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Austrian Centre for Country of Origin
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Cuba: Travel Regulations and Civil and Political Rights COI Compilation

August 2017



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UNHCR
The UN Refugee Agency

ACCORD is co-funded by the Asylum, Migration and Integration Fund, UNHCR and the Ministry of the Interior, Austria.

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This report serves the specific purpose of collating legally relevant information on conditions in countries of origin pertinent to the assessment of claims for asylum. It is not intended to be a general report on human rights conditions. The report is prepared within a specified time frame on the basis of publicly available documents as well as information provided by experts. All sources are cited and fully referenced.

This report is not, and does not purport to be, either exhaustive with regard to conditions in the country surveyed, or conclusive as to the merits of any particular claim to refugee status or asylum. Every effort has been made to compile information from reliable sources; users should refer to the full text of documents cited and assess the credibility, relevance and timeliness of source material with reference to the specific research concerns arising from individual applications.

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1 Travel regulations

1.1 Implications of the change in political relations with the United States and migratory patterns

1.1.1 *Consequences of the abolition of the “Wet foot-Dry foot” policy*

The Congressional Research Service (CRS), a research service for the US Congress, discusses in a report of May 2017 the abolishment of the “Wet foot-Dry foot” Policy and its implications for Cubans:

“In its final days in office, the Obama Administration announced another major Cuba policy shift. On January 12, 2017, the United States ended the so-called ‘wet foot/dry foot’ policy under which thousands of undocumented Cuban migrants entered the United States in recent years. (Under that policy, those Cuban migrants interdicted at sea generally were returned to Cuba whereas those reaching U.S. land were allowed entrance into the United States and generally permitted to stay.) Under the new policy, as announced by President Obama and then-Secretary of Homeland Security Jeh Johnson, Cuban nationals who attempt to enter the United States illegally and do not qualify for humanitarian relief are now subject to removal. The Cuban government also agreed to begin accepting the return of Cuban migrants who have been ordered removed. At the same time, the Obama Administration announced that it was ending the special Cuban Medical Professional Parole program, a 10-year-old program allowing Cuban medical professionals in third countries to be approved for entry into the United States. [...]

Since the 1995 migration accord, the U.S. Coast Guard has interdicted thousands of Cubans at sea and returned them to their country. Until early January 2017, those Cubans who reached the U.S. shore were allowed to apply for permanent resident status in one year, pursuant to the Cuban Adjustment Act of 1966 (P.L. 89-732). In short, most interdictions, even in U.S. coastal waters, resulted in a return to Cuba, whereas those Cubans who touched shore were allowed to stay in the United States. Some had criticized this so-called wet foot/dry foot policy as encouraging Cubans to risk their lives to make it to the United States and as encouraging alien smuggling. Cuba had long opposed the policy, which it viewed as encouraging illegal, unsafe, and disorderly migration, alien smuggling, and Cubans’ irregular entry into the United States from third countries.” (CRS, 26 May 2017, pp. 41-43)

The independent non-profit media venture Integrated Regional Information Network (IRIN), which provides news and analysis on humanitarian issues, gives a historic account of different migration routes which Cubans have taken to reach the US:

“For years, the preferred route was the risky sea crossing via the Florida Straits, often in improvised craft. Immigrants who crossed in this way were called *balseros*, or *rafters*. The 1966 Cuban Adjustment Act means that citizens can automatically apply for asylum once they reach US territory and are almost certain to be allowed to stay. A 1995 revision to this act means that the US Coast Guard returns those intercepted at sea to Cuba, the so-called ‘wet foot/dry foot’ distinction. This means that arriving by land is not only less dangerous but also more likely to lead to US residency. In January 2013, the Cuban government

abolished their exit permit requirement, opening the way for many Cubans to apply for passports and making the land route even easier. Most Cubans start their journey in Ecuador, a country that only cancelled visa-free access for Cubans in December 2015. From Ecuador, migrants can hire a car, take a bus or risk the perilous speedboat Darien Gap crossing between Colombia and Panama. Others take a more direct route, attempting to enter any part of Mexican territory by sea. Those with connections or money can obtain a Mexican visa at the consulate in Havana, either as tourists, with work permits or via arranged marriages.” (IRIN, 29 January 2016)

In a further article of May 2016 IRIN reports on the circumstances which led to the aforementioned migration routes being increasingly cut off for Cuban migrants:

“Panama’s decision to close its border was the result of a domino chain of closures from north to south in response to the growing popularity of routes through South and Central America towards the US. There are Cuban migrants, but also migrants from Haiti, Somalia, Pakistan, Ghana, Senegal and the Democratic Republic of the Congo. The chain began with Nicaragua, which in November 2015 closed its border with Costa Rica to Cubans and other transiting migrants. Costa Rica responded by closing its border with Panama in late March, prompting Panama to do the same at its southern border with Colombia. Panama later airlifted some 3,500 stranded Cubans to northern Mexico. For its part, Colombia has dealt with the growing arrival of Cubans by issuing them with eight-day transit permits, which encourage them to quickly move north or face arrest. [...]

The new land route involves either flying to Ecuador or Guyana, which following Ecuador’s introduction of visa requirements for Cubans in December 2015, became the only South American country that doesn’t require a visa for Cubans. From there, the migrants travel overland through Venezuela to reach Colombia.” (IRIN, 27 May 2016)

A further CRS report of January 2017 features information on migration routes to the US:

“Until recently, many of the Cuban migrants first flew to Ecuador, which until late November 2015 did not require Cubans to have a visa, and then made their way overland and by boat through Central America and Mexico to the United States. The trip reportedly cost between \$5,000 and \$15,000, but Cubans resorted to this route because they viewed it as safer than attempting to travel by boat directly from Cuba to the United States. Although this trafficking route is not new for Cubans, the Cuban government’s relaxation of its exit rules for its citizens in 2013 and concerns that the United States might change its liberal immigration policy for Cubans prompted a large increase in the number of Cubans making the overland journey. In late November 2015, Ecuador changed its policy of not requiring visas for Cubans in an attempt to stem the flow of Cubans who subsequently seek to travel to the United States. Ecuador’s action sparked protests by Cubans at Ecuador’s embassy in Havana, whereupon Ecuador decided to grant visas to those Cubans who had already purchased air tickets.” (CRS, 18 January 2017, p. 66)

“As noted above, the Obama Administration announced on January 12, 2017, that it was ending the ‘wet foot/dry foot’ policy and that Cubans attempting to enter the United State illegally would be subject to removal unless they qualified for humanitarian relief. Cuba

agreed to receive back those Cuban nationals ordered removed. The Administration also announced that it was ending the Cuban Medical Professional Parole Program.” (CRS, 18 January 2017, pp. 68-69)

The abolishment of the “Wet foot-Dry foot” Policy is also announced in a January 2017 statement by the US Department of Homeland Security (DHS). According to this statement, admission for Cubans to the United States on humanitarian grounds (parole) will henceforth be decided on a case-by-case basis and not be granted on the sole basis of being a Cuban national. Only the Cuban Family Reunification Parole Program will remain in place:

“Beginning today, DHS has rescinded certain policies unique to Cuban nationals. Specifically, DHS has eliminated a special parole policy for arriving Cuban nationals commonly known as the ‘wet-foot/dry-foot’ policy, as well as a policy for Cuban medical professionals known as the Cuban Medical Professional Parole Program. It is now Department policy to consider any requests for such parole in the same manner as parole requests filed by nationals of other countries. DHS is also eliminating an exemption that previously prevented the use of expedited removal proceedings for Cuban nationals apprehended at ports of entry or near the border. The existing Cuban Family Reunification Parole Program is not affected by this announcement and remains in effect. [...]

Effective immediately, Cuban nationals who are apprehended at ports of entry or near the border may be placed into expedited removal proceedings in the same manner as nationals of other countries. [...]

The Cuban Family Reunification Parole program allows beneficiaries of certain approved family-sponsored immigrant visa petitions to travel to the United States before their immigrant visas become available, rather than remain in Cuba to await a visa. The program seeks to expedite family reunification through safe, legal, and orderly channels of migration to the United States and discourage dangerous and irregular maritime migration. DHS has determined that this program will remain in place because it serves other national interests.” (US Department of Homeland Security, 12 January 2017)

According to a Spanish language article published by the BBC on 13 January 2017, Cuba in a bilateral agreement with the US has conceded to take back those Cubans who have been ordered removed from the United States, a step which the Cuban government had up to this point refused to take. Under this group of Cubans eligible for removal to Cuba are reportedly 2,746 individuals who left the country during the boatlift out of Havana’s port of Mariel in 1980. Cuba is also said to have agreed to take back on a case-by-case basis those Cubans that have migrated to the US at other times and who are subject to removal:

“Lo que Cuba concede

En el marco del acuerdo anunciado este jueves, Cuba también tuvo que hacer concesiones. La más significativa de ellas es que recibirá a los cubanos con órdenes de deportación en Estados Unidos, algo a lo que el castrismo se opuso durante décadas. En este grupo se encuentran al menos 2.746 que partieron del puerto habanero de Mariel en 1980 y que Estados Unidos desea expulsar de su territorio. Cuba aceptará también el regreso de otros

cubanos que migraron en otros momentos sobre los que penden órdenes de deportación, pero después de un análisis caso por caso.” (BBC, 13 January 2017)

The British daily newspaper The Guardian in an Article of 13 January 2017 mentions Cubans who have been stranded on route to the US after the end of the lenient US immigration policy towards Cubans. They have now taken refuge in migrant shelters in Mexico, Honduras and Panama:

“Hundreds of Cubans who sold their homes and belongings in pursuit of an American dream that now lies in tatters have been stranded in Central America and Mexico on Friday after Washington abruptly ended a lenient immigration policy. Barack Obama on Thursday repealed a measure granting automatic residency to virtually every Cuban who arrived in the US, whether or not they had visas, ending a longstanding exception to US policy. The end of the ‘wet foot, dry foot’ policy, which allowed any Cuban who reached US soil to stay, but returned any picked up at sea, took effect immediately. [...]

José Enrique Manreza, who sold his house and possessions in Havana to embark on an epic trip by plane, bus and foot through the rainforests of French Guiana, Colombia and Panama, estimated he had spent about \$10,000 on the journey. ‘Imagine how I feel, after I spent six days and six nights running through rivers and jungles in the humidity,’ said Manreza, at a migrant shelter in the southern Mexican city of Tapachula, where he heard the news, along with 30 other Cubans. In Honduras, 75 Cubans were waiting to move on to Mexico and the US border. In Panama, another 75 gathered in the tree-shaded patio of the Caritas shelter in the capital. Many had sold everything they owned to pay for the voyage of a lifetime. Some said hundreds more were still traversing the treacherous forests of the Darién region bordering Colombia. [...]

Obama also rolled back a ‘medical parole’ program dating back to 2006 that allowed Cuban doctors working in third countries to move to the US simply by walking into a US embassy.” (The Guardian, 13 January 2017)

The Spanish news agency Agencia EFE states on 14 January 2017 that thousands of Cubans who had been crossing Central America with hopes of reaching the US via the Mexican border have found themselves stranded in Panama and Costa Rica after Nicaragua decided to close its border in November 2015:

“Miles de cubanos que cruzaban Centroamérica con la esperanza de entrar en EE.UU. por la frontera mexicana quedaron varados -sobre todo en Panamá y Costa Rica- después de que Nicaragua decidiera el cierre de su frontera en noviembre del 2015.” (Agencia EFE, 14 January 2017)

On Cuba, an independent digital outlet with offices in Havana and Miami, which features articles on social and cultural issues in Cuba and is funded by Cuban emigrants notes the following on Cubans stranded in Mexico in an article of January 2017:

“Hundreds of Cubans are still crowded today on the border between Mexico and the United States, or aim to continue their journey to the United States with the hope that the government of Donald Trump reestablishes the annulled policy or that at least he makes

an exception with them. Complying with the bilateral agreements with Cuba, Mexico started the deportation of immigrants from the island, and the group of 90 persons repatriated last weekend was joined this Wednesday by a second group of 70 Cubans. They are 22 women and 48 men who were returned to Cuba from Tapachula, Chiapas, on a Federal Police plane, as happened with the previous group.” (On Cuba, 29 January 2017)

Generación Y, the blog of Cuban-based activist Yoani Sánchez mentions in an entry of February 2017 networks of so-called “coyotes” in Mexico, agents involved in trafficking Cubans:

“In the middle of last year the Mexican authorities shut down a network trafficking in undocumented people from Cuba that operated in this tourist area in the Mexican state of Quintana Roo. The end of the ‘wet foot/dry foot’ policy this January has left many migrants in the hands of the coyotes, who don’t hesitate to turn to extortion to make up for the reduction in the flow of Cubans and, as a result, their loss of earnings.” (Generación Y, 4 February 2017)

Based on information by Associated Press, the US daily Los Angeles Times mentions on 18 February 2017 recently conducted removal procedures of Cubans from the United States, Mexico and the Bahamas:

“About 680 Cubans have been returned to the island from various countries since then-President Barack Obama ended a longstanding immigration policy that allowed any Cuban who made it to U.S. soil to stay and become a legal resident, state television reported. [...]

Cuban state television said late Friday that the returnees came from countries including the United States, Mexico and the Bahamas, and were sent back to the island between Jan. 12 and Feb. 17. It did not break down which countries the 680 were sent back from.” (Los Angeles Times, 18 February 2017)

In a February article On Cuba writes about the ongoing removal procedures of Cubans who have arrived in the US after the abolishment of the “Wet foot-Dry foot” Policy. Furthermore, the article mentions procedures of forced return of Cubans from Mexico, the Bahamas and the Cayman Islands since January 2017:

“The United States has started returning, through charter flights, Cubans who illegally arrived in its territory after the elimination of the ‘wet foot/dry foot’ policy. [...]

Since the coming into force of the new migration agreements between Cuba and the United States, the U.S. authorities had used commercial flights to repatriate the Cubans who did not meet the legal requirements to remain in the country. Until now some 40 persons have been returned through that means. This Friday the U.S. Coast Guard also returned to the island 11 Cubans who had tried to get to the U.S. by sea. They were returned to Bahía de Cabañas, on the northern coast of the province of Artemisa. With them the number of repatriations by sea after the end of the ‘wet foot/dry foot’ policy amounts to 75 persons. The deportations to Cuba from U.S. territory are added to those carried out by Mexico and other Caribbean nations. Since January, the Mexican government has returned to the island 264 Cubans who were in the country illegally, while another 144 were rejected after trying to enter by air. Meanwhile, 117 persons have been

returned to Cuba from Bahamas and 39 from the Cayman Islands during the same period. This makes for a total of up to 979 repatriated persons in 2017.” (On Cuba, 22 February 2017)

The Cuba-based digital newspaper 14ymedio, which was established by prominent activist Yoani Sanchez, writes in an article of June 2017 that the Panamanian authorities deported or expelled 425 foreigners between January and May for having incurred “migratory offences”, the majority of whom are reported to be Colombians and citizens of Nicaragua and China. Among those 425 foreigners are said to have been 87 Cubans:

“Las autoridades de Panamá deportaron o expulsaron a 425 extranjeros entre enero y mayo pasados por haber incurrido en "faltas migratorias", la mayoría de ellos ciudadanos de Colombia, Cuba, Venezuela, Nicaragua y China. Estadísticas del Servicio Nacional de Migración (SNM) de Panamá difundidas este viernes dan cuenta de que en los primeros cinco meses del año 297 extranjeros fueron deportados y a 128 expulsados del país "de manera definitiva y permanente".

Entre los deportados o expulsados están colombianos (131), cubanos (87), venezolanos (36), nicaragüenses (29), chinos (25), ecuatorianos (22) y dominicanos (22), de acuerdo a las autoridades.” (14ymedio, 9 June 2017)

In April 2017 the US daily The Washington Post reports a sharp decrease in Cubans trying to cross to the US by sea:

“The Coast Guard’s top officer said Wednesday that the number of migrants intercepted at sea by his service off the coast of Florida has plummeted since January, largely a symptom of President Barack Obama ending the so-called wet-foot, dry-foot policy with Cuba a week before he left office. Adm. Paul Zukunft, commandant of the Coast Guard, said the sea service has intercepted fewer than 100 migrants since the Jan. 12 announcement, after detaining more than 10,000 migrants off the coast of Florida in 2016.” (The Washington Post, 12. April 2017)

On Cuba similarly refers to the decrease in the number of rafters, people trying to reach the US on self-made vessels, in an article of May 2017:

“The flow of Cuban rafters to the United States has considerably diminished in 2017. A report by the AP news agency points out that after the end of the ‘wet foot/dry foot’ policy interceptions at sea have decreased from 25 persons a day to only 20 per month. According to Frigate Lieutenant Kate Webb of the Key West Coast Guard Service, the type of vessels intercepted has also changed. Up to 70 percent of the current detentions are of speedboats, instead of the boats and rustic craft previously used. This supposes that the illegal trafficking and emigration operations after the coming into force of the new migration agreements between Cuba and the United States are not only facing greater risk of being intercepted and returned to the island. They are also more expensive. According to data from the Coast Guard, the Cuban migrants pay up to 10,000 dollars per person to cross the sea on speedboats and some hundreds if the crossing is carried out on boats. The decrease in rafters’ arrival to U.S. coasts shows a confirmed tendency. A March report

placed at 65 the Cubans detained in waters of the Straits of Florida and close to Puerto Rico since January 12.” (On Cuba, 6 May 2017)

The US-daily newspaper The Miami Herald in May 2017 reports on a Cuban couple detained in the US and waiting for the implementation of their order of removal:

“An elderly Cuban couple detained upon arrival at Miami International airport following an end to the ‘wet foot, dry foot’ immigration policy remain in custody, almost a month after a judge denied their asylum application. Aquilino Caraballo and Georgina Hernández, 67 and 64, are being held at separate facilities and do not know when they will be deported to the island, despite the April 4 court ruling, family members said Tuesday. [...]

The asylum case could set a precedent for Cubans who were detained after the end of wet foot, dry foot on Jan. 12. Before then, Cubans who made it to U.S. territory could stay under a special admission permit, known as parole, that disappeared with the immigration policy change implemented by former President Barack Obama.” (The Miami Herald, 9 May 2017)

A May 2017 article by the news agency Agence France-Presse (AFP) states that the Florida coast guard has not intercepted any Cuban rafter in the last month and a half. This according to AFP signifies a substantial change compared to the figures of 2016, when the authorities reported 512 rafters in April and 503 in May. Since the beginning of 2017 the coast guard has intercepted 309 rafters, most of whom arrived in January. In 2016, the coast guard had already intercepted 1,774 rafters from January to May, compared to 900 rafters in the same time period in 2015:

“Las autoridades de Florida llevan un mes y medio sin interceptar ningún balseiro cubano, un fenómeno que marca el fin de un ciclo en la historia migratoria de la isla luego de que el gobierno de Barack Obama eliminara las ventajas de que gozaban los isleños. [...]

El ‘0’ en el reporte de la guardia costera marca un cambio más que simbólico respecto al año pasado, cuando las autoridades hallaron, por ejemplo, a 512 balseiros en abril y 503 en mayo. [...]

Hasta este lunes, la guardia costera ha interceptado a 309 balseiros, la mayoría de ellos en enero. Mientras, de enero a mayo del año pasado, la guardia recogió 1.774 balseiros del mar. En 2015 fueron 900, también en el mismo período.” (AFP, 15 May 2017)

In April 2017 On Cuba reports on the stance of the Mexican government towards those Cubans stranded at the US border, especially in the border town Nuevo Laredo:

“The Mexican government rectified what was said only a few days ago by Enrique Rivas Cuéllar, the mayor of Nuevo Laredo: the Cubans who remain in the city bordering the United States will be able to regularize their migratory status in Mexico, but will not be given political asylum. On its Facebook page, the National Institute of Migration (INM) announced that it ‘has provided all the facilities for that group of foreigners of Cuban origin to obtain their condition of stay in the country for humanitarian reasons with permission to carry out remunerated activities.’ However, the note specifies that ‘at no time have they been given the condition of political refugee or exile since they do not face any type of

persecution.’ The INM confirmed the intention of regularizing the 588 Cubans who entered Mexico through Tapachula, in the state of Chiapas. However, other sources have estimated at more than 1,000 the number of immigrants from the island concentrated in Nuevo Laredo. To get there, the Cubans received a document known as official letter of exit that grants them a period of 20 days to cross and leave Mexican territory or initiate a process of legalization. The Migration Law authorizes the INM to regularize, in some cases, foreign citizens who are in Mexican soil and express their interest in temporarily or permanently residing there.” (On Cuba, 12 April 2017)

Martí Noticias, an online news platform based in Miami, which is funded by the US-government and describes itself as featuring objective information related to Cuba and covering topics otherwise censored by the Cuban government, reports on 18 May that the majority of the aforementioned Cuban migrants remaining in Nuevo Laredo have since turned themselves in to the US border authorities. Most of them are said to be sheltered in detention centres in which they have now applied for asylum. Others have not been detained by US authorities and only two cases are known in which political asylum has been granted. Martí Noticias talks about hundreds of Cubans who since the end of the “Wet foot-Dry foot” Policy in January 2017 have unsuccessfully tried to cross the bridge at Nuevo Laredo to Texas and were turned away by immigration officers. According to the article, about 300 Cubans remain in Nuevo Laredo, Mexico, while more than 500 Cubans currently find themselves detained on the other side of the border in Laredo waiting for their asylum claims to be determined:

“La mayoría de los migrantes cubanos que permanecían en Nuevo Laredo, México, se han entregado a las autoridades fronterizas de Estados Unidos. Muchos han iniciado un proceso de solicitud de asilo en centros de detención. Otros han salido en libertad y que se conozca, solo dos han ganado el juicio de asilo político. En los días y semanas posteriores al 12 de enero, centenares de cubanos quedaron atrapados del lado mexicano de la frontera con EE.UU., agobiados por la incertidumbre que dejó el fin del privilegio de acceso migratorio, pies secos / pies mojados. Fueron varios los que se lanzaron sin éxito a la conquista del Puente Internacional Las Américas que conecta Nuevo Laredo con Laredo, Texas. Eran rechazados por los agentes de inmigración que se negaban a escuchar razones. [...]

En esa localidad del estado mexicano de Tamaulipas, que en un momento llegó a albergar a más de 1000 cubanos, hoy quedan unos 300. La mayoría de los restantes, más de 500, están retenidos en proceso de asilo en el centro de detención de Río Grand, en Laredo.” (Martí Noticias, 18 May 2017)

A May 2017 article by Martí Noticias reveals that according to figures published by the Mexican daily newspaper El Universal, the number of Cuban residents in the country has risen from 4,033 in 2010 to 22,604 in 2016, marking a 560 percent increase. According to El Universal, 80,000 Cubans crossed Mexico from 2014 to 2016 with the aim of reaching the US, arriving by plane, crossing Mexico’s southern border or arriving by sea at Yucatán Peninsula. Those who did not manage to reach the US are said to have stayed, exploring their options in Mexico:

“La cifra de cubanos residentes en México aumentó 560 % de 2010 a 2016, según cifras divulgadas por el periódico El Universal. Un artículo de investigación del medio mexicano

indicó que los números fueron desde 4.033 hasta 22.604 cubanos instalados en ese país en los últimos seis años. El Centro de Investigaciones Norteamericano PEW informó que dos terceras partes de los cubanos que entraron a Estados Unidos lo hicieron por territorio mexicano. ‘Eso quiere decir que, de 2014 a 2016, 80.000 cubanos cruzaron suelo Azteca con destino al país vecino’, dijo la nota de El Universal titulada ‘Cubanos en México: los que no llegan a EU’. [...]

