

## **Cuba: A snapshot of Prisoners of Conscience under the government of President Miguel Díaz-Canel**

In a rare press conference with former US President Obama in 2016, President Raúl Castro flatly denied that there were any “political prisoners” in Cuba.<sup>1</sup> However, in the past four years, Amnesty International has named 12 prisoners of conscience in the country, and there are likely many more.

Amnesty International calls for the immediate and unconditional release of all prisoners of conscience, as they have been deprived of their liberty solely for peacefully exercising their human rights.

Just over a year after new President Miguel Díaz-Canel assumed office, NGO Cuban Prisoners Defenders claims that at least 71 people are imprisoned on politically motivated charges.

Having considered just a handful those cases, in which we were able to review official court sentences and other available documentation, Amnesty International believes that the below mentioned individuals are prisoners of conscience – people imprisoned solely because of the peaceful exercise of their human rights.

Without access to Cuba, and because lawyers and the judiciary remain firmly under the authorities’ control, there are serious barriers for Amnesty International to document cases of those imprisoned solely for politically motivated reasons, and as such there are highly likely to be many more cases of prisoners of conscience than our organization has been able to document.

According to information available to Amnesty International, all the individuals are members of political opposition groups, not recognized by the authorities.

All of them have been imprisoned for offences that are not internationally recognizable, which have been used for decades in Cuba to silence critical voices.<sup>2</sup> Amnesty International calls for the reform of Cuba’s criminal laws to remove provisions that are inconsistent with international law, such as “dangerousness” and “contempt.”

### **Background: Criminal laws used to silence in Cuba**

#### *Resistance and public disorder*

Provisions of the criminal code such as “resistance” to public officials carrying out their duties, and “public disorder” have been used for decades to stifle the rights to freedom of

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<sup>1</sup> Washington Post, ‘Castro denies Cuba has political prisoners, demands list’, 21 March 2016, Available at: [www.washingtonpost.com/video/world/castro-denies-cuba-has-political-prisoners-demands-list/2016/03/21/f38afede-ef9a-11e5-a2a3-d4e9697917d1\\_video.html?utm\\_term=.864db38ff92c](http://www.washingtonpost.com/video/world/castro-denies-cuba-has-political-prisoners-demands-list/2016/03/21/f38afede-ef9a-11e5-a2a3-d4e9697917d1_video.html?utm_term=.864db38ff92c)

<sup>2</sup> See Amnesty International, Restrictions on Freedom of Expression in Cuba, (Index: AMR 25/005/2010), pp.8-16 for a summary of the laws which continue to be regularly used to restrict freedom of expression.

expression, peaceful assembly and association in Cuba.

### *Contempt*

“Contempt”, defined in article 144.1 of Cuba’s Criminal Code, is an undue restriction on the right to freedom of expression, as public officials should tolerate more criticism than private individuals. The use of defamation laws with the purpose or effect of inhibiting criticism of government or public officials violates the right to freedom of expression.

### *Dangerousness*

The provision of “dangerousness” is contained in Articles 78-84 of the Penal Code. These provisions are imprecise and subjective, which allow the authorities to apply them arbitrarily.<sup>3</sup>

The UN Working Group on Arbitrary Detentions has stated that detentions in Cuba are arbitrary when “persons are deprived of their liberty for a long period on the basis of their alleged dangerousness, with no reference to specific acts defined with the rigour that has been required by international criminal law since at least the eighteenth century, and which is now enshrined in article 11, paragraph 2, of the Universal Declaration of Human Rights”.<sup>4</sup>

Amnesty International has further documented how the authorities use dismissals from state-employment, and harassment of self-employed workers in emerging private sector, as tactics of control over the right to freedom of expression, leaving many critical of the state’s economic or political model jobless.<sup>5</sup>

In multiple sentences issued for “dangerousness” reviewed by Amnesty International, the court refers to the fact that the accused does not work, as part of its reasoning for issuing the sentence of “dangerousness”. As those overtly critical of the government are frequently subject to such dismissals, this, in turn, facilitates the authorities’ ability to imprison dissenting voices for “dangerousness”.

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<sup>3</sup> See Human Rights Watch, ‘New Castro, Same Cuba Political Prisoners in the Post-Fidel Era’, 18 November 2009; IACHR, Annual Report 2016, para.138; Arco Iris Libre de Cuba et al, ‘Situación del Derecho a la Libertad de Opinión y Expresión en Cuba, Julio 2016’, p.11.

<sup>4</sup> Human Rights Council, Opinions adopted by the Working Group on Arbitrary Detention at its sixty-ninth session, 22 April-1 May 2014, No. 9/2014 (Cuba), para.23 and 24.

