2011, and **Oswaldo Payá Sardiñas** (Christian Liberation Movement) on July 22, 2012, who was killed together with a member of his group, **Harold Cepero**. The circumstances of these deaths remain shrouded in mystery and no independent international investigations of either have been conducted.
29. For the 2013 UPR, Cuba rejected a recommendation to allow for independent investigations into the circumstances surrounding the deaths of Oswaldo Payá and Harold Cepero.<sup>13</sup> Nonetheless, in July 2015 Human Rights Foundation (HRF) released a detailed report that highlighted the numerous violations of due process, serious negligence in the autopsy procedure, compromising witness statements and other key probative elements that were ignored by the Cuban judicial system in the investigation of the facts that ended the life of the activists. The HRF report concluded that “deliberately excluded evidence points to the fact that the events that occurred on July 22, 2012 were not an accident, but the result of an automobile event deliberately provoked by state agents.”<sup>14</sup>
30. Since the 2013, UPR, **Vicente Medrano Ramos**, age 58, was killed. He hosted at his home the Guantánamo city headquarters of the peaceful opposition movement UNPACU (Patriotic Union of Cuba). The house was surrounded by a permanent security ring, yet he was found at home with his throat slit in May of 2014. The head of his CDR (Committee for the Defense of the Revolution) and other state agents had threatened him with death for expressing his gratitude publicly to UNPACU for repairing the roof of his home, damaged from Hurricane Sandy in 2012.

### **C. Enforced or involuntary disappearances.**

31. In 2009, Cuba ratified the International Convention for the Protection of All Persons from Enforced Disappearance. It defines enforced disappearances as “the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law.”
32. In March 2017, the U.N. Committee on Enforced Disappearances considered the report submitted by Cuba per article 29 (1) of the Convention and concluded that: “the legislation in force in the State party did not comply fully with the obligations of States parties to the Convention.” The Committee detailed the flaws in the state’s existing legal framework that

obstruct or preclude the proper application of numerous articles of the Convention<sup>15</sup> and expressed concern over the subordination of the courts to other organs of the State and their questionable independence.

33. Cuba's report declared that "there have been no cases of enforced disappearance in Cuba since 1959." The Committee did not pronounce itself regarding any cases of enforced disappearances, as no such cases had apparently been brought to the attention of the Committee. Nonetheless, the Cuban state is suspected or implicated in the enforced disappearance of at least 147 individuals,<sup>16</sup> and, likely, countless more who have not been adequately documented. 7 of those cases occurred after Cuba ratified the Convention and 5 after it came into full force in December 2010; 3 occurred after the state's 2013 UPR: On December 17, 2013, **Maximiliano Abreu Becerra, Ramón Estrada Murcieto, Omar Pérez Hernández, Isidro Sánchez Vázquez, and Alfredo Torres Paz** disappeared from Camaguey, Cuba. The five friends attempted to flee the island by boat and were never heard of again. One was an independent journalist trying to avoid arrest by State Security. Relatives believe they were entrapped by agents of State Security and disappeared.<sup>17</sup> (Entrapment for ("illegal") exit attempts has been a historic tactic of the Cuban state to identify, uncover, and get rid of the disaffected.)
34. 40 of the 147 documented as disappeared with known or suspected involvement by state agents went missing while attempting to escape from Cuban territory to the U.S. Naval Base at Guantánamo. Tens of thousands more Cubans are believed to have disappeared at sea since 1959, yet most cases have gone recorded due to lacking mechanisms for the systematic collection of this information (inside and outside Cuba). Given the historic practice by state agents, as detailed above, of using deadly force to stop escapees, an undetermined number of those who have not been found or heard of are presumed to have been forcibly disappeared.
35. In addition, several hundred insurgents and members of the resistance against the Cuban Communist state in the 1960s were presumed forcibly disappeared, their whereabouts remain unknown. They are believed to have been killed, went missing in combat or were executed without trial; their families were typically denied information as well as remains.
36. Presently, the practice of short duration arbitrary detentions for political reasons continues in Cuba and often involves enforced disappearance for hours or days, when victims are not allowed to communicate with loved ones, defense lawyers, or any other persons and families and interested parties are denied information on their whereabouts. In 2016 alone there were at least 9,351 such arbitrary detentions and in July and August 2017 alone there were 575 and 511 respectively.<sup>18</sup> Many, if not most, initially involve enforced disappearance.