El artículo explicó que los cubanos llegan a México en avión, por tierra cruzando la frontera sur, o por mar a través de la Península de Yucatán. ‘Quienes no logran el sueño americano se han quedado a encontrar diversas opciones’, dice El Universal.” (Martí Noticias, 15 May 2017a)

Martí Noticias notes in a further article of May 2017 that the Miami-based organisation Movimiento Democracia in February 2017 called upon the Canadian government to take in hundreds of Cubans stranded in Central America on their way to the US. The Canadian authorities, however, have not since been willing to open their gates to those Cubans. A spokesperson for the Ministry of Immigration and Citizenship is quoted indicating that Canada relies on the UN High Commissioner for Refugees (UNHCR) and private organisations to refer cases of resettlement to them. UNHCR in its procedures to determine resettlement prioritises cases on the basis of vulnerability, not citizenship. Vulnerability, according to the spokesperson, is therefore a key factor taken into account by UNHCR when considering refugee resettlement to Canada:

“Canadá sugirió el lunes que no tiene planes para aceptar a decenas de cubanos que se encuentran varados en varios países latinoamericanos desde la llegada a la Presidencia de Estados Unidos de Donald Trump. El pasado febrero, la organización Movimiento Democracia, con sede en Miami (Estados Unidos), solicitó al Gobierno canadiense que aceptara como refugiados a centenares de cubanos que se encuentran en países latinoamericanos y que esperaban llegar a Estados Unidos. Pero semanas después de la carta enviada por el presidente de Movimiento Democracia, Ramón Saúl Sánchez, al primer ministro canadiense, Justin Trudeau, las autoridades canadienses no parecen dispuestas a abrir la puerta del país a los cubanos. Un portavoz del Ministerio de Inmigración y Ciudadanía de Canadá señaló hoy a Efe que ‘Canadá depende del Alto Comisionado de las Naciones Unidas para los Refugiados (Acnur), otras organizaciones y patrocinadores privados para referir casos en necesidad de reasentamiento’. ‘Acnur da prioridad sobre la base de vulnerabilidad, no nacionalidad. Vulnerabilidad es uno de los factores clave utilizados por Acnur para identificar los refugiados a reasentar en Canadá’, añadió el portavoz.” (Martí Noticias, 15 May 2017b)

1.1.2 Government control measures towards the population

The German Federal Foreign Office states in its country information profile on Cuba (last update: March 2017) that since the extensive repeal of travel restrictions in January 2013 all that is needed in order to travel abroad is a valid passport and if necessary a visa for the country of destination. The stay abroad is then allowed for up to 24 months and can be extended thereafter. Restrictions only apply to persons in certain ‘indispensable’ professions, state officials and individual dissidents. (AA, March 2017b)

The Congressional Research Service (CRS) in its aforementioned January 2017 report also refers to changes with regard to specific requirements when exiting the country, mentioning restrictions facing certain professionals as well as individual dissidents:

“In January 2013, the Cuban government changed its long-standing policy of requiring an exit permit and a letter of invitation from abroad for Cubans to travel abroad. Cubans are now able to travel abroad with just an updated passport and a visa issued by the country of destination, if required. Under the change in policy, Cubans can travel abroad for up to two years without forgoing their rights as Cuban citizens. The practice of requiring an exit permit had been extremely unpopular in Cuba, and the government had been considering doing away with the practice for some time. According to the Department of State, the Cuban government still requires some individuals, such as high-level government officials, doctors, lawyers, and technicians, to obtain permission to travel. In addition, some dissidents out on parole or facing court action have not been permitted to travel abroad, although many prominent dissidents have traveled abroad and returned to Cuba. Ahead of President Obama’s visit to Cuba in March 2016, seven dissidents on parole were granted a one-time permission to travel outside the country.” (CRS, 18 January 2017, p. 69)

The US Department of State (USDOS) in its March 2017 report on human rights practices in Cuba (reporting period: 2016) refers to permissions for travelling abroad required of individuals employed in certain job sectors:

“Foreign Travel: The government continued to require several classes of citizens to obtain permission for emigrant travel, including highly specialized medical personnel; military or security personnel; many government officials, including academics; and some former political prisoners or well-known activists. In December 2015 the government reimposed exit permit requirements on medical personnel for non-immigrant travel, reversing a 2012 law that simplified the process by only requiring a supervisor’s permission. In March the government allowed former political prisoners arrested during the 2003 Black Spring -and released in 2010 and 2011 on parole- one opportunity to travel outside the country for the first time since their arrest. Government authorities barred a second attempt when two of these activists requested permission to travel in July.” (USDOS, 3 March 2017, section 2d)

The report also mentions cases of harassment affecting Cubans seeking to emigrate, as well as fines imposed for unauthorized departures, especially via self-made vessels:

“Individuals seeking to migrate legally stated they also faced police interrogation, fines, harassment, and intimidation, including involuntary dismissal from employment. Government employees who applied to migrate legally to the United States reportedly sometimes lost positions when their plans became known. Some family members of former government employees who emigrated from the island lost public benefits or were denied passports to travel and join their family members abroad.

The law provides for imprisonment of up to three years or a fine of 500 nonconvertible pesos (CUP) (\$20) for first-time ‘rafters’ (those who attempted to depart using clandestinely constructed vessels). The largest fine reported during the year was 3,000 CUP

(\$120) for an unauthorized departure from the country. Most persons caught attempting unauthorized departures via sea were detained briefly. In the case of military or police defectors, or those traveling with children, the punishment could be more severe. Prison terms were also more common for persons attempting to flee to the United States through the Guantanamo U.S. Naval Station. [...]

Some would-be migrants alleged harassment and discrimination, such as fines, expulsion from school, and job loss, and others reported more severe punishment.” (USDOS, 3 March 2017, section 2d)

The Inter-American Commission on Human Rights (IACHR), an autonomous organ of the Organization of American States that promotes and protects human rights in the American hemisphere, in its annual report on Cuba of April 2017 (reporting period: 2016) outlines the relevant passages of the Cuban Migration Law regarding travel restrictions:

“As regards the right to move about freely, since 1983, when it published its seventh report on the human rights situation in Cuba, the Commission has raised the issue of the lack of constitutional protection for the right to movement in Cuba, which represents an obstacle to its effective enjoyment. The framework law on the subject, Law No.1312 of September 20, 1976, the Law on Migration, has been amended twice, the most recent amendment being introduced by Decree law No. 327 of January 3, 2015, which amended four provisions of the Law on Migration relating to the issuance of a Cuban passport.

At the time, the Commission highlighted the progress implied by the first amendment to the Law on Migration contained in Decree Law No. 302 of October 16, 2012, which partially eliminated the requirement for authorization to leave the territory. The time that must elapse before a Cuban national who has traveled abroad can come to be considered an émigré was extended from 11 to 24 months; the requirement of a letter of invitation from the destination country was eliminated; and children were afforded the possibility of temporary travel once they are authorized for it by their parents or legal representatives. Nevertheless, as the Commission has already pointed out, aforementioned Decree-Law No. 302 establishes a series of conditions by which certain Cuban nationals who reside in Cuba cannot obtain a current passport or may not leave the country when reasons of ‘defense and national reasons so advise’; for ‘[l]acking the established authorization, pursuant to provisions aimed at preserving the skilled work force for the economic, social, and technical-scientific development of the country, as well as for the security and protection of official information’; ‘[w]hen for other reasons of public interest it is so determined by the designated authorities.’” (IACHR, 27 April 2017, p. 556)

In its January 2017 article Agencia EFE refers to figures published by Granma, the official newspaper of the Cuban Communist Party, according to which 671,000 Cubans have travelled abroad since the reform of the migration law in 2013. 9.6 percent of those who travelled abroad after January 2013 until December 2015 became Cuban emigrants in the eyes of Cuban law, meaning the loss of residency on the island. Of those 671,000 Cubans who left the island, 45 percent are said to have returned to Cuba and most of the Cubans still abroad are according to Granma still within the limit of the allowed 24 month period. Agencia EFE adds that in some cases restrictions to travel abroad

still remain in place, for example regarding medical, scientific, educational and managerial staff as well as professional athletes. These groups still need to obtain a specific permit to exit the country which Cuba considers a legitimate measure in order to avoid brain drain:

“Un total de 671.000 cubanos viajaron al extranjero, el 78 % por primera vez, desde la reforma migratoria aprobada por el Gobierno de Raúl Castro en 2013, que incluyó la eliminación del permiso de salida para los ciudadanos de la isla y flexibilizó las condiciones de retorno de los emigrantes. [...]

El 9,6 % de los que viajaron al exterior desde enero del 2013 hasta diciembre del 2015 se convirtieron en emigrantes a efectos de la ley cubana, que establece la pérdida de la residencia en la isla cuando un nacional sobrepasa los 24 meses en el extranjero. [...]

De los 671.000 isleños que salieron de Cuba desde que entró en vigor la reforma migratoria, el 45 % ya regresó, y la mayor parte de los que aún siguen fuera ‘se encuentra en el plazo de 24 meses’, resalta el diario estatal Granma. [...]

Sin embargo, siguen vigentes restricciones en algunos casos, como los del personal médico, científico, educativo, directivo y atletas, que todavía necesitan un permiso especial de salida, algo que Cuba justifica para evitar el ‘robo de cerebros’.” (Agencia EFE, 14 January 2017)

The 2016 book *Emigrant Policies in Latin America and the Caribbean* by Luicy Pedroza, Pau Palop and Bert Hoffmann in its chapter on Cuba also refers to state-sponsored economic restrictions impeding the travel of Cubans abroad:

“Severe practical restrictions for all Cubans without access to hard currency income or financial support from family abroad arise from the high cost of obtaining a passport (100 CUC = 100 USD) and airfare in relation to the depressed Cuban state salaries.” (Pedroza, Palop and Hoffmann, October 2016, p. 159)

The German Gesellschaft für Internationale Zusammenarbeit (GIZ), a German governmental entity specialising in international development, mentions on its Country Information Portal (LIPortal) in May 2017 that several hundred thousands of Cubans travel abroad every year, many of whom return but with many also remaining abroad. According to the article, the main problem today does not consist in the permission to exit Cuba but rather in obtaining a visa from a country abroad. Those Cubans who possess permanent residence status in the US or other countries due to personal or business relationships are therefore at an advantage. There are also more than ten thousand Cubans who obtained a European Union passport due to a broadly conceived Spanish naturalisation law. (GIZ, May 2017a)

The activist Laritza Diversent, who recently went into US exile and was head of Cubalex, a Cuba-based independent organisation which provides free of charge legal assistance and information to Cubans with regard to human rights issues, states in an article published on the Cubalex website in June 2014, that until the new migration law entered into force in January 2013 the state tacitly declared Cubans economically incapable of travelling. According to Diversent, this situation has de facto not changed. The requirements demanded by the majority of embassies

located on the island are an indication of this. Diversent further states that even though the limitations on the freedom of movement remain general and abstract, they are now officially recognised and laid down in the migration law following its amendment [of 2013]. Before, the State had not categorised them in the legislation. Now, the state must explicitly recognise when these limitations are applied for political reasons. Notwithstanding that, the government kept in place the discretionary powers of the Interior Ministry to decide whether or not a Cuban citizen is allowed to enter or leave the country:

“Hasta el 14 de enero de 2013, el Estado tácitamente declaraba la incapacidad económica a los cubanos para viajar. La eliminación del permiso de salida trajo consigo la supresión del trámite migratorio relacionado con la Carta de invitación. No obstante, en la práctica esta situación no ha cambiado. Los requisitos exigidos por la mayoría de las embajadas radicadas en la isla así lo demuestran. [...]

Aunque siguen siendo generales y abstractas, las limitaciones a la libertad de circulación, después de la modificación legislativa, están reconocidas y clasificadas en la propia ley. Antes, legalmente el Estado no las tenía tipificadas. Actualmente tiene o debe reconocer expresamente, cuando las aplica por motivos políticos. No obstante a lo anterior, el gobierno mantuvo intactas las facultades discrecionales del Ministerio del Interior para decidir que cubano entra o sale del país.” (Diversent, 16 June 2014)

The Human Rights Foundation (HRF) which describes itself as a nonpartisan non-profit organisation that promotes and protects human rights globally, with a focus on closed societies, in an April 2017 report also refers to the financial difficulties that Cubans face when applying for a passport and additional permits:

“To allow people to leave, such as those with visas to the U.S. under a 20,000 annual quota, the Cuban state charges them excessive fees for special permits and required medical check-ups costing more than the annual average salary. Obtaining a passport, as of January 14, 2013, costs the equivalent of 5.3 months of the total wages of the average worker; in the U.S., comparable passport fees were on that date \$19,836.84 and \$4,000 more every two years.” (HRF, 14 April 2017b, p. 4)

In February 2016 The Guardian newspaper features further details on the Cuban government’s one-time permission for certain dissidents to travel abroad:

“The Cuban government has loosened travel restrictions on some of the island’s best-known dissidents, granting them one-time permission to travel abroad ahead of Barack Obama’s trip to the island, according to activists. [...]

Members of a group of 11 dissidents imprisoned during the 2003 crackdown known as the Black Spring said Wednesday that officials have told seven of them that they will be free to travel one time as a reward for good behavior. Four, more politically active members of the group remain unable to travel, the dissidents said.

Activist Marta Beatriz Roque said that she and six other former prisoners were contacted by Cuban immigration officials on Sunday and told to report to state offices the following

day. There, they were told that they would be able to travel overseas once and return to Cuba.” (The Guardian, 24 February 2016)

In an article of August 2016 Martí Noticias writes that according to eyewitnesses at least three dissidents were intercepted by State Security officials who prevented them from leaving the country by plane to Puerto Rico, where they were planning to attend a conference of Cuban activists. According to one of the dissidents, Félix Navarro, the three were told while checking in for their flight to San Juan that they do not have the authorisation to travel abroad. Leticia Ramos, a member of the dissident group Damas de Blanco, also missed her flight because State Security agents prevented her from leaving her house to go to the airport while at the same time holding up the car that was sent to pick her up. According to Martí Noticias, another person kept from travelling abroad was Lázaro Ricardo Pérez, member of the opposition group Cuban National Independent Workers Confederation (Confederación Nacional Obrera Independiente de Cuba). Pérez was told by the authorities that his passport was due to expire in December and that the United States would not permit him to enter the country. This was shortly afterwards denied by the US embassy in Havana stating that there were no problems with the passport:

“Testigos dijeron a Radio Martí que hasta ahora tres disidentes fueron interceptados e impedidos de tomar su vuelo rumbo a San Juan, para participar en el Segundo Encuentro Nacional Cubano que busca crear una amplia concertación democrática. Al menos tres opositores cubanos no podrán asistir al Segundo Encuentro Nacional Cubano este fin de semana en Puerto Rico, tras ser interceptados por oficiales de la Seguridad del Estado que les impidieron viajar el jueves. El evento, en el que participarán organizaciones y personalidades opositoras de la sociedad civil de la isla y el exilio, se realizará en San Juan, del 12 al 14 de este agosto. [...]

‘En el aeropuerto, cuando estábamos en los trámites, el chequeo de pasajes y todo, nos dijeron que no teníamos autorización para viajar como visitantes al exterior’, dijo a Radio Martí el opositor Félix Navarro, expreso político del grupo de los 75. [...]

La opositora Leticia Ramos, que iba a San Juan en representación del grupo Damas de Blanco, tampoco pudo viajar como tenía previsto el jueves. Agentes de la Seguridad del Estado le impidieron salir de su casa el jueves cuando pretendía trasladarse rumbo al aeropuerto. ‘Detuvieron al carro que venía a buscarme para llevarme al aeropuerto a las tres de la mañana, él me llama que ya venía en camino para llevarme al aeropuerto de La Habana y me dice que la policía lo detuvo y no lo dejó seguir’, contó Ramos desde su casa en cárdenas a Radio Martí. [...]

Tampoco pudo viajar el miembro de la opositora Confederación Nacional Obrera Independiente de Cuba, Lázaro Ricardo Pérez. Para la negativa, las autoridades usaron el argumento de que su pasaporte caducaba en diciembre y EEUU no le permitiría entrar al país. Poco después la embajada de EEUU en La Habana dijo a Pérez que su pasaporte no tenía problemas.” (Martí Noticias, 11 August 2016)

Martí Noticias notes in a May 2017 article that up to ten activists who were planning to meet with human rights groups abroad have been kept from leaving the country in the last months.

All of them are said to have been held up at the airport, where they were informed that they have been temporarily banned from leaving the country. Despite the fact that members of the civil society organisation Patriotic Union of Cuba (UNPACU) have all their documents in order and carry official invitations by other countries, the authorities prevent them from catching their planes without giving any explanation. As the latest example of this, the article mentions the impeded travel of UNPACU's youth leader, Carlos Amel Oliva. According to José Daniel Ferrer, chair of UNPACU, other activists who have faced similar situations since the beginning of 2017 are Víctor Camps, Ernesto Oliva, Carlos Oliva Torres, Katerine Mojena, Yadir Serrano and Belkis Cantillo:

“En los últimos meses, cerca de una decena de activistas no han podido salir del país a cumplir compromisos e invitaciones de organizaciones pro derechos humanos, porque son abordados en el aeropuerto cuando se disponen a viajar y les informan que sobre ellos pesa una restricción temporal de salida del país. A pesar de que los integrantes de la UNPACU (Unión Patriótica de Cuba) tienen los documentos en regla, y son invitados formalmente por otros países, las autoridades no les dan explicación, y les impiden tomar el vuelo. El hecho más reciente de este tipo ocurrió el pasado domingo contra el líder juvenil de UNPACU, Carlos Amel Oliva. En lo que va de año, los opositores Víctor Camps, Ernesto Oliva, Carlos Oliva Torres, Katerine Mojena, Yadir Serrano y Belkis Cantillo enfrentaron iguales situaciones, precisó Ferrer.” (Martí Noticias, 23 May 2017)

The Cuba-based digital newspaper 14ymedio features the following more detailed account of UNPACU member Carlos Amel Oliva being subjected to a travel ban. The quoted text below is an English translation of the Spanish original. These translations are made available at Translating Cuba, a webpage which compiles English translations of articles by Cuban bloggers, independent journalists and human rights activists, most of them based in Cuba:

“Yesterday, Tuesday afternoon, Carlos Amel Oliva checked in well in advance with his ticket to take Air Europe Flight 052 that was leaving for Madrid just after 10:00 PM, intending to connect from the Spanish capital to travel on to Poland. However, the activist was not able to board because an immigration official told him he was prohibited from leaving. Oliva was invited to participate in the third edition of Warsaw Democratic Dialogue as a representative of the Patriotic Union of Cuba (UNPACU).

Upon reaching the immigration controls he was separated from the line. ‘They took me to an office where there was an official who was apparently the shift manager, who explained that I appeared in their computer system as a person prohibited from leaving,’ he explained to 14ymedio. Carlos Amel asked for an explanation, which he felt he deserved, but the control officials responded that they ‘didn’t work on that part.’

The dissident told this newspaper what had happened a few yards from the check-in desk for his flight. ‘[The official] suggested that I direct myself to the appropriate entities, such as the prosecutor, so that I could find out the reasons and I replied that I already knew, because surely the only possible reason was my status as a dissident, a peaceful opponent. I do not have any unpaid fines, nor am I in the midst of a judicial or police investigative process,’ Amel Oliva stated, rejecting that he was subject to these established reasons for being denied the right to travel.” (14ymedio, 14 December 2016)

Cubanet, a non-profit news website based in Miami, which features articles by Cuban activists and independent journalists with the aim of promoting free press and developing civil society in Cuba, receiving its funding from the US agency National Endowment for Democracy as well as Cuban emigrants, reports in March 2017 that a leading figure of the Cuban opposition, Oscar Elías Biscet, has been banned from travelling abroad to the US, to where he was invited by the Congressional Hispanic Leadership Institute in order to receive an award. According to Biscet, a high-ranking official at the Emigration Office told him that he could not travel since he was “under regulation” (regulado). Biscet is a member of the Grupo de los 75, a group of prisoners of conscience, who was freed under conditional release in 2011:

“El régimen cubano reafirmó este martes al líder opositor Oscar Elías Biscet, que no lo dejaría viajar Estados Unidos en abril próximo para recibir el Premio al Liderazgo en Asuntos Internacionales 2017, otorgado por el Congressional Hispanic Leadership Institute (CHLI). ‘Me presenté en la Oficina de Emigración de Juan Delgado y Vista Alegre en el municipio Diez de Octubre, donde resido, y una oficial con grado de mayor que me atendió me notificó que no podía viajar porque estaba ‘regulado’, indicó el Premio a la Medalla Presidencial de la libertad y Hazte Oír. Biscet, exprisionero del Grupo de los 75, liberado en 2011 bajo licencia extrapenal, habría sido invitado por la organización CHLI para participar en una cena que tendrá lugar el próximo 26 de abril en Washington D.C, donde le sería entregado el importante reconocimiento.” (Cubanet, 30 March 2017)

Martí Noticias reports in May 2017 that the dissident Lia Villares has been detained for three hours by a police patrol in Tamarac, after which she was taken to her home. According to Villares, one of the officials belonging to State Security warned her that “he would be her shadow”. The detention resulted in Villares missing her flight to the US:

“La opositora estuvo detenida unas tres horas dentro de una patrulla de policía en Tamarac. Luego fue llevada a su casa. Villares dijo que uno de los oficiales de la Seguridad del Estado le advirtió que será su ‘sombra’. La disidente cubana Lia Villares fue bajada de un taxi, detenida por oficiales de la Seguridad del Estado e impedida de viajar a Estados Unidos, según escribió en su perfil de Facebook.” (Martí Noticias, 3 May 2017)

In an article of May 2017 digital newspaper 14ymedio mentions another activist, Belkis Cantillo, prevented from travelling abroad:

“State Security prevented Belkis Cantillo, the leader of the Dignity Movement, from boarding a flight to the United States on Wednesday afternoon. The activist explained to 14ymedio via telephone that State Security agents and immigration officials notified her that she was ‘restricted.’ [...]

Although the activist did not receive any official documents that supported a travel restriction, the agents indicated that she should leave the airport at the end of the interrogation. On her way home, she noticed that the car in which she was returning to Santiago de Cuba was being ‘escorted’ by the political police.” (14ymedio, 4 May 2017a)

Diario de Cuba, an online news outlet with funding from the US agency National Endowment for Democracy, which aims to engage Cuban independent journalists, artists, intellectuals and

academics to promote analysis on social, political, economic and cultural developments on the island, reports in May 2017 that immigration officers at Varadero Airport in Matanzas prevented Berta Soler, head of the dissident group Damas de Blanco, from travelling to the US. According to Soler, a lieutenant colonel informed her that she was subject to an “exit restriction” (limitación de salida). He did not further explain to Soler why she was subject to such a restriction. Diario de Cuba mentions that Soler had already previously been prevented from travelling to the US in March. At that time, Soler remembers being told that the exit restriction was due to an unpaid fine that had been imposed on her by State Security:

“Los agentes de Inmigración del Aeropuerto de Varadero, Matanzas, impidieron este sábado a Berta Soler, líder de las Damas de Blanco, viajar a Estados Unidos, confirmó ella misma a DIARIO DE CUBA. Según Soler, un teniente coronel que se identificó como Juan Carlos le dijo que tiene ‘limitación de salida’. ‘Le pregunté por qué y no me respondió. Le dije que eso es violatorio, que tienen que decirme por qué no puedo salir’, relató la activista, que tenía previsto visitar Miami y Washington. En marzo pasado el régimen impidió a Soler otro viaje a Estados Unidos. ‘En ese momento me dijeron que yo estaba limitada porque debía una multa que me impuso la Seguridad del Estado’, recordó.” (Diario de Cuba, 13 May 2017)

14ymedio reports the following on the travel restrictions imposed on another dissident, Yoandy Izquierdo, in May 2017:

“This Sunday Cuban State Security prevented Yoandy Izquierdo, a member of the Center for Coexistence Studies (CEC), from boarding a flight to Sweden to participate in the Stockholm Internet Forum (SIF). The car in which the activist was traveling to José Martí International Airport was intercepted by the police, according to Dagoberto Valdés, director of the CEC, speaking with 14ymedio. The police released him after the plane began its take-off procedures. Izquierdo told this newspaper that State Security justified his brief detention on the grounds that they suspected that ‘the driver [taking him to the airport] was operating the trip without having the license to do so’. [...]

