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**QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL
FREEDOMS IN ANY PART OF THE WORLD**

Situation of human rights in Cuba

**Report submitted by the Personal Representative of the High Commissioner
for Human Rights, Christine Chanet**

Summary

In accordance with the mandate entrusted to her in Commission on Human Rights resolutions 2002/18, 2003/13, 2004/11 and 2005/12, the Personal Representative of the United Nations High Commissioner for Human Rights made several attempts to contact the Cuban authorities to initiate a dialogue with them in order to fulfil her mandate of examining the situation of human rights in Cuba.

The Personal Representative of the High Commissioner has received no reply from the Cuban authorities.

Despite these difficulties, the Personal Representative of the High Commissioner has made an effort to carry out an objective and impartial assessment of the evolution of the situation in Cuba in relation to civil and political rights, in accordance with her mandate. She gave a hearing to non-governmental organizations. She familiarized herself with all the documents relating to Cuba which were made available to her by the Office of the High Commissioner and the special rapporteurs. During a mission, the Personal Representative of the High Commissioner met representatives of the Inter-American Commission on Human Rights as well as academics studying the political and economic situation in Latin America, and particularly in Cuba.

Positive aspects must once again be noted in the sphere of economic, social and cultural rights, especially in the areas of education and health, where the Cuban authorities are making major efforts, in particular as regards funding.

Cuba has cooperated with the Special Rapporteur on the right to freedom of opinion and expression, the Special Rapporteur on the question of torture, the Special Representative of the Secretary-General on human rights defenders and the Chairperson of the Working Group on Arbitrary Detention, who, on 26 July 2005, jointly sent Cuba a joint allegation letter concerning the situation of several persons who were arrested on 22 July 2005.

It is impossible to ignore the disastrous and lasting economic and social effects - compounded in 2004 - of the embargo imposed on the Cuban population over 40 years ago, as well as its impacts on civil and political rights.

The scope of the embargo has been increased as a result of tighter economic and financial restrictions that significantly limit the movement of persons, which the United States of America imposed in May 2004. They included, in particular, weight restrictions on registered luggage, family visits limited to one every three years, fewer educational exchanges and restrictions on sporting exchanges.

On 8 November 2005, with the support of an overwhelming majority of Member States, the General Assembly adopted resolution 60/12 on the necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba.

The extreme tension between Cuba and the United States of America has created a climate which is far from conducive to the development of freedom of expression and freedom of assembly. United States laws and the funding provided for “building democracy in Cuba” make members of the political opposition on the island appear to be sympathetic to foreign influences and provide the Cuban authorities with an opportunity to tighten repression against them.

It is worth recalling the unprecedented wave of repression that was unleashed in March-April 2003 in Cuba, the pretext being the active role played by the United States Interests Section in Havana vis-à-vis the political opposition. Nearly 80 members of civil society were arrested. They were tried and sentenced to very long prison terms ranging from 6 to 28 years, either under article 91 of the Criminal Code, or on the basis of article 91 combined with the provisions of Act No. 88 on acts “contrary to the independence and integrity of the State”.

The prosecution cited the publication of articles or interviews in the media, communication with international non-governmental organizations and exiles in the United States or in Europe, possession of audio or video cassettes originating from the United States Interests Section in Havana, and communication with groups which were not officially recognized - trade unions, professional associations and independent Cuban academic groups.

Those arrested were tried in very short order - a few weeks, or even a few days, in trials not open to the public. The accused were assisted by counsel who did not belong to an independent bar association. They are currently being held in conditions affecting their physical and mental health which are all the more worrying as the Cuban authorities have provided the High Commissioner and the special rapporteurs who signed the urgent appeals with very brief information about them, or none.

In 2005, more people were arrested and given disproportionate sentences for expressing dissident political opinions.

The appeal to the Cuban authorities made by the Personal Representative of the High Commissioner on 28 July 2005 has gone unanswered.

The Personal Representative of the High Commissioner has drawn up 10 recommendations intended to put an end to the current situation through restoration of the guaranteed fundamental rights of citizens in the country and international protection of those rights through Cuba's accession to the International Covenant on Civil and Political Rights, as well as its two optional protocols and the International Covenant on Economic, Social and Cultural Rights.

