

# CUBA

## EXECUTIVE SUMMARY

Cuba is a totalitarian state led by Raul Castro, who is the chief of state, president of the council of state and council of ministers, and commander in chief of the armed forces. At the Sixth Communist Party Congress held in April, delegates also elected Castro as party first secretary. The constitution recognizes the Communist Party (CP) as the only legal party and “the superior leading force of society and of the state.” The 2008 legislative elections were neither free nor fair. A CP candidacy commission preapproved all candidates, and all 614 members ran unopposed. Security forces reported to a national leadership that included members of the military.

The principal human rights abuses were: abridgement of the right of citizens to change their government; government threats, intimidation, mobs, harassment, and detentions to prevent citizens from assembling peacefully; and a significant increase in the number of short-term detentions, which in December rose to the highest monthly number in 30 years.

The following additional human rights abuses continued: beatings, harsh prison conditions, and selective prosecution and denial of fair trial. Authorities interfered with privacy and engaged in pervasive monitoring of private communications. The government also placed severe limitations on freedom of speech and press, restricted freedom of movement, and limited freedom of religion. The government refused to recognize independent human rights groups or permit them to function legally. In addition, the government continued to place severe restrictions on worker rights, including the right to form independent unions.

Most human rights abuses were official acts committed at the direction of the government, and consequently the perpetrators enjoyed impunity for their actions.

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

#### **a. Arbitrary or Unlawful Deprivation of Life**

There were no reports that the government or its agents committed arbitrary or unlawful killings.

#### **b. Disappearance**

There were no reports of politically motivated disappearances.

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

The law prohibits abusive treatment of detainees and prisoners. However, there were verified reports that members of the security forces harassed and sometimes physically assaulted human rights and prodemocracy advocates, dissidents, other detainees, and prisoners, and they did so with impunity. Some detainees and prisoners endured physical abuse, sometimes by other inmates with the acquiescence of guards, or long periods in isolation cells.

There were numerous reports of police assaults on detainees or of police standing by, and even orchestrating, government-organized mobs to assault peaceful demonstrators.

Reports of beatings of prisoners were commonplace and included beatings by prison officials as well as among prisoners. There were some reports of prisoner-on-prisoner sexual assaults, generally due to lax security by prison guards, and at least one report of rape by prison guards.

### **Prison and Detention Center Conditions**

Prison conditions continued to be harsh. Prison cells lacked adequate water, sanitation, space, light, ventilation, and temperature control. Although the state provided basic feeding and medical care, many prisoners relied on family parcels for food and other basic supplies. Potable water was frequently unavailable. Prison cells were overcrowded, requiring prisoners to sleep on the floor and limiting freedom of movement during the day. Prisoners often slept on concrete bunks without a mattress, with some reports of more than one person sharing a narrow bunk. Where available, mattresses were thin and often infested with vermin. Inmates reported the frequent presence of rats, cockroaches, fleas, lice, bedbugs, stinging ants, flies, and mosquitoes. Prisoners reported that they lacked access to basic and emergency medical care, including dental care. Prisoners engaged in hunger strikes throughout the year to demand medical treatment.

Prisoners, family members, and nongovernmental organizations (NGOs) reported inadequate health care, which led to or aggravated multiple maladies. Prisoners also reported outbreaks of dengue, tuberculosis, and hepatitis. Prison health

workers often reused syringes, despite the existence of communicable diseases among inmates.

There were multiple reports of prison deaths from heart attacks, asthma attacks, HIV/AIDS, and other chronic medical conditions, as well as from suicide.

The government did not publish the number of prisoners or detainees, nor did it provide information regarding the number or location of detention centers, which included not only prisons but also work camps and other kinds of detention facilities.

Estimates from unofficial sources of the prison and detention center population size varied widely, from as low as 30,000 to as high as 80,000. On December 23, President Castro announced that he would commute the sentences of more than 2,900 convicts. The authorities released these prisoners into their communities before year's end.

Men and women were held in separate prisons and police detention facilities. Generally, women reported suffering the same poor prison conditions as men, including lack of access to basic and emergency medical care. Women also reported lack of access to feminine hygiene products and adequate prenatal care. The government did not release information on the treatment of minors at either youth or adult prisons or detention centers. There were reports of inmates as young as 15 in maximum-security prisons.

Political prisoners and the general prison population were kept in similar conditions. By refusing to wear standard prison uniforms, political prisoners frequently were denied certain privileges such as access to prison libraries and standard reductions in the severity of their sentence (for example, being transferred from a maximum-security to a medium-security prison or work camp). The government sometimes placed healthy prisoners in cells with mentally disturbed inmates. Political prisoners also reported being threatened or harassed by fellow inmates whom they thought were acting on orders of prison authorities.

Prisoners reported that solitary confinement was a common punishment for misconduct and that some had been held in isolation for months or even years at a time. After his release in March, Jose Daniel Ferrer reported that he was kept in solitary confinement for most of his almost eight years in jail. In general prisoners in isolation had restrictions on family visits.

Prisoners and pretrial detainees had access to visitors, although some political prisoners' relatives reported that prison officials arbitrarily canceled scheduled visits.

Prisoners were permitted limited religious observance. Both the Catholic Church and the Cuban Council of Churches reported improved access to prisoners during the year, with services offered in prisons and detention centers in most if not all provinces. There were isolated reports that prison authorities did not inform inmates of their right to religious assistance, delayed months before responding to such requests, and limited visits to a maximum of two or three times per year.

By law prisoners and detainees may seek redress regarding prison conditions and procedural violations, such as continued incarceration after their prison sentence has expired. Prisoners reported that in practice government officials often refused to allow or accept complaints, or failed to respond to the complaints once submitted. However, the family of a political prisoner reported that central authorities resolved their complaints regarding prison living conditions after local authorities failed to do so. In another case, central government authorities instructed the local prison to stop denying privileges to a political prisoner who refused to wear the prison uniform. It was not clear whether the government investigated or monitored allegations of inhumane conditions. If investigations occurred, the results were not publicly accessible.

