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**PROMOTION AND PROTECTION OF HUMAN RIGHTS:  
HUMAN RIGHTS DEFENDERS**

**Written statement\* submitted by Agir ensemble pour les droits de l'homme, a non-  
governmental organization in special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[30 January 2004]

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\* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

### **Situation of human rights defenders in Cuba**

Agir Ensemble pour les Droits de l'Homme would like to express its grave concern over the human rights situation in Cuba, and in particular the situation of those who defend human rights.

Agir Ensemble pour les Droits de l'Homme calls attention to the serious violations of fundamental rights committed by the Cuban authorities and their lack of cooperation with the control mechanisms and procedures of the United Nations in the area of protecting human rights.

Cuban human rights defenders have for many years denounced the systematic violations of civil, political and economic rights. They believe that the year 2003 was especially disastrous due in particular to the rising number of arbitrary detentions of people who have peacefully opposed the policies of the Cuban government. There is little optimism for 2004, since the government has shown no signs of willingness to introduce changes or reforms to its penal code or laws pertaining to the exercise of fundamental rights or the functioning of the law enforcement and penitentiary systems.

The most frequent violations concern the exercise of the freedom of association, conscience, expression, information and movement of persons, as well as the right to a fair trial, to respect of privacy and protection against all forms of abuse and arbitrary use of power by the authorities. Not to mention the freedom to work in agriculture, industry, commerce or services, a right deliberately denied in a country where the State controls virtually all sectors and activities of the national economy.

Such observations stand in striking contrast to the Cuban government's claimed efforts to protect the right to education and health. Progress in the area of social rights are necessarily hindered by the prevailing situation in the area of civil, political and economic rights.

The repression of political opponents and defenders of fundamental rights rose sharply in 2003. In March and April 2003, a wave of arrests among Cuban dissidents was followed by trials - with no guarantee of the right to defence nor impartiality of the court - resulting in the condemnation of 75 political opponents, journalists and members of human rights organisations to sentences of 6 to 28 years in prison.

A Cuban non-governmental organisation, in its latest half-year report of December 2003, published a list of 315 prisoners (already tried or awaiting trial) detained for political reasons (mostly for infractions of Law 88 on the "protection of Cuban independence and its economy" or on the grounds of the Cuban penal code pertaining to crimes "against State security") or for socio-political reasons (such as illegally exiting the territory). In relation to the number of inhabitants, the number of prisoners of conscience in Cuba is probably the highest in the world.

Among these prisoners of conscience, we may cite in particular the case of Raul Rivero, one of the most important poets of his generation, that of Manuel Vasquez Portal, also a poet and journalist, economists Martha Beatriz Roque, Oscar Espinosa and Arnaldo Ramos, doctors Oscar Elías Biscet, Marcelo Cano, José Luis García, Luis Milán, Enrique Silva and Manuel

Pulido, members of human rights organisations Francisco Chaviano and Marcelo López, and some thirty press correspondents.

Among the prisoners of conscience, about twenty are seriously ill and at least ten others are in a state of health incompatible with prison conditions. The current state of health of Martha Beatriz Roque, Osear Espinosa, Roberto de Miranda, Orlando Fundora, Julio Valdés Guevara, Osvaldo Alfonso, José Luis García, Marcelo López and Edel José García y Carmelo Díaz justify the application of provisions of article 31.2 of the Cuban penal code, which allows a commuting of the sentence to house arrest (“licencia extrapenal”) for purely humanitarian reasons. The same is true of the lawyer Juan Carlos Gonzalez, president of the Cuban Human Rights Foundation, in prison without trial since 4 March 2002, and who is blind.

The large majority of political prisoners are held in conditions which violate the United Nation’s Standard Minimum Rules for the Treatment of Prisoners. Corroborating information points to shameful hygiene conditions, insufficient nourishment and limited access to drinking water, unsanitary cells and withholding of medical care.

The Cuban penitentiary system is generally in a piteous and worrying state. Despite all this, the Cuban government continues to refuse to cooperate with the International Red Cross and other specialised humanitarian organisations which could help improve the situation.

The visiting rights for families of prisoners of conscience are restrictive and discriminatory in comparison with common law provisions: political prisoners may receive visits by close family members only once every three months, whereas common law prisoners are allowed monthly visits. Some spouses of political prisoners have complained of humiliating body searches. Political prisoners have been purposely transferred to detention centres far from their home, making family visits all the more difficult.

Several prisoners of conscience have suffered physical abuse by prison guards or common law prisoners who act with total impunity. This is the case, for example, of Nelson Rodriguez who suffered a broken jaw, also Ivan Hernandez, beaten in the face by a guard, Adolfo Fernandez, knocked unconscious by a common law prisoner “in charge of discipline” inside the prison and, on 31 December 2003, Victor Rolando Arroyo, brutalised by several guards and seriously injured in the leg.

Most of the non-violent opponents and human rights defenders who are still free are subjected to various sorts of persecution by the Cuban authorities. This persecution mostly takes the form of constant surveillance, violating the right to privacy, or discrimination in the workplace, restrictions on freedom of movement and the spread of calumnious and defamatory statements against them. The spouses of those condemned in the trials of March-April 2003 appear to be prime targets of this type of persecution.

Cuban human rights organisations, acting independently and non-violently, say that the wave of social and political repression in 2003 was one of most intense Cuba has seen in years.

Fearing a new deterioration in the coming months of the situation for fundamental rights in Cuba, Agir Ensemble pour les Droits de l’Homme recommends that the Human Rights

Commission call on the Cuban government to clearly show its intention to implement the United Nations' mechanisms and procedures for protecting human rights and to comply with the principles of democracy and the rule of law.

Agir Ensemble pour les Droits de l'Homme requests in particular that the Commission strongly urge the Cuban authorities to:

- a) Respect the provisions of the Declaration of 9 December 1998 on "the right and responsibility of individuals, groups and organs of society to promote and protect universally recognized human rights and fundamental freedoms" and to guarantee freedom of action and respect for the integrity of all Cuban human rights defenders.
- b) Revise the rules governing the organisation of the judicial system to make it compliant with the guiding principles of the United Nations pertaining to the independence of the judicial system and implement a system for periodic surveillance of the prisons to ensure the respect of the United Nation's Standard Minimum Rules for the Treatment of Prisoners.
- c) Invite to Cuba, as soon as possible, the Special Representative of human rights defenders and Special Rapporteur on the promotion and protection of freedom of conscience and expression, as well as the members of the Working Group on arbitrary detentions, and ensure their free access to all persons and places.
- d) Comply with the Resolution 2003/13 of 17 April 2003 of the Human Rights Commission urging the Government of Cuba to receive the personal representative of the United Nations High Commissioner for Human Rights and to provide all the facilities necessary for her to be able to fulfil her mandate contained in resolution 2002/18.
- e) Take into account the terms of Decision 2002/18 of 19 April 2002 of the Human Rights Commission urging the Cuban government to make progress "in respect of human, civil and political rights, in accordance with the provisions of the Universal Declaration of Human Rights and the principles and standards of the rule of law".

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