#### **D. Induced deaths of political opponents.**

37. At least ten cases have been documented of political opponents induced by state agents into committing suicide or denied adequate medical care. Two occurred after the state's 2013 UPR: 1.) Plastic artist **Addys Calzadilla Rodríguez**, age 33, committed suicide June 26, 2015 in Holguín, Cuba, due to police harassment and painted the word "Fidel" with his blood before he died. 2.) Independent journalist and former political prisoner,

**Jorge Alberto Liriano Linares**, age 67, died November 14, 2016 in Camagüey after enduring systematic harassment by State Security agents that reportedly led to a heart attack. He was subjected to interrogations even after being hospitalized and was released from the hospital still very ill, disregarding his objections and that of his friends.

**E. Deaths in prison from suicide (real and alleged) and denial of medical care.**

38. Consistent and prevalent reports from Cuba, echoed by numerous international human rights organizations, indicate that Cuba does not comply with its obligations under the Convention against Torture that bars torture and “acts of cruel, inhuman or degrading treatment or punishment or to take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.” It is also in violation of its obligations under Art. 5 of the Universal Declaration of Human Rights: “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.”
39. In the 2013 UPR, Cuba accepted Canada’s recommendation (170.140) to “Ensure that prisoners or detainees are treated with dignity and humanity, with due consideration for the Standard Minimum Rules for the Treatment of Prisoners.” In fact, for decades, conditions in Cuba’s prisons have been and continue to be far from meeting minimum standards and, in fact, that cause severe physical or psychological pain or suffering to political and common prisoners alike. Very poor overall conditions, inadequate nutrition and hygiene, abuse from authorities, extreme punishment and isolation regimes, and denial of medical care are the norm; at times, specific tortures are included. In many cases, the set of conditions rises to the level of torture.
40. Since 1959 at least 296 cases have been documented of prisoners –political and common– who died from denial of medical care/medical negligence and/or for health reasons believed to have been induced by prison conditions. 28 such cases occurred since 2013, year of Cuba’s last UPR. One such unwarranted death was that of **Iyamil García Benítez**, age 35, who died at Combinado del Este prison of Havana on September 17, 2013. Despite suffering from diarrhea, vomiting blood, and appearing dehydrated, he did not receive medical treatment. The family was not notified by authorities and received word of his death by telephone by fellow prisoners; no explanation for his death was given, but it is believed he died of cholera, which had been reported in the prison. Unsanitary conditions, particularly of the water, were being commonly denounced by the inmates. What’s more, Iyamil’s mother claims he had imprisoned on fabricated charges of robbery with violence.
41. At times, prisoners are reported by authorities as having died of sudden ailments or heart attacks, often these are young men with no prior health issues. There is no or little chance to corroborate their claims.
42. Since 1959, at least 104 cases have been documented of prisoners, political and common, who have committed suicide believed to have been induced by prison conditions or have been reported to have committed suicide by prison authorities without any proof to that effect. 5 such cases have occurred since 2013. **Yuleisis de la Rosa** reportedly hung

himself August 25, 2014 at Combinado del Este prison, Havana; he suffered from mental illness and epilepsy, but prison authorities had reportedly denied him his prescribed medication.