The government did not permit independent monitoring of prison conditions by international or national human rights groups and did not permit access to detainees by international humanitarian organizations. Despite its 2009 offer to permit a visit by the UN special rapporteur on torture and other cruel, inhuman, and degrading treatment or punishment, the government failed to make good on its offer during the year.

#### **d. Arbitrary Arrest or Detention**

Under the criminal procedure code, police have wide discretion to stop and question citizens and request their identification, and to carry out arrests and searches. The law provides that police officials provide suspects with a signed "act of detention," noting the basis, date, and location of any detention in a police facility, and a registry of personal items seized during a police search. In practice police officials routinely failed to comply with these requirements during detentions or searches. Arbitrary stops and searches were most common in urban

areas and at government-controlled checkpoints located at the entrances to provinces and municipalities.

Police and security officials frequently utilized short-term detentions to prevent those it perceived as government opponents from assembling freely. Detentions generally lasted from several hours to several days. On October 19, police stopped Baptist pastor Mario Felix Leonart, an outspoken critic of police brutality in Santa Clara, and detained him for 10 hours. Short-term detentions for the year increased 99 percent over short-term detentions in 2010, according to the Cuban Commission on Human Rights and Reconciliation (CCDHRN). The CCDHRN counted 4,123 short-term detentions during the year; in December a 30-year high of 796 detentions was recorded.

Long-term imprisonment against peaceful opponents decreased but did not cease entirely. In May brothers Marcos Maikel Lima Cruz and Antonio Michel Lima Cruz were sentenced to three years and two years of incarceration, respectively, for disorderly conduct and desecrating the Cuban flag. Their incarceration came after a violent campaign of harassment that included the use of mobs against the Lima residence as punishment for the family's peaceful political opposition activities.

In addition, Cuban law allows up to a four year detention of people before they commit an actual crime, with a subjective determination of "potential dangerousness." Mostly used as a tool to control "anti-social" behavior such as substance abuse, it has also been used to silence peaceful political opponents. The exact numbers of people serving sentences for "dangerousness" is unknown, but some estimate that it exceeds 3,000 persons.

The government also restricted free assembly by preventing citizens from leaving their homes, under threat of arrest. Generally, plainclothes police officers would post themselves in the vicinity of the house to ensure that the citizen could not leave until a public event or demonstration was over. Authorities placed approximately 40 citizens under house detention October 15-16 to prevent them from attending funeral services in honor of Damas de Blanco founder Laura Pollan.

### **Role of the Police and Security Apparatus**

The Ministry of the Interior (MININT) exercises control over the police, internal security forces, and prison system. The ministry's National Revolutionary Police (PNR) is the primary law enforcement organization and was moderately effective

in investigating common crimes. Specialized units of the MININT's state security branch are responsible for monitoring, infiltrating, and suppressing opposition political groups. The PNR supports state security agents by carrying out house searches, arresting persons of interest to the MININT, and providing interrogation facilities.

Police routinely violated procedural laws with impunity and often failed or refused to provide citizens with legally required documentation, particularly during arbitrary detentions and searches. Members of the security forces acted with impunity in committing numerous, serious civil rights and human rights abuses.

On May 5, police beat activist Juan Wilfredo Soto Garcia while handcuffed in a public square of Santa Clara. He was treated at a hospital and released but died three days later. The government denied that he had died from the beating but did not make public the results of an investigation into his death.

Although the law on criminal procedure prohibits the use of coercion during investigative interrogations, police and security forces routinely relied on aggressive and physically abusive tactics, threats, and harassment during questioning. Detainees reported that officers threatened them with long-term detention, loss of child custody rights, denial of permission to depart the country, and other threats, for instance, suggesting that an elderly relative might suffer an accident. In September state security officers detained opposition members Yelena Garces and her husband Miguel Rafael Cabrera and told them that if they continued to engage in dissident activity, the government might take custody of their three-year-old child.

There were no mechanisms readily available to investigate government abuses.

Undercover police and agents from the MININT were often present and coordinated activities with mob leaders in acts to disrupt efforts at peaceful assembly (see section 2.b.).

Many state-orchestrated "acts of repudiation" were directed against the Damas de Blanco. On multiple occasions in July and August, acts of repudiation were organized to prevent Damas de Blanco from marching after Mass in the province of Santiago de Cuba. On October 21, contrary to its claims that the acts of repudiation were spontaneous, the government forewarned that it would deploy mobs to prevent the Damas de Blanco from marching peacefully on October 24.

Mobs and state security agents assaulted Damas de Blanco leader Laura Pollan and others when they tried to leave her house.

### **Arrest Procedures and Treatment While in Detention**

Under the criminal procedure code, police have 24 hours after an arrest to present a criminal complaint to a police official called an instructor. The instructor then has 72 hours to investigate and prepare a report for the prosecutor. The prosecutor then has an additional 72 hours to recommend to the appropriate court whether to open a criminal investigation. Detainees have no right to counsel during this period.

By law, after the 168-hour detention period, detainees must be informed of the basis for the arrest and criminal investigation and have access to legal representation. Detainees facing formal charges must retain counsel within five days of being charged or the state can appoint an attorney on their behalf. Those charged can be released on bail, placed in home detention, or held in continued investigative detention.

In practice, however, officials often disregarded many of these procedures. Suspects often were detained longer than 168 hours without being informed of the nature of the arrest or being afforded legal counsel. In a survey of fellow prisoners conducted in 2009 and 2010, a noted dissident reported that 64 percent of pretrial detainees where he was being held had spent weeks and sometimes months without having seen an attorney or being informed of the charges against them.

