

CUBA 2012 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Cuba is an authoritarian state led by Raul Castro, who is president of the council of state and council of ministers, Communist Party (CP) first secretary, and commander in chief of security forces. The constitution recognizes the CP as the only legal party and “the superior leading force of society and of the state.” The October municipal elections were neither free nor fair. A CP candidacy commission preapproved all candidates for National Assembly elections anticipated for 2013. Security forces reported to a national leadership that included members of the military and conducted a range of oppressive actions and behaviors against civil rights activists and ordinary citizens alike.

The principal human rights abuses were: abridgement of the right of citizens to change the government; government threats, intimidation, mobs, harassment, and detentions to prevent free expression and peaceful assembly; and a record number of politically motivated and at times violent short-term detentions.

The following additional human rights abuses continued: unlawful use of force, harsh prison conditions, arbitrary arrests, selective prosecution, and denial of fair trial. Authorities interfered with privacy and engaged in pervasive monitoring of private communications. The government did not respect freedom of speech and the press; severely restricted Internet access and maintained a monopoly on media outlets; circumscribed academic freedoms; limited freedom of movement; and maintained significant restrictions on the ability of religious groups to meet and worship. The government refused to recognize independent human rights groups or permit them to function legally. In addition, the government continued to prevent workers from forming independent unions and abrogated workers’ rights.

Most human rights abuses were official acts committed at the direction of the government. Impunity for the perpetrators remained widespread.

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.

The family of opposition leader Oswaldo Paya called for an independent investigation into the July 22 car crash in which Paya was killed, alleging that his car was being pursued by state security. The government blamed the incident on the driver of Paya's vehicle.

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 intimidated 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 assaulting detainees or of police standing by, and even orchestrating, government-organized harassment of peaceful demonstrators.

Prison and Detention Center Conditions

Prison conditions continued to be harsh. Prisons continued to be overcrowded, and facilities, sanitation, and medical care were seriously deficient. 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.

Physical Conditions: In May, for the first time in decades, the government published the number of prisoners, declaring that 57,337 persons were incarcerated. It did not provide information regarding the number, location, or capacity of detention centers, which included not only prisons but also work camps and other kinds of detention facilities.

Men and women were held in separate prisons and police detention facilities. Generally, women reported suffering the same poor prison conditions as men,

including inadequate medical care. Women also reported lack of access to feminine hygiene products and inadequate prenatal care. The government released limited 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.

Prison cells lacked adequate water, sanitation, space, light, ventilation, and temperature control. Although the state provided basic food and some medical care, many prisoners relied on family parcels for food and other basic supplies. Potable water was frequently unavailable. Prison cells were overcrowded, 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 and insects.

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, hepatitis, and cholera. Prison health workers often reused syringes, raising safety and hygiene concerns.

Political prisoners and the general prison population were held in similar conditions. Political prisoners who refused to wear standard prison uniforms 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 as punishment to both political and nonpolitical prisoners. Political prisoners also reported being threatened or harassed by fellow inmates whom they thought were acting on orders of prison authorities.

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

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. David Piloto, imprisoned for peaceful political activity, reported that he was held in solitary confinement for more than six months. In general prisoners in isolation had restrictions on family visits.

Administration: There was no publicly available information about prison administration or recordkeeping in the prison system.

Alternative sentencing was available for nonviolent offenders and for juveniles. Nonviolent offenders may be sentenced to probation. Juveniles may be sentenced to Escuelas de Formacion Integral, or Holistic Training Schools, which worked to rehabilitate troubled youth.

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. In September opposition member Jorge Vazquez Chaviano began a hunger strike protesting his continued incarceration despite having completed his sentence. Vasquez Chaviano was released from prison on October 10.

Prisoners and pretrial detainees had access to visitors, although some political prisoners' relatives reported that prison officials arbitrarily canceled scheduled visits. Many prisoners were able to communicate information about their living conditions through telephone calls to human rights observers and reports to family members.

Prisoners could practice limited religious observance. Both the Catholic Church and the Cuban Council of Churches reported 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.

Monitoring: On December 8, the government shared publicly that it has a legal department within the Attorney General's Office that is empowered to investigate allegations of abuse in the prison system. The results of these investigations 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. In June the government pledged to allow a visit by the UN special rapporteur on torture and other cruel, inhuman, and degrading treatment or punishment; however, no visit had taken place by year's end (see section 1.e. "Political Prisoners and Detainees").

d. Arbitrary Arrest or Detention

Under the criminal procedure code, police have wide discretion to stop and question citizens, request their identification, and 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 conducted extrajudicial detentions, often accompanied by beatings. Arbitrary stops and searches were most common in urban areas and at government-controlled checkpoints located at the entrances to provinces and municipalities. Searches and seizures of property by police officials without providing any record or legal justification were also common practice.