43. Given the absolute lack of access to inspect prisons and the generalized persecution of human rights defenders, it is extremely difficult to obtain information to document deaths in prisons, but the annual number is believed to be very high and it is suspected that the overall tally of deaths since 1959 would be substantial.
44. Aside from many political and so-called economic causes for imprisonment in Cuba that violate minimal international standards of justice, thousands of individuals, especially young men, are imprisoned in Cuba for so-called crimes of “pre-criminal dangerousness to socialist morality,”<sup>19</sup> which constitutes an aberration that should be forcefully rejected by the international community.

#### **F. Other deaths: members of Cuba’s Armed Forces**

45. There are at least 15 documented cases since 1959 of members of Cuba’s Armed Forces killed or suspected killed for deserting the obligatory military service, expressing dissent, or committing “treason.” **Rafael Sagarra Cobra**, was in training at Unit 1580 (El Pitirre), San Miguel del Padrón, Havana, to enter the Special Troops of the Ministry of the Interior (MININT). On April 3, 2012, his grandmother received a call that her grandson had deserted his unit. Nine days later, on May 12, 2012, they notified her that his body had been found naked by a lagoon, where he had allegedly drowned. When the body was delivered to the family 14 days later, they insisted on opening the coffin and found the head missing. The family has requested a DNA test to confirm his identity and demanded an explanation from government authorities.
46. Since 1959, there are at least 5 documented cases of members of Cuba’s Armed Forces who committed suicide while in the obligatory military service. Conditions for recruits are generally very harsh, and the soldiers usually go with little food, inadequate gear, are required to do hard labor, denied medical care, and endure many other hardships. The last documented case occurred after Cuba’s 2013 UPR: On October 18, 2014, **Víctor Moya Yanez**, age 18, who was in the obligatory military service at a military unit in Cárdenas, Matanzas, shot himself to death in protest of the abuses he was enduring at the hand of superiors. He left a letter making Fidel and Raúl Castro responsible for forcing him to endure the military service. According to the independent journalist who filed the report, there are many such cases all over the country.

#### **V. RECOMMENDATIONS.**

47. For decades, the international community has failed to hold the Cuban state accountable, and thus afforded its dictatorial government total impunity for its many transgressions to the right to life — as well as most other rights — to the detriment of Cuba’s citizens and citizens of other countries.

##### Specific Recommendations

48. Conduct investigations with full cooperation of Cuban authorities and allowing the participation of international experts and observers, of all cases of suspected enforced

disappearance or extrajudicial killing brought forth by families of the disappeared or by human rights defenders.

49. Identify the location of remains of persons executed, killed, or disappeared and allow forensic experts to properly identify them.
50. Harmonize the state's internal legislation to comply with all international human rights instruments it has signed or ratified.
51. Ratify the Optional Protocol to the Convention against Torture.
52. Ratify and implement the International Covenant on Civil and Political Rights.
53. Harmonize the state's internal legislation to fully comply with its obligations under the International Convention for the Protection of All Persons from Enforced Disappearance, taking into account all concluding observations adopted by the U.N. Committee on Enforced Disappearances in March 2017.<sup>20</sup>
54. Recognize the competence of the U.N. Committee on Enforced Disappearances to receive and consider individual and inter-State communications under articles 31 and 32 of the Convention.
55. "Ensure that prisoners or detainees are treated with dignity and humanity, with due consideration for the Standard Minimum Rules for the Treatment of Prisoners."
56. Allow independent international organizations and national human rights groups access without hindrance, to undertake regular unannounced visits to inspect any place that may hold persons deprived of liberty.
57. Allow visits contemplated in the United Nations' Special Procedures and make sure these include free interactions with victims and families of victims, members of Cuba's independent civil society, and human rights defenders:
58. Working Group on Enforced or Involuntary Disappearances,
59. Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions,
60. Special Rapporteur on Torture and Other Cruel and Inhuman or Degrading Treatment or Punishment,
61. Special Rapporteur on the Promotion of Truth, Justice, Reparation, and Guarantees of Non-recurrence.
62. Cease all persecution of human rights defenders and give official recognition to human rights groups.
63. Establish an independent national human rights' institution in conformity with the Paris Principles, the mandate of which should include the promotion and protection of the rights enshrined in all international instruments that protect human rights to which Cuba is party.
64. Allow for defense lawyers in Cuba and for independent international experts to fully investigate the deaths of Oswaldo Payá, Laura Pollán, and other members of the opposition, and provide access to all evidence requested.