Once the accused has an attorney, the defense has five days to respond to the prosecution's charges, after which a court date usually is set. There were many reports that defendants with public defenders met their attorneys for the first time only minutes before their trials. Prosecutors can demand summary trials "in extraordinary circumstances" and in cases involving crimes against state security.

Bail was available, although typically not granted in cases involving those arrested for opposition activities. Time in detention before trial counted toward time served if convicted.

Detainees can be interrogated at any time during detention and have no right to request the presence of counsel. Detainees have the right to remain silent, but officials do not have a legal obligation to inform them specifically of that right.

By law investigators must complete criminal investigations within 60 days. Prosecutors may grant investigators two 60-day extensions upon request, for a total of 180 days of investigative time. This deadline, however, can be waived by the supervising court in “extraordinary circumstances” and upon special request by the prosecutor. In that instance no additional legal requirement exists to complete an investigation and file criminal charges. This exception was invoked often. Detainees were held for months or years in investigative detention, in both political and nonpolitical cases. In nonpolitical cases delays were often due to bureaucratic inefficiencies, a lack of checks on police, and prosecutorial or judicial excesses.

### **e. Denial of Fair Public Trial**

While the constitution recognizes the independence of the judiciary, the judiciary is directly subordinate to the National Assembly, which can remove or appoint judges at any time. In practice the judiciary was thoroughly dominated by political considerations, and the CP and Council of State exerted near-total influence over the courts and their rulings.

Civilian courts exist at the municipal, provincial, and Supreme Court levels. Special tribunals are convened for political (“counterrevolutionary”) opponents and other cases deemed sensitive to “state security” and held behind closed doors. Military tribunals may also have jurisdiction over civilians in cases where any of the defendants were members of the military, police force, or other law enforcement agency.

### **Trial Procedures**

Due process rights apply equally to all citizens as well as foreigners, but courts often failed to protect or observe these rights. The law presumes defendants to be innocent until proven guilty, but authorities often ignored this in practice, placing the burden on the defendant to prove innocence rather than on the prosecution to prove guilt.

Defendants generally have the right to a public trial, but politically motivated trials were often held in secret, citing exceptions for crimes involving “state security” or “extraordinary circumstances.” The law does not provide for jury trials. Almost all cases concluded in less than one day.

The law provides the accused with the right to be present during trial and requires that defendants be represented by an attorney at trial, if necessary at public



expense. Defendants' attorneys can cross-examine state witnesses and present witnesses and evidence on the defendants' behalf. The only attorneys licensed to practice in criminal courts are attorneys who work for state collective law offices.

Criteria for admitting evidence was often arbitrary and discriminatory. According to numerous reports, prosecutors routinely introduced irrelevant or unreliable evidence to prove intent or testimony about the revolutionary credentials of a defendant. At the March trial of foreign development worker Alan Gross on charges of "subverting Cuba's national sovereignty and/or territorial integrity" by installing satellite Internet at Jewish community centers, the court admitted as evidence an "expert" who testified about Gross's alleged criminal intent from his handwriting.

Defense attorneys have the right to review the investigation files of a defendant, but not if the charges involve "crimes against the security of the state." In these cases defense attorneys are not allowed access until charges have been filed. In practice many detainees reported that their attorneys had difficulties accessing their files due to bureaucratic and administrative obstacles. Attorneys of political detainees reported that they often had greater difficulty gaining access to their clients' files.

The penal code includes the crime of "potential dangerousness," defined as the "special proclivity of a person to commit crimes, demonstrated by his conduct in manifest contradiction of socialist norms." At trial the state must only show that the defendant has "proclivity" for crime, so an actual criminal act need not have occurred. Penalties can be up to four years in prison. The authorities normally applied this law to prostitutes, alcoholics, young persons who refused to report to work centers, and repeat offenders of laws restricting change of domicile. The CCDHRN estimated that 3,000 to 6,000 citizens were held on charges of potential dangerousness.

The law recognizes the right of appeal in municipal courts but limits it in provincial courts to cases involving lengthy prison terms or the death penalty.

### **Political Prisoners and Detainees**

The government continued to deny holding any political prisoners. It refused access to its jails to international humanitarian organizations and the UN. Although in 2010 the government invited UN special rapporteur for torture and other cruel, inhuman, or degrading treatment or punishment to conduct a fact-

finding mission, no visit occurred. Special Rapporteur Manfred Nowak stated that the visit did not take place because the government failed to respond to his request to schedule the visit.

The government released dozens of political prisoners during the year, most of whom were given the option of release only if they accepted exile in Spain.

Peaceful political prisoners remained in jail, including four who were arrested and sentenced during the year. The number of peaceful political prisoners decreased significantly in the year, but accurate numbers were difficult to determine. Lack of governmental transparency and systemic violations of due process rights obfuscated the true nature of criminal prosecutions and investigations, allowing government authorities to prosecute and sentence human rights activists for common crimes or dangerousness. The government uses the designation of “CR,” for counterrevolutionary, on inmates deemed to be opponents to the regime, but it did not release those numbers. The government continued to deny access to its jails to independent monitors who could help determine the size of the political prisoner population.

Political prisoners reported being held in isolation for extended periods of times, even years. Political prisoners were not given the same protections as other prisoners or detainees. In particular they were frequently denied early parole or transfers to lower-security facilities that were commonly granted to other prisoners. Political prisoners also generally were denied access to home visits, prison classes, phone calls, and on occasion, family visits. Some political prisoners refused to wear a prison uniform. Although prison authorities generally punished such refusals, many prisoners reported that eventually they were given permission to wear clothing of their own choosing.

Many prisoners were able to communicate information about their living conditions through telephone calls to human rights observers and reports to family members.