Arrests to prevent dissidents from leaving the country are a common practice on the part of State Security. Recently the car carrying the activist Lia Villares was intercepted when she was going to the José Martí International Airport to travel to the United States. An officer forced her to get into a National Revolutionary Police (PNR) patrol and drove her away from the air terminal until her plane took off. Villares described the ‘kidnapping’ and ‘forced disappearance’ but managed to travel to the United States a day later.” (14ymedio, 14 May 2017)

In a June 2017 article Martí Noticias reports that the authorities prevented two activists of the dissident group Cuba Decide from travelling to Brussels to attend an event organised by the European Parliament. One of the activists, SaylÍ Navarro, was invited by the European Parliament to give testimony on Cuba. The other activist was Iván Hernández Carrillo, a former prisoner of conscience. According to the coordinator of Cuba Decide both activists were informed about their travel restrictions before boarding their flight. Navarro was reportedly told that she “was banned from travelling due to an unpaid fine”. However, Navarro assured that she did not know when and for what reasons she had been issued that fine:

“Las autoridades impiden viajar a Europa la activista de Cuba Decide Sayli Navarro que estaba invitada para dar testimonio sobre Cuba ante el Parlamento Europeo. Las autoridades castristas impidieron a SaylÍ Navarro, y al ex preso político Iván Hernández Carrillo, promotores de la campaña Cuba Decide, viajar a Bruselas para asistir, el próximo 6 de junio, a un evento convocado por el Parlamento Europeo. Rosa María Payá, coordinadora de Cuba Decide, escribió en su perfil de Facebook que a ambos activistas les informaron de la restricción de viaje en el Aeropuerto Internacional José Martí de La Habana, antes de abordar el avión. [...]

La activista dijo que un ‘ciudadano nombrado Alain’ alegó que sobre ella pesa una “restricción de viaje porque según las computadoras tiene una multa impuesta”. Navarro asegura que desconoce en qué momento le impusieron la multa, y las razones de ésta, y lamentó no poder asistir al encuentro al que fue invitada para brindar testimonio.” (Martí Noticias, 5 June 2017)

1.2 Travel restrictions under “defense and national security” and “other reasons of public interest” grounds

The Cuban government retains the right to deny the issuance of a passport or to deny a person to exit the country under specific circumstances. These circumstances are laid out in Decree No. 302 of October 2012, which amended the Migration Law (Ley de la Migración) of 1976. By Decree No. 302, Article 23 (issuance of passports) and Article 25 (ban on travelling abroad) were added to the Migration Law which was republished in the Official Gazette of Cuba on 18 December 2015.

Article 23 of the Migration Law stipulates that Cuban citizens residing in the national territory cannot obtain a regular passport if it is deemed advisable for reasons of defence and national security or if the responsible authorities determine so for reasons of public interest:

“Los ciudadanos cubanos residentes en el territorio nacional no pueden obtener pasaporte corriente mientras se encuentren comprendidos en alguno de los supuestos siguientes: [...]

d) Cuando razones de Defensa y Seguridad Nacional así lo aconsejen. [...]

h) Cuando por otras razones de interés público, lo determinen las autoridades facultadas.”
(Ley No. 1312 “Ley de Migración”, 1976, republished 18 December 2015, Article 23)

Article 25 of the Migration Law stipulates that any person within the national territory cannot leave the country if it is deemed advisable for reasons of defence and national security or if the responsible authorities determine so for reasons of public interest:

“Toda persona que se encuentre en el territorio nacional, no puede salir del país mientras se encuentre comprendida en alguno de los supuestos siguientes: [...]

d) Cuando razones de Defensa y Seguridad Nacional así lo aconsejen. [...]

h) Cuando por otras razones de interés público, lo determinen las autoridades facultadas.”
(Ley No. 1312 “Ley de Migración”, 1976, republished 18 December 2015, Article 25)

The complete Migration Law in its most recent publication in the Official Gazette of December 2015 including the aforementioned amendment can be found via the following link:

- Ley No. 1312 “Ley de Migración” de 20 de septiembre de 1976 [actualizada y concordada con el Decreto-Ley No. 302 de 11 de octubre 2012 y el Decreto-Ley No. 327 de 31 de enero de 2015], republished in the Gaceta Oficial de la República de Cuba No. 41 of 18 December 2015, pp. 614-620

<http://juriscuba.com/wp-content/uploads/2015/12/Ley-migracion.reglamento-actualizada-2012.pdf>

In its report of April 2016 on the freedom of press in Cuba, Freedom House, a US-based NGO which conducts research and advocacy on democracy, political freedom, and human rights, mentions passports being withheld on grounds of “public interest”:

“In recent years the government has undertaken a number of small gestures that indicate potential for a narrow media opening. In January 2013, the country removed exit visa requirements for citizens traveling abroad. Since then, several prominent Cuban opposition journalists and bloggers have traveled out of the country - most notably Yoani Sánchez, who has made multiple trips abroad. Nevertheless, passports are still issued at the government’s discretion and have been withheld from select journalists for state-defined ‘reasons of public interest.’ In particular, journalists who formerly served jail time for alleged antigovernment activities have been denied the right to exit Cuba. Further, some journalists who have traveled abroad, including Roberto de Jesús Guerra, founder and director of independent news agency Hablemos Press, have complained of harassment and confiscation of documents upon their return.” (Freedom House, 27 April 2016)

In its January 2017 report on the human rights situation in Cuba (reporting period: 2016) Human Rights Watch (HRW), an international non-governmental organization that conducts research and advocacy on human rights, also makes a note of travel restrictions on grounds of “defence and national security” as well as “other reasons of public interest”:

“Reforms to travel regulations that went into effect in January 2013 eliminated the need for an exit visa to leave the island. Exit visas had previously been used to deny the right to travel to people critical of the government—and to their families. Since then, many people who had previously been denied permission to travel have been able to do so, including human rights defenders and independent bloggers. Nonetheless, the reforms gave the government broad discretionary powers to restrict the right to travel on the grounds of ‘defense and national security’ or ‘other reasons of public interest.’ Such measures have allowed authorities to deny exit to people who express dissent.” (HRW, 12 January 2017)

Dario de Cuba reports in August 2015 that the opposition figure and leader of the Patriotic Union of Cuba (UNPACU), José Daniel Ferrer, denounced the government for preventing his travel to Prague, where he was invited to attend a conference of activists for democracy and human rights. According to Ferrer, he went to the immigration office in order to find out whether he was still banned from travelling abroad. There he was told that he was still sanctioned and that for “reasons of public interest” he would not be able to apply for a

passport. Diario de Cuba writes that Ferrer is a member of the Grupo de los 75 whose members had received prison sentences in 2003:

“El opositor José Daniel Ferrer, líder de la Unión Patriótica de Cuba (UNPACU), denunció este miércoles que el Gobierno le impide viajar a Praga para participar del 13 al 16 de septiembre en el Forum 2000, un evento dedicado al legado del expresidente checo Václav Havel en el que participan cada año activistas prodemocracia y de derechos humanos. ‘Ayer fui a Inmigración a averiguar sobre la prohibición que tengo de viajar al exterior. Estoy invitado a Forum 2000, en Praga. La respuesta fue que continúo bajo cumplimiento de sanción y que también por razones de ‘interés público’ no puedo obtener pasaporte’, escribió en su cuenta en Twitter Ferrer, miembro del Grupo de los 75 disidentes condenados en 2003 a penas de hasta 28 años de cárcel.” (Diario de Cuba, 19 August 2015a)

In an article of September 2016, 14ymedio states that the Cuban authorities cited “national security” and “the president being over there on a visit” as their reasons for preventing members of the Cuban opposition from travelling to Colombia to act as observers in a referendum. The dissident Arturo Rojas told 14ymedio that he was arrested on a Monday when he asked policemen why they were surrounding his house, only to be released again the day after. The activist Ada López was also detained on Monday, when a police officer at her house in Havana prevented her from going to the airport, where she was due to catch a plane to Colombia:

“El motivo esgrimido por las autoridades cubanas para impedir viajar a Colombia a los opositores convocados como observadores en el plebiscito es la ‘seguridad nacional’, ya que ‘el presidente está allá de visita’. Así se lo hizo saber uno de los agentes de seguridad, que se identificó como Ronald, al activista Arturo Rojas. El disidente explicó a 14ymedio su detención, fue arrestado el lunes a las tres de la tarde cuando preguntó a los policías por qué rodeaban su casa y fue puesto en libertad a las 6:40 pm de este martes. La activista Ada López había denunciado desde horas tempranas del martes un operativo policial alrededor de su vivienda en La Habana para impedirle salir hacia el aeropuerto. La opositora debió viajar ayer por la tarde hacia Colombia para participar también como observadora en el plebiscito por la paz que se llevará a cabo el domingo 2 de octubre, pero fue detenida cuando salía hacia el aeropuerto.” (14ymedio, 28 September 2016)

1.3 Consequences following the return to Cuba of emigrated citizens or citizens having left by irregular means

Regarding possible legal repercussions for Cubans returned to their country, the March 2017 USDOS report on human rights practices in Cuba (reporting period: 2016) states the following:

“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. The government prevented independent trips to monitor repatriated Cubans outside of Havana.” (USDOS, 3 March 2017, section 2d)

No additional information could be found on consequences following the return to Cuba of citizens having left by irregular means.

1.3.1 *Becoming an emigrant, losing residency rights in Cuba, possible return*

The 2016 book *Emigrant Policies in Latin America and the Caribbean* by Luicy Pedroza, Pau Palop and Bert Hoffmann specifies under which circumstances a Cuban citizen is considered to have emigrated and loses his residency rights in Cuba:

“Cubans are considered emigrated when they have stayed outside the country for more than 24 months without abiding by the specific regulations. Before the 2013 reform of the Cuban migration regime, this period was only 11 months. The Cuban government may want to strengthen the ties to its expatriate community, in particular with a view towards maintaining a high flow of remittances and stimulating return migration. Cuban legislation does not see emigration as a cause for the loss of citizenship/ nationality. [...]

In the case of definite emigration, their property may be confiscated, if not transferable to family members on the island. Emigrants are not treated for free in the Cuban healthcare system; they require insurance upon entering the country. Emigrants do not receive any Cuban state pension, and the family of permanent emigrants no longer receives subsidized food rations for the emigrated person. Since 2013, all emigrated Cubans have the possibility to repatriate and, in that case, may continue to enjoy all citizen rights.” (Pedroza, Palop and Hoffmann, October 2016, pp. 153-154)

Nuris Piñero Sierra, a lawyer and member of the Cuban National Collective of Law Offices (Organización Nacional de Bufetes Colectivos), a national bar association regulated by the Ministry of Justice, explains in a 2015 introduction to the Cuban Migration Law directed at Cuban citizens, that a Cuban citizen acquires the status “emigrated” if he has travelled abroad and remained there for an uninterrupted period of more than 24 months without the pertinent authorisation. He would also be considered as having “emigrated” if he took up residence abroad without meeting the valid migratory regulations. If a Cuban citizen wanted to have a stay abroad approved for a period exceeding the permitted 24 months, he would have to go to a Cuban consular office in the country in which he finds himself and either apply for an extension due to “urgent reasons” or be interested in becoming a “resident abroad”:

“¿Cuándo se considera que un ciudadano cubano es emigrado? Reciben ese estatus aquellos ciudadanos que viajan al exterior por asuntos particulares y permanecen de forma ininterrumpida por un término superior a los veinticuatro meses sin la autorización correspondiente, así como cuando se domicilia en el exterior sin cumplir las regulaciones migratorias vigentes. Para autorizar la permanencia en el exterior por un término superior al establecido en el párrafo anterior, el ciudadano deberá acudir a la oficina consular cubana en el país en que se encuentre y tramitar una prórroga por razones impostergables, o interesar se le declare residente en el exterior.” (Piñero Sierra, 2015, p. 9)

In its aforementioned April 2017 report (reporting period: 2016) the Inter-American Commission on Human Rights (IACHR) reports the following:

“The time that must elapse before a Cuban national who has travelled abroad can come to be considered an émigré was extended from 11 to 24 months [...]

At the same time, the Commission finds that the restriction by which staying abroad for 24 months may subject a Cuban to émigré status continues to be an unreasonable restriction on the exercise of the right to residence and movement. While one does not cease to be a Cuban national, the impossibility of returning to Cuba or of exercising one’s rights as a Cuban national means that one cannot enjoy an effective nationality. These provisions also have a direct impact on the right to the protection of family life of these persons, who are deprived of the ability to re-unite with their family members who remain in Cuba. In addition to the foregoing, this situation presents obstacles to Cuban migrants who are in an irregular migratory situation since they cannot return to their country of origin nor do they have a migratory situation that enables them to reside regularly in the country they are in.” (IACHR, 27 April 2017, p. 556)

The following information relates to the possibility for an emigrant to return to visit Cuba:

Article 44 of Decree No. 26 stipulates that in order to enter the national territory, Cuban citizens must possess a valid Cuban passport issued in their name or an equivalent document. Emigrants must submit their duly authorized (habilitado) passport:

“Para entrar al territorio nacional los ciudadanos cubanos deben poseer pasaporte cubano vigente, expedido a su nombre o documento equivalente. En el caso de los emigrados deben presentar su pasaporte debidamente habilitado.” (Decreto No. 26, 1978, republished 18 December 2015, Article 44)

The undated website of the Cuban diplomatic representations abroad details the process of passport authorisation (habilitación) stipulated in the abovementioned regulation. According to the website, “habilitación” is a multiple entry visa which allows emigrated Cubans to enter Cuba as many times as he wants without any additional procedure or application process. It allows them to remain in Cuba for 90 days. This period can be extended under exceptional circumstances if a request is put in directly at the Cuban Immigration Office nearest to the place of residence of the applicant’s family in Cuba. Passport authorisation does not apply to Cubans with the status “residence abroad”. The authorisation is a one-off procedure and remains indefinitely valid unless it is revoked. The application can be submitted at a Cuban consulate where the applicant is registered by filling out a form. The consulate then forwards it to the Cuban immigration authorities which in turn decide whether to approve or reject the authorisation. In order to travel to Cuba this authorisation needs to be stamped into the passport of the Cuban citizen. When entering Cuba, the emigrated Cuban national needs to present along with his authorised passport a document confirming his residence in a foreign country. If a passport authorisation has been rejected, the applicant’s family in Cuba can apply for an authorisation of entry called HE-1 (Habilitación de entrada, HE-1) which is granted on humanitarian grounds (serious illness or death of a close family member). This entry can only be requested in Cuba before the immigration authorities and is applied for by the Cuban citizen’s relatives:

“La Habilitación de entrada múltiple de pasaporte permite la entrada a Cuba tantas veces como se desee sin realizar ningún trámite adicional a su solicitud. Ella permite a los emigrados cubanos permanecer en Cuba durante 90 días, estancia que puede ser prorrogada excepcionalmente, haciendo la solicitud directamente en el órgano de Inmigración y Extranjería más cercano al lugar de residencia de su familia en Cuba. La Habilitación no está concebida para los titulares de RE [Residencia en el Exterior]. El trámite de habilitación se hace una sola vez. Cuando la habilitación es otorgada, tiene validez indefinida a menos que se revoque. La solicitud se realiza al Consulado de Cuba donde se encuentra inscrito, el cual se encarga de transmitirla con los servicios de Inmigración cubanos, los cuales autorizan o deniegan su otorgamiento. Debe llenar el modelo de solicitud consular previsto para este fin. Para poder viajar a Cuba la habilitación debe ser estampada en el pasaporte del ciudadano cubano. [...]

Para entrar a Cuba, el ciudadano cubano emigrado debe presentar, conjuntamente con la habilitación, un documento acreditativo de residencia en un país extranjero. En caso de que la habilitación haya sido denegada, su familia en Cuba puede hacer una solicitud de Habilitación de entrada (HE-1) que se otorga por razones humanitarias (grave enfermedad o fallecimiento de familiares cercanos). Esta entrada se solicita solamente en Cuba ante las autoridades migratorias y lo tramitan los familiares del ciudadano cubano interesado en viajar.” (Representaciones Diplomáticas de Cuba en el Exterior, undated (c))

The Research Program of the Immigration and Refugee Board of Canada (IRB) which provides country of origin information to Canadian immigration authorities provides the following information regarding the authorisation of Cuban passports in a query response of July 2013:

“In a telephone interview with the Research Directorate, the Executive Director of the Center for Latin American and Caribbean Initiatives (CLACI) at Miami Dade College indicated that an ‘habilitación de pasaporte’ is a ‘multiple entry visa’ that allows a Cuban émigré to enter Cuba, and in the case of those living in the island, the ‘pasaporte habilitado’ is the equivalent to a ‘multiple exit permit.’ It is still under the new regulations a prerogative of the State to extend or deny the ‘habilitación’ in any of the two cases, preventing the citizen from exercising its right to the freedom of movement. (25 July 2013)” (IRB, 26 July 2013)

Landinfo in its May 2017 report on entry and exit procedures in Cuba mentions that the Cuban representation abroad sends the application to activate the passport to the authorities in Cuba, and they decide whether the status is emigrado (emigrado) or resident abroad (resident en el exterior) while the passport is activated. A person who has had the status of emigrado has the opportunity to change his status to resident abroad if the authorities in Cuba see fit to grant it (meeting with consular source, December 2015):

“Den cubanske utenriksstasjonen sender søknaden om å få aktivert passet til myndighetene på Cuba, og de avgjør om statusen er utvandret cubaner (emigrado) eller bosatt i utlandet (residente en el exterior), samtidig som passet blir aktivert. En person som har hatt statusen emigrado, har mulighet til å få endret statusen til residente en el exterior hvis myndighetene på Cuba vurderer situasjonen slik (møte med konsulær kilde, desember 2015).” (Landinfo, 26 May 2017, p. 3)

The activist Laritza Diversent notes in her article published on the Cubalex website in June 2014 that the new migration law which entered into force in 2013 for the first time contains regulations relating to the authorisation of the passport. However, according to Diversent, the legislation neither defines nor explains what this authorisation means. The legislation further fails to lay down the procedure that is necessary in order to obtain authorisation, does not specify the authority in charge of deciding which passport gets authorised and which does not and in case of a negative decision, what is the possible reason behind a negative decision. This in turn permits the state to deny a citizen the entry into the country without having to acknowledge whether a negative decision is based on political motives:

“Regula por primera vez la habilitación del pasaporte, aunque no la define ni explica en que consiste, ni el proceso que ha de seguirse para obtenerla así como que autoridad es la encargada de decidir que pasaporte se habilita y cual no, y en caso de decisión denegatoria, cual es la causa. Estas omisiones, le permite al Estado negar la entrada a un nacional al país, sin tener que reconocer si su decisión denegatoria, está fundada en motivaciones políticas.” (Diversent, 16 June 2014)

El Nuevo Herald, a Spanish-language newspaper run by Cuban exiles, associated with The Miami Herald and directed at the Cuban community in Miami and beyond, observes in an article published in May 2017 that if a Cuban stays abroad for longer than 24 consecutive months he automatically loses his rights as a resident in Cuba. In order to return he needs to obtain an authorisation (habilitación) which is described by El Nuevo Herald as a travel document which is granted at the discretion of the immigration authorities, which are in turn controlled by the Ministry of Interior:

“La ley migratoria vigente otorga un plazo de 24 meses para residir en el extranjero sin perder el derecho a regresar. En caso de que un ciudadano cubano pase más tiempo fuera del país pierde automáticamente sus derechos como residente y para regresar a su país necesitará obtener una ‘habilitación’, una especie de salvoconducto otorgado a discreción de las autoridades migratorias, controladas por el Ministerio del Interior.” (El Nuevo Herald, 5 May 2017)

Cuba Legal Info, a site managed by a group of legal experts, who according to their own description do not belong to any governmental institution and whose aim it is to clarify legal and administrative issues in the public domain, explains in a post of January 2013 that, as far as it is known, no legal or administrative norms have been adopted that restrict Cuban citizens entering their country of origin. There are only public statements by some government officials and media outlets regarding restrictions. In this context the post refers to an article published by the state-sponsored website Cubadebate in January 2013 according to which the Cuban authorities announced a couple of complementary measures to the Decreto-Ley No. 302. These complementary measures are said to normalise the temporary entry of those Cubans who have left the country by illegal means since the migratory agreements [with the US] of 1994, if more than eight years have passed since the illegal exit. Exceptions can be applied for humanitarian reasons, in which case the entry into the country might be approved within a shorter period. Cuba Legal Info remarks that these “complementary measures” referred to by Cubadebate are not a part of the official legislation put in place in order to regulate the Cuban immigration

policy, but are applied and executed by the Cuban consular and diplomatic representations as well as other Cuban offices abroad specifically authorised for this purpose. They become relevant when emigrants apply for the authorisation of their Cuban passport without which they cannot enter the national territory. These “complementary measures” apply to health professionals and high-performance athletes who abandoned their mission or violated their contract concluded with the Cuban state, as well as persons who left the island illegally for the US after 1994. Cuba Legal Info adds that if none of the abovementioned circumstances apply, a Cuban would likely not be subject to limitations as to his visiting Cuba whenever he wants:

“Hasta donde se conoce no han sido aprobadas o publicadas normas jurídico/administrativas que restrinjan a los ciudadanos cubanos la entrar a su país de origen. Solo constan expresiones públicas de algunos funcionarios gubernamentales y medios informativos, entre otras:

CUBADEBATE. 14 de enero 2013.

<http://www.cubadebate.cu/noticias/2013/01/14/entra-en-vigor-actualizacion-de-la-politica-migratoria-cubana/> - aun está disponible

‘Por otra parte, las autoridades del país anunciaron un grupo de medidas complementarias al Decreto-Ley 302, según las cuales se normaliza la entrada temporal en el país de quienes emigraron ilegalmente después de los acuerdos migratorios de 1994, si han transcurrido más de ocho años desde su salida. En igual situación estarán los profesionales de la salud y deportistas de alto rendimiento que abandonaron el país luego de 1990, si han pasado más de ocho años de ese hecho, salvo en los casos que atendiendo a razones humanitarias se apruebe su entrada al país en un plazo inferior’.

Las referidas ‘medidas complementarias o adicionales’ no incluidas en el paquete legislativo aprobado para regular la ‘política migratoria cubana’, se aplican y ejecutan por las representaciones diplomáticas o consulares cubanas u otras oficinas cubanas en el extranjero expresamente autorizadas al efecto, al solicitar los EMIGRANTES la habilitación de su pasaporte cubano, sin el cual no pueden entrar al territorio nacional. Los profesional de la salud o deportistas de alto rendimiento que “abandonaron su misión, incumplieron su contrato, acuerdo o compromiso con el Estado cubano”, se dice “deberán acogerse” a las “medidas adicionales”, también aplicables a las personas que emigraron ILEGALMENTE hacia los EEUU de Norteamérica después de 1994. Si se tratara de otro caso no comprendido en esos supuestos, la persona NO DEBERÁ tener limitaciones para visitar Cuba cuando lo desee.” (Cuba Legal Info, 14 January 2013)

In July 2016, El Nuevo Herald features the story of Ana Margarita Perdigón Brito, a Cuban citizen who travelled from Miami to José Martí airport in Havana only to be prevented by the Cuban immigration authorities from entering the country. According to Perdigón, an activist who left the island in 2012, this has to do with an act of bribing by which the Cuban government, “if you behave as they wish without displaying confrontational behaviour, you will be allowed into the country, but if you dare to criticise the regime you might lose this right”. This is reported to be the second time that Brito has been trying to visit her mother in Cuba who has fallen ill. The first time, she could not even get on the plane to Havana, whereas the second time she was

told when arriving in Havana that she was banned from entering the national territory. According to the newspaper, Perdigón's passport is valid and has been renewed as well as authorised (Habilitado), this authorisation representing an entry permit which is supposedly valid for a lifetime but can still be declared void by Cuban officials. Perdigón believes that her entry ban is related to the fact that she as well as her family belonged to different independent movements in Cuba, among them political parties and initiatives promoting human rights:

“Con la ropa manchada de sangre, heridas y hematomas en los brazos, regresó a Miami el mes pasado Ana Margarita Perdigón Brito procedente del aeropuerto José Martí de La Habana. Nadie le supo contestar cuál era la razón por la que el Estado cubano le prohibía a ella, ciudadana de ese país y con los papeles en orden, la entrada a la tierra que la vio nacer.

‘Se trata de una venganza del gobierno cubano hacia los emigrados. Es una especie de chantaje por el cual, si tú te comportas como ellos desean, -es decir, sin ser contestatario- puedes entrar a tu país, pero si te atreves a criticar al régimen puedes perder ese derecho’, dice la activista, que salió de Cuba en el 2012 para vivir en Estados Unidos.