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Introduction

1. In its resolution 2002/18, the Commission on Human Rights requested the United Nations High Commissioner for Human Rights to take the steps necessary to send a personal representative with a view to cooperation between her Office and the Government of Cuba in the implementation of the resolution. In its resolution 2003/13, the Commission, after expressing its satisfaction with the appointment of Christine Chanet as Personal Representative of the High Commissioner, requested the Government of Cuba to receive her and provide her with all the facilities necessary for her to fulfil her mandate. The Commission reiterated that request in its resolution 2004/11. In its resolution 2005/12, the Commission renewed the mandate of the Personal Representative of the High Commissioner.
2. On 6 February and 12 May 2003, the Personal Representative of the High Commissioner, by a letter addressed to the Permanent Representative of Cuba to the United Nations Office at Geneva, invited the Cuban authorities to meet her with a view to planning a constructive dialogue with her. On 30 May 2003, the High Commissioner sent a letter backing up this request. On 26 June 2003, the Cuban authorities notified the High Commissioner that they did not recognize the Personal Representative's mandate.
3. Nevertheless, the Personal Representative of the High Commissioner has attempted to establish contact with the Cuban authorities each year, most recently on 19 and 28 July 2005. Her requests, like the previous ones, met with no response.
4. In these circumstances, the Personal Representative of the High Commissioner gathered information from the Commission's thematic special rapporteurs who had had occasion to inquire into the situation of human rights in Cuba during the period under consideration, and from non-governmental organizations, representatives of the Inter-American Commission on Human Rights and academics.

I. FACTORS HINDERING THE REALIZATION OF HUMAN RIGHTS IN CUBA

5. The economic, trade and financial embargo on Cuba, which has been in force for 40 years, has been regularly condemned by the United Nations General Assembly over the past 14 years. Notwithstanding the resolutions that have been adopted, the initial blockade was strengthened in 1992 by the Torricelli Act (Cuban Democracy Act) and in 1996 by the Helms-Burton Act (Cuban Liberty and Democratic Solidarity Act).
6. In its resolution 58/7 of 4 November 2003, the General Assembly requested the Secretary-General, in consultation with the appropriate organs and agencies of the United Nations system, to prepare a report on the impact of the embargo against Cuba, in the light of the purposes and principles of the Charter and international law. In his reports of 28 August and 5 October 2004 (A/59/302, Parts I and II), the Secretary-General transmitted the replies from Governments and United Nations organs and agencies on the implementation of this resolution.
7. The restrictions imposed by the embargo help to deprive Cuba of vital access to medicines, new scientific and medical technology, food, chemical water treatment and

electricity. The disastrous effects of the embargo in terms of the economic, social and cultural rights of the Cuban people have been denounced by the United Nations Food and Agriculture Organization, the United Nations Children's Fund, the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the World Health Organization (see all the reports issued by these specialized agencies in 2002).

8. The embargo, and particularly the Torricelli and Helms-Burton acts, also have serious impacts in terms of the civil and political rights of Cuban citizens, by provoking a reaction on the part of the Cuban authorities, who take the opportunity offered by a foreign State's interference in Cuban domestic policy to adopt repressive laws, such as Act No. 88 on "protection of Cuba's national and economic independence". As the Special Rapporteur on the situation of human rights in Cuba, Carl-Johan Groth, noted in 1997 in his report to the Commission at its fifty-third session, by means of the above-mentioned laws "the United States of America assumes the right to be the outside party that determines the rules for converting the current totalitarian system into a different, more pluralist one" (E/CN.4/1997/53, para. 46).

9. As a result, many Cuban citizens who are regarded by the Government of Cuba as being involved in this effort are identified as "mercenaries working for foreign interests" who should be punished under repressive laws such as Act No. 88.

10. President Carter, when preparing his report of 21 May 2002 following his visit to Cuba, pointed out that the best-known dissidents are unanimous in opposing the strengthening of a very hard United States line towards Cuba, as well as any funding of their activities - which might substantiate the claim, long upheld by President Castro, that they are "lackeys of Washington".