### **Civil Judicial Procedures and Remedies**

Civil courts exist at the municipal, provincial, and Supreme Court levels and oversee civil, administrative, labor, and economic matters. Civil courts, like all courts in the country, lack an independent or impartial judiciary as well as effective procedural guarantees. Although it is possible to seek judicial remedies through civil courts for violations of administrative determinations, lawyers noted that

general procedural and bureaucratic inefficiencies often delayed or undermined the enforcement of both administrative determinations and civil court orders. No courts allowed claimants to bring lawsuits seeking remedies for human rights violations.

#### **f. Arbitrary Interference with Privacy, Family, Home, or Correspondence**

The constitution protects citizens' privacy rights in their homes and correspondence, and police must have a warrant signed by a prosecutor or magistrate before entering or conducting a search. In practice, however, the government routinely and systematically monitored correspondence and communications between citizens, surveilled their movements, and entered homes without legal authority and with impunity. Police searched homes and seized personal goods without the legally required documentation.

The MININT employed a system of informants and block committees, known as Committees for the Defense of the Revolution, to monitor government opponents and report on their activities. Agents from the MININT's General Directorate for State Security subjected foreign journalists and diplomats to occasional harassment and surveillance, including electronic surveillance and surreptitious entry into their homes.

The government routinely used propaganda campaigns in the media (all of it state-owned) to slander opponents. During the year the government televised a series of propaganda "documentaries" to besmirch the reputation of the Damas de Blanco, independent bloggers, and Freemasons, among others. The programs featured footage of private meetings, including in bedrooms and hotel rooms, taken without the participants' knowledge and used without their consent.

The CP is the only legally recognized political party, and the government actively suppressed attempts to form other parties. Party membership is not required to obtain common government services, such as rations, housing, or medical care. However, the government encouraged mass political mobilization and favored citizens who actively participated, especially when awarding valued public benefits like admissions to higher education, fellowships, and jobs.

### **Section 2. Respect for Civil Liberties, Including:**

#### **a. Freedom of Speech and Press**

## Status of Freedom of Speech and Press

The constitution provides for freedom of speech and of the press only insofar as it “conforms to the aims of socialist society.” Laws banning criticism of government leaders and distribution of antigovernment propaganda carry penalties ranging from three months’ to 15 years’ imprisonment.

Freedom of Speech: The government had little tolerance for public criticism of government officials or programs. Even prominent cultural figures faced reprisals for making statements construed to be critical of the government. Painter Pedro Pablo Oliva was expelled from the Provincial Assembly of his native Pinar del Rio and had his workshop temporarily closed after he gave an interview to a foreign publication in which he was critical of the government. Public debate of issues considered sensitive was limited. During the year state security continuously harassed the organizers of an independent forum for debates on cultural and social topics and forced them to stop discussing issues deemed controversial. The forum organizers reported visits by state security, video surveillance installed outside the venue, and detention of panelists on the day in which they were expected to appear.

During the year religious groups reported greater latitude to voice their opinions during sermons and at religious gatherings than in the past, although most members of the clergy exercised self-censorship. Religious leaders in some cases criticized the government, its policies, and even the country’s leadership without reprisals. In September the Catholic Church opened a cultural center in Havana that hosted debates featuring participants voicing different opinions about the country’s future; well-known dissidents were allowed to participate.

Freedom of Press: The government directly owned all print and broadcast media outlets and all sources of information, and it did not allow editorial independence. News and information programming was nearly uniform across all outlets. The government also controlled nearly all publications and press prints, requiring CP approval before materials could go to press.

Online postings, including from bloggers and independent journalists, were not censored. Some journalists also published newsletters in hard copy. Like other government critics, bloggers and independent journalists faced sustained government harassment.

The Catholic Church published two periodicals that sometimes included criticism of official social and economic policies. The Catholic Church received permission to broadcast Christmas and Easter messages on state-run stations. The government also allowed the broadcast of a message on September 8, the feast day of the Virgin of Charity, the country's patron saint. The Council of Churches, the government-recognized Protestant umbrella organization, was authorized to host monthly two hour-long radio broadcasts.

Violence and Harassment: The government does not recognize independent journalism and subjected some independent journalists to detentions, harassment, equipment seizures, and threats of imprisonment. At least 25 of the political prisoners that the government released in 2010 and the first three months of 2011 had worked as independent journalists prior to their imprisonment in 2003. During the year the government televised a series of propaganda "documentaries," one of which was aimed at discrediting independent journalists and featured the outing of a well-known independent journalist who claimed that he had been working for state security for years.

Censorship or Content Restrictions: The law prohibits distribution of printed materials that are considered "counterrevolutionary" or critical of the government. Foreign newspapers or magazines were generally unavailable. Distribution of material with political content, interpreted broadly to include the Universal Declaration of Human Rights, was not allowed and resulted in harassment and even detention. The government continued to jam the transmissions of Radio Marti and Television Marti.

The government sometimes barred independent libraries from receiving materials from abroad and seized materials donated by foreign governments and individuals. Government officials also confiscated cameras from opponents to prevent them from distributing photos and videos that it deemed objectionable, such as of those taken during arrests and detentions.

## **Internet Freedom**

There were significant government restrictions on access to the Internet and widespread reports that the government monitored e-mail and Internet chat rooms and browsing. The government controlled all Internet access, with the exception of extremely limited facilities provided by a few diplomatic missions and some black market facilities.

During the year the government announced that it had set up a fiber-optic line to Venezuela capable of offering broadband service, but government officials cautioned that it would not result in greater Internet access for the general population. While the government claimed 15.9 percent of the population had access to the Internet, in many cases this access was limited to a domestic “intranet” that offered only e-mail or highly restricted access to the World Wide Web.

The government granted Internet access only to a chosen few, consisting mostly of government officials, established professionals, professors, students, journalists, and artists. Others could access limited e-mail and Internet services through government-sponsored “youth clubs” or Internet centers approved and regulated by the Ministry for Information, Technology, and Communications.