<sup>5</sup> Amnesty International, Your Mind is in prison: Cuba’s web of control over free expression and its chilling effect on everyday life, (AMR 25/7299/2017)

## **Prisoners of conscience**

- 1. Josiel Guía Piloto (male) is president of the Republican Party of Cuba and serving a five year-sentence for “public disorder” and “contempt.”**

Josiel was detained after having criticized former President Fidel Castro on 1 December 2016. According to his mother, who has also been involved in activism against the Cuban government, prison officials beat him in prison leaving him with complications to his left lung. On 11 June 2019, the Inter-American Commission on Human Rights granted precautionary measures to respect and protect his rights to health, life and physical integrity.

- 2. Silverio Portal Contreras (male), former activist with the Ladies in White, is serving a 4-year sentence for “contempt” and “public disorder”.**

According to a court document, Silverio was arrested on the 20 June 2016 in Old Havana after shouting “Down Fidel Castro, down Raúl...” The document states that the behavior of the accused is particularly offensive because it took place in a touristic area. The document further describes the accused as having “bad social and moral behavior” and mentions that he fails to participate in pro-government activities. According to Silverio’s wife, before his arrest he had campaigned against the collapsing of dilapidated buildings in Havana.

- 3. Mitzael Díaz Paseiro (male) is a member of the Frente Nacional de Resistencia Cívica Orlando Zapata Tamayo (FNRC-OZT) and who was imprisoned in 2017 for four years, for “dangerousness”.**

Mitzael Diaz Paseiro is a political activist who was campaigning against the government’s position in the constitutional reform process. According to his wife, prior to his imprisonment the police had detained him multiple times for his activism. According to court documents, which Amnesty International was able to review, Mitzael was imprisoned for “dangerousness”, for among other things, failing to hold a job, for meeting with “citizens of terrible moral and conduct”, for drinking alcohol frequently, and using vulgar language. Mitzael’s wife says he suffers a heart condition and says he has been beaten by officials in jail for his views.

- 4. Eliecer Bandera Barrera (male), an activist of the Unión Patriótica de Cuba (UNPACU) since 2015, is serving a sentence for “dangerousness” until 2021.**

Eliecer was arrested in September 2016 after having filmed videos for UNPACU about the conditions of workers interned in camps, according to his wife. Eliecer was sentenced to four years imprisonment for “dangerousness” by the Municipal Court of Rio Cauto in 2016, and subsequently further sentenced to 10 months for escaping the camp where he was interned to make a phone call to a sick family member, before voluntarily returning. According to the sentence, during his imprisonment for “dangerousness”, Eliecer “did not

participate in political and educational activities” ... “showing disrespect for the officers guarding him”. He also has a prior sentence for “resistance” issued in 2003.

**5. Edilberto Ronal Arzuaga Alcalá (male) is an UNPACU activist, reportedly imprisoned for not paying a fine.**

According to information received by Amnesty International, Edilberto has been imprisoned since December 2018, reportedly for not paying fines related to his alleged distribution of political posters. Edilberto was most recently involved in the “Cuba Decide” Campaign and campaigned against the government’s position in the recent constitutional reform process.

According to Cuban Prisoners Defenders, Edilberto was detained on 24 December 2018, when filming testimonies of people discussing the constitutional reform process in a public market, in the city of Camagüey. After being taken to prison, he was sentenced to 14 months of prison for failing to pay fines previously accumulated.

On 22 April 2019 the Inter-American Commission on Human Rights granted precautionary measures calling on Cuban authorities to respect and protect the rights to health, life and physical integrity of Edilberto.

**Recommendations**

These five cases show that although the leadership in Cuba might have changed, illegitimate restrictions on freedom of expression and association are still the practice. Therefore, besides other key recommendations presented in our Human Rights Agenda for Cuba<sup>6</sup>, we urge the Cuban government to:

1. Immediately and unconditionally release all prisoners of conscience, and quash their convictions, which are solely based on their peaceful exercise of their human rights to freedom of expression, association and peaceful assembly;
2. Pending their release, ensure that prisoners of conscience are protected from torture and other ill-treatment, and are allowed access to their family, a lawyer of their choice, and adequate medical care; and are treated in full accordance with the UN Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules);
3. Guarantee the right to freedom of expression, assembly and association in Cuba, including for dissident, opponent or activist voices and repeal all legislation which unduly limits these rights.

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<sup>6</sup> Amnesty International, *Transform Confrontation Into Dialogue: A Human Rights Agenda For Cuba* (AMR 25/8186/2018), available at: <https://www.amnesty.org/en/documents/amr25/8186/2018/en/>