La exiliada cubana, que reside en Homestad, al sur de Miami, intentó entrar por segunda vez a Cuba para visitar a su madre enferma en la provincia de Sancti Spíritus. ‘La primera vez me regresaron desde el aeropuerto de Miami, cuando intentaba volar a Santa Clara. En esta segunda ocasión, me dejaron llegar a La Habana, pero una vez allí me dijeron que no podría ingresar en el territorio nacional porque, según el sistema, yo tenía prohibida la entrada a Cuba’, comentó.

Su pasaporte está actualizado y vigente, con las prórrogas correspondientes además de la habilitación, un permiso de entrada por el cual deben pagar los cubanos residentes en el exterior y que supuestamente tiene vigencia ‘para toda la vida’, aunque puede ser anulado por los funcionarios cubanos. [...]

Perdigón cree que se trata de una muestra más de la falta de escrúpulos del gobierno cubano en relación con la diáspora. ‘Ellos no me perdonan el activismo que realicé dentro de Cuba’, explica. [...]

Originaria de la provincia de Sancti Spíritus, tanto ella como su familia pertenecieron a diversos movimientos independientes, integrando partidos políticos e iniciativas a favor de la promoción de los derechos humanos.” (El Nuevo Herald, 21 July 2016)

El Nuevo Herald further notes that this is not an isolated case and that, according to independent statistics compiled by the media, dozens of similar stories have occurred in the last few years. There is, however, no official data available on the number of Cubans that have been prevented from entering the country. Laritza Diversent, head of the Cuban-based legal advice organisation Cubalex, says that people do not publicly claim their rights and denounce these arbitrary situations. According to her, the Cuban legislation does not provide for denying nationals to enter the country. It is rather a matter of discretionary decisions taken by State Security or by the Immigration and Foreign Affairs Department and therefore people are subjected to arbitrary behaviour and abuse by state officials. Diversent argues that this practice

is not limited to dissidents, activists and members of the opposition. She says that her office dealt with the case of a rafter who abandoned the island in 2011 and who continued to travel [to Cuba] on a regular basis until, in 2015, the Cuban authorities informed him that he was not allowed to re-enter the national territory. El Nuevo Herald points out to have known similar cases involving journalists, religious figures and doctors who joined the Cuban Medical Professional Parole programme offered by the United States. According to the lawyer Laritza Diversent, the Cuban authorities are not able to state the reasons why they have refused to let a person enter the country. They do not argue that it is related to a terrorist threat or because the person is missing a relevant document or formality, it is rather a matter of a completely arbitrary decision. The article states that the modalities of preventing entry to the island are just as varied as the procedures that need to be carried out in relation to migratory affairs in Cuba. There are people whose passport authorisation is denied. In other instances people are prevented from taking their flight to Cuba or the authorities wait for them to arrive in Havana to tell them that they will never be allowed to enter the country again, all of this after a person has spent 450 Pesos to be issued a passport, 20 Pesos to have it authorised or 180 Pesos for renewals:

“Su caso no es único. Según estadísticas independientes compiladas por los medios, decenas de historias similares han ocurrido en los últimos años. Sin embargo, no existen datos oficiales sobre el número de cubanos a los que se les ha prohibido la entrada al país.

‘Las personas no reclaman sus derechos públicamente y no denuncian estas situaciones arbitrarias’, comenta desde Cuba, vía telefónica, la directora del Centro de Información Legal Cubalex, Laritza Diversent Cambará. [...]

Según la abogada, en la legislación cubana no está contemplada la denegación de entrada a los connacionales. ‘Se trata de una decisión discrecional de la Seguridad del Estado o de la Dirección de Inmigración y Extranjería, pero no existen leyes que regulen eso, por lo cual las personas están expuestas a los caprichos y abusos de funcionarios’, opina la jurista. La práctica no se circunscribe solamente a disidentes, activistas y opositores. Diversent cuenta que su oficina atendió el caso de un balsero que abandonó la isla en el 2011 y que continuó viajando regularmente, hasta que en el 2015 las autoridades cubanas le comunicaron que no podría entrar nuevamente al territorio nacional. El Nuevo Herald ha conocido casos similares de periodistas, religiosos y médicos que se acogieron al programa Cuban Medical Professional Parole (CMPP) que ofrece Estados Unidos. ‘No pueden dar los motivos por los cuales niegan la entrada al país. No arguyen que sea por una amenaza terrorista o porque a la persona le falta algún documento o trámite. Sencillamente se trata de una decisión arbitraria’, añade. [...]

Las modalidades de impedir la entrada son tan variadas como los trámites a realizar para gestiones migratorias en Cuba. Hay personas a las que se les niega la habilitación del pasaporte, como fue el caso del conocido artista plástico Aldo Menéndez. En otras ocasiones, regresan a los cubanos a último minuto desde el aeropuerto del que pretendían volar a la isla, como le ocurrió a la activista Ana Lupe Busto Machado, o esperan a que aterricen en La Habana para después de que se han gastado \$450 en la confección del pasaporte, \$20 en la habilitación o \$180 en las prórrogas, más el precio del pasaje desde

Miami que ronda los \$500, decirles que no pueden entrar nunca más a su país.” (El Nuevo Herald, 21 July 2016)

1.3.2 Regaining residency rights

As previously mentioned, the Cuban Migration Law (Ley No. 1312 - Ley de Migración) of 1976 was complemented in 1978 by the implementing Decree No. 26, which in turn was amended in 2012 by Decree No. 305. The relevant passages regarding the return of emigrated Cuban citizens to Cuba as well as the possibility of once again taking up residence there (Articles 47-50 of Decree No. 26 as modified by Decree No. 305) are provided below:

Article 47 of Decree No. 26 stipulates:

- 1- Emigrated Cuban nationals are allowed visits to Cuba of up to 90 days.
- 2- Cuban nationals who are residents abroad are allowed visits to Cuba of up to 180 days.
- 3- In both cases, the immigration authority may extend the term when appropriate:

“1: Los ciudadanos cubanos emigrados pueden permanecer hasta 90 días en sus visitas a Cuba.

2. Los ciudadanos cubanos con residencia en el exterior pueden permanecer hasta 180 días en sus visitas a Cuba.

3. En ambos casos, la autoridad migratoria puede prorrogar el término cuando corresponda.” (Decreto No. 26, 1978, republished 18 December 2015, Article 47)

Article 48 of Decree No. 26 stipulates:

- 1- Emigrated Cuban nationals who wish to take up residence in the national territory have to submit an application at a diplomatic or consular representation abroad or at the relevant department of the Ministry of Interior during their visit to Cuba.
- 2- The Ministry of Interior establishes the procedures for processing the applications referred to in the previous section:

“1: Los ciudadanos cubanos emigrados que pretenden establecer su residencia en el territorio nacional lo solicitan ante las representaciones diplomáticas o consulares, o ante la oficina de trámite del Ministerio del Interior que corresponda, cuando se encuentran en Cuba.

2. El Ministerio del Interior establece los procedimientos para la tramitación de las solicitudes a que se refiere el apartado anterior.” (Decreto No. 26, 1978, republished 18 December 2015, Article 48)

Article 49 of Decree No. 26 stipulates that the Cuban representations and offices abroad forward the applications to the Cuban Immigration and Foreign Affairs Department of the Ministry of the Interior, through the Ministry of Foreign Affairs:

“Las representaciones y oficinas cubanas en el exterior remiten las solicitudes recibidas a la Dirección de Inmigración y Extranjería del Ministerio del Interior, a través del Ministerio de Relaciones Exteriores.” (Decreto No. 26, 1978, republished 18 December 2015, Article 49)

Article 50 of Decree No. 26 stipulates that the Cuban Immigration and Foreign Affairs Department disposes of a time frame not exceeding 90 days to respond to the applications referred to in Article 48 and to notify the interested party:

“La Dirección de Inmigración y Extranjería dispone de un término que no exceda de 90 días para dar respuesta a las solicitudes a que se refiere el artículo 48 del presente Reglamento y notificar al interesado.” (Decreto No. 26, 1978, republished 18 December 2015, Article 50)

The procedure for a Cuban emigrant to reapply for residence in Cuba is laid out in Resolution No. 44 of the Ministry of Interior from October 2012, effective as of January 2013, stipulating that Cuban émigrés applying in Cuban Consulates abroad or at the Ministry of the Interior must submit a request and a valid passport. Furthermore, they have to indicate a reference person in Cuba who is committed to guarantee accommodation and upkeep, if applicable, until the applicant disposes of his own housing and income. The applicant must provide information about the route used for migration and the causes for requesting residence in Cuba:

“PRIMERO: La presente Resolución tiene como objetivo establecer el procedimiento mediante el cual los ciudadanos cubanos emigrados presentan las solicitudes de residencia en el territorio nacional.

SEGUNDO: Los ciudadanos cubanos emigrados que soliciten establecer su residencia en el territorio nacional, ante los Consulados Cubanos en el exterior o la Oficina de Trámites del Ministerio del Interior que corresponda, deben cumplir los requisitos siguientes:

- a) Presentar la solicitud.
- b) Presentar el Pasaporte Corriente vigente.
- c) Informar la persona de referencia que en Cuba se compromete a garantizar su alojamiento y manutención cuando corresponda, hasta tanto el interesado pueda disponer de vivienda e ingresos propios. [...]

TERCERO: Las solicitudes de las personas a que se refiere el apartado anterior deben informar sobre la vía utilizada para emigrar y las causas por las que solicita su residencia nuevamente en Cuba, así como los datos de identidad y el pasaporte vigente de los menores de edad o incapaces que lo acompañen. [...]” (Resolución No. 44, 13 October 2012)

The undated website of the Cuban diplomatic representations abroad contains a section on how to apply for residence in Cuba, a procedure called HE-4. The application is approved by the Cuban immigration authorities and allows the entry into the national territory for a Cuban emigrant wanting to once again permanently take up residence in Cuba. The applications will be submitted to the consular offices by the interested parties. The website mentions the same requirements as Resolution 44 (application form, a valid Cuban passport, information pertaining to a person of reference responsible for securing accommodation and support in Cuba). It adds, that the willingness of support must be recorded in a notarial document in Cuba by the person of reference in case he/she is summoned by the immigration authorities for such

purposes. The payment of the consular fee in accordance with the current legislation is also mentioned as a requirement. According to the website, the repatriation process is carried out by the Cuban immigration authorities, therefore if required, the applicant must submit any other document that is requested by the competent authorities. The consulate will be in charge of notifying the abovementioned to the applicant. In the case of children who wish to repatriate without one or both parents they must present a power of attorney (notary document) in favour of the person who will take custody of the child, granted by the parent or parents who do not accept the repatriation process:

“Solicitud de residencia en el territorio nacional (HE-4)

Se otorga, por las autoridades migratorias cubanas, para entrar al territorio nacional a ciudadanos cubanos emigrados que desean reasentarse nuevamente en Cuba con carácter permanente. Las solicitudes serán formuladas en las oficinas consulares por los interesados. El expediente de solicitud de residencia en el territorio nacional se conforma con los documentos siguientes:

- a) Presentar la planilla de solicitud.
- b) Presentar Pasaporte cubano vigente.
- c) Informar la persona de referencia que en Cuba se compromete a garantizar su alojamiento y manutención cuando corresponda hasta tanto el interesado pueda disponer de vivienda e ingresos propios. Esta voluntad deberá manifestarse mediante documento notarial en Cuba, por parte de la referencia, cuando Inmigración lo cite para tales efectos.
- d) Pagar el arancel consular, según corresponda, de acuerdo con la legislación vigente.

El proceso de repatriación es tramitado por las autoridades migratorias cubanas, por lo que en caso de que se requiera, el solicitante deberá presentar cualquier otro documento que sea solicitado por las autoridades competentes. El consulado se encargará de notificar lo anterior al solicitante.

En el caso de los menores que deseen repatriarse sin uno o ambos padres deberá presentar un poder (documento notarial) a favor de la persona que asumirá la custodia del menor, otorgado por el padre o de los padres que no se acojan al proceso de repatriación.”
(Representaciones Diplomáticas de Cuba en el Exterior, undated (c))

On the subject of return of a Cuban emigrant to Cuba, Nuris Piñero Sierra in her 2015 introduction to the Cuban Migration Law also refers to the Ministry of Interior’s Resolution No. 44 of October 2012, explaining that Cuban emigrants wanting to return to live in Cuba can apply for repatriation either at a Cuban diplomatic representation in the country they reside in or at the responsible office of the Ministry of Interior when they are on a visit to Cuba. The applications submitted to diplomatic representations abroad are forwarded via the Ministry of Foreign Relations to the Immigration and Foreign Affairs Department which has set itself a time limit of 90 days within which to respond to the applicant:

“¿Puede una persona que ha emigrado volver a residir en Cuba de manera permanente? Según la Resolución 44 de 13 de octubre de 2012 del ministro del Interior, aquellos ciudadanos cubanos emigrados con interés de fijar nuevamente su residencia en el territorio nacional, conocido como repatriación, pueden formular sus solicitudes ante las sedes diplomáticas cubanas de los países en que residen o ante la oficina de trámite del Ministerio del Interior que corresponda, cuando se encuentren de visita en Cuba. Las solicitudes presentadas ante las sedes diplomáticas cubanas se remiten a través del Ministerio de Relaciones Exteriores a la Dirección de Inmigración y Extranjería, a quien se le ha concedido un término que no exceda de noventa días para dar respuesta al interesado.” (Piñero Sierra, 2015, p. 14)

The activist Laritza Diversent explains in her article published on the Cubalex website in June 2014 that the new migration law makes it possible for Cuban emigrants to regain their residency in Cuba which signifies a substantial change compared to previous legislation. However, according to Diversent, the decision about regaining residence lies with a state organ equipped with discretionary powers. From 1987 until the current change in legislation the “permission to repatriate” was granted by the Cuban immigration authorities on humanitarian grounds, such as people who were terminally or seriously ill, victims of abductions and persons older than 60 years with proof of means to sustain themselves. But with the new legislation the state now focuses on foreigners and emigrants as two areas with economic potential, giving emigrants the opportunity to regain residency on the island and with it the right to participate in elections, take up work in the private sector and buy cars and houses. However, the Ministry of Interior has made it clear that it is going to choose which emigrants can return and claim their rights and which cannot:

“Unos de los aspectos positivos de las nuevas regulaciones fue permitir a los cubanos residentes en el exterior, recuperar la residencia cubana. Esta es una novedad de la ley y puede decirse que es realmente un cambio. De su interpretación se desprende que no es necesario estar residiendo en la Isla para recuperar la residencia, aunque la decisión depende de un órgano estatal con facultades discrecionales. El antecedente del permiso de residencia, fue el Permiso de repatriación, una categoría migratoria que surgió a partir de 1987 (Regreso Definitivo a Cuba). Era la autorización que otorga las autoridades migratorias cubanas para regresar a Cuba con carácter permanente, basado fundamentalmente en razones humanitarias, previa solicitud formulada por los emigrados cubanos a favor propio y/o de sus hijos menores. Este Permiso se otorga a los que se encuentren clínicamente desahuciados o gravemente enfermos, víctimas de secuestros, las personas mayores de 60 años que demuestren tener recursos para auto sustentarse, las mujeres mayores de 60 años, hombres de 65 años y menores de 16 años de edad, siempre que demuestren que cuenta con familiares en Cuba que garanticen sus sustento económico. [...]

Sin duda el Estado se enfoca en sectores con potencialidad económica: extranjeros y emigrados. A estos últimos les da la oportunidad de recuperar la residencia en la isla, y con ella el derecho a participar en las elecciones, ejercer el trabajo por cuenta propia, a comprar autos y una vivienda, etc. Esta decisión si representó un cambio en la política

migratoria cubana. Al permitir recuperar derechos dentro de Cuba, se infiere que el gobierno está dando pasos para iniciar relaciones con la emigración. Sin embargo, la posibilidad de que el Ministerio del Interior reconozca este derecho a cubanos residentes en el exterior, sin estar viviendo físicamente en el país, deja bien claro que seleccionará que emigrados pueden o no recuperar sus derechos.” (Diversent, 16 June 2014)

The May 2017 report by Landinfo on entry and exit procedures in Cuba also contains a section on regaining residence after having stayed abroad for more than 24 months. According to Landinfo, a Cuban who has stayed abroad for more than 24 months and wants to return to Cuba to settle there must apply for repatriation. Such an application is processed by the Cuban diplomatic representations abroad, and the authorities in Cuba make a decision as to whether the person is allowed to repatriate. The Cuban diplomatic representations are not involved in the decision. The applicant for repatriation must complete a form. The Cuban authorities must have all the information about why the Cuban wants to repatriate. The name of the family or guardians in Cuba must be stated and a financial guarantee from family or friends in Cuba must be submitted. Property belonging to persons who have received the status of emigrado has been expropriated by the Cuban state. Cubans who repatriate, therefore, basically have nothing to return to. According to information given by a source for consular affairs in May 2017, an economic guarantee is therefore necessary for repatriation. In addition, the applicant must have a certificate of conduct from the police showing that he is not the subject in a criminal investigation in Norway. Every case of repatriation is handled by the Cuban authorities in the migration department of the Interior Ministry, in cooperation with the Ministry of Foreign Affairs. According to the source for consular affairs, applications for repatriation are usually granted in cases where the financial guarantee is obtained and the applicant is not involved in any criminal activity. The consular source knows several examples (both from Norway and other countries) of Cubans who have been out of Cuba for more than 24 months after applying for asylum and whose application for repatriation was granted after their asylum claim was rejected. Cubans who want to repatriate after having been married abroad have also been granted repatriation. It takes a few months for applicants to receive an answer. Before the change in the migration law came into force in January 2013, the process of repatriation was much more complicated containing the requirement for, among other things, several health certificates. It was difficult to be granted repatriation and the process could take several years. Now the process goes much faster and there is less documentation that has to be presented, according to the source for consular affairs in May 2017. There are cases where Cubans who have the title “emigrado” (emigrant) have received an authorisation of their passport (habilitado), received an entry permit for Cuba and applied for the actual repatriation after entry into Cuba. This according to Landinfo is an example for the fact that it has become much easier to repatriate. (Landinfo, 26 May 2017, pp. 3-4)

The independent news outlet Cubanet in an article of July 2015 refers to information given by an independent lawyer in Havana. According to the lawyer, the former migratory legislation only allowed ill and helpless persons, persons without family support and persons older than 60 years to apply for repatriation. Now this process is open to any Cuban residing abroad, even including entire families. However, persons that are qualified as terrorists or political enemies are excluded from repatriation. Such persons are not even allowed to return to Cuba for a visit.

The lawyer notes that repatriation is also open to the terminally ill, individuals who have been staying in Cuba for longer than 24 months, victims of abductions carried out by other persons who left the island by illegal means, state employees who left their posts abroad but demonstrate justified motives for not returning in time or have to take care of family members in need as well as unaccompanied minors who present a power of attorney granting guardianship to a person [in Cuba]. The procedures for repatriation take place at the diplomatic representations abroad and in Cuba at the Ministry of Interior:

“René López Benítez, abogado independiente, residente en La Habana, explica: ‘El Decreto-Ley 302, Modificativo de la Ley 1312 (Ley de Inmigración) del 20 de septiembre de 1976 y los Decretos 305 y 26 (Reglamento de la Ley de Migración) del 12 de octubre de 2012, establecen el procedimiento de repatriación. Primero fueron personas enfermas, desvalidas, sin apoyo familiar; o mayores de sesenta años. Ahora cualquier cubano residente afuera, hasta familias completas. Se exceptúan los cubanos que el gobierno califica como destacados terroristas y enemigos políticos. Esos no pueden regresar ni de visita.’ Precisa López que también pueden optar por repatriarse enfermos clínicamente desahuciados; individuos que sobrepasaron veinticuatro meses de permanencia en Cuba; víctimas de secuestros por otros que salieron ilegalmente; profesionales del Estado que abandonaron sus responsabilidades en el extranjero, pero acreditan motivos justificados por no regresar en término o atender a familiares desvalidos; menores solos sin uno o ambos padres, que presentan Poder Notarial a favor de la persona que asumirá la custodia. Los trámites se realizan en sedes diplomáticas. En la isla en Inmigración del Ministerio del Interior.” (Cubanet, 6 July 2015)

Martí Noticias reports in January 2016 that according to inquiries carried out by a reporter in Miami, more and more Cubans are expressing their intention to repatriate to the island now that the migratory regulations which have been in place since 2012 make this possible for the majority of Cubans abroad. However, according to Martí Noticias, many Cubans who undertake this step do not intend to settle on the island permanently, but rather want to legalise their status in Cuba in order to inherit houses and properties passed on by parents and other family members. Enrique Salermo, a Cuban who has been living in the US for 38 years, explained to Martí Noticias that two weeks ago he applied for repatriation in order to live between both countries in the same way that citizens of other Latin American nations do. In this way he can open a bank account and own a car or a house in Cuba. According to Salermo, he had to pay about 100 Cuban pesos worth of official stamps in order to start the repatriation process. The Immigration and Foreign Affairs Department in Holguín, his home town, told him that the process will take between three and nine months. Salermo further indicated that he needs a home in Cuba that will take him in and that once the process is completed and he receives his identity card, he will buy a house. Then he will be able to stay in Cuba as long as he likes without having to pay the costly extension fees which Cubans who are residents abroad are required to pay. The article further mentions that the majority of Cubans abroad are now able to initiate the process of repatriation provided they do not openly oppose the government:

“Un reportaje del periodista Adriel Reyes, de Radio Martí, indicó que es cada vez más común en Miami que personas comenten su intención de repatriarse a la isla en virtud de las normativas que desde el 2012 hacen expedito el proceso para la mayoría de los

exiliados que lo deseen. Pero muchos de los que están haciendo el trámite no pretenden establecerse en la isla de forma permanente, sino legalizar su estatus para poder comprar o heredar viviendas y propiedades de los padres y otros familiares. [...]

Enrique Salermo, un cubano que vive hace 38 años en Estados Unidos, explicó a Martí Noticias que hace dos semanas inició su proceso de repatriación porque quiere vivir entre los dos países como lo hacen ciudadanos de otras naciones latinoamericanas. ‘Lo hago porque tengo mis beneficios (...) Soy un ciudadano cubano. ¿Por qué razón no puedo tener una cuenta de banco, un carro, una casa en mi país?’, dijo Salermo. Salermo dijo que tuvo que pagar el equivalente a \$100 en sellos para iniciar el trámite que durará entre tres y nueve meses, según le informaron las autoridades de Inmigración y Extranjería de Holguín, su ciudad natal. También explicó que tiene que tener una casa que lo reciba y que, una vez terminado el proceso, recibirá su carnet de identidad, comprará una vivienda y podrá permanecer todo el tiempo que desee en el país sin tener que pagar la molesta y costosa prórroga exigida a los cubanos residentes en el extranjero. El mecanismo de repatriación existe desde hace años, pero era exclusivo para personas desvalidas, enfermas o mayores de 60 años. A fines del 2012, La Habana hizo más expedito el trámite, al que pueden acceder en poco tiempo la mayoría de los cubanos siempre que no se opongan abiertamente al Gobierno.” (Martí Noticias, 4 January 2016)

Cibercuba, an online portal based in Spain and featuring news, entertainment and lifestyle items targeted at Cubans on the island and abroad, in February 2016 publishes an interview on repatriation procedures with Alejandro Cantón, head of the Miami based company Somos Cuba Travel and Services. Cantón says that repatriation is a process available to all Cubans residing abroad who want to regain their residency status in Cuba and by that also regain their rights as Cuban citizens. Whereas previously only persons above 60 years, ill or helpless people without any economic support were eligible for repatriation, now every Cuban can apply. According to Cantón there are no specific circumstances that could lead to the repatriation application being denied. Only those people facing legal problems with the Cuban state or the state they reside in cannot apply. All other Cuban citizens residing outside the island can, without objection, apply for it; including their spouses and children, even if they are not Cuban citizens by birth. Cantón further states that the process of repatriation is quite easy. The person (applicant) needs to travel to Cuba and together with the relative who owns the property of the place where the returnee is to reside, go to a notary who will officially register the applicant as living in that same household. Both the applicant and the relative need to be physically present for this procedure. The notary then gives the applicant a document with which he must go to the relevant Immigration Office and request the repatriation forms. The local official, who does these kind of procedures daily, will explain the procedure to follow after completing these forms. Cantón recommends initiating the process directly at the Immigration Office in Cuba in order to expedite the process. If the applicant is unable to travel he can call the Cuban consulate in the country where he resides and request to be sent the forms for this process. The repatriation process from initiation until approval usually takes three to five months. After that time the person is contacted and must then proceed to have his Identity Card issued, which he can collect personally or delegate to another person or family member to pick it up once it is issued. Cantón stresses that it is not mandatory to remain in Cuba while the repatriation

process is under way. The cost of the procedure is 100 CUC (Cuban convertible pesos) plus stamps for the value of 25 CUP (Cuban pesos) which must be paid at the Immigration Office when initiating the process:

“Para saber un poco más de este fenómeno, sus características, formas para repatriarse, requisitos e implicaciones CiberCuba ha conversado con Alejandro Cantón, Presidente de Somos Cuba Travel and Services.