The government employed as many as 1,000 bloggers to discredit the opposition, including the small independent blogger community and the Damas de Blanco. In a leaked presentation before the MININT, a government official explained that government-run bloggers had specific tasks, including one whose main responsibility was to attack everything written by independent blogger Yoani Sanchez.

Authorities reviewed the browsing history of authorized users, reviewed and censored e-mail, employed Internet search filters, and blocked access to Web sites considered objectionable. However, the government unblocked certain well-known sites, including Sanchez’s site, during the year.

Numerous human rights groups reported that authorities used mobile patrols to search for unauthorized Internet and satellite television equipment. When police discovered violators, they confiscated the equipment and fined, and sometimes jailed, the owners. While the law does not set specific penalties for unauthorized Internet use, it is illegal to own a satellite dish that would provide uncensored Internet access.

The use of encryption software and transfer of encrypted files are also illegal. Despite the limited access, harassment, and infrastructure challenges, a growing number of citizens maintained blogs where they often posted opinions critical of the government, with help from foreign supporters who often built and kept the blog sites. Local access to the majority of these blogs was blocked.

Foreigners were allowed to buy Internet access cards from the national telecommunications provider and to use hotel business centers, where Internet access could be purchased only in hard currency. Access usually cost between five and 10 convertible pesos (approximately \$5 to \$10) an hour, a rate beyond the means of most citizens. Citizens usually were allowed to purchase Internet access at the national telecommunications provider and to use hotel business centers, but they were occasionally prohibited from purchasing access.

### **Academic Freedom and Cultural Events**

The government restricted academic freedom and controlled the curriculum at all schools and universities, emphasizing the importance of reinforcing “revolutionary ideology” and “discipline.” Most academics refrained from meeting with foreigners, including diplomats, journalists, and academics, without prior government approval. Those permitted to travel abroad were aware that their actions, if deemed politically unfavorable, could negatively affect them and their relatives back home.

Outspoken artists and academics often faced harassment and criticism orchestrated by the government. Government bloggers denounced two-time Grammy winner and former National Assembly member Pablo Milanes after he made public statements lamenting government hostility towards dissidents in Cuba. Esteban Morales, a senior University of Havana professor and television commentator, was expelled from the CP for publishing an article addressing the challenges posed by government corruption. He successfully appealed and was reinstated in July.

Public libraries required citizens to complete a registration process before access to books or information was granted. Citizens could be denied access if they could not demonstrate a need to visit a particular library. A letter of permission from an employer or academic institution was required for access to censored, sensitive, or rare books and materials.

### **b. Freedom of Peaceful Assembly and Association**

#### **Freedom of Assembly**

Although the constitution grants the limited right of assembly, the right is subject to the requirement that they may not be “exercised against the existence and objectives of the socialist state.” The law requires citizens to request authorization for organized meetings of three people or more, and failure to do so carries a

penalty of up to three months in prison and a fine. In practice, however, these gatherings were tolerated. Religious groups reported the ability to gather in large numbers without registering or facing sanctions. The Catholic Church was permitted to celebrate the 400th anniversary the Virgin of Charity with a year-long series of public processions in honor of the saint.

Political opponents, however, faced greater obstacles, and police often suppressed attempts to assemble, even when these were in private dwellings and in small numbers. The government continued to organize mobs to assault and disperse those that assembled peacefully. Although the government characterized the mobs as spontaneous, participants frequently arrived in government-owned vehicles or were recruited by local CP leaders from nearby workplaces or schools. Mob participants arrived and departed in shifts, chanted revolutionary slogans, sang revolutionary songs, and verbally taunted the targets of the protest for hours. Often government-orchestrated mobs assaulted the targets or damaged their homes or property. Government officials at the scene did not arrest those who physically attacked the victims or respond to victims' complaints. On more than one occasion, officials took part in the beatings.

The government did not grant permission to antigovernment demonstrators or approve public meetings by human rights groups. While the government tolerated the Damas de Blanco's Sunday marches after Mass in Havana, government-organized mobs broke up marches planned by the Damas in other locations .

Civil society organizations reported continued suppression of the right to assemble. On November 24, several prominent Afro-Cuban activists were detained to prevent their participation in a three-day conference sponsored by the independent Citizen's Committee on Racial Integration. On November 25 and 26, state security blocked entry to the conference venue, preventing the conference from taking place as planned. The government often resorted to forceful action to disperse those assembling peacefully. In many cases it employed mobs to assault participants at events it sought to disrupt.

Human rights activists reported frequent government monitoring and disruption of cell phone and landline services prior to planned events or key anniversaries related to human rights.

## **Freedom of Association**



The government routinely denied its citizens freedom of association and did not recognize independent associations. The constitution proscribes any political organization that is not officially recognized. Authorities have never recognized an independent human rights organization. However, a number of independent organizations and professional associations operated as NGOs without legal recognition.

Recognized churches, the Roman Catholic humanitarian organization Caritas, the Freemason movement, and a number of fraternal and professional organizations were the only associations legally permitted to function outside the formal structure of the state, the CP, and government-organized organizations. However, these groups are under the supervision of the CP's Office of Religious Affairs, which has the authority to deny permits for religious activities and exerts pressure on church leaders.

Authorities continued to ignore applications for legal recognition from new groups, including several new religious groups as well as women's rights and gay rights organizations, thereby subjecting members to potential charges of illegal association. In 2009 an independent lawyer's group, Asociacion Juridica Cubana (AJC), filed a writ of mandamus demanding action on their application for legal recognition. In April the Supreme Court ruled that the AJC had the right to have their application for status reviewed and ordered the Ministry of Justice to do so. In June the Ministry of Justice issued the AJC a certificate stating that there is no equivalent organization in the country, the first step in the registration process.