11. The difficulties the Cuban population has encountered as a result of the embargo have been compounded since 2004, particularly as a result of the tighter economic and financial restrictions imposed by the United States in May. These measures are supplemented by significant limitations on the movement of persons and goods. Consequently:

- Family visits by Cuban-Americans will be limited, in future, to one every three years instead of one a year;
- Family members will only be able to send parcels to their immediate relatives;
- The authorized daily allowance visitors can bring into Cuba has been cut by two thirds.

These restrictions constitute arbitrary interference in the private and family lives of individuals and a disproportionate hindrance to their freedom of movement, thereby infringing on the exercise of their fundamental rights.

II. POSITIVE ASPECTS

12. Despite a particularly unfavourable environment, the efforts of the Government of Cuba, especially in the budgetary field, have enabled it to maintain a sound health system which has helped to lower infant mortality and extend the life expectancy of all its citizens.

13. Where education is concerned, 100 per cent of children attend school, and data from the Organisation for Economic Cooperation and Development and UNESCO place Cuba among the leading United Nations Member States in respect of school success rates, particularly in mathematics.
14. Illiteracy (now 0.2 per cent) is being wiped out.
15. In efforts to combat discrimination against women, the level of female employment in the public sector has stood at 49.6 per cent since 1996, and there has been a steady rise in the proportion of women in the National Assembly and the judiciary, and in decision-making posts.
16. Cuba has ratified a number of conventions in the field of human rights and has submitted reports to the appropriate treaty organs.
17. In 2004, the Cuban authorities released 18 prisoners on health grounds.
18. In 2005, Cuba cooperated with the special rapporteurs who sent it an urgent appeal on 26 July.

III. SUBJECTS OF CONCERN

19. One subject of concern relates primarily to the arrest of almost 80 persons in March-April 2003 in what the Working Group on Arbitrary Detention regards as arbitrary detention. In its Opinion No. 9/2003, the Working Group categorized them as persons detained in contravention of articles 19, 20 and 21 of the Universal Declaration of Human Rights (see E/CN.4/2004/3/Add.1). These persons were arrested while working as journalists, writers, members of associations, human rights defenders or members of political parties and opposition trade unions.
20. Most of those detained support the Varela project, which involves the collection of signatures for the organization of a referendum on changing the electoral system and the fostering of other legislative reforms.
21. The charges levelled against the accused persons fall in some cases solely under article 91 of the Cuban Criminal Code, covering acts contrary to the independence or integrity of the State, and in others under article 91 combined with Act No. 88, on protection of Cuba's national and economic independence.
22. Several of the accused persons have been charged with such actions as receiving funds from foreign countries or engaging in activities deemed to be subversive by the State, giving interviews to Radio Martí, a network broadcasting from the United States, communicating with international human rights organizations, possessing radio or video equipment, or participating in trade unions, associations or academic groups deemed to be "counter-revolutionary".

23. These persons were tried in very short order, sometimes within a few days, denying them sufficient time to prepare their defence. Neither independent counsel nor diplomats nor foreign journalists were allowed to attend these trials. Prison terms ranging from 6 to 28 years were imposed.

24. Moreover, in 2005 more people were arrested and convicted for openly expressing dissident political opinions.

25. On 28 July 2005, the Personal Representative of the High Commissioner sent a letter to Cuba seeking information on the situation of 9 persons still being held following the arrest of 33 persons by the security services during a demonstration in front of the French Embassy in Havana on 22 July 2005. On 26 July 2005, the Special Rapporteur on the question of torture, the Special Rapporteur on the right to freedom of opinion and expression, the Special Representative of the Secretary-General on human rights defenders and the Chairperson of the Working Group on Arbitrary Detention had sent an urgent appeal on the same subject.

26. The persons concerned are: Santiago Valdeolla Pérez, Julio César López Rodríguez, Francisco Mouré Saladrigas, Oscar Mario González, Miguel López Santos, Jesús Adolfo Reyes, Raúl Martínez Prieto, Ricardo Medina Salabarría and René Gómez Manzano.

27. The Personal Representative of the High Commissioner has not received any response to her request for information made on 28 July 2005.