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## Notes

<sup>1</sup> Inter-American Commission on Human Rights (IACHR), "Diez Años de Actividades 1971-1981," General Secretariat of the Organization of American States, Washington, D.C., 1982, p. 332.

<sup>2</sup> 170.16, 170.17. and 170.18.

<sup>3</sup> 170.49, 170.50, 170.51, 170.52, 170.53, 170.58, 170.100.

<sup>4</sup> Statement by the Deputy Permanent Representative of Cuba to the United Nations, H.E. Ambassador Ana Silvia Rodríguez Abascal at the High-Level Thematic Debate on Human

Rights. New York, 12 through 13 July 2016

<<http://www.cubadiplomatica.cu/onu/EN/StatementsinUN/AttheUNGeneralAssembly/70Session/EngIntervDebateTematicoDH1372016.aspx>>

<sup>5</sup> Cuba's Repressive Machinery, Human Rights Watch, 1999

[https://www.hrw.org/reports/1999/cuba/Cuba996-03.htm#P576\\_78223](https://www.hrw.org/reports/1999/cuba/Cuba996-03.htm#P576_78223)

<sup>6</sup> National report submitted in accordance with Human Rights Council resolution 16/21, annex, paragraph 5\* Cuba, Human Rights Council, Working Group on the Universal Periodic Review, Sixteenth session, Geneva, 22 April–3 May 2013, p. 12 (Recomendación 42. Recomendación 13 de las respondidas por Cuba en 2009).

<sup>7</sup> 170.134 (Argentina, Honduras, France, Switzerland); 170.135 (Australia); 170.136 (Belgium); 170.137 (Italy).

<sup>8</sup> Death Penalty Database, Cuba, Cornell Center for the Death Penalty Worldwide, Cornell Law School, <http://www.deathpenaltyworldwide.org/country-search-post.cfm?country=Cuba>. Alfonso Serrano Gómez, “La pena de muerte en los códigos penales de Cuba,” *Boletín de la Facultad de Derecho*, Núm. I, 1992.

<sup>9</sup> See [www.CubaArchive.org](http://www.CubaArchive.org) for a detailed description of the work and the database of individual case records.

<sup>10</sup> A rare publication on the death penalty from Cuba, written by a legal expert from a Cuban Law School, reports 13 executions for state security reasons from 1980 to 1984 and only 11 for other crimes from 1984 to 1987. (See A. Serrano Gómez, *op.cit.*)

<sup>11</sup> See [database.CubaArchive.org](http://database.CubaArchive.org) and *The New York Times*, 17 October 1963, p. 5, column 1.

<sup>12</sup> Because most of the bodies were not recovered or returned to the families, these incidents might be considered “enforced disappearances.” However, there were many witnesses that report the individuals were killed by state actors. See reports on both massacres at: [http://cubaarchive.org/home/images/stories/truth%20and%20memory/canamar\\_massacre.pdf](http://cubaarchive.org/home/images/stories/truth%20and%20memory/canamar_massacre.pdf) and

[http://cubaarchive.org/home/images/stories/truth%20and%20memory/tugboat\\_massacre.pdf](http://cubaarchive.org/home/images/stories/truth%20and%20memory/tugboat_massacre.pdf)

<sup>13</sup> 170.138, submitted by the United States of America and the Czech Republic.