The government continued to afford preferential treatment for those who took an active part in CP activities and mass demonstrations in support of the government, especially when awarding valued public benefits such as admissions to higher education, fellowships, and job opportunities.

### **c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at [www.state.gov/j/drl/irf/rpt](http://www.state.gov/j/drl/irf/rpt).

### **d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons**

There are severe restrictions on freedom of movement within the country, foreign travel, and migration with the right of return.

The government tightly restricted foreign and domestic travel and limited internal migration from rural areas to Havana.

In-country Movement: Although the constitution allows all citizens to travel anywhere within the country, changes of residence were heavily restricted. The local housing commission and provincial government authorities must authorize any change of residence. Persons living in a location illegally may be fined and sent back to their place of residence. While the regulation was in effect nationwide, it was applied most frequently in Havana. Thousands of people lived in Havana illegally and without access to food rations or local identification cards. There were cases where police had threatened to prosecute for “dangerousness” anyone who returned to Havana after having been expelled. In November the government eased internal migration restrictions, allowing “illegally present” family members of registered Havana residents to legalize their status and officially change their residence to Havana.

The law permits authorities to bar an individual from a certain area within the country, or to restrict an individual to a certain area, for a period from one to 10 years. Under this provision authorities may internally exile any person whose presence in a given location is considered “socially dangerous.” Some dissidents reported that they were prevented from leaving their home provinces or detained by authorities and returned.

Foreign Travel: The government restricted both migration and temporary foreign travel by requiring exit permits. In the latter part of the year, the government began allowing migrants to sell their vehicles and houses before departure rather than surrender them to the government.

The government allowed the majority of persons who qualified for immigrant or refugee status in other countries to depart. However, at least 200 citizens who had received foreign travel documents were denied exit permits during the year. Persons routinely denied exit permits included medical personnel, men of military age, former military or security personnel, and members of the opposition. The government requires university graduates to perform social service work for periods of up to five years, during which they are not allowed to leave the country. The government denied exit permits for several years to relatives of individuals who migrated illegally (for example, merchant seamen and sports figures who defected while out of the country). The government frequently withheld exit visas from dissidents or independent public figures.

During the year, the government denied exit visas for blogger Yoani Sanchez, bringing the total number of denials to at least 18 in the last four years

Emigration and Repatriation: Those seeking to migrate legally alleged they also faced police interrogation, fines, house searches, harassment, and intimidation, including involuntary dismissal from employment. Government employees who applied to migrate legally to the United States sometimes were fired from their jobs when their plans became known.

Fees for medical exams, exit permissions, passport costs, and airport taxes are payable only in hard currency and amounted to approximately 630 convertible pesos (approximately \$630) for an adult, or nearly three years' salary. These fees represented a significant hardship, particularly for migrants who had been forced from their jobs and had no income.

The law provides for imprisonment of up to three years or a fine of 300 to 1,000 pesos (approximately \$12 to \$42) for unauthorized departures, the overwhelming majority by sea. However, most were detained for no more than two to three weeks and given a fine, but in the case of military or police defectors, the punishment could be more severe. Jail terms were also more common for persons attempting to flee to the United States through the Guantanamo U.S. Naval Base.

Under the terms of the 1994 U.S.-Cuba Migration Accord, the government agreed not to prosecute or retaliate against migrants returned from international or U.S. waters, or from the U.S. Naval Station at Guantanamo, after attempting to emigrate illegally if they had not committed a separate criminal offense. However, in practice some would-be migrants experienced harassment and discrimination such as fines, expulsion from school, and job loss.

The government generally refused to accept nationals returned from U.S. territory beyond the terms of the Migration Accord.

The government sometimes applied a law on human smuggling to would-be migrants charged with organizing or promoting illegal exits. The law provides for imprisonment from two to five years for those who organize, promote, or incite illegal exit from national territory. The CCDHRN estimated that at year's end approximately 300 citizens were in prison serving sentences or awaiting trial for smuggling charges.

## **Protection of Refugees**

Access to Asylum: The constitution provides for the granting of asylum to individuals persecuted for their ideals or actions involving a number of specified political grounds. The government has no formal mechanism to process asylum for foreign nationals.

Temporary Protection: On the small number of cases of persons seeking asylum, the government worked with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and assistance, pending third-country settlement. In addition the government allowed foreign students who feared persecution in their home countries to remain in the country after the end of their studies, until their claims could be investigated.

## **Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government**

Citizens do not have the right to change their government, and the government retaliated against those who sought peaceful political change.

### **Elections and Political Participation**

Recent Elections: All 614 candidates for the National Assembly at the 2008 national elections were prevetted by government-run bodies and ran unopposed. They in turn elected Raul Castro to succeed his brother as chief of state and president by unanimous vote.

Political Parties: All candidates for office were preapproved by government-run commissions, which rejected independent candidacies without explanation or the right of appeal. All but seven of the 614 candidates were CP members.

In the 2010 municipal elections, scores of candidates were summarily refused the opportunity to run. Some independent candidates managed to run, although they were all defeated in open, nonsecret voting.

Participation of Women and Minorities: There are no official restrictions on women or minorities, and the government actively promotes participation of both in government. President (and CP First Secretary) Castro highlighted that the composition of the newly elected Central Committee included 48 women (42 percent) and 36 Afro-Cubans (31 percent). Following the selection of the National

Assembly in 2008, the government reported the composition as approximately 63 percent white, 20 percent black, and 17 percent mixed race.

#### **Section 4. Official Corruption and Government Transparency**

The law provides criminal penalties for corruption, and the government was highly sensitive to corruption allegations and often conducted anticorruption crackdowns. All government agencies, especially the Office of the General Comptroller and the MININT, were tasked with combating corruption, including through prosecution of government officials. During the year more than a dozen high-level officials and prominent business people were tried and convicted of corruption charges. There were widespread reports of police corruption. Multiple sources reported that when searching homes and vehicles, police sometimes took the owner's belongings or sought bribes in place of fines or arrests.