Police and security officials increasingly utilized short-term detentions to prevent independent political activity or free assembly. Such detentions generally lasted from several hours to several days. The Cuban Commission on Human Rights and Reconciliation (CCDHRN) counted 6,602 short-term detentions during the year, compared with 4,123 in 2011. In March the CCDHRN recorded a 30-year record high of 1,158 short-term detentions in just one month as state security detained members of civil society prior to the visit of Pope Benedict XVI.

Long-term imprisonment of peaceful opponents decreased but did not cease entirely. During the year several members of the Santiago-based opposition group Union Patriótica de Cuba were charged, tried, and sentenced to prison for months or years as punishment for their political activity.

In addition the law allows up to a four-year detention of individuals before they commit an actual crime, with a subjective determination of “potential dangerousness,” defined as the “special proclivity of a person to commit crimes, demonstrated by conduct in manifest contradiction of socialist norms.” Mostly used as a tool to control “antisocial” behaviors such as substance abuse or prostitution, it was also used to silence peaceful political opponents. While there was no definitive estimate of the number of people serving sentences for “potential dangerousness,” the CCDHRN estimated that more than 3,000 citizens were held on the charge.

Role of the Police and Security Apparatus

The Ministry of Interior exercises control over police, internal security forces, and the 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 Ministry of Interior's state security branch are responsible for monitoring, infiltrating, and suppressing independent political activity. The PNR supports state security agents by carrying out house searches, arresting persons of interest to the Ministry of Interior, 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 November 27, a plain-clothed officer who displayed documents identifying himself as a member of state security stopped CCDHRN Director Elizardo Sanchez Santacruz and warned that he faced "drastic measures" if he did not stop his work on human rights.

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, such as suggesting that an elderly relative might suffer an accident. In April state security officers detained opposition member Mayelin Montero la O. While no charges were filed, the officers warned that if she continued to engage in political activity, the government might take custody of her nine-year-old daughter and send her to an orphanage.

There were no mechanisms readily available to investigate government abuses.

Undercover police and agents from the Ministry of Interior were often present and directed activities to disrupt efforts at peaceful assembly (see section 2.b.).

Many state-orchestrated "acts of repudiation" directed against the Damas de Blanco ("Ladies in White") were organized to prevent them from meeting or marching peacefully. On October 24, state security closed off the streets around the apartment where the Damas de Blanco were gathered and assembled a mob directly outside the apartment. Mobs and state security agents assaulted Damas de

Blanco when they tried to leave the apartment and participate in a religious celebration.

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 has 72 hours to investigate and prepare a report for the prosecutor, who in turn has 72 hours to recommend to the appropriate court whether to open a criminal investigation. Detainees have no right to counsel during this seven-day 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.

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 met with 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 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.

Arbitrary Arrest: Officials often disregarded many of the legal procedures governing the arrest process. Authorities often detained suspects much longer than 168 hours without informing them of the nature of the arrest or affording them legal counsel. In a survey of fellow prisoners conducted in 2009 and 2010, a prison activist reported that 64 percent of pretrial detainees where he was held had spent weeks and sometimes months without having seen an attorney or being informed of the charges against them.

On March 18, independent librarian Sonia Garro Alonso and her husband, independent journalist Ramon Munoz Gonzalez, were detained. At year's end the couple remained in prison with no charges filed.

Pretrial Detention: 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 and the CP, which can remove or appoint judges at any time. In practice the judiciary was thoroughly dominated by political considerations, and there was little separation of powers between the judicial system, the CP, and the Council of State.

Civilian courts exist at the municipal, provincial, and Supreme Court levels. Special tribunals are convened for political (“counterrevolutionary”) cases and other cases deemed sensitive to “state security” and act behind closed doors. Officials denied entry to trials by observers during the year. 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.

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 and were not open to the press.

In one notable incident, 42 citizens, including journalists, were detained to prevent them from attending the October 5 trial of Angel Carromero, the driver in a July 22 car accident that resulted in the deaths of opposition leaders Oswaldo Paya and Harold Cepero. Authorities charged Carromero with vehicular homicide, and after a one-day trial with no substantive defense presentation, he was convicted and sentenced to four years in prison.