CiberCuba: ¿Qué significa repatriarse para un cubano? Alejandro: La Repatriación no es más que la posibilidad que tienen los cubanos residentes en el exterior y que habían perdido sus derechos legales en Cuba a obtener de nuevo su residencia legal en la isla y, por ende, recuperar sus derechos como ciudadano cubano. La Repatriación como tal existe desde hace muchos años aunque solo podían lograrla las personas mayores de sesenta años o personas enfermas, desvalidas o sin ningún apoyo económico. Hoy es un derecho por el que todos los cubanos pueden optar.

CiberCuba: ¿Qué requisitos deben cumplirse para poder hacerlo? Alejandro: En la actualidad no hay requisitos específicos que puedan derivar en la no aceptación de la Repatriación: solo aquellas personas que enfrenten problemas legales ya sea con Cuba o con su país de residencia no podrán optar por la misma; el resto de los ciudadanos cubanos que residan fuera de la isla pueden, sin objeción alguna, optar por ella; incluso sus cónyuges e hijos, aún cuando no sean ciudadanos cubanos de nacimiento.

CiberCuba: ¿Cuál es el procedimiento habitual y cuánto suele tardar? ¿Cuánto cuesta de media? Alejandro: El procedimiento de la Repatriación es bien sencillo. La persona debe viajar a Cuba y acudir, junto con el familiar que posea la propiedad legal del lugar donde el repatriado va a residir, a un notario que le hará el trámite requerido, que consiste en agregarlo oficialmente al núcleo de la vivienda. Ambos deben estar presentes físicamente ese momento. El notario le entregará un documento con el cual la persona que se repatria deberá dirigirse a la Oficina de Emigración que le corresponde y solicitar en ella las Planillas para la Repatriación. Los oficiales del lugar, quienes hacen estos trámites a diario, le explicarán el procedimiento a seguir luego de llenar esas planillas. Yo recomiendo se haga directamente en las oficinas de Emigración en Cuba para que sea mas expedito el trámite. En el caso de que la persona no pueda viajar, puede llamar al Consulado Cubano correspondiente a la zona donde resida y solicitar allí que se les envíen las planillas para dicho trámite. Desde el momento en que se inicia el proceso hasta la aprobación del caso suelen pasar entre tres y cinco meses. Luego de ese tiempo la persona es contactada y deberá entonces proceder a hacerse su Carné de Identidad, que puede recoger personalmente o delegar en otra persona o familiar para que lo recoja cuando esté disponible. Es importante recalcar que ‘no es obligatorio permanecer en Cuba mientras el proceso de Repatriación está en marcha’. Antes funcionaba de esa manera pero ya no es requisito obligatorio. El costo del trámite es de 100 CUC más sellos por el valor de 25CUP los cuales deberán ser abonados en la Oficina de Emigración y en el momento de iniciar el proceso.” (Cibercuba, 22 February 2016)

The 2016 book *Emigrant Policies in Latin America and the Caribbean* by Luicy Pedroza, Pau Palop and Bert Hoffmann indicates the following as to the repatriation of Cuban emigrants:

“There is no systematic return policy, and there are no specific communication campaigns to this end. However, the 2013 reform of the migration law has opened a wide door for repatriation of emigrants. Also the improved relations with the US, improved access to telephone and Internet communication, and liberalized travel rules are likely to make a return option more feasible for emigrated Cubans. This may prove to be in the economic interest of the Cuban government.” (Pedroza, Palop and Hoffmann, October 2016, p. 158)

Havana Times, an island-based independent news outlet also notes the rise in applications for repatriation in an article of October 2016:

“While hundreds of thousands have abandoned Cuba in the last decade, over 13,000 Cuban residents in the United States have requested to be repatriated on the island in the last two years, according to official statistics. The figures were provided by the Cuban Ambassador to the US, Jose Ramon Cabanas, in an interview published on the Cubadebate website. They are the first figures that have been given about an increasing number of petitions since both governments decided to reestablish relations in December 2014. The statistics only reflect the number of people who have done this consular red-tape in Washington DC and don’t include those who are currently in the process of being repatriated and are still awaiting approval.

Last year, statistics from the Cuban Immigration and Foreign Affairs Department revealed that 9,400 people who had emigrated before the Cuban migration policy reform was implemented in January 2013, returned to Cuba with the objective to settle down in the country permanently. Out of these, 5,000 left and went abroad again. During the 3rd meeting with Cuban residents in the United States, which took place in Washington last Saturday, the Ambassador explained that up until October 24th this year, they had provided 122,000 consular services more than they had in all of 2015.” (Havana Times, 28 October 2016)

Sebastián A. Arcos, Associate Director of the Cuban Research Institute at Florida International University, in an email response of 24 May 2017 stated the following concerning the possibility for Cubans to repatriate:

“There is a growing number of Cuban émigrés who are repatriating to the island without any reported complications.” (Arcos, 24 May 2017)

The German expert on Cuba mentions in the phone conversation on 31 May 2017 that an expatriate Cuban is not legally entitled to repatriation, but there are a number of Cubans who have successfully repatriated themselves, therefore it is not a mass phenomenon but not a rare occurrence either. The expert gave the example of someone who had lived in the US for 20 years and then repatriated in order to have access to the Cuban health care system. (German expert on Cuba, 31 May 2017)

Erik Jennische, programme director for Latin America at the Swedish human rights organisation Civil Rights Defenders explained in an email response of 19 June 2017 that he knows of Cubans going back to the island in order to buy a house or to help family members with building a business, therefore residing in both the US and Cuba. He added, however, that he does not know which kind of permit makes this possible. (Jennische, 19 June 2017)

1.3.3 Returnees' economic and social rights: Access to employment, education, healthcare, housing, ration cards

The website Juriscuba, which describes itself as a platform providing information on Cuban legislation published by Cuban legal experts in Cuba and abroad, in an overview dated October 2015, outlines the rights and obligations of repatriated Cubans. According to Juriscuba, a repatriated Cuban is granted the same rights that the constitution grants any other Cuban citizen (political rights, the right to vote, social rights, health-care, food distribution as well as the right to education if applicable). He is also granted the same civil rights as stipulated by the Civil Code (the right to own property, the right to inherit, the right to purchase and sell properties or cars, employment) as well as labour rights (the possibility to apply for licences to work in a self-employed capacity in a non-state business or to join other productive activities). The same travel regulations for any Cuban also apply to a repatriated Cuban (travelling abroad and returning to Cuba within 24 months):

“Derechos y deberes de los repatriados en Cuba

- Los establecidos en la Constitución de la República como cualquier otro ciudadano cubano (políticos, electorales, sociales, asistencia para la salud, de distribución alimenticia, educacionales si fuere el caso, etc)
- Civiles reconocidos en el Código Civil (sobre la propiedad, hereditarios, propietarios, compraventa de inmuebles, autos, contratación, jurisdicción voluntaria, etc).
- Laborales (pueden solicitar licencias para laborar como cuentapropistas en negocios no estatales, o incorporarse a otras actividades productivas, etc).
- Migratorios como otro cubano (viajar al extranjero y regresar a Cuba antes de los 24 meses como residente permanente).” (Juriscuba, 19 October 2015)

The 2016 book *Emigrant Policies in Latin America and the Caribbean* by Luicy Pedroza, Pau Palop and Bert Hoffmann notes the following:

“Since the migration reform of 2013, emigrants who repatriate can make use of all social benefits again: Free medical care and education, a pension (given they have worked for a sufficient time in Cuba to be eligible). They can even get a food-rationing book should they so desire. It is also possible to transfer pensions obtained in another country to the returnee in Cuba. This reform seems to be aimed at Cuban-American pensioners who want to return to the island. According to unofficial sources, in 2013 and 2014 about 10,000 emigrants are said to have come back to reside in Cuba.” (Pedroza, Palop and Hoffmann, October 2016, p. 158)

In a January 2016 article, The Washington Post mentions the economic activities of repatriated Cubans as well as the regained access to free health care and food rations:

“Estrada is a repatriado, a repatriate, one of the growing number of Cubans who have opted to move back to the island in recent years as the Castro government eases its rigid immigration rules. The returnees are a smaller, quieter countercurrent to the surge of Cubans leaving, and their arrival suggests a more dynamic future when their compatriots may come and go with greater ease, helping to rebuild Cuba with earnings from abroad. Not since the early years of Fidel Castro’s rule, when his leftist ideals brought home a number of exiles initially sympathetic to the 1959 revolution, have so many Cubans voluntarily returned. The difference is that today’s repatriates are not coming back for socialism. They are coming back as capitalists. Which is to say, they are returning as trailblazing entrepreneurs. Prompted by President Raúl Castro’s limited opening to small business and his 2011 move allowing Cubans to buy and sell real estate, the repatriates are using money saved abroad to acquire property and open private restaurants, guesthouses, spas and retail shops. Cuban authorities said they could not provide up-to-date statistics, but in 2012, immigration officials said they were processing about 1,000 repatriation applications each year. The numbers appear to have increased since then, at least judging from anecdotal evidence and the proliferation of new small businesses in Havana run by returnees.

Communist authorities no longer stigmatize such Cubans or view them as ideologically suspicious, provided they’re not coming back as anti-government activists. Virtually all Cubans who emigrated are eligible for repatriation unless they are deemed to have committed ‘hostile acts against the state.’ Returnees say the paperwork takes about six months to process. It allows them to return home with a shipping container’s worth of goods and to regain access to the socialist country’s benefits, including free health care and food rations.” (The Washington Post, 1 January 2016)

The US daily The Wall Street Journal (WSJ) in an article of March 2017 features the account of one of its reporters, a Cuban-American on a trip to Cuba:

“Last year’s diplomatic opening by President Barack Obama left me and other Cuban-Americans considering a radical move: reclaiming our full rights as Cuban citizens. Filling out the paperwork to ‘repatriate’ myself would mean I could live here again. Over a million of us exiles were pushed out in the decades after the revolution, initially to be ridiculed by the regime as gusanos, or worms. These days, the Cuban government is rolling out the welcome mat to lure us back, because those gusanos have metamorphosed into mariposas, or butterflies. Exiles spread much of what little wealth there is on the island, thanks to billions of dollars of remittances. In the past two years, a record 13,000 Cuban-Americans repatriated themselves, Cuban diplomats say. Under Cuban law they can buy a house here, even at the risk of violating the U.S. economic embargo, in place since 1962. Some are retiring on dollar savings that make them One Percenters by Cuban standards.” (WSJ, 30 March 2017)

Cubamet states in its July 2015 article that a repatriated Cuban will not be able to reclaim any movable or immovable property that was confiscated when he left the island. The confiscation

of property had been a practice for decades. On the other hand he is able to carry out the purchase and sale of property, apply for a self-employment license and obtain a food-rationing book in order to buy certain subsidised food items:

“El repatriado no podrá reclamar bienes muebles e inmuebles confiscados al abandonar el país, como fue práctica por décadas. Tampoco le devolverán cualquier otra confiscación. Sin embargo, sí puede acceder a la compraventa de vivienda, solicitar licencia de trabajo por cuenta propia y ser incluido en la añeja Libreta de Abastecimiento para comprar algunos alimentos subvencionados.” (Cubonet, 6 July 2015)

In the abovementioned February 2016 article by CiberCuba which features an interview with Alejandro Cantón, head of the Miami based company Somos Cuba Travel and Services, Cantón argues that repatriation has several advantages for a Cuban. He once again becomes a Cuban citizen and can therefore claim the same rights as someone who has never left the island: the right to buy property, the right to work in any governmental or private company as well as the right to register his own business in Cuba. He is also eligible to access services provided by the government such as health care and education. Cantón finds that it is difficult to know the societal attitude towards repatriated Cubans, considering that this is not a widespread phenomenon yet. However, all the people with whom his organisation has been in contact in Cuba have seen this phenomenon as something positive, desirable and necessary:

“CiberCuba: ¿Qué gana un cubano al repatriarse? ¿Para qué lo hace? Alejandro: La repatriación tiene varias ventajas para un cubano. Primero, que se le reconozca de nuevo un derecho que por circunstancias históricas y políticas una vez le fue retirado. Segundo, la persona se convierte automáticamente en un ciudadano más del país y por ende con los mismos derechos de aquel que nunca ha salido de Cuba: derecho para comprar una propiedad, derecho para trabajar en cualquier empresa ya sea gubernamental o privada, incluso derecho a registrar su propio negocio en Cuba. Así mismo, puede recibir servicios médicos, de educación entre otros que ofrece el Estado cubano. [...]

CiberCuba: ¿Cómo percibe la sociedad cubana a estos cubanos que deciden 'repatriarse'?

Es difícil saber como la sociedad cubana percibe a los repatriados teniendo en cuenta que es un fenómeno que todavía no ha tenido la divulgación que debiera tener. Sin embargo, puedo afirmar que con todas las personas que hemos tenido contacto en Cuba y hemos tocado este tema lo ven como algo positivo, conveniente y necesario.” (CiberCuba, 22 February 2016)

Martí Noticias writes in October 2016 that those who complete the repatriation process receive an identity card (carné de identidad) as well as a food-rationing book. In addition to that they regain the right to inherit, buy houses and cars and open a private business. Even though there are no official figures available, Martí Noticias notes that many do not stay to live on the island:

“Los que hacen el trámite de repatriación, reciben el carné de identidad y hasta la libreta de abastecimiento. También recuperan derechos como la posibilidad de heredar, comprar casas y carros o poner un negocio privado. Aunque no hay cifras disponibles, muchos no se quedan a vivir en la isla.” (Martí Noticias, 29 October 2016)

The Miami-based news outlet Cubanet in a May 2017 article relates the story of Michel, a Cuban national, who lived in the US for five years, buying cheap clothing in Miami and returning to Cuba once a year to sell it on the black market at ten times the price. According to Cubanet, the story of Michel, who now works in Cuba as a pawnbroker, is not exceptional but rather similar to any other repatriated person that calculated certain advantages to be gained by returning home. The article considers that with a few exceptions almost 100 percent of the Cubans who have returned to the island have not done this with the idea of reintegrating into the same adverse political system that drove them to leave the country all these years ago. They rather feel certain that with a little bit of money saved, meaning the right amount to avoid the necessity of working in the public sector, assures them a privileged place in Cuban society. They have not returned in order to join a labour market that is much more promising than that of the country which they have left or because the socioeconomic landscape has become more attractive to Cubans. Rather, they have returned in order to take advantage of thousands of legal loopholes which allow a wily person to live a comfortable life. According to Cubanet, this also becomes apparent when talking to other repatriated Cubans. Arturo, a friend of Michel, has decided to return to Cuba to enjoy his retirement at the age of 51. Having worked in the US in menial jobs for ten years, thereby saving a several thousands of US Dollars, he has now returned to “enjoy the best of what socialism has to offer”:

“Durante más de un lustro el principal trabajo de Michel consistió en comprar ropa barata en Miami para, una vez al año, traerla a La Habana como equipaje personal y revenderla en el mercado negro por hasta más de diez veces el valor original. [...]

El testimonio de Michel, que actualmente ejerce como ‘garrotero’ (prestamista), no es excepcional. Es muy similar al de cualquier otro ‘repatriado’ que ha calculado las ‘ventajas’ que lleva el tuerto en el país de los ciegos.

Se pudiera afirmar que, con algunas excepciones, casi el ciento por ciento ha regresado no con la idea de una ‘reintegración’ a ese mismo sistema político adverso que los condujo a emigrar años atrás, sino con la certeza de que solo un poco de dinero acumulado, el suficiente para esquivar la necesidad de un empleo estatal, les asegura un lugar de privilegio en la sociedad cubana. Han aprendido que los mayores obstáculos pueden ser salvados con el dinero suficiente y que las cantidades necesarias para los sobornos, en Cuba, son simple calderilla si se las compara con el mundo de la corrupción en otras latitudes. [...]

Retornar no para ingresar en un mercado laboral mucho más prometedor que el que han dejado atrás ni porque el panorama socio-económico se haya vuelto más atractivo para los cubanos –quienes jamás han sido convocados por las carteras de oportunidades emitidas por el gobierno–, sino para aprovechar las miles de fisuras legales que permiten al pícaro una vida acomodada, es lo que se intuye en la conversación con otros repatriados. Arturo cumplirá 51 años este 2017 y, a pesar de ser un hombre relativamente joven y no padecer dolencia alguna, ha regresado a Cuba para ‘disfrutar’ de su ‘retiro’. Al igual que Michel y Doray, Arturo trabajó en los Estados Unidos en empleos menores durante más de diez años y, habiendo reunido unos pocos miles de dólares ahora ha retornado a ‘disfrutar de lo mejor del socialismo’.” (Cubanet, 22 May 2017)

The German expert on Cuba mentions that the access to all public services is dependent on the residence status. If a Cuban is registered as being resident in Cuba, he is entitled to all public services. (German expert on Cuba, 31 May 2017)

1.4 Authorisation to reside abroad for longer than 24 months

The Cuban Migration Law (Ley No. 1312 - Ley de Migración) of 1976 was complemented in 1978 by the implementing Decree No. 26 which was amended in 2012 by Decree No. 305. The latest available version of Decree No. 26 was published in the Official Gazette of Cuba on 18 December 2015.

According to the Cuban legislation on migration, Cubans are considered as emigrants if they stay abroad for longer than 24 months at a time (Ley No. 1312 “Ley de Migración”, 1976, republished 18 December 2015, Article 9.1). There are, however, two options to legally prolong one’s stay abroad, one being the extension of the 24 month period and the other being the application for residence abroad (Decreto No. 26, 1978, republished 18 December 2015, Article 40).

Article 40 stipulates that passport holders of an ordinary passport have the possibility to solicit the following from the Directorate of Identification, Immigration and Foreigners, offices of the Ministry of Interior, a diplomatic or consular representation abroad or an otherwise authorized Cuban office:

- a) The extension of their stay abroad for a time exceeding 24 months, if for justified reasons they are unable to return to the country in that term.
- b) Residence abroad, if they need to reside outside the country indefinitely in order to maintain a marital union, formalised or not, with foreign citizens or for other exceptional family and humanitarian situations.
- c) Residence abroad can also be granted to parents and minor children of those who possess this category of travel:

“Los titulares de Pasaporte Corriente pueden solicitar a la Dirección de Identificación, Inmigración y Extranjería, a las oficinas de trámite del Ministerio del Interior o a la representación diplomática o consular u otra oficina cubana autorizada, según corresponda, lo siguiente:

- a) Extender la permanencia en el exterior por un tiempo superior a 24 meses, cuando por causas justificadas se ven imposibilitados de regresar al país en ese término.
- b) Residencia en el Exterior, cuando requieren residir fuera del país de forma indefinida por mantener una unión matrimonial, formalizada o no, con ciudadanos extranjeros o por otras situaciones familiares y humanitarias excepcionales.
- c) La residencia en el exterior también se puede otorgar a los padres y a los hijos menores de edad de quienes poseen esta categoría de viaje.” (Decreto No. 26, 1978, republished 18 December 2015, Article 40)

The complete Decree No. 26 including amendments by Decree No. 305 is available in its latest form of December 2015 via the following link:

- Decreto No. 26 Reglamento de la Ley de Migración de 19 de julio de 1978 [actualizado y concordado con el Decreto No. 305 de 11 de octubre de 2012 y el Decreto No. 330 de 29 Julio de 2015), republished in the Gaceta Oficial de la República de Cuba No. 41 of 18 December 2015, pp. 589-614
<http://juriscuba.com/wp-content/uploads/2015/12/Ley-migracion.reglamento-actualizada-2012.pdf>

On the undated website of the Cuban diplomatic representations abroad, more information as to the application for an extension of the 24 month period is given. It is pointed out that if the extension is granted, a fee (consular tariff rate) must be paid for every month of the extended time period:

“Extension to stay abroad for over 24 months:

The Cuban citizens who are unable to return to Cuba for some justified reason in a 24-month period and want to keep the migration status of temporary travel, may request the extension for over 24 months in the Cuban Consulate.