The law provides for three to eight years' imprisonment for "illegal enrichment" by authorities or government employees.

Government officials were not subject to special financial disclosure laws. The law provides for public access to government information, but in practice requests for information were routinely rejected.

#### **Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights**

The government did not recognize domestic human rights groups or permit them to function legally. Several human rights organizations continued to function outside the law, including the CCDHRN, Christian Liberation Movement, Assembly to Promote Civil Society, and Lawton Foundation for Human Rights. The government subjected domestic human rights advocates to intimidation and harassment.

There are no officially recognized, independent NGOs that monitor human rights. The government refused to recognize or meet with any unauthorized NGOs that monitor human rights.

UN and Other International Bodies: The government continued to deny human rights organizations, the UN, and the International Committee of the Red Cross access to all prisoners and detainees.

Government Human Rights Bodies: There were no independent government bodies that monitored human rights abuses in the country.

## **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**

The constitution prohibits discrimination based on race, gender, disability, or social status. However, racial discrimination occurred frequently.

### **Women**

Rape and Domestic Violence: The law criminalizes rape, including spousal rape, and the government enforced the law. The government did not release statistics during the year on arrests, prosecutions, or convictions for rape, and no reliable information regarding it was available.

The law does not recognize domestic violence as a distinct category of violence but prohibits threats and violence, including those associated with domestic violence. Penalties for domestic violence are covered by the laws against assault and range from fines to prison sentences of varying lengths, depending on the severity of the offense.

To raise awareness about domestic violence, the government continued to carry out media campaigns during the year. Two weekly television programs discussed women's issues, including domestic violence. In addition a few government-organized organizations held conferences and worked with local communities to improve services. UNICEF reported that the government ran counseling centers for women and children in most municipalities, with staff trained in assisting victims of abuse.

Sexual Harassment: The law provides penalties for sexual harassment, with potential sentences of three months' to five years' imprisonment. The government did not release any statistics on arrests, prosecutions, or convictions for offenses related to sexual harassment.

Reproductive Rights: Couples and individuals have the right to decide the number, spacing, and timing of children and had the information and means to do so free from discrimination. Access to information on contraception and skilled attendance at delivery and in postpartum care were widely available. The Population Reference Bureau reported in 2011 that 73 percent of women ages 15 to

49 used a modern method of contraception. Women and men had equal access to diagnostic services and treatment for sexually transmitted infections.

Discrimination: The law accords women and men equal rights and responsibilities regarding marriage, divorce, raising children, maintaining the home, and pursuing a career. The law grants working mothers preferential access to goods and services. The law provides for equal pay for equal work, and women generally received pay comparable to men for similar work.

## **Children**

Birth Registration: Citizenship is derived by birth within the country's territory, and births were generally registered promptly.

Child Abuse: There was no societal pattern of child abuse.

Sexual Exploitation: While there were reports of underage prostitution, there were no reliable statistics available regarding its extent. The minimum age of consent for consensual sex is 16. There is no statutory rape law, although penalties for rape increase as the age of the victim decreases. While the law does not specifically prohibit child pornography, it prohibits the production or distribution of any kind of obscene graphic material, with possible sanctions ranging from three months to one year in prison and a fine.

The government, in cooperation with the British government and a British NGO, ran centers in Havana and Santiago de Cuba for the treatment of child sexual abuse victims, including victims of trafficking. In April a third center opened in the city of Santa Clara. The centers employed modern treatment techniques, including the preparation of children to be witnesses in criminal prosecutions.

International Child Abductions: The country is not a party to the 1980 Hague Convention on the Civil Aspects of Child Abduction. For country-specific information see the Department of State's report at [http://travel.state.gov/abduction/country/country\\_3781.html](http://travel.state.gov/abduction/country/country_3781.html).

## **Anti-Semitism**

There were between 1,000 and 1,500 members of the Jewish community. There were no reports of anti-Semitic acts.

## **Trafficking in Persons**

See the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip](http://www.state.gov/j/tip).

## **Persons with Disabilities**

There was no known law prohibiting official discrimination against persons with disabilities in employment, education, access to health care, or the provision of other state services. However, a Ministry of Labor and Social Security resolution gives persons with disabilities the right to equal employment opportunities and equal pay for equal work. There are no laws mandating accessibility to buildings, communications facilities, or information for persons with disabilities, and in practice facilities and services were rarely accessible to persons with disabilities.

The Special Education Division of the Ministry of Education is responsible for the education and training of children with disabilities. The Ministry of Labor and Social Security is in charge of the Job Program for the Handicapped.

In January 2010 at least 26 patients died of hypothermia and malnutrition at the government-run Mazorra Psychiatric Hospital in Havana when temperatures dropped to near freezing; hospital employees had sold the patients' food, medicine, and blankets on the black market. On January 31, a court sentenced 14 individuals, including the hospital's director, to prison terms of up to 15 years for their role in the deaths.

## **National/Racial/Ethnic Minorities**

The government actively promotes racial integration and inclusiveness. Despite these efforts Afro-Cubans often suffered racial discrimination, including disproportionate stops for identity checks and searches, and could be subject to racial epithets. Afro-Cubans were represented disproportionately in neighborhoods with the worst housing conditions and were economically disadvantaged.

The country celebrated the International Year for People of African Descent by hosting a series of cultural events highlighting Afro-Cuban contributions as well as academic workshops on racism and discrimination.

## **Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity**



Officially there was no discrimination based on sexual orientation in employment, housing, statelessness, or access to education or health care. However, societal discrimination based on sexual orientation or gender identity persisted.