28. In May 2005, a number of journalists and members of the European Parliament were deported from Cuba.

29. The Personal Representative of the High Commissioner is alarmed at the allegations of ill-treatment in detention submitted by families of prisoners. Food and hygiene are substandard and medical care either unavailable or inappropriate. Some prisoners are kept in solitary confinement, while others are subjected to dangerous levels of overcrowding with ordinary prisoners. There have been several reports of guards humiliating and even striking prisoners. Relatives encounter many problems when trying to arrange visits to prisoners, who are often detained far from their homes.

30. Several prisoners have been on particularly stressful hunger strikes. In that regard, the Personal Representative of the High Commissioner has taken note of the appeal in favour of three hunger strikers issued on 29 September 2005 by the European Union.

31. Relations with the Catholic Church deteriorated in 2005, in particular following the ban on public religious ceremonies imposed by the Cuban authorities on 8 September.

IV. CONCLUSIONS

32. The difficulties resulting from the embargo have been exacerbated during the reporting period.

33. According to opinion No. 9/2003 of the Working Group on Arbitrary Detention, 60 people are still in arbitrary detention. Further arrests and detentions in 2005, which have been mentioned above, should be added to this total.

34. In addition, the Personal Representative of the High Commissioner considers that the suffering inflicted on the people of Cuba as a result of the embargo is compounded by restrictions on the fundamental rights and freedoms of individuals which the Cuban authorities have the power to eliminate. With the aim of securing the progress called for in the above-mentioned resolutions, the Personal Representative of the High Commissioner herewith submits her recommendations.

V. RECOMMENDATIONS

35. **The Personal Representative of the High Commissioner for Human Rights recommends that the Government of Cuba should take the following measures:**

(a) **Halt the prosecution of citizens who are exercising the rights guaranteed under articles 18, 19, 20, 21 and 22 of the Universal Declaration of Human Rights;**

(b) **Release detained persons who have not committed acts of violence against individuals and property;**

(c) **Review laws which lead to criminal prosecutions of persons exercising their freedom of expression, demonstration, assembly and association, and in particular Act No. 88 and article 91 of the Criminal Code, in order to bring these provisions of the law into line with the above-mentioned provisions of the Universal Declaration of Human Rights;**

(d) **Uphold, without exceptions, the moratorium on the application of the death penalty introduced in 2000, with a view to the abolition of the death penalty;**

(e) **Reform the rules of criminal procedure to bring them into line with the requirements of articles 10 and 11 of the Universal Declaration of Human Rights;**

(f) **Establish a standing independent body with the function of receiving complaints from persons claiming that their fundamental rights have been violated;**

(g) **Review the regulations relating to travel into and out of Cuba in order to guarantee freedom of movement as defined in article 13 of the Universal Declaration of Human Rights;**

(h) **Authorize non-governmental organizations to enter Cuba;**

(i) **Foster pluralism in respect of associations, trade unions, organs of the press and political parties in Cuba;**

(j) **Accede to the International Covenant on Civil and Political Rights and its optional protocols and the International Covenant on Economic, Social and Cultural Rights.**