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

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, especially political detainees, reported that their attorneys had difficulties accessing their files due to administrative obstacles.

In trials of defendants charged with potential dangerousness (see section 1.d.), 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 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 but refused access to its jails by international humanitarian organizations and the UN. Although in 2010 the government invited the 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 reiterated this invitation in June but scheduled no visit by year's end.

Accurate numbers of peaceful political prisoners 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 used 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, 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 and were punished for such refusals. Jailed independent journalist Calixto Ramon Martinez Arias refused to wear a prison uniform, insisting that he was a political prisoner. On November 10, Martinez began a hunger strike to assert his right to wear clothing of his own choosing. He was denied visits and telephone calls and placed in an isolation cell, and his lawyer was refused permission to view Martinez's legal documents.

Civil Judicial Procedures and Remedies

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. Civil courts, like all courts in the country, lacked an independent or impartial judiciary as well as effective

procedural guarantees. 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, tracked their movements, and entered homes without legal authority and with impunity. Police searched homes and seized personal goods without the legally required documentation.

On October 3, independent librarians Jose Diaz Silva and Lourdes Esquivel Vieto reported that police spent 13 hours searching their house, seized more than 800 books from their library as well as family photos and other personal items, and provided no registry of items seized.

The Ministry of Interior 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 ministry'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 opposition leaders such as Oswaldo Paya and Martha Beatriz Roque. The programs featured footage of private meetings and audio of phone calls recorded 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. The government encouraged mass political mobilization and favored citizens who actively participated (see section 2.b.).

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The constitution provides for freedom of speech and 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. 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 assaults by state security, video surveillance installed outside the venue, and detention of panelists and guests on the day 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. The Catholic Church operated 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 widely available 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; the CP must give prior approval for printing of nearly all publications. The government also limited the importation of printed materials.

Independent journalists faced sustained government harassment, including detention and physical abuse.

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 television stations. In March the government also allowed the broadcast of two televised masses presided over by Pope Benedict XVI. The Council of Churches, the government-recognized Protestant umbrella organization, was authorized to host a monthly 20-minute radio broadcast.

Violence and Harassment: The government does not recognize independent journalism and subjected some independent journalists to detentions, harassment, equipment seizures, and imprisonment. In early July independent journalist Calixto Ramon Martinez Arias was the first to report a cholera outbreak in the country, and he continued to write reports on the story, which contradicted official claims that cholera was eradicated; he also investigated allegations of misappropriation of medicine and medical equipment. On September 16, authorities detained Martinez and charged him with the crime of desacato (insulting speech) toward public officials. He remained in prison at year's end.

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 and independent information on public health, was not allowed and resulted in harassment and even detention.

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 those taken during arrests and detentions.

Libel Laws/National Security: In July a correspondent for the government newspaper Granma, Jose Antonio Torres, was sentenced to 14 years in prison on charges of espionage. Torres was arrested in 2011 after writing articles about the mismanagement of a Santiago aqueduct project and the installation of a fiber-optic cable between Venezuela and Cuba.

Internet Freedom

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

While the International Telecommunication Union reported that 3 percent of households had Internet access and 23 percent of citizens used the Internet in 2011,

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 selectively granted Internet to certain sectors, consisting mostly of government officials, established professionals, some professors and 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.

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.

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. In addition, a small but growing number of Cubans could use Twitter, Facebook, and other social media channels to report independently on developments in Cuba, including observations critical of the government. Like other government critics, bloggers faced sustained government harassment, including detention and physical abuse.

Foreigners could buy Internet access cards from the national telecommunications provider and 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 well beyond the means of most citizens. Citizens usually could purchase Internet access at the national telecommunications provider and 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. On November 30, the organizers of a conference on race and Cuban identity were detained for up to 72 hours to prevent their participation in the event. Police stationed around the conference venue harassed participants.

Students were also subject to censure. On November 27 and again on December 5 and 6, plainclothes state security officers harassed students participating in a journalism course hosted by a diplomatic mission in Havana as they approached the venue. Some students were beaten and required medical care.

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 a limited right of assembly, the right is subject to the requirement that it 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 or more persons, and failure to do so carries a penalty of up to three months in prison and a fine. In practice, however, many 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 visit of Pope Benedict XVI by holding religious services in public settings.