Mariela Castro, President Castro's daughter, headed the national Center for Sexual Education and continued to be outspoken in promoting the rights of lesbian, gay, transgender, and bisexual (LGBT) persons. Nonetheless, nongovernment rights activists asserted that the government had not done enough to stop harassment of LGBT persons.

### **Other Societal Violence or Discrimination**

There were reports that some persons with HIV/AIDS suffered job discrimination or were rejected by their families. The government operated four prisons exclusively for inmates with HIV/AIDS. Some inmates were serving sentences for "propagating an epidemic." Special diets and medications for HIV patients were routinely unavailable.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

Although the law recognizes freedom of association, it heavily restricts this right by recognizing only the Workers' Central Union of Cuba (CTC) as the paramount trade union confederation. All trade groups must belong to the CTC in order to operate legally. The law does not provide for the right to strike. The law also does not provide for collective bargaining, instead setting up a complicated process for reaching collective agreements. The International Labor Organization continued to raise concerns regarding restrictions to collective bargaining and agreements, including that government authorities and CTC officials had the final say on all such agreements.

The government continued to take active steps to prevent the formation of independent trade unions in all sectors. CTC leaders were chosen by the CP. The CTC's principal responsibility was to manage government relations with the workforce. The CTC does not bargain collectively, promote worker rights, or advocate for the right to strike. The CTC took a lead role in disseminating information regarding the government's planned large-scale layoffs of government workers and in defending the government's decision to do so. Its leadership

defended the layoffs, stating that “our state cannot and should not continue supporting businesses, production entities, and services with inflated payrolls; it will no longer be possible to apply a formula of protecting and subsidizing salaries on an unlimited basis to workers.”

Several small independent labor organizations operated without legal recognition, including the National Independent Workers’ Confederation of Cuba, the National Independent Laborer Confederation of Cuba, and the Joint Council of Workers of Cuba. In April these three organizations joined forces to create the Coalition of Independent Unions of Cuba. These organizations were subject to police harassment and infiltration by government agents and had a limited capacity to represent workers effectively or work on their behalf.

The government can determine that a worker is “unfit” to work, resulting in job loss and the denial of job opportunities. Persons were deemed unfit because of their political beliefs, including their refusal to join the official union, and for trying to depart the country illegally. Professionals who expressed interest in emigrating were also penalized. Of the 75 dissidents jailed in 2003, seven were independent labor leaders. All were released over the past two years.

### **b. Prohibition of Forced or Compulsory Labor**

The law forbids slavery, bondage, and all forms of forced labor. The government effectively enforced the law, and there were no reports that such practices occurred. During the year the government officially abandoned mandatory summer work programs for the youth.

Also see the Department of State’s *Trafficking in Persons Report* at [www.state.gov/j/tip](http://www.state.gov/j/tip).

### **c. Prohibition of Child Labor and Minimum Age for Employment**

The legal minimum working age is 17, although the labor code permits the employment of 15- and 16-year-old children to obtain training or fill labor shortages. The labor code does not permit 15- and 16-year-olds to work more than seven hours per day or 40 hours per week, or on holidays. Children ages 13 to 18 cannot work in specified hazardous occupations, such as mining, or at night.

There were no known government programs to prevent child labor or remove children from such labor. Antitruancy programs, however, helped ensure that

children were in school and not in the labor market. Inspections and penalties were adequate to enforce the law, and in practice it was rare that children under 17 worked.

#### **d. Acceptable Conditions of Work**

The monthly minimum wage was fixed at 225 pesos (approximately \$9). The minimum wage requirement does not apply to the small nonstate sector. The government supplemented the minimum wage with free education, subsidized medical care (daily pay is reduced by 40 percent after the third day of a hospital stay), housing, and some food. Even with subsidies the government acknowledged that the average wage of 448 pesos per month (approximately \$19) did not provide a reasonable standard of living.

The standard workweek is 44 hours, with shorter workweeks in hazardous occupations, such as mining. The law provides workers with a weekly 24-hour rest period, and 24 days of paid annual holidays. These standards applied to state workers as well as to the small nonstate sector (but not to the self-employed). The law does not provide for premium pay for overtime or prohibit obligatory overtime but generally caps the number of overtime hours at 12 per week or 160 per year. However, the law provides little grounds for a worker to refuse to work overtime. Refusal to work overtime could result in a notation in the employee's official work history that could imperil subsequent requests for vacation time. The Ministry of Labor has the authority to establish different overtime caps as needed. Compensation for overtime is paid in cash at the regular hourly rate or in additional rest time, particularly for workers directly linked to production or services, and does not apply to management.

Laws provided for workplace and environmental safety. The law provides that workers who consider their life in danger because of hazardous conditions have the right to refuse to work in a position or not engage in specific activities until such risks are eliminated. Workers remain obligated to work temporarily in whatever other position may be assigned at a salary provided for under the law.

The Ministry of Labor effectively enforced minimum wage and hours of work standards through offices at the national, provincial, and municipal levels, but the government lacked mechanisms to enforce occupational safety and health standards.

Workers frequently complained that overtime compensation was either not paid or not paid in a timely manner. The government continued to expand the number of trades that could be plied privately, to 181, and for the first time allowed the self-employed to hire labor. Foreign companies operated in a limited number of sectors, such as hotels, tourism, and mining. Such companies operated on the basis of a joint venture policy, in which the government contracted and paid company workers in pesos, an amount that was a small fraction of what the company remitted to the state for labor costs. Employers are prohibited from contracting or paying the workers directly, although many reportedly made supplemental payments under the table.

The independent and illegal Confederation of Independent Workers of Cuba reported numerous violations of health and safety laws at worksites throughout the country, including inadequate and poorly maintained equipment and protective gear. The CTC seldom informed workers of their rights and did not respond to or assist workers who complained about hazardous workplace conditions.