Annex

**LIST OF PERSONS FROM CIVIL SOCIETY ARRESTED IN
MARCH-APRIL 2003 AND STILL IN PRISON**

1. **Nelson Alberto Aguiar Ramírez**, President of the Orthodox Party of Cuba, 13 years' imprisonment for anti-government activities under Act No. 88.
2. **Pedro Pablo Alvares Ramos**, President of CUTC (independent trade union), 25 years' imprisonment under article 91 of the Criminal Code.
3. **Pedro Argüelles Morán**, Director of the Cooperative of Independent Journalists press agency, member of the Cuban Committee for Human Rights, 20 years' imprisonment under Act No. 88.
4. **Víctor Rolando Arroyo Carmona**, member of the Forum for Reform and the Union of Independent Cuban Journalists and Writers (UPECI), 26 years' imprisonment under article 91 of the Criminal Code.
5. **Mijail Barzaga Lugo**, member of the 30 November Organization, 15 years' imprisonment under Act No. 88.
6. **Oscar Elias Biscet Gonzalez**, President of the Lawton Foundation for Human Rights, 25 years' imprisonment under article 91 of the Criminal Code.
7. **Marcelo Cano Rodríguez**, doctor, member of the Cuban Commission on Human Rights and National Reconciliation (CCDHRN) and member of the Independent Medical College of Cuba, sentenced to 18 years' imprisonment under Act No. 88 and article 91 of the Criminal Code.
8. **Eduardo Díaz Fleitas**, member of the 5 August opposition movement, 21 years' imprisonment under Act No. 88.
9. **Antonio Ramón Díaz Sánchez**, member of the Christian Liberation Movement, active member of the Committee for the Varela project, 20 years' imprisonment under article 91 of the Criminal Code.
10. **Alfredo Rodolfo Domínguez Batista**, member of the Christian Liberation Movement and active member of the Committee for the Varela project, 14 years' imprisonment.
11. **Alfredo Felipe Fuentes**, member of the Committee for the Varela project, 26 years' imprisonment.
12. **Efrén Fernández Fernández**, member of the executive of the Christian Liberation Movement and activist supporter of the Varela project, 12 years' imprisonment under article 91 of the Criminal Code.
13. **Juan Adolfo Fernández Sainz**, journalist in the Patria agency, 15 years' imprisonment under Act No. 88.

14. **José Daniel Ferrer García**, activist supporter of the Varela project and coordinator of the Christian Liberation Movement, 25 years' imprisonment under Act No. 88.
15. **Luis Enrique Ferrer García**, member of the Christian Liberation Movement, coordinator of the Varela project in Las Tunas, 28 years' imprisonment.
16. **Próspero Gainza Agüero**, member of the Pedro Luis Boitel National Civic Resistance Movement, 25 years' imprisonment under Act No. 88.
17. **Miguel Galván Gutierrez**, journalist in the unofficial Havana Press agency, coordinator of the Varela project, 26 years' imprisonment under article 91 of the Criminal Code and Act No. 88.
18. **Julio César Galvez Rodríguez**, member of the unofficial organization Cuba Free Press, 15 years' imprisonment under Act No. 88.
19. **José Luis García Paneque**, surgeon, director of the unofficial press agency Libertad, 24 years' imprisonment and confiscation of his medical and communication equipment under article 91 of the Criminal Code and Act No. 88.
20. **Ricardo Severino González Alfonso**, journalist with his own private bookshop, 20 years' imprisonment under article 91 of the Criminal Code for publishing aggressive and false information against the Cuban Government.
21. **Diosdado González Marrero**, political activist, 20 years' imprisonment under Act No. 88.
22. **Léster González Penton**, independent journalist, 20 years' imprisonment under article 91 of the Criminal Code.
23. **Alejandro González Raga**, journalist, 14 years' imprisonment under article 91 of the Criminal Code.
24. **Jorge Luis González Tanquero**, member of the Carlos Manuel de Céspedes independent movement, activist supporter of the Varela project, 20 years' imprisonment.
25. **Leonel Grave de Peralta Almenares**, activist supporter of the Varela project, owner of an independent bookshop, 20 years' imprisonment under Act No. 88.
26. **Iván Hernández Carrillo**, journalist in the independent agency Patria, 25 years' imprisonment under Act No. 88. He is accused in particular of possessing a computer from the United States.
27. **Normando Hernández González**, director of the College of Independent Journalists, 25 years' imprisonment, under article 91 of the Criminal Code and other provisions, for criticizing the Government on Radio Martí.
28. **Juan Carlos Herrera Acosta**, independent journalist in the province of Guantánamo, 20 years' imprisonment under Act No. 88.