<sup>14</sup> Informe jurídico de HRF: La evidencia sugiere que Oswaldo Payá habría sido asesinado por el gobierno, Nueva York, 22 de julio de 2015, <http://lahrf.com/Informe-juridico-HRF-evidencia-sugiere-que-oswaldo-paya-habria-sido-asesinado-22-07-2015.php>

<sup>15</sup> The Committee on Enforced Disappearances made concluding observations on the report submitted by Cuba under article 29 (1) of the Convention\*, United Nations, International Convention for the Protection of All Persons from Enforced Disappearance, 19 April 2017. [https://www.ecoi.net/file\\_upload/1930\\_1501060931\\_g1709573.pdf](https://www.ecoi.net/file_upload/1930_1501060931_g1709573.pdf). The Committee considered the report submitted by Cuba at its 199th and 200th meetings (see CED/C/SR.199 and 200), held on 6 and 7 March 2017, and adopted concluding observations at its 210th meeting, held on 14 March 2017.

<sup>16</sup> See: “Cuba 1959 to present: at least 147 enforced disappearances,” Update of March 29, 2017, [CubaArchive.org](http://cubaarchive.org/files/ENFORCED-DISAPPEARANCES-REPORT.pdf), <http://cubaarchive.org/files/ENFORCED-DISAPPEARANCES-REPORT.pdf>. Individual case records are part of the online database, available at [www.CubaArchive.org](http://www.CubaArchive.org).

<sup>17</sup> See case records at [www.CubaArchive.org](http://www.CubaArchive.org).

<sup>18</sup> Reported by the outlawed human rights group *Comisión Cubana de Derechos Humanos y Reconciliación Nacional (CCDHRN)*.

<sup>19</sup> See Cuba's Penal Code, Title XI, on “The state of dangerousness and security measures,” and, specifically, Article 76. 2.

<sup>20</sup> The U.N. Committee on Enforced Disappearances made its concluding observations at its 210th meeting, held on 14 March 2017, regarding the report submitted by Cuba at its 199th and 200th meetings, held on 6 and 7 March 2017, to comply with article 29 (1) of the Convention.

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## **ANNEX ORGANIZATIONS MAKING THE SUBMISSION**

### **ABOUT CUBA ARCHIVE / FREE SOCIETY PROJECT**

Free Society Project, Inc., is a non-profit organization established in Washington, D.C., United States, in 2001 to promote human rights through research and education. Its Cuba Archive/Archivo Cuba project researches and documents deaths and disappearances resulting from the Cuban revolution regardless of the characteristics, affiliations, or political inclinations of the victims. Cuba Archive also educates on the issues of memory, truth, and justice.

Cuba Archive is an independent and nonpartisan initiative that seeks to promote a culture of respect for life and the intrinsic right of each person to live in freedom and security. It conducts its investigations with impartiality, objectivity, and transparency and makes the results available to the public in an electronic database ([www.database.CubaArchive.org](http://www.database.CubaArchive.org)) and through reports, videos, publications, and other venues, disseminating its work internationally.

### **ABOUT CUBALEX**

Cubalex is a non-profit association founded December 10, 2010, in Havana, Cuba, with six years of experience working in a highly repressive environment. Most of its staff moved to the United States in May 2017 after obtaining political refuge and it continues to defend and promote human rights as part of a social transformation to reestablish democracy and the rule of law in Cuba.

### **ABOUT HUMAN RIGHTS FOUNDATION**

The Human Rights Foundation (HRF) is a nonpartisan nonprofit organization that promotes and protects human rights globally, with a focus on closed societies. HRF unites people in the common cause of defending human rights and promoting liberal democracy. Our mission is to ensure that freedom is both preserved and promoted around the world.

We focus our work on the founding ideals of the human rights movement, those most purely represented in the 1948 Universal Declaration of Human Rights (UDHR), and the 1976 International Covenant on Civil and Political Rights (ICCPR).

The Human Rights Foundation Center for Law and Democracy (HRF-CLD) is a program of the Human Rights Foundation (HRF). HRF-CLD promotes legal scholarship in the areas of comparative constitutional law and international law, with a focus on international human rights law and international democracy law.