Independent activists, 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. Participants frequently arrived in government-owned buses or were recruited by local CP leaders from nearby workplaces or schools. Participants arrived and departed in shifts, chanted revolutionary slogans, sang revolutionary songs, and verbally taunted the targets of the protest for hours. The targets of this harassment were at times assaulted or suffered property damage. Government officials at the scene, often present in overwhelming numbers, did not arrest those who physically attacked the victims or respond to victims' complaints. On more than one occasion, officials took part in the efforts at intimidation.

The government did not grant permission to independent demonstrators or approve public meetings by human rights groups or others critical of any government activity. While the government tolerated the Damas de Blanco's Sunday marches after Mass in the suburbs of Havana, government-organized mobs broke up marches planned by the Damas in other locations. The government also restricted free assembly by preventing citizens from leaving their homes, under threat of arrest. Plainclothes police officers would post themselves in the vicinity of the house to ensure that the citizen could not leave until a public event such as a funeral, march, or political demonstration was over.

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. During the March visit of Pope Benedict XVI, the government-owned telephone company ETECSA disconnected service to the telephones of hundreds of citizens active in civil society, including lawyers, journalists, and human rights documenters.

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 2011 the Supreme Court ruled that an independent lawyer's group, the Asociacion Juridica Cubana (AJC), had the right to have its application for status reviewed and ordered the Ministry of Justice to do so. The ministry reviewed the application and issued the AJC a certificate stating there was no equivalent organization in the country, the first step in the registration process. During the year the Ministry of Justice frustrated further attempts by the AJC to complete the process of registering its group, prompting the AJC to sue the Ministry of Justice to demand that it implement the law by recognizing the legal association.

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.

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 also 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 without access to food rations or local identification cards. Police occasionally threatened to prosecute for “dangerousness” anyone who returned to Havana after having been expelled. In November 2011 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. This change, however, did not improve circumstances for citizens who did not have family members registered as Havana residents.

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 to their homes.

Foreign Travel: The government restricted both migration and temporary foreign travel by requiring exit permits.

The government allowed the majority of persons who qualified for immigrant or refugee status in other countries to depart. However, at least 300 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, children, and civil society activists. 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 journalist Yoani Sanchez, bringing the total number of times the government denied her permission to travel to at least 20 over the last five years.

On October 16, the government declared that in early 2013 it would eliminate the exit permit system and replace it with a system under which citizens would be eligible to travel by paying 100 convertible pesos (approximately \$100) and applying for a two-year passport. The government indicated that it would continue to prevent several unspecified classes of citizens from traveling. The extent of the new restrictions will not be clear until Cubans attempt to travel.

Emigration and Repatriation: Those seeking to migrate legally said 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 (\$630) for an adult, or nearly three years' formal 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 2,000 pesos (approximately \$12 to \$80) for unauthorized departures, the overwhelming majority of which were by sea. However, most persons caught attempting unauthorized departures were detained for no more than two to three weeks and fined, 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. 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 on such human-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 expected to participate in anticipated 2013 National Assembly elections have been prescreened by government-run bodies.

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 elected in 2008 and serving during the year were CP members.

In the 2012 municipal elections, scores of candidates were summarily refused the opportunity to run. Some independent candidates for municipals postings managed to run, although they were all defeated in non-secret voting.

Participation of Women and Minorities: There were no official restrictions on women or minorities, and the government actively promoted participation of both in government. President (and CP first secretary) Castro highlighted that the composition of the Central Committee included 48 women (42 percent) and 36 Afro-Cubans (31 percent). Following the selection of candidates for National Assembly elections in 2013, the government reported the composition as approximately 63 percent white, 20 percent black, and 17 percent mixed race.

Section 4. Corruption and Lack of Transparency in Government

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 Ministry of Interior, were tasked with combating corruption, including through prosecution of government officials. In her speech at the opening of the Eleventh International Congress on Criminal Justice in October, General Comptroller Gladys Bejerano stated “corruption is one of the principal enemies of the Cuban revolution.”

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.

During the year more than two dozen high-level officials and prominent business persons were tried and convicted of corruption charges. In August courts sentenced 12 managers of a state-owned nickel company to prison terms ranging from four to 12 years for their corrupt handling of the nickel business, the country’s largest goods export. Additionally, three foreign investment and trading companies operating in the country were shuttered, allegedly for corrupt practices, and foreign executives arrested in 2011 remained in prison for more than a year without being charged.

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. There were numerous reports of police corruption in enforcement of a myriad of economic restrictions including transportation of agricultural goods.

The law does not require appointed and elected officials to disclose their assets.