For this application the interested party must:

1. Present the valid Cuban Passport
2. Present the application in writing with the explanation of the reasons for the application
3. Documents backing up the reasons for the application (if it corresponds)
4. The stipulated tariff rate for this service must be paid
5. When the authorization of extension for over a 24-month period is informed, the interested party must pay the consular tariff rate, for every month of authorized extension.” (Representaciones Diplomáticas de Cuba en el Exterior, undated (a))

A further entry on the website of the Cuban diplomatic representations abroad refers to the circumstances in which the status of “residence abroad” is granted to a Cuban citizen and how he can apply for it:

“Application for Residence Abroad [Residencia en el Exterior, RE]

Generally the migration status of the Resident Abroad is granted for Cuban citizens with marital unions (formalized or not) with citizens of other countries, living abroad. Also the parents and children under 18 years of age or disabled, of Cuban citizens with the RE migration status. Also for close relatives in the national territory living with RE Cuban citizen, when it is evident that they have lost part of their protection or are unfit for work. When there are other reasons being humanitarian or family supporting the resident status

of the interested person abroad. This process is authorized by Cuban migration authorities. For requesting the RE the following steps are required:

- I. Transcription and formalization at the Consulate of the marriage held before the authorities of the foreign country. If the transcription has not been made, the corresponding documents should requested from the Consulate.
- II. Application for Residence Abroad. The Cuban spouse should carry out the procedures indicated below:
 1. Four passport photographs (4,5 x 4,5) cm
 2. Presenting a RE application form at the Cuban Immigration Office
 3. Photocopy of your passport
 4. Photocopy of the document from your country of residence
 5. Name, Last names and address of the person of reference in Cuba (father, mother, siblings, etc.)
 6. If you don't have a passport, photocopy of your Birth Certificate.
 7. You must pay the consular fees for the application. If it is approved, you must pay the corresponding consular fee for the approval at the moment of receiving the response from the Cuban authorities.
 8. If you got married in Cuba, you should present the original Marriage Certificate with at least one year of being issued." (Representaciones Diplomáticas de Cuba en el Exterior, undated (b))

As to the question whether extensions of the 24 months period are actually granted, the sources cited below differ in their assessment:

The Norwegian Country of Origin Information Center Landinfo, an independent body within the Norwegian immigration authorities which provides COI services to various actors involved in immigration procedures, notes in a May 2017 report on entry and exit procedures in Cuba that a Cuban can apply for the extension of the 24 month stay abroad, however, it is rare that such an application is granted by the Cuban authorities and, according to a consular source consulted in December 2015, would only apply under special circumstances such as sickness and family matters. The application for an extension of a 24 month stay must be submitted to the Cuban authorities no later than one month before the 24-month deadline. (Landinfo, 26 May 2017, pp. 2-3)

Sebastián A. Arcos, Associate Director of the Cuban Research Institute at Florida International University in an email response of 24 May 2017 remarked with regards to extensions of the 24 month period that he is "not aware of any such extensions being granted or denied." (Arcos, 24 May 2017)

According to information provided by a German expert on Cuba in a phone conversation on 31 May 2017, extensions to the 24 month period abroad are being issued under specific circumstances. Such circumstances seem to apply in many cases though, since extensions are being granted not only in isolated cases but rather as a more general practice. However, a person is not legally entitled to be granted this extension, and its issuance seems to depend on the embassy's deliberations regarding the individual case. The expert also mentions that the chances of receiving such an extension might increase if the applicant were to have good relations with the respective embassy. (German expert on Cuba, 31 May 2017)

Erik Jennische, programme director for Latin America at the Swedish human rights organisation Civil Rights Defenders wrote in a 19 June 2017 email response that to his knowledge there are a lot of Cubans that have received the permission to stay abroad for more than 24 months if the stay is related to studies or work abroad. However, he added that such an extension might be difficult to obtain if the person is openly critical of the government. (Jennische, 19 June 2017)

The 2016 book *Emigrant Policies in Latin America and the Caribbean* by Luicy Pedroza, Pau Palop and Bert Hoffmann features a chapter on migration policy in Cuba. The temporary travel category of 24 months abroad together with its possible extension is described thusly:

"Travel/Temporary migration: Those citizens who travel for private purposes may stay outside Cuba for up to 24 months, with extension possible against payment of a monthly sum and updating of the passport. The line between travel and temporary migration is deliberately blurred, as in this category, residence in Cuba is formally maintained. As a consequence, these migrants continue to enjoy all rights and properties in Cuba, including pensions, workplace, and healthcare benefits." (Pedroza, Palop and Hoffmann, October 2016, p. 152)

The chapter further also contains information on the category "residence abroad", pointing out that this status is not only granted to Cubans with foreign spouses anymore:

"Residence abroad: Since 2013, the permit to reside abroad (Permiso de Residencia en el Exterior; PRE), formerly only granted to those married to a foreigner or similar cases, is granted more flexibly. It allows the citizen to live abroad for an indefinite time without being considered an emigrant or losing Cuban residence status, without having to pay monthly fees. Citizens with a PRE retain their rights to social services, pensions, and properties. They may come back to reside in Cuba whenever they desire." (Pedroza, Palop and Hoffmann, October 2016, p. 152)

The same section of the chapter also features more general remarks on the discrepancies between the Cuban migration regulations and their application in practice, which seem to also depend in large part on discretionary decisions taken by the Cuban state authorities:

"A particular challenge in analyzing Cuban emigrant policies is that administrative practice does not only correspond to legal stipulations (e.g. the prohibition of dual nationality). Moreover the recent migration reform of 2013 sidesteps many issues associated with

citizens living abroad by facilitating an option to travel for up to 24 months (plus possibility to renew) while maintaining Cuban residence status. Although, in practice, this often serves for temporary migration with extended (or even primary) residence abroad. While there are set laws and regulations, Cuban state authorities retain significant discretion in their application. A further difficulty in the Cuban case stems from the restricted public discussion on these issues, as much in parliament as in the national media.” (Pedroza, Palop and Hoffmann, October 2016, p. 152-153)

1.5 Repercussions for family members of Cuban emigrants

Concerning repercussions for family members of Cubans who illegally left the country or have overstayed their allowed 24 months abroad, the German expert on Cuba remarked in the phone conversation on 31 May 2017 that to his knowledge, nothing happens to family members unless there are other issues involved. According to the expert, these issues arise if the person who left the country is a high-ranking state official with access to state secrets or is someone on record for breaking the law. (German expert on Cuba, 31 May 2017)

The US Department of State (USDOS) in its March 2017 report on human rights practices in Cuba (reporting period: 2016) makes a note of the following:

“Some family members of former government employees who emigrated from the island lost public benefits or were denied passports to travel and join their family members abroad.” (USDOS, 3 March 2017, section 2d)

Erik Jennische, programme director for Latin America at Civil Rights Defenders mentions in an email response of 19 June 2017 that he knows a Cuban living in Sweden who has been working on human rights issues and has not been allowed to travel to Cuba to visit his family. Additionally, his parents have not been granted permission to travel to Sweden and visit their son. According to Jennische, the Cuban government told the parents that this is due to their son’s human rights work, labelling him a “traitor”. (Jennische, 19 June 2017)

Since only little information on the situation of family members of persons who overstay their allowed 24 month period abroad could be found, the following sources were included that mention the treatment of families of returned asylum seekers and persons who left the island illegally:

The Immigration and Refugee Board of Canada (IRB) in a query response of May 2016 provides the following information regarding returned asylum seekers:

“Information on the treatment by Cuban authorities of family members of failed asylum seekers that have returned to Cuba was scarce among the sources consulted by the Research Directorate within the time constraints of this Response. The chairman of the IISC stated that, to his knowledge, family members of failed asylum seekers that have returned to Cuba ‘suffer no consequences’ (5 Apr. 2016). Corroborating and further information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.” (IRB, 4 May 2016)

Sebastián A. Arcos, Associate Director of the Cuban Research Institute at Florida International University in an email response of 24 May 2017 noted that “in general, since 1994 there has been little repercussions to family members of those who leave the island illegally.” (Arcos, 24 May 2017)

The Cuba-based digital newspaper 14ymedio reports in April 2016 on police harassment targeting the wife of a former rafter (balsero) who has on multiple occasions tried to leave the island illegally and is currently in Guyana on business:

“Cuban police are searching for a boat stolen from the Revolutionary Armed Forces (FAR) and to find it they are raiding houses of former rafters, according to Solainy Salazar, whose husband tried to leave the island several times. That was the justification given by the authorities, including several State Security agents, who searched her home on Monday. [...]

Police and State Security agents accused Solayni Salazar of being an accomplice in the theft of the boat and described all the members of her family as antisocial and counterrevolutionary. ‘They offended me with their words as much as they wanted and when I threatened them with filing a complaint they were indifferent, because they know nothing is going to happen to them,’ says the wife, age 31. ‘They threatened to arrest me. But they never brought the witnesses (required by law) when they did the search and they never showed me a court order to enter my home. And they did all this in front of my little boy,’ she says. In addition, she says, she was told that her husband was in Guyana escaping from the law, an argument that Salazar considers ‘completely false.’

‘I fear for what will happen to my husband when he returns from the trip. Surely they will try to arrest him or persecute him for a crime he has not committed,’ she says. Salazar believes that the authorities are persecuting her family due to her husband’s multiple attempts to illegally exit the country and because of his opposition to the government.” (14ymedio, 26 April 2017)

2 Civil and political rights

2.1 Political dissidents

The German Federal Foreign Office (Auswärtiges Amt, AA) mentions in its country information profile on Cuba (last update: March 2017) that the Communist Party is the only party allowed in Cuba. (AA, March 2017a)

In its March 2017 human rights report covering the year 2016, the US Department of State (USDOS) also remarks that “[t]he constitution recognizes the CP [Communist Party] as the only legal party and the leading force of society and of the state.” (USDOS, 3 March 2017, executive summary)

Similar information is provided by the US Commission on International Religious Freedom (USCIRF) in its annual report 2017 (reporting period 2016), mentioning that “[t]he Communist Party is the country’s only constitutionally recognized party.” (USCIRF, 26 April 2017, p. 135)

The German Gesellschaft für Internationale Zusammenarbeit (GIZ) a German governmental entity specialising in international development on its Country Information Portal (LIPortal) in May 2017 provides the information that no independent or oppositional candidates are allowed to run for a public office and that the organised political opposition in Cuba is weak. (GIZ, May 2017a)

The Swedish Ministry for Foreign Affairs (Utrikesdepartementet, UD) explains in a report published in April 2017 that Cuba is a socialist one-party state and that the Communist Party is the only allowed party. A number of smaller political groups are spread across the country, but they are illegal and at risk of persecution and sanctions, for example in the form of arbitrary arrests and travel restrictions. They have limited influence, partly because of the difficulty of reaching the public with their messages due to the monopoly of the state media and poor internet access, but also because of funding restrictions and limited freedom of assembly. (UD, 26 April 2017, pp. 3-4)

The US-based non-governmental organisation Freedom House in its January 2017 annual report on political rights and civil liberties in 2016 notes that “[a]ll political organizing outside the PCC (Communist Party of Cuba) is illegal, and independent campaigning is not permitted”. (Freedom House, January 2017)

2.1.1 Key actors and organisations of the political opposition and government critics

The Information, Documentation and Research Division (DIDR) of the French Office for the Protection of Refugees and Stateless Persons (Office Français de Protection des Réfugiés et Apatrides, OFPRA) in an April 2016 report on major dissident groups and Cuban political opponents describes in detail the following organisations and individuals: Ladies in White, Cuban Commission for Human Rights and National Reconciliation, Patriotic Union of Cuba, Christian Liberation Movement, La Mesa de Diálogo de la Juventud Cubana, Arco Progresista Party, Yoani Sánchez, Antonio Rodiles, Gorki Águila, Danilo Maldonado Machado (El Sexto) and Marta Beatriz Roque. (DIDR, 21 April 2016)

The US daily newspaper Washington Post in a January 2015 article reports on a breakfast meeting of US Assistant Secretary of State Roberta Jacobson with seven prominent political dissidents. The breakfast was attended by Daniel Ferrer (Patriotic Union of Cuba), Elizardo Sánchez (Cuban Commission for Human Rights.), Antonio Rodiles (State of SATS), Miriam Leiva (Ladies in White), Héctor Maceda (Cuban Liberal Democratic Party), Guillermo ‘Coco’ Fariñas and Marta Beatriz Roque. Berta Soler refused the invitation. (The Washington Post, 23 January 2015)

The Spanish daily newspaper El País in an April 2017 article describes Eliécer Ávila who heads the movement Somos+ as “one of the most active opponents of the regime”. (El País, 13 April 2017)

BBC News in a March 2012 article provides information on “some of the main figures in the Cuban dissident movement”, referring to Orlando Zapata Tamayo, Guillermo Fariñas, Elizardo Sanchez, the Ladies in White and Yoani Sánchez. (BBC News, 19 March 2012)

A May 2017 article by Martí Noticias with the title “Opposition leaders in Cuba expecting changes in US policy towards the island” contains interviews with the following individuals: Berta Soler (Ladies in White), Antonio Rodiles (State of Sats), Eliécer Ávila (Somos+) and Carlos Amel Oliva (Patriotic Union of Cuba). (Martí Noticias, 31 May 2017)

In May and June 2017, three consulted experts added Dagoberto Valdés (Center for Coexistence Studies), Oscar Elías Biscet González (Lawton Foundation), Jorge Luis García Pérez, aka Antúnez (Orlando Zapata Tamayo National Resistance Front), Laritza Diversent (Cubalex), Tania Bruguera, Henry Constantín, Wilfredo Vallín (Cuban Juridical Association), the Havana-based independent news agency Hablemos Press as well as the organisation Cuba Possible to a list of suggested key government critics and organisations of the political opposition.

Sebastián A. Arcos, Associate Director of the Cuban Research Institute at Florida International University wrote in a 24 May 2017 email response that “there are many other individual actors and organizations as Cuban civil society continues to regenerate and grow.” (Arcos, 24 May 2017)

Erik Jennische, programme director for Latin America at Civil Rights Defenders wrote in an email response of 19 June 2017 that “it is difficult to know where the line for ‘opposition’ goes. How critical and organized do you need to be?” (Jennische, 19 June 2017)

All the organisations and persons named above are further described in the following section where they are classified according to four categories: political opposition, human rights activists, government critics/persons with a public profile and media. Persons living permanently and for a longer period of time in exile and persons who have already died were not taken into consideration:

2.1.1.1 Political opposition

Patriotic Union of Cuba (Unión Patriótica de Cuba, UNPACU), José Daniel Ferrer

A March 2016 article of the Institute for War and Peace Reporting (IWPR), an independent not-for-profit organisation that works with media and civil society in conflict zones, describes the UNPACU as “one of Cuba’s largest movements” and mentions José Daniel Ferrer as its coordinator. (IWPR, 19 March 2016)

The Washington Post in the abovementioned January 2015 article refers to Jose Daniel Ferrer as the head of the UNPACU and writes that “[h]is organization, known as UNPACU, its Spanish acronym, is widely considered the largest and most active opposition group, with up to 5,000 open and underground members”. (The Washington Post, 23 January 2015)

In its March 2017 human rights report covering the year 2016, the USDOS describes the UNPACU as “[t]he largest opposition group”. (USDOS, 3 March 2017, section 1d)

The Congressional Research Service (CRS) notes in May 2017 that the UNPACU was “established in 2011 by several dissident groups with the goal of fighting peacefully for civil liberties and human rights” and is led by José Daniel Ferrer García. (CRS, 26 May 2017, p. 8)

The Human Rights Foundation (HRF) which describes itself as a nonpartisan non-profit organisation that promotes and protects human rights globally and focuses on closed societies, in an April 2017 news release characterises the UNPACU as “a civil society organization founded by dissident José Daniel Ferrer that advocates for democracy in Cuba”. (HRF, 14 April 2017a)

The Inter-American Commission on Human Rights (IACHR) in its April 2017 annual report covering the year 2016 mentions Daniel Ferrer as “former political prisoner and leader of UNPACU”. (IACHR, 27 April 2017, p. 550)

In March 2017 the Cuban Commission for Human Rights and National Reconciliation (CCDHRN) reports that 482 arbitrary detentions of peaceful dissidents were documented in February 2017. The CCDHRN goes on to say that the UNPACU was once again among the most repressed organisations in Cuba. According to the CCDHRN, 54 members of the UNPACU are political prisoners most of whom remain imprisoned without being formally charged or pending trial. (CCDHRN, 7 March 2017, p. 1)

The website of the UNPACU can be accessed via the following link:

- UNPACU - Unión Patriótica de Cuba: Unión Patriótica de Cuba | UNPACU, undated
<http://www.unpacu.org/>

Christian Liberation Movement (Movimiento Cristiano Liberación, MCL), Eduardo Cardet

CRS in May 2017 in a footnote describes the Christian Liberation Movement in the following terms:

“The Christian Liberation Movement was founded by world renowned political activist Oswaldo Payá in 1988, and calls for peaceful democratic change. Payá was killed in a mysterious car accident in 2012 along with another Cuban human rights activist. His daughter, Rosa María Payá, has called for an international investigation into the crash.” (CRS, 26 May 2017, p. 9, footnote 15)

In an Urgent Action of March 2017, the international human rights organisation Amnesty International (AI) characterises the Christian Liberation Movement as a “prominent actor in the pro-democracy movement in Cuba” and states:

“According to its website, it is a movement for peaceful and democratic change and respect for human dignity. It was founded in 1988 by Oswaldo Payá Sardiñas, who became a visible figure of the Cuban political opposition, and four other activists. Amnesty International has documented harassment and intimidation of members of the MCL for decades. In 1991, after Oswaldo Payá Sardiñas presented a petition calling for a national referendum relating to constitutional reform, he had his home destroyed by over 200 people, said to be members of a Rapid Response Brigade. After Oswaldo Payá announced his intention to put himself forward as a candidate for deputy to the National Assembly for the municipality of Cerro, Havana, members of his organization were reportedly subjected to frequent questioning and short-term detention.” (AI, 27 March 2017, p. 2)

In the same Urgent Action of March 2017 AI reports on the conviction of Eduardo Cardet, the leader of the Christian Liberation Movement, to three years in prison after publicly criticising Fidel Castro shortly after his death:

“Dr. Eduardo Cardet Concepción, leader of the Christian Liberation Movement (Movimiento Cristiano Liberación, MCL) since 2014 was sentenced to three years in prison on 20 March. He was arrested in Holguín on 30 November 2016, five days after the death of the former leader of Cuba, Fidel Castro. [...] Eduardo Cardet was charged with attacking an official of the state (atentado) after he publicly criticized Fidel Castro a few days after his death. Prior to his arrest, Eduardo Cardet had given interviews published in international media in which he had been critical of the Cuban government.” (AI, 27 March 2017, p. 1)

In another Urgent Action of January 2017 AI features information relating to a proposal submitted to the Cuban parliament by the Christian Liberation Movement:

“In March 2016, according to news reports, the MCL presented 10,000 signatures to the Cuban parliament in support of Project Varela – a long-standing proposal which advocates constitutional reform within Cuba and promotes freedom of association and speech, free elections, freedom of religion, and amnesty for political prisoners, among other things. According to Article 88 of the Cuban Constitution, laws can be proposed by citizens if a proposal is made by at least 10,000 citizens who are eligible to vote. In July, the MCL submitted a proposal to the Cuban parliament entitled ‘One Cuban, One Vote’ (Un cubano, un voto) which makes a series of recommendations for reforms to the electoral law.” (AI, 31 January 2017, p. 2)

In its March 2017 human rights report covering the year 2016, the USDOS mentions the Christian Liberation Movement as a human rights organisation that “continued to function outside the law”. (USDOS, 3 March 2017, section 5)

The website of the MCL can be accessed via the following link:

- MCL - Christian Liberation Movement: Oswaldo Paya, undated
<http://www.oswaldopaya.org/es/>

Arco Progresista Party (Partido Arco Progresista), Manuel Cuesta Morúa

A September 2009 article by Inter Press Service (IPS), a global news agency with a focus on issues such as development, environment, human rights and civil society, provides the following information on the Arco Progresista Party:

“A moderate dissident group in Cuba that aspires to become a ‘political majority’ in the future announced Thursday that it would hold a congress in 2010. The social democratic group, Arco Progresista (AP), says 150 to 200 delegates from around the country will take part in the congress. [...]

‘We are facing new circumstances, both within and outside the country, which create better conditions for a climate of tolerance, especially with regard to an approach like ours, which is progressive,’ AP spokesman Manuel Cuesta Morúa told IPS, after making the announcement to the press.

AP, which started out as a coalition of social democratic groups, declared itself a political party in July 2008 as a result of the merging of the Corriente Socialista Democrática Cubana (Cuban Democratic Socialist Current), the Coordinadora Socialdemócrata de Cuba (Cuban Social Democratic Coordinator, in exile), the Partido del Pueblo (People’s Party), the Movimiento Juvenil Socialdemócrata (Social Democratic Youth Movement), the Proyecto de Estudios de la Mujer (Women’s Studies Project), Cambio Tranquilo (citizen network for peaceful change), and the ‘Diego Vicente Tejera’ Centro de Estudios (Studies Centre).

‘We represent an option and a voice...a social minority that wants to become a political majority,’ said Cuesta Morúa.

According to the documents handed out to the press, the ‘first AP congress’ will focus on ‘the Cuban crisis with a strategic approach that is fundamental for the future: the social, cultural and political institutionalisation of social democracy in Cuba.’ [...]

Leonardo Calvo, one of the group’s vice presidents, clarified that the AP is not fighting for a change of government or to replace any specific individual, but for the creation of ‘a new kind of coexistence, and to restore the citizen’s voice, space and ability to determine their own fate.’ In its platform, the AP advocates the ‘recognition of all economic rights,’ the free exercise of workers’ right to unionise, and a ‘comprehensive, in-depth’ new agrarian reform effort that would put the land back in the hands of farmers. With respect to relations with the international community, it calls for ‘critical, constructive dialogue, and non-isolation and cooperation as a means of modernising Cuba,’ and says that ‘a

substantial change' in U.S. policy towards Cuba would contribute to that end. In addition, the AP 'reaffirms its opposition to the embargo and to meddling of any kind in Cuba's internal affairs,' and 'promotes recognition of the rights of all citizens and minorities without conditions or discrimination of any kind.'" (IPS, 10 September 2009)

Forum 2000, a foundation and conference in Prague which promotes the development of civil society and encourages religious, cultural and ethnic tolerance, on its website gives the following description of Manuel Cuesta Silvestre Morúa who was invited to take part in the 20th Forum 2000 Conference which took place in October 2016:

"Mr. Cuesta Morúa has been a member of the Cuban opposition for over 20 years. He is head of the Arco Progresista political group, which includes Cuban social-democratic organizations. He was one of two Cuban dissidents who met with Barack Obama at the Summit of the Americas in Panama. He also heads the Citizen's Committee for Racial Integration (CIR) and is an active member of the Open Space (Espacio Abierto) opposition civic forum. In 1998, he co-founded the Reflection Roundtable of the Moderate Opposition (Mesa de Reflexión de la Oposición Moderada). He studied history at the University of Havana." (Forum 2000, undated)

The 19 March 2016 article of the Institute for War and Peace Reporting (IWPR) refers to Manuel Cuesta Morúa as "head of the Arco Progresista Party and the leader of the Otro 18". (IWPR, 19 March 2016)

The Woodrow Wilson Center in Washington, DC, a publicly supported, non-profit organisation that was created by the US Congress, in November 2016 provides the following information on Manuel Cuesta Morúa, who has been granted the Ion Ratiu Democracy Award:

"The Woodrow Wilson International Center for Scholars is pleased to announce that Dr. Manuel Cuesta Morúa, a leading scholar and political activist from Cuba, will receive the 2016 Ion Ratiu Democracy Award, a one-month fellowship in Washington, D.C. [...] A historian of Contemporary Asia, Dr. Manuel Cuesta Morua has worked extensively on democratic reforms in Cuba. Over the last two decades Cuesta Morua joined and played a leading role in a number of human rights organizations, including the Human Rights and National Reconciliation Commission. With other dissidents, he established the Reflection Table of the Moderate Opposition, in 1998, and organized Arco Progresista in 2002. He has been arrested multiple times for defending human rights and organizing opposition gatherings in Havana. He has held more than 300 round table discussions that focus on proposing a new, democratic constitution for the nation. In March 2016 he was a member of a select group of Cuban dissidents to meet with President Obama at the U.S. Embassy in Havana. At present Cuesta Morúa is coordinating, with other prominent activists, the Plataforma Ciudadana #Otro18, seeking electoral reforms in Cuba, and belongs to the Unity Roundtable for Democratic Action, a coalition of organization and personalities from Cuba and abroad." (Wilson Center, 2 November 2016)

No official website of the Arco Progresista Party could be found.