29. **Regis Iglesias Ramírez**, spokesperson of the Christian Liberation Movement, activist supporter of the Varela project, 18 years' imprisonment under article 91 of the Criminal Code.
30. **José Ubaldo Izquierdo Hernández**, bookseller and activist in Havana, 16 years' imprisonment.
31. **Reinaldo Miguel Labrado Peña**, member of the Christian Liberation Movement and activist supporter of the Varela project, 6 years' imprisonment.
32. **Librado Ricardo Linares García**, President of the Cuban Reflection Movement, 20 years' imprisonment under article 91 of the Criminal Code, accused of counter-revolutionary activities such as meetings, lectures and seminars.
33. **Héctor Fernando Maseda Gutiérrez**, independent journalist, 20 years' imprisonment under article 91 of the Criminal Code and Act No. 88. His fax machine, typewriter, books and certain articles were confiscated.
34. **José Miguel Martínez Hernández**, activist supporter of the Varela project, owner of a private bookshop, 13 years' imprisonment.
35. **Luis Milán Fernández**, doctor, member of the unofficial organization Medical College of Cuba, 13 years' imprisonment.
36. **Nelson Moliné Espino**, President of the Confederation of Democratic Workers of Cuba (unofficial), 20 years' imprisonment under article 91 of the Criminal Code.
37. **Angel Juan Moya Acosta**, activist, 20 years' imprisonment under article 91 of the Criminal Code.
38. **Jésus Mustafa Felipe**, activist supporter of the Varela project, 25 years' imprisonment under article 91 of the Criminal Code.
39. **Felix Navarro Rodríguez**, activist supporter of the Varela project, 25 years' imprisonment under Act No. 88.
40. **Pablo Pacheco Avila**, independent journalist, 20 years' imprisonment under Act No. 88.
41. **Héctor Palacios Ruíz**, Director of the Centre for Social Studies, Secretary of the All Together Committee, 25 years' imprisonment under article 91 of the Criminal Code and Act No. 88. He is accused in particular of possessing an independent bookshop at his home.
42. **Arturo Pérez de Alejo Rodríguez**, President of the human rights organization Frente Escambray, activist supporter of the Varela project, 20 years' imprisonment.
43. **Omar Pernet Hernández**, head of the Mario Manuel de la Peña national human rights movement, 25 years' imprisonment under article 91 of the Criminal Code.

44. **Horacio Julio Piña Borrego**, activist supporter of the Varela project, 20 years' imprisonment under Act No. 88.
45. **Fabio Prieto Llorente**, independent journalist, 20 years' imprisonment.
46. **Alfredo Manuel Pulido López**, independent journalist, activist supporter of the Varela project and member of the Christian Liberation Movement, 14 years' imprisonment under article 91 of the Criminal Code.
47. **José Gabriel Ramón Castillo**, teacher, activist in Santiago, 20 years' imprisonment.
48. **Arnaldo Ramos Lauzerique**, member of the Cuban Institute of Independent Economists, 18 years' imprisonment under article 91 of the Criminal Code.
49. **Blas Giraldo Reyes Rodríguez**, activist supporter of the Varela project, owner of an independent bookshop at Sancti Spiritu, coordinator of the Christian Liberation Movement, 25 years' imprisonment.
50. **Alexis Rodríguez Fernández**, coordinator of the Christian Liberation Movement in Palma Soriano, activist supporter of the Varela project, 15 years' imprisonment.
51. **Omar Rodríguez Saludes**, Director of the independent press agency Nueva Prensa, photographer, 27 years' imprisonment under article 91 of the Criminal Code.
52. **Omar Moisés Ruíz Hernández**, independent journalist, 18 years' imprisonment under article 91 of the Criminal Code.
53. **Claro Sánchez Altarriba**, activist in Santiago, 15 years' imprisonment under Act No. 88.
- 54 and 55. **Ariel and Guido Sigler Amaya**, activists in the unofficial movement Alternative Option in Matanzas, sentenced to 20 years' imprisonment under Act No. 88.
56. **Ricardo Silva Gual**, doctor, member of the Christian Liberation Movement, 10 years' imprisonment under article 91 of the Criminal Code.
57. **Fidel Suárez Cruz**, farmer, opposition activist in Piñas del Río, owner of a private bookshop, 20 years' imprisonment under Act No. 88.
58. **Manuel Ubals González**, President of the unofficial movement Cuban Liberty Council, 20 years' imprisonment under Act No. 88.
59. **Héctor Raúl Valle Hernández**, trade union activist, 12 years' imprisonment under article 91 of the Criminal Code.
60. **Antonio Augusto Villareal Acosta**, activist supporter of the Varela project, 15 years' imprisonment.