The law provides for public access to government information, but in practice, requests for information were routinely rejected. The government has not engaged in public outreach activities nor has it conducted training of public officials to encourage effective use of the law granting public access to government information.

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, harassment, and periodic short-term detentions.

There were no officially recognized, independent NGOs that monitor human rights. The government refused to recognize or meet with any unauthorized NGOs that monitor human rights. Furthermore, there were multiple reports of explicit government harassment of individuals who met with unauthorized NGOs.

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

In December the government rejected the findings of the UN Working Group on Arbitrary Detention (UNWGAD), which determined the detention of foreign development worker Alan Gross was arbitrary and called for his release. Petitioners to the UNWGAD argued that the government failed to provide Gross an independent and impartial judiciary and that the detention resulted from Gross' exercise of freedom of expression. The UNWGAD was expected to publish its full report in early 2013.

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. A weekly television program discussed issues pertaining to women, including domestic violence. On December 3, UNICEF ambassador Julieta Venegas participated in a filmed panel discussion about gender violence and gave a concert sponsored by the UN Secretary General's Campaign to End Violence against Women. 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.

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.

Child Marriage: The legal minimum age of consent for marriage is 18. Marriage for girls as young as age 14 and for boys as young as age 16 is permitted with parental consent. The 2011 percentage of minors under 18 who contracted marriage was 0.54 percent, as calculated by the National Office of Statistics.

Sexual Exploitation of Children: 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, Santiago de Cuba, and Santa Clara for the treatment of child sexual abuse victims. 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.

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.

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. A Ministry of Labor and Social Security resolution, however, gives persons with disabilities the right to equal employment opportunities and equal pay for equal work. There are laws recommending that buildings, communications facilities, air travel, and other transportation services accommodate persons with disabilities, but in practice these facilities and services were rarely accessible to persons with disabilities, and information for persons with disabilities was limited.

The Special Education Division of the Ministry of Education is responsible for the education and training of children with disabilities. Children with disabilities attend school; there were no known patterns of abuse in educational facilities or in mental health facilities during the year. The Ministry of Labor and Social Security is in charge of the Job Program for the Handicapped.

National/Racial/Ethnic Minorities

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

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

There was no discrimination officially reported or permitted 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, bisexual, and transgender (LGBT) persons. In May the government sponsored a march and an extensive program of events to commemorate the International Day Against Homophobia. Nonetheless, nongovernment rights activists asserted that the government had not done enough to stop harassment of LGBT persons. Several unrecognized NGOs worked to promote LGBT issues and faced government criticism, not for their promotion of LGBT issues, but for their independence from official government institutions.

Other Societal Violence or Discrimination

There were reports that some persons with HIV/AIDS suffered job discrimination or rejection 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, including related regulations and statutes, recognizes freedom of association, it heavily restricts this right by recognizing only the CP-controlled Workers' Central Union of Cuba (CTC) as the paramount trade union confederation. All trade groups must belong to the CTC 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 the trade union monopoly of the CTC, the prohibition on the right to strike, and 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 prevent the formation of independent trade unions in all sectors. The CP chose CTC's leaders. 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. On April 30, a CTC spokesperson announced that the government laid off 140,000 workers in 2011 and expected to lay off 110,000 workers in 2012.

According to government statistics, approximately 395,000 workers were self-employed by the end of the year. On December 11, the government announced a law allowing for the creation of cooperatives by which workers could pool their labor and each receive ownership shares of a business.

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; together they comprise the Coalition of Independent Unions of Cuba. These organizations continued to be subjected 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.

b. Prohibition of Forced or Compulsory Labor

The law forbids slavery, bondage, and all forms of forced labor. There were no official reports that such practices occurred.

During the year high school student groups were occasionally mobilized to assist in harvesting crops. Although this work was reportedly voluntary, participation was considered part of the scholastic experience, and failure to participate could result in unfavorable grades or university recommendations.

Also see the Department of State’s *Trafficking in Persons Report* at 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 age 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 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 did 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 \$18) 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 minimum 24-hour rest period, and 24 days of paid annual holidays. These standards applied to state workers as well as to the small non-state 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 can 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 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. There was no confirmed information available about the number of labor inspectors; anecdotal reports suggested that there were very few inspectors and that health and safety standards frequently were ignored.

Workers frequently complained that overtime compensation was either not paid or not paid in a timely manner. The government maintained the number of trades that could be plied privately, 181, and allowed the self-employed to hire labor. Despite criminal penalties for doing so, a significant number of workers participated in the informal economy. 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 were 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.