Somos+, Eliécer Ávila

The Spanish daily newspaper El País in an April 2017 article notes that Somos+ (We are more) presents itself as a “movement that wants to build a modern, prosperous and free country”. Eliécer Ávila, the leader of Somos+, which, according to the article, is “considered one of the most active opponents of the regime led by Raúl Castro”, is described as follows:

“Ávila, a graduate in computer sciences and a member of official bodies such as the Union of Young Communists and the Federation of University Students, says that if he had ‘betrayed’ his convictions by now he would be a ‘privileged leader.’ He fell out of favor with the regime after publicly challenging the then president of the Cuban parliament, Ricardo Alarcón, about the government’s restrictions on internet use and its policy of monitoring people’s online activities.” (El País, 13 April 2017)

The Miami Herald in a May 2017 article refers to Eliécer Ávila as “a young Havana engineer who founded Somos +” and “who wants to run in the next municipal election”. (The Miami Herald, 13 May 2017)

The New York Times (NYT) in a January 2017 article characterises Eliécer Ávila as “a prominent opposition leader who heads the group Somos + — which means ‘there’s more of us’”. (NYT, 13 January 2017)

The US broadcast institution Voice of America (VOA) in a March 2016 article mentions Eliécer Ávila as president of Somos Más or We Are More, “an opposition group in Cuba”. (VOA, 21 March 2016)

The news agency Reuters in a September 2016 article refers to Eliécer Ávila as “head of opposition youth group Somos Mas”. (Reuters, 6 September 2016)

14ymedio in a May 2017 article states that Joanna Columbié, a detained member of the National Council of Somos+, has been warned by an agent of the Cuban Security services that the organisation will be destroyed in the following days:

“Desde la cárcel del Vivac, donde ha cumplido este lunes tres días de detención, Joanna Columbié, miembro del Consejo Nacional de Somos+, ha informado que el agente Leandro, de la Seguridad del Estado, le ha asegurado que ese movimiento opositor ‘será destruido en los próximos días’. [...] Según Eliécer Ávila, líder de Somos+, el agente *Leandro* ha dicho a Joanna que será ‘procesada’ porque ya están ‘cansados’ de Somos+ y de su participación en #Otro18.” (14ymedio, 29 May 2017)

The website of Somos+ can be accessed via the following link:

- Somos+: <http://somosmascuba.com/>, undated
<http://somosmascuba.com/>

Marta Beatriz Roque

The Washington Post in the abovementioned 23 January 2015 article mentions Marta Beatriz Roque and calls her a “dissident economist”. (The Washington Post, 23 January 2015)

In a further March 2016 article by the Washington Post, Marta Beatriz Roque is described as “a dissident economist who leads the Cuban Institute of Independent Economists”. (The Washington Post, 13 March 2016)

In an Urgent Action of January 2012 AI notes that the Community Communicators Network (Red de Comunicadores Comunitarios) is “an opposition group headed by former prisoner of conscience Martha Beatriz Roque Cabello”. (AI, 20 January 2012)

The USDOS in its August 2016 annual report on International Religious Freedom (covering 2015) reports that “state police prevented prominent human rights leaders Miriam Leiva, Berta Soler, and Martha Beatriz Roque from attending a ceremony to greet the pope and a subsequent church service led by him at a cathedral in Old Havana”. (USDOS, 10 August 2016, section II)

BBC News in a February 2016 article notes that, according to activists, “seven members of a group known as the Black Spring were told they would be allowed to make one journey abroad for good behaviour” and that one of the seven was Marta Beatriz Roque. (BBC, 25 February 2016)

14ymedio in a March 2016 article describes Martha Beatriz Roque as a “Cuban dissident” and “economist condemned to 20 years in prison in the 2003 ‘Black Spring’ for violating the ‘independence and territorial integrity of the State,’ collaborating and receiving resources from the United States, and trying to undermine the principles of the Revolution.” The article goes on to say that Roque “who was born in 1945 and also has Spanish nationality, arrived in Miami Thursday, on a permit granted by the Cuban government that allows her to travel outside the country one time only.” (14ymedio, 4 March 2016)

Guillermo Fariñas

BBC News in its March 2012 article features information on Guillermo Fariñas:

“Another hunger striker, Guillermo Farinas, gained international attention in 2010 when he came close to death after staging a 134-day hunger strike, as part of a campaign to release of the most seriously ill prisoners, and was fed intravenously. He ended the protest in July 2010, when Cuban President Raul Castro authorised the release of 52 of the island’s most prominent prisoners of conscience. The EU awarded Mr Farinas its Sakharov Prize for Freedom of Thought from the European Parliament in December 2010, although he was not allowed to leave Cuba to collect the award. Mr Farinas, a doctor of psychology and journalist, has spent more than 11 years in prison for a variety of offences and has staged dozens of hunger strikes.” (BBC News, 19 March 2012)

HRW in an October 2010 article describes Guillermo Fariñas as follows:

“The European Parliament’s award of its Sakharov prize for human rights to Guillermo Fariñas, the Cuban dissident who held a hunger strike to call for the release of other political prisoners, is a welcome step, Human Rights Watch said today. Since Fariñas ended his 135-day hunger strike, Cuba has released more than 40 political prisoners, forcing most into exile in Spain.” (HRW, 21 October 2010)

In January 2017 CRS mentions that Guillermo Fariñas “ended an almost two-month hunger strike in October 2016”. (CRS, 18 January 2017, p. 9)

The Freedom Forum, an annual conference organised by the New York-based Human Rights Foundation “where the world’s most engaging human rights advocates, artists, tech entrepreneurs, and world leaders meet to share their stories and brainstorm ways to expand freedom and unleash human potential across the globe” (Oslo Freedom Forum, undated (a)), provides the following information on Guillermo Fariñas, who was a speaker at the 2017 Forum that took place in May 2017:

“Guillermo ‘El Coco’ Fariñas Hernández is a Cuban psychologist, journalist, and political dissident. He has spent more than 11 years in prison and conducted 23 hunger strikes to protest the Cuban regime, censorship, and attacks on freedom of speech. After serving in the military for more than a decade, Fariñas left to establish a mental health ward and adolescent clinic in Sancti Spíritus. He became the General Secretary of the Healthcare Workers’ Union and was sent to jail for the first time in 1995 after denouncing corruption within the hospital where he was employed. In 2003, he founded Cubanacan Press, an independent news agency aimed at raising awareness of the fate of political prisoners in Cuba. In 2006, Fariñas held a seven-month hunger strike to protest internet censorship in Cuba, which he ended later that year due to severe health problems. In 2015, Fariñas resumed his role as coordinator of the Foro Antitotalitario Unido. Fariñas has received numerous awards for his work, including Reporters Without Borders’ Cyber-Freedom Prize in 2006 and the Sakharov Prize for Freedom of Thought in 2010.” (Oslo Freedom Forum, undated (b))

Héctor Maceda

Martí Noticias notes in an October 2016 article that Laura Pollán, one of the founders of the Ladies in White, is the wife of Héctor Maceda, one of the 75 dissidents arrested during the so called “Black Spring”:

“Maestra de profesión, Laura Pollán fue una de las fundadoras del grupo Damas de Blanco, que reclamó por años la liberación de los presos políticos cubanos y el respeto de los derechos humanos en la isla. [...] No se consideró ‘política’ hasta que fue encarcelado su esposo, el opositor Héctor Maceda, quien cayó en una redada del Gobierno contra 75 opositores en un proceso que se conoció como Primavera Negra. Los opositores fueron condenados entonces a penas de entre 6 y 28 años de cárcel.” (Martí Noticias, 14 October 2016)

A July 2010 article of the British daily The Times contains similar information:

“Laura Pollán, the leader of the Ladies in White group of prisoners’ relatives, said she was ‘so excited’ at the news but would remain wary until she saw the releases for herself. Her husband, Héctor Maceda, was sentenced to 20 years in jail for treason after his 2003 arrest for activities as a journalist and head of the Liberal Democratic Party of Cuba. ‘It’s something that is overdue but nevertheless very welcome.’” (The Times, 9 July 2010)

The German think tank Konrad Adenauer Stiftung (KAS) mentions in a short report on Cuba published in December 2010 that Laura Pollán recently died. Her husband Héctor Maceda, arrested during the “Black Spring”, was in prison for seven years. He was one of the 14 dissidents who remained in Cuba after release from prison. (KAS, 8 December 2011, p. 2)

The US-based NGO Committee to Protect Journalists (CPJ) in a July 2011 report describes Héctor Maceda as “a recently freed independent journalist and recipient of the 2008 CPJ International Press Freedom Award”. (CPJ, 6 July 2011)

The Washington Post in its 23 January 2015 article mentions that Héctor Maceda is the “president of the Cuban Liberal Democratic Party”. (The Washington Post, 23 January 2015)

The Spanish daily El Mundo in a February 2011 article notes that Héctor Maceda, an independent journalist, was president of the Liberal Democratic Party when he was arrested in 2003 and sentenced to 20 years in prison. (El Mundo, 12 February 2011)

A March 2015 article of Martí Noticias similarly states that Héctor Maceda was president of the Liberal Democratic Party when he was arrested in 2003 for “threatening national security”. The article goes on to say that Maceda is the president of the Liberal Parties of Cuba project and that he coordinates the Center for Socioeconomic and Political Studies. (Martí Noticias, 17 March 2015)

Óscar Elías Biscet (Lawton Foundation)

The Washington Post in June 2016 describes Óscar Elías Biscet in the following terms:

“When awarded the Presidential Medal of Freedom by George W. Bush in 2007, Óscar Elías Biscet had a scheduling conflict, being in a Cuban prison. At the White House ceremony, Bush called him a ‘dangerous man ... in the same way that Martin Luther King Jr. and Gandhi were dangerous.’ It was not until three years later in a dark cell that another prisoner told him what the citation read that day had said.

Recently, unexpectedly, Biscet was allowed by the Cuban regime to travel to the George W. Bush Institute in Dallas and finally receive the award from Bush’s hands. Biscet explained this as part of the regime’s effort to create ‘the impression of change.’ That impression was dimmed a bit by the humiliating searches he was subjected to at the airport upon his departure. Knowing that the police would rummage through his suitcase, Biscet left a surprise: a Cuban flag covering his belongings. That is the kind of in-your-face defiance displayed by many dissidents. Biscet is offended to the core that the country he loves is occupied by squalid autocrats who have run it into the ground. Political heroism is

often expressed by the simple inability to stomach the next indignity. For this attitude, Biscet has spent 12 of his 54 years in Cuban jails.

His first offense was exposing deception at the heart of Cuban health care, the regime's main source of revolutionary pride. In the early 1990s, Biscet (an internist and medical teacher) began documenting 'the mix between politics and medicine' that kept child mortality rates in Cuba so low. The government pressured hospitals and doctors to pressure women with problem pregnancies to abort, in order to post better statistics. 'If they know a baby may have congenital malformations,' Biscet told me, 'they are killed before birth, unless parents show very strong objections.' He explained: 'It is all about appearances.'" (The Washington Post, 30 June 2016)

A June 2016 article of 14ymedio also features information on Óscar Elías Biscet:

"On his first trip to the United States, former political prisoner Oscar Elias Biscet has shown once again that he doesn't mince words: he has criticized President Barack Obama's visit to Cuba, he has spoken in favor of repealing the Cuban Adjustment Act, and he has raised the possibility of a military coup on the island.

A doctor by profession, Biscet is backed by the Lawton Foundation, the National Democratic Party and the New Union for a Free Cuba Foundation. He presented the Emilia Project at a press conference this Saturday; the project is named in honor of Emilia Teurbe Toulon, who in the mid 19th-century first sewed the first Cuban flag. According to Biscet his initiative is a 'project of freedom' that seeks 'the disintegration of the dictatorship of the Castros.'

Biscet was sentenced to 25 years in prison for presenting research that denounced the abortion practices of the Cuban health system, but was released in 2011 and decided to stay on the island. Recently, the Cuban government allowed him to travel abroad 'only once,' and the regime opponent is in the midst of a tour that has taken him to Spain and the United States. He has expressed fears for his life on his return to Cuba." (14ymedio, 4 June 2016)

The US Commission on International Religious Freedom (USCIRF) in its annual report 2017 (reporting period 2016) describes Óscar Elías Biscet as "Presidential Medal of Freedom Winner" and indicates that he was arrested in January 2017 and released later that day after having been warned "to cease his activism". (USCIRF, 26 April 2017, p. 135)

A January 2017 article of The Miami Herald provides the following information on Óscar Elías Biscet González:

"Cuban dissident Dr. Oscar Elías Biscet, recipient of the U.S. Presidential Medal of Freedom, was taken into custody by police and state security agents Wednesday morning in Havana and briefly detained. [...] By Wednesday afternoon, he was released with a warning about his activities, said Inspire America founder Marcell Felipe, who spoke with Biscet via telephone. [...] Three other dissidents — Eduardo Quintana Suárez, José Omar Lorenzo Pimienta, and Yoan Álvares — also were detained. Inspire America said they had planned

to meet in a Havana park to distribute a newsletter celebrating the 4th anniversary of the Emilia Project, a campaign to gather signatures on a document that asks for a new democratic and free parliament to be created to replace Cuba's National Assembly of People's Power and demands that a new constitution be drafted on the principles of democracy and freedom.

Biscet, who was awarded the Presidential Medal of Freedom by President George W. Bush in 2007, is one of the directors of the Emilia Project and was arrested in 2002 as part of the 'Black Spring' roundup of dissidents. He was sentenced to 25 years in prison but was released in 2011." (The Miami Herald, 11 January 2017)

The Observatory for the Protection of Human Rights Defenders, a joint programme of the International Federation for Human Rights (FIDH) and the World Organisation Against Torture (OMCT), in its October 2011 annual report on the situation of human rights defenders and on obstacles to freedom of association in 2010 notes that Óscar Elías Biscet is the "Founder and President of the Lawton Foundation (Fundación Lawton), a non-governmental organisation that promotes the study, defence and reporting of human rights in Cuba." (Observatory for the Protection of Human Rights Defenders, October 2011, p. 200)

In its March 2017 human rights report covering the year 2016, the USDOS mentions that the Lawton Foundation for Human Rights "continued to function outside the law". (USDOS, 3 March 2017, section 5)

The website of the Lawton Foundation can be accessed via the following link:

- Lawton Foundation: Lawton Foundation for Human Rights, undated
<http://www.lawtonfoundation.com/>

Jorge Luis García Pérez, aka Antúnez (Orlando Zapata Tamayo National Resistance Front (Frente de Resistencia Nacional Orlando Zapata Tamayo))

Reporting on the year 2014, the UK Foreign and Commonwealth Office (FCO) notes the following regarding Jorge Luis García Pérez:

"Jorge Luis Garcia, 'Antúnez', a prominent activist, was frequently intimidated, including through short-term detentions and confiscation of his possessions. He initiated a hunger strike to try to get his belongings back." (FCO, 12 March 2015)

In its April 2016 human rights report covering the year 2015, the USDOS refers to Jorge Luis García Pérez as a human rights activist, saying that he "reported an act of repudiation in Villa Clara in which state-sponsored individuals called human rights activists 'mercenaries' and held signs to discredit them". (USDOS, 13 April 2016, section 1d)

The Freedom Collection, which was established by US President Bush in 2009 and describes itself as an "archive of the struggle for human freedom and democracy around the world" that "works to extend the reach of human liberty around the world by promoting democracy, political freedom, and individual rights" (The Freedom Collection, undated (a)) published an

undated interview with Jorge Luis García Pérez on its website, characterising him in the following terms:

“Jorge Luis García Pérez (better known as ‘Antúnez’) was born in Placetas, Cuba in 1964. He is the leader of the Orlando Zapata Tamayo National Resistance Front. The Front is a Cuban civil society organization named for a political prisoner who died while on a hunger strike in 2010. [...]

Antúnez, inspired by freedom movements in Eastern Europe, became active in the Cuban opposition. In March 1990, he was arrested for publically denouncing the Castro regime and sentenced to five years in prison. Despite his incarceration, Antúnez remained defiant by refusing to wear a prisoner’s uniform and rejecting the government’s re-education programs.

Antúnez also created the Pedro Luis Boitel political prisoners group in honor of the famous prisoner of conscience who died during a hunger strike in 1972. Through this organization, the prisoners drew inspiration and encouragement to continue their struggle. As a result, Antúnez was subject to solitary confinement, torture, and an extension of his five year sentence. He endured 17 years of prison before being released in 2007. Antúnez continues advocating for freedom and democracy in Cuba with his wife, Yris Tamara Pérez Aguilera, leader of the Rosa Parks Feminist Movement for Civil Rights. His work involves supporting Cuban political prisoners, and expanding political freedoms and civil liberties.” (The Freedom Collection, undated (b))

The Irish-based human rights organisation Front Line Defenders on its website provides an undated “case history” of Jorge Luis García Pérez containing the following description of him and the Orlando Zapata Tamayo Civic Resistance Front:

“Cuban authorities have been engaged in a series of arbitrary arrests and judicial harassment against defenders in Cuba in the last half of 2015. Amongst them, the case of human rights defenders Jorge Luis García Pérez ‘Antúnez’ and Yris Tamara Perez Aguilera, both of whom were arrested on 11 November 2015 and released the following day.

Jorge Luis García Pérez – ‘Antúnez’ - is a member of Frente de Acción Cívica ‘Orlando Zapata Tamayo’ (Civic Action Front ‘Orlando Zapata Tamayo’ - FACOZT). FACOZT is an organisation that fights for the release of political prisoners in Cuba and reports human rights abuses committed by police forces against peaceful demonstrators in the country.” (Front Line Defenders, undated)

Cubanet in a December 2015 article reports on a congress of the Orlando Zapata Tamayo Civic Resistance Front in Havana:

“This morning, in the Havana municipality of Boyeros, 53 members of the Orlando Zapata Tamayo Civic Resistance Front, representing several regions of the country, held their first congress and launched the campaign ‘No, No and No to Dictatorship.’

The event, which discussed among other issues the need to diversify the scenario of peaceful struggle and develop a set of strategies to promote it, was presided over by the

human rights activist Jorge Luis García Pérez ‘Antúnez,’ and was attended by, among others, Agustín López Canino, director of the digital portal *Cubanos de Adentro y de Abajo*, and Raúl Borges Álvarez, President of the Party for Christian Democratic Unity of Cuba.” (Cubagnet, 3 December 2015)

IWPR in a March 2016 article mentions Jorge Luis García Pérez as “general secretary of the Civic Resistance Front”. (IWPR, 2 March 2016)

No official website of the Orlando Zapata Tamayo National Resistance Front could be found.

2.1.1.2 Human rights activists

Ladies in White (Damas de Blanco), Berta Soler

BBC News in its 19 March 2012 article notes that the Ladies in White “are perhaps the most visible group of dissidents in Cuba” and goes on to say:

“They are the wives and mothers of political prisoners. Each Sunday after Mass, they march through the centre of Havana, calling for their sons and husbands to be released. They started their protests in 2003 during the Black Spring. In 2005, they received the Sakharov Prize for Freedom of Thought from the European Parliament. In late April 2010, their protests were broken up by groups of pro-government supporters, who pushed the women off the street and shouted insults at them. But in June of that year, the government agreed to stop harassing the Ladies in White during their weekly march. The 75 prisoners arrested during the Black Spring have all since been released under a deal brokered by the Roman Catholic Church, and some have gone into exile in Spain.” (BBC News, 19 March 2012)

In May 2017, the GIZ describes the Ladies in White as the female family members of 75 dissidents arrested in 2003. Although the remaining members of the 75 were released in March 2011 and many of the women have gone into exile, the group has not stopped its activities. They organise public demonstrations against human rights violations committed by the Cuban government. Their Sunday marches in Havana are repeatedly impeded or dispersed by the security forces. (GIZ, May 2017a)

The Congressional Research Service (CRS), which provides research for the United States Congress, mentions in May 2017 that the Ladies in White were “formed in 2003 by the female relatives of the ‘group of 75’ dissidents arrested that year” and are “currently led by Berta Soler”. (CRS, 26 May 2017, p. 8)

The Inter-American Commission on Human Rights (IACHR), an autonomous organ of the Organization of American States that promotes and protects human rights in the American hemisphere characterises in its April 2017 annual report (covering the year 2016) the Ladies in White as a “movement, formed in 2003 by the wives, mothers, and children of men and women imprisoned in Cuba for reasons they consider unjust” which is led by Berta Soler Fernández. (IACHR, 27 April 2017, p. 550)

In its annual report published in January 2017 Human Rights Watch (HRW) provides the following information on the Ladies in White:

“The Ladies in White (Damas de Blanco) - a group founded by the wives, mothers, and daughters of political prisoners also, like the Cuban Commission on Human Rights, lacks official authorization and is therefore considered illegal by the government. Its members are routinely harassed, roughed up, and detained by either police or state security agents before or after they attend Sunday mass.” (HRW, 12 January 2017)

In March 2017 the Havana-based human rights organisation Cuban Commission for Human Rights and National Reconciliation (CCDHRN) reports that 482 arbitrary detentions of peaceful dissidents were documented in February 2017. The CCDHRN goes on to say that the Ladies in White were once again among the most repressed organisations in Cuba. (CCDHRN, 7 March 2017, p. 1)

Agencia EFE, a Spanish news agency, in an April 2017 article reports on alleged plans by the Cuban government to dissolve the Ladies in White movement before the end of President Castro’s term in February 2018:

“The Cuban opposition movement Ladies in White on Thursday in Miami said that the Castro regime has devised a plan to dissolve their group before Raul Castro leaves the presidency in February 2018. ‘Top regime officials have given us to understand during (our) arrests that the Ladies in White has already ceased to exist, that we cannot continue (to march) on Cuban streets, that we’re finished’ as an organization,’ Leticia Ramos Herreria, a member of the group on the communist island, told EFE. Ramos spoke at a press conference about the alleged Cuban government plan to ‘destroy’ the Ladies in White at a time when the repression of dissidents on the island is being intensified. She said that elements of the plan to break the resistance of the Ladies in White is to be seen in the beatings, ‘harsh and cruel’ interrogations including humiliations such as being forced to strip naked in front of male State Security and police officials, and the arrest of members’ children for ‘crimes fabricated’ by the authorities. But Ramos expressed the firm resolve of the Ladies in White to continue with their public - and peaceful - peaceful protests’ despite the beatings, threats against our children and increase in repression’ and to ‘demonstrate’ to the Cuban regime that they will not stop their demands for ‘freedom for political prisoners and the Cuban people.’” (Agencia EFE, 20 April 2017)

The website of the Ladies in White can be accessed via the following link:

- Las Damas de Blanco: Las Damas de Blanco, undated
<http://www.damasdeblanco.com/>

Cuban Commission for Human Rights and National Reconciliation (Comisión Cubana de Derechos Humanos y Reconciliación Nacional, CCDHRN), Elizardo Sánchez

BBC News in its 19 March 2012 article states the following with regard to Elizardo Sánchez:

“Elizardo Sanchez

One of the best known Cuban dissidents and one of the few with any kind of public profile inside Cuba. He was one of the 75 activists rounded up and arrested in 2003, during what became known as the Black Spring. He now runs the Cuban Human Rights and National Reconciliation Commission, which is technically illegal but is tolerated by the Cuban government.” (BBC News, 19 March 2012)

CRS notes in May 2017 that the CCDHRN is “an independent Havana-based human rights organization that produces a monthly report on short-term detentions for political reasons”. (CRS, 26 May 2017, p. 12)

In an Urgent Action published in March 2017, AI writes that the CCDHRN is “a Cuban-based human rights NGO not recognized by the state”. (AI, 31 March 2017, p. 2)

In its March 2017 human rights report covering the year 2016, the USDOS describes the CCDHRN as “an independent human rights nongovernmental organization (NGO)”. (USDOS, 3 March 2017, section 1b)

In its annual report published in January 2017 Human Rights Watch (HRW) states that the CCDHRN is “an independent human rights group that lacks official authorization and is therefore considered illegal by the government”. (HRW, 12 January 2017)

The German international broadcaster Deutsche Welle (DW) in a January 2017 article explains that “[l]ike all opposition groups in Cuba, the CCDHRN - led by dissident activist Elizardo Sanchez - is illegal, but is currently tolerated in practice by Cuba’s government.” (DW, 6 January 2017)

The Website of the CCDHRN which does not seem to be updated any more can be accessed via the following link:

- CCDHRN - Comisión Cubana de Derechos Humanos y Reconciliación Nacional: CCDHRN, undated
<http://ccdhrn.org/>

Cubalex, Laritza Diversent

The international media freedom NGO Reporters Without Borders (Reporters Sans Frontières, RSF) in an October 2016 article describes Cubalex as “a Cuban NGO that defends media freedom” and as an organisation which “has been subjected to various forms of harassment – including searches, disconnected phone lines and humiliating interrogations – since it issued a report on free speech in Cuba and presented it to the United Nations in Geneva.” (RSF, 21 October 2016)

IACHR in its April 2017 annual report covering the year 2016 points out that Cubalex was “reportedly awaiting State recognition of its status as an organization”. (IACHR, 27 April 2017, p. 566)

According to a March 2016 article by AI, Cubalex is “a group that provides independent legal and human rights assistance to all Cubans, including people unfairly imprisoned solely for peacefully expressing opinions that are at odds with those of the Castro brothers’ regime”. (AI, 21 March 2016)

Freedom House in its January 2017 annual report on political rights and civil liberties in 2016 refers to the “Center for Legal Information, a pro-bono, public-interest legal consultancy also known as CubaLex” as a group “specifically targeted for harassment and repression during 2016”. (Freedom House, January 2017)

The Miami Herald in a May 2017 article describes Cubalex as an organisation not recognised by the state “which offers independent legal advice and has proposed several reforms to the electoral system”. The article further refers to Laritza Diversent as the director of Cubalex and notes that she and several other Cubalex activists asked for political asylum in the United States. (The Miami Herald, 13 May 2017)

14ymedio in May 2017 provides the following information on Cubalex:

“The team at the Cubalex Legal Information Center and its director, attorney Laritza Diversent, have obtained political refuge in the United States following the intensification of repression against the nonprofit organization dedicated to legally advising Cubans. [...]

The organization, based in the municipality of Arroyo Naranjo in Havana and founded in 2010, provides legal advice but is not legally recognized within the island, despite the numerous reports it has drafted for the United Nations and the Inter-American Commission on Human Rights, among other international organizations. In July of last year the government refused to legalize Cubalex, after ruling that in Cuba no independent legal aid organizations are needed because ‘the State already defends the people.’” (14ymedio, 4 May 2017b)

Mesa de Diálogo de la Juventud Cubana, Kirenia Yalit Núñez Pérez

A July 2016 article of Diario de Cuba contains an interview with Kirenia Yalit Núñez Pérez, the director of the Mesa de Diálogo de la Juventud Cubana, in which she describes the organisation:

“The fact that Cuban civil society is now struggling to throw off shackles of totalitarianism is something that Kirenia Yalit Núñez Pérez boasts the credentials to attest to. This Psychology graduate from the University of Havana, who has done extensive work in collaboration with human rights activists, is the general coordinator of an organization that seeks to bring together young people to empower them and walk the difficult path towards democracy.

Núñez Pérez is the director of the Mesa de Diálogo de la Juventud Cubana (MDJC), or Cuban Youth Dialogue Forum, a recently-undertaken project representing a clear sign that times are changing on the Island. She sat down to speak with DIARIO DE CUBA.

How did the MDJC come about? What is its main purpose?

The Forum was founded on February 22, 2014 in response to demand for a body specifically for young people. Its forerunner was the Red Latinoamericana de Jóvenes por la Democracia en Cuba (Latin American Network of Youth for Democracy in Cuba), founded by seven young people from different Latin American countries, an organization that supports activities in Cuban civil society, especially youth-based projects. We were the founders of the Latin American Network of Youth for Democracy (JuventudLac), established in December 2014, particularly to address the situation Venezuela.

The first coordinator of the MDJC was Litivio Fernández, who served as general coordinator until the summer of that year, when he decided to leave the country, and I took office in September of that year. Basically, we have two main objectives: to encourage Cuban youth to take on leadership roles, and to promote human rights, with a stress on the rights of young people. This entails upholding youth as holders of rights and advancing proposals for youth policy, with a focus on human rights, before national bodies, for their implementation.

Where do the members of the MDJC come from?

We have young people of all kinds, as we are very inclusive. It doesn't matter where you come from, or your political affiliation or creed. As long as the young person wishes to work in a respectful and inclusive manner, the Forum is a space for him or her.

We are not a political party but an NGO that is mainly concerned with the development of public policy and demanding that the Cuban government respect the rights of the country's youth. Hence the importance we assign to the dissemination and the Cuban State's ratification of the Ibero-American Convention on the Rights of Youth, formulated in 2005." (Diario de Cuba, 18 July 2016)

IACHR in its April 2017 annual report covering the year 2016 mentions that Mesa de Diálogo de la Juventud Cubana, "was reportedly awaiting State recognition of its status as an organization" (IACHR, 27 April 2017, p. 566) and, together with other organisations, "presented a proposed amendment to the electoral system". (IACHR, 27 April 2017, 546)

The International Institute on Race, Equality and Human Rights, which is working on combatting racial discrimination against persons of African descent in Brazil, Colombia, Cuba, the Dominican Republic and Peru, in an April 2016 article covering a public hearing before the Inter-American Commission on Human Rights of the Organisation of American States notes that "Yalit Núñez Pérez of the Cuban Youth Dialogue Table testified to harrassment and threats to members of her organization, including restrictions on the groups international travel to participate in human rights events". (Institute on Race, Equality and Human Rights, 15 April 2016)

The website of the Mesa de Diálogo de la Juventud Cubana can be accessed via the following link:

- Mesa de Diálogo de la Juventud Cubana: JucentudCuba.org, undated
<http://www.juventudcuba.org/index.php>

Center for Coexistence Studies (Centro de Estudios Convivencia), Dagoberto Valdés

Freedom House in its January 2017 annual report on political rights and civil liberties in 2016 refers to the “newly inaugurated, independent think tank Centro de Estudios Convivencia, or Center for Coexistence Studies” as a group “specifically targeted for harassment and repression during 2016”. (Freedom House, January 2017)

14ymedio in a May 2017 article features information on the Center for Coexistence Studies and “a wave of pressure from the authorities”:

“In the midst of a wave of pressure from the authorities, members of the Center for Coexistence Studies (CEC) have issued a declaration of commitment to their work on the island. ‘We are not leaving Cuba, we are not leaving the Church and we will continue working for the country,’ says the text signed by Dagoberto Valdés, director of the CEC. [...] The Coexistence Studies Center organizes training courses for the citizenry and civil society in Cuba. The entity functions independently of the State, the Church and any political grouping. The magazine of the same name emerged in 2008 and is published bimonthly.” (14ymedio, 16 May 2017a)

In its March 2017 human rights report covering the year 2016, the USDOS describes Convivencia as an “[i]ndependent think tank” (USDOS, 3 March 2017, section 2a) and mentions Dagoberto Valdés as its founder and director. (USDOS, 3 March 2017, section 2b)

Christian Solidarity Worldwide (CWS), a UK-based Christian organisation advocating religious freedom and human rights, in February 2017 characterises Dagoberto Valdés as “a prominent Catholic leader and the founder and editor of Catholic magazine Convivencia” (CSW, 6 February 2017, p. 6) and further explains in a footnote:

“Dagoberto Valdes is the director of the Coexistence Centre of Studies, an independent centre which runs the magazine Convivencia. The centre also organises conferences and activities covering a variety of topics such as ‘Culture and Education in the Future of Cuba’.” (CSW, 6 February 2017, p. 6, footnote 14)

Reporters Without Borders in its 21 October 2016 article mentions the “opposition magazine Convivencia”. (RSF, 21 October 2016)

The Miami Herald in its 13 May 2017 article reports on a raid carried out in the offices of the lay Catholic Convivencia magazine and mentions Dagoberto Valdés as its director. (The Miami Herald, 13 May 2017)

The website of the Convivencia magazine can be accessed via the following link:

- Convivencia: Convivencia No67 marzo-abril de 2017 – convivenciacuba.es, undated
<http://www.convivenciacuba.es/>

Henry Constantín

In May 2014 the University of Miami published an interview with Henry Constantín providing the following description:

“Interview with Henry Constantin, a Cuban journalist, writer, and blogger. After being expelled from journalism school twice in Cuba, Constantin began writing for several blogs and news sites, and on twitter about the realities of Cuban life.” (University of Miami, 12 May 2014)

Vice News which describes itself as an “international news organization created by and for a connected generation” (Vice News, undated) in an August 2015 article names Henry Constantín, “a Cuban activist for freedom of speech and access to internet”. (Vice News, 14 August 2015)

The Washington Post in a February 2017 article characterises Henry Constantín as the “regional vice chairman of the Inter American Press Association’s Committee on Freedom of the Press and Information”. (The Washington Post, 24 February 2017)

A February 2017 article of the Inter American Press Association (IAPA) features information on the arrest of Henry Constantín:

“The Inter American Press Association (IAPA) today condemned the arrest in Cuba of Henry Constantín Ferreiro, editor of the magazine Hora de Cuba and regional vice chairman of its Committee on Freedom of the Press and Information, and called for his release, stressing the urgency of including guarantees for freedom of expression and of the press within the framework of the policy of rapprochement of the United States with the Cuban government.” (IAPA, 21 February 2017)

The Committee to Protect Journalists (CPJ) in March 2017 also reports on the arrest of Henry Constantín and notes:

“Independent Cuban journalist Henry Constantín Ferreiro was arrested February 20, 2017 and detained for about 36 hours while traveling to cover a meeting between Cuban dissidents and the head of the Organization of American States (OAS), according to press reports. The editor of digital magazine La Hora de Cuba said police charged him with fomenting enemy propaganda. [...]

Constantín and several university students founded the current version of La Hora de Cuba in 2014. The bi-monthly magazine is often critical of living conditions in Cuba. In December, the Miami-based Inter American Press Association named Constantín as a regional vice president for its press freedom commission. At the time, Constantín pledged to defend independent journalism in Cuba.” (CPJ, 1 March 2017)

14ymedio in a March 2017 article provides the following information on Henry Constantín:

“Journalist Henry Constantín, director of La Hora de Cuba (Cuba Hour) magazine and regional vice president of the Inter American Press Association (IAPA), was formally charged Friday with the crime of ‘usurpation of legal capacity,’ he told 14ymedio. [...]

Constantín was named last December as IAPA’s regional vice president for Cuba and pledged to spread ‘the reality of journalism’ on the island. The organization has issued several press releases condemning the harassment and arrests of those who have been victims of attacks in recent weeks. It has urged the Cuban government to guarantee freedom of the press and expression throughout the country.” (14ymedio, 17 March 2017)

A May 2017 article by 14ymedio contains information about threats against Henry Constantín:

“Journalists Sol García Basulto and Henry Constantín were summoned Thursday to Camagüey’s Third Police Unit, where they were threatened with having their homes searched and the equipment they use to do their work confiscated if they do not stop ‘publishing on social networks and in independent magazines.’ [...]

The reporters are part of the editorial team of the independent magazine La Hora de Cuba (Cuba’s Hour), which is distributed in digital format. In addition they collaborate with different independent media and García Basulto is a correspondent for 14ymedio in the province of Camagüey.

At the end of last year, Constantín was named regional vice president for Cuba for the Inter American Press Association (IAPA). Recently the reporter was not able to attend a conference in Los Angeles about the current situation of journalists on the Island, nor was he able to attend a later meeting of the IAPA in Guatemala, due to the restrictions of movement imposed on him by police authorities.” (14ymedio, 4 May 2017c)

Wilfredo Vallín (Cuban Juridical Association)

The Miami Herald in a June 2011 article provides the following information on the Cuban Juridical Association (Asociación Jurídica Cubana):

“After an unprecedented battle that went all the way up to Cuba’s highest court, a group of independent lawyers has overcome the first hurdle in registering an organization that provides legal advice to civil society, including dissidents. ‘We are not declaring victory yet, but are now preparing the second step needed to become the sort of protectors of the people, of all the people, without exceptions,’ Wilfredo Vallín said Monday by telephone from Havana. The 63-year-old lawyer accused Justice Minister María Esther Reus González in a 2009 lawsuit of violating the country’s law by refusing to answer his bid to officially register the Cuban Juridical Association (CJA) as a non-government organization. [...]

The CJA describes itself as an independent group that provides free legal advice to anyone who needs it, but it has worked with many dissident groups. State security officials have blocked or broken up several CJA seminars designed to teach dissidents their rights when facing police. ‘I know that for those used to making a mockery of the law, the possible existence of a (group) of independent lawyers who demand an equal application of the law

for all is not good news,’ he wrote on the Web post. He added that CJA also would assist Cubans who do not have enough money to hire private lawyers. Almost all Cuban lawyers work for the government, with the exception of those that work for ‘collective bureaus.’” (The Miami Herald, 13 June 2011)

A May 2012 article of The Miami Herald which also deals with the fight of the Cuban Juridical Association for legal recognition mentions Wilfredo Vallín as head of the organisation and notes:

“But the Cuban Juridical Association is still fighting a three-year-old case seeking the legal recognition of the Justice Ministry as a group of lawyers that provides legal advice on a nonprofit basis, usually to government critics.

CJA chief Wilfredo Vallín, who also is advising Sánchez on her case, took the first step required to register the group in April 2009 by asking the Justice Ministry’s Registry of Associations to certify that no other group had registered the same name.

The registry never replied so the 1992 graduate of the University of Havana Law School elevated his request to Justice Minister María Esther Reus. When she didn’t reply, he filed suit under Cuba’s Law for Civil, Administrative and Labor Procedures.

To his surprise, a three-judge panel first officially accepted Vallín’s complaint, and then ordered Reus to appoint lawyers to defend her. Cuba’s highest court, the Supreme Tribunal found a technical fault with one of his filings last year but allowed the case to continue and later ordered the minister to reply to Vallín’s initial request.

The Justice Ministry certified last June that no other group was registered with the same name or purpose as the CJA, but earlier this year it rejected the CJA’s application for recognition on technical grounds. Vallín has vowed to appeal.” (The Miami Herald, 31 May 2012)

14ymedio in an April 2016 article characterises Wilfredo Vallín as lawyer and President of the Law Association of Cuba. (14ymedio, 9 April 2016)

The website of the Cuban Juridical Association can be accessed via the following link:

- Asociación Jurídica Cubana: Asociación Jurídica Cubana – derechos ciudadanos, undated <https://ajudicuba.wordpress.com/>

2.1.1.3 Government critics/persons with a public profile

Cuba Posible

CRS refers to the July 2014 announcement of Roberto Veiga and Lenier González, two former editors of the magazine Espacio Laical, to launch a forum called Cuba Posible. (CRS, 31 July 2014, p. 10)

Inter Press Service (IPS) in October 2014 reports on a seminar in Cárdenas, “the first activity of the new project Cuba Posible, in which 64 intellectuals and activists from five provinces took part”:

“Backed by the University of Oslo in Norway, the project was an idea of the Catholic laypersons Roberto Veiga and Lenier González, and was taken up by the ecumenical Christian Centre for Reflection and Dialogue-Cuba (CCRD-C), based in the city of Cárdenas, 150 km east of Havana. The citizen initiative addresses hot button issues relating to politics, organises meetings and seminars, and hopes to have a web site and produce digital and print editions of a small magazine, addressing Cuba’s present and future.” (IPS, 15 October 2014)

On Cuba in a November 2014 article describes Cuba Posible as “a web page, a laboratory of ideas, a quarterly publication and a broad presence in social networks” and mentions funding from the Kingdom of Norway. (On Cuba, 10 November 2014)

A November 2014 NYT article contains further information on Roberto Veiga and Lenier González and the concept of a “loyal opposition”:

“Mr. González, 33, and Mr. Veiga, 49, have been criticized as too timid by some in the opposition. But their dogged efforts to get Cubans talking have won them a strong following in Cuba’s tiny civil society. They are leading figures in an incipient culture of debate that has taken root in recent years, largely as President Raúl Castro has allowed greater access to cellphones and the Internet, and lifted some restrictions on travel, but also as the United States has lifted restrictions on Cubans’ visiting their relatives. The pair reflect a breakdown of the binary politics of pro- and anti-Castro Cubans that dominated for decades, and the development of a more diverse range of opinions, especially among younger Cubans, as they look to the era that will follow the Castros’ deaths.

As editors, until recently, of a Roman Catholic magazine, the pair have created a space where dissidents, dyed-in-the-wool communists, artists, exiles, bloggers and academics can discuss national issues, both in print and at seminars held in a Catholic cultural center in Old Havana. Their new project, Cuba Posible — part forum, part online magazine, part research organization — aims to do the same, and will test the government’s threshold for debate as well as Cubans’ appetite for finding a third way. [...]

Mr. González set off a fierce debate among bloggers and intellectuals last year when, at a conference in Miami, he advocated a loyal opposition — one, he explained, that sees the government as an adversary but not as an enemy.” (NYT, 21 November 2014)

A June 2016 article of Diario de Cuba provides information on the positions of Cuba Posible:

“On May 26 the ‘Cuba and Its Current Challenges’ event was held in New York, organized by the Cuba Posible Laboratorio de Ideas and sponsored by the Washington Office on Latin America (WOLA) at a facility belonging to the Open Society Foundation and with funding provided by it. [...]

We can agree or disagree with the positions of Cuba Posible, derided by all sides with all kinds of epithets. But what one can hardly accuse the group headed by Roberto Veiga and Lenier González of is leaning to one side. Perhaps in its insular idiosyncrasy lies the dilemma. Cuba Posible has opted to take a line that seeks the center, and many believe, on the island and off it, that this is impossible. The center for them is suspect, betrayal and apostasy. Cuba Posible proposes a Cuba beyond exclusionary ideologies, and that is unthinkable to some because there is no room in their minds for ideas that are not their own, for the social and private spheres to coexist at the same time, for State control and the entrepreneur. Cuba Posible proposes a Cuba like the group assembled in New York: as diverse in its ideas as in its races, genders and countries. And that, for others, is impossible because to think about Cuba one must live ‘inside,’ or as if he lived there.” (Diario de Cuba, 3 June 2016)

The website of Cuba Posible can be accessed via the following link:

- Cuba Posible: Portada – Cuba Posible, undated
<https://cubaposible.com/>

Gorki Águila

In a September 2016 article covering a news conference at the Institute of Cuban Studies and Cuban Americans at the University of Miami, 14ymedio refers to Gorki Águila as “dissident and leader of the Cuban punk-rock band Porno para Ricardo” and reports:

“Referring to his own case as a musician and composer, Águila said he is ‘deeply censored’ and watched by a coercive power that bans him from performing in Cuba. ‘To me, they say it very clearly: you are not going to play in this country,’ he denounced. ‘I can’t play or even practice in my own home. There is a surveillance camera on an electric pole aimed at my balcony. They have me under total surveillance and I don’t even remember my last attempt to play in Cuba,’ he said indignantly.” (14ymedio, 29 September 2016)

The international news agency Agence France-Presse (AFP) in a December 2016 article describes Gorki Águila as a “Cuban activist”. (AFP, 19 December 2016)

The Bertelsmann Stiftung, a privately operating non-profit foundation in Germany, in its country Transformation Index (BTI) 2016 (reporting period: February 2013 to January 2015) calls Gorki Águila an “iconoclastic punk rock singer” and “dissident singer”. (Bertelsmann Stiftung, 2016, p. 9)

IWPR in a September 2013 article provides the following information:

“While bands that keep their politics ambiguous and conform to other cultural norms can enjoy some success with their public profiles and recording careers, more outspoken performers face reprisals from the authorities. Punk outfit Porno para Ricardo has found it near-impossible to perform or record music, and lead singer Gorki Aguila has been given numerous prison sentences.” (IWPR, 18 September 2013)

The weekly newspaper Miami New Times in a March 2016 article characterises Gorki Águila as a “political artist” and dissident”. (Miami New Times, 21 March 2016)

Danilo Maldonado Machado (El Sexto)

CRS in January 2017 reports the following concerning Danilo Maldonado Machado:

“Danilo Maldonado Machado (known as El Sexto), a graffiti artist, was unconditionally released from prison in October 2015, after almost 10 months in prison. Although he was never formally charged, Maldonado reportedly was accused of ‘aggravated contempt’ for painting the names Fidel and Raúl on two pigs that he intended to release in Havana’s Central Park as part of an art show. Maldonado, who had attended Miami Dade College in 2014 on a scholarship program, went on a hunger strike before his release. On November 26, 2016, however, Maldonado was arrested again after he made a video celebrating the death of Fidel Castro, and he was subsequently again declared a prisoner of conscience by AI, which has called for his immediate and unconditional release.” (CRS, 18 January 2017, p. 10)

In May 2017 CRS notes that Danilo Maldonado Machado was released from prison in January 2017. (CRS, 26 May 2017, p. 9)

“On January 21, graffiti artist Danilo Maldonado Machado (known as El Sexto), who had been arrested in November 2016 after he made a video celebrating the death of Fidel Castro, was released from prison.” (CRS, 26 May 2017, p. 9)

IACHR in its April 2017 annual report covering the year 2016 describes Danilo Maldonado Machado as a “graffiti artist, winner of the Oslo Freedom Forum’s Vaclav Havel 2015 international award.” (IACHR, 27 April 2017, p. 550)

Human Rights Watch (HRW) in a December 2016 article reports on the detention of Danilo Maldonado Machado:

“Cuban authorities should order the immediate release of Danilo Maldonado Machado, the graffiti artist known as ‘El Sexto’, whom they arrested on November 26, 2016, and have been treating with increasing severity ever since, Human Rights Watch said today. [...] Maldonado has long been a target of police harassment. In 2014, police arrested him for spray painting ‘Fidel’ and ‘Raul’ on the backs of two live pigs – for which he served 10 months in prison.” (HRW, 16 December 2016)

Freedom House in its January 2017 annual report on political rights and civil liberties in 2016 notes the following:

“From December 2014 to October 2015, graffiti artist Danilo ‘El Sexto’ Maldonado was imprisoned, though never formally charged, for ‘disrespecting the leaders of the Revolution’ by painting the words ‘Fidel’ and ‘Raúl’ on a pair of pigs. In November 2016, following Fidel Castro’s death, Maldonado was arrested for spray-painting ‘se fue’ (he’s gone) on the wall of a hotel in Havana. The following month, he was transferred to the maximum-security prison Combinado del Este; his family has said they believe he was

charged with damaging state property. He is considered a prisoner of conscience by Amnesty International and is represented by the U.S. lawyer Kimberly Motley, who was herself detained, interrogated, and deported from Cuba while trying to visit Maldonado in December.” (Freedom House, January 2017)

14ymedio in a May 2017 article writes that Danilo Maldonado Machado “announced his desire to reside in the United States”, but his girlfriend, a US citizen, “declined to respond to a request from 14ymedio to confirm his decision to remain in the United States” The newspaper adds that Danilo Maldonado Machado “has been arrested three times for political reasons”. (14ymedio, 15 May 2017)

Tania Bruguera

The Qatar-based news network Al Jazeera in a November 2016 article outlines the biography of Tania Bruguera:

“Forty-eight-year-old Bruguera grew up in the upmarket Havana neighbourhood of El Vedado. Her father, Miguel Bruguera, was an underground militant during the Batista dictatorship and became a diplomat after 1959. He was a trusted ally of the revolution’s senior leadership.

Miguel Bruguera’s family never knew what he did on his trips abroad. According to Bruguera, he rarely spoke. At 18, in reaction to her father, Bruguera dropped the last letter of her surname and along with it lost any possible inheritance, either material or symbolic. It was her first act of political rebellion.

Over the next two decades, Bruguera would maintain an influential presence in Cuba, mostly as a teacher at the ISA [Instituto Superior de Arte] through her renowned Behaviour Art programme, which she established in 2002. She simultaneously built a powerful international career. [...] But around Christmas of 2014, things began to crumble.

‘It was the first time Tania was doing a specifically political project in direct reference to Cuba,’ Clara Astiasaran, an art critic, curator and YTE [Yo Tambien Exijo] member, explains. ‘Her work has always been political, but this time she was directly addressing the nation’s president regarding a foreign policy decision that was key to Cuba’s nation-building efforts over the past 60 years - the idea of anti-imperialism.’” (Al Jazeera, 26 November 2016)

The Freedom on the Net 2016 report by Freedom House, covering the time period from June 2015 to May 2016, gives further details regarding the arrest of Tania Bruguera in December 2014:

“In December 2014, in the aftermath of pronouncements by President Obama and President Raul Castro about a rapprochement between the United States and Cuba, performance artist Tania Bruguera published a public letter to the two presidents and the Pope in which she proposed relocating her 2009 performance *Tatlin’s Whisper #6* to the Plaza of the Revolution, thereby offering an open mic to the Cuban citizenry to express their views about their country’s future. Her project used the hashtag #YoTambienExijo (I

Also Demand) on social media platforms to promote the performance from outside the island. Upon traveling to Havana on December 26, however, she was summoned to a meeting with government officials and told that she did not have authorization for the performance. When she publicly stated that she intended to go ahead with the performance, she was detained by authorities, along with a number of other online and offline activists who expressed support for her project [...].” (Freedom House, November 2016)

A December 2014 article of the NYT features the following more detailed account of the events in December 2014 leading to the arrest of Tania Bruguera:

“The Cuban artist Tania Bruguera, who splits her time between the United States and Havana, traveled to Cuba in recent days seeking to pull off a bold experiment. She called on Cubans from all walks of life to meet at Havana’s iconic Revolution Square on Tuesday at 3 p.m., where they would take turns at a microphone to outline their vision for the new era in the country. Word of the event, which was billed as both a performance and a street protest, was shared on social media using the hashtag #YoTambiénExijo, which means ‘I also demand.’ Ms. Bruguera’s plan was the first test of whether the Obama administration’s decision to normalize relations with Cuba earlier this month would prod the Castro regime to be more tolerant of critical voices. Disappointingly, but not surprisingly, the government barred prominent critics, including Ms. Bruguera, from reaching the square. Some were detained and others were reportedly prevented from leaving their homes. In the end, the performance wasn’t held.

Authorities in Cuba appear to have wrestled with how to prevent Ms. Bruguera’s project from turning into a mass gathering of critics. They allowed her to travel to the island, though she had publicized her project well in advance. In recent days, officials from the state-run arts council summoned her for a meeting. In a statement, the council said it had made clear to her that her plan was ‘unacceptable,’ because of the location and the ‘ample media coverage’ in outlets that are critical of the government. Officials proposed that the event be held instead at a cultural site, according to the statement, and said that the government would ‘reserve the right’ to bar people whose ‘sole interest is to be provocative.’” (NYT, 30 December 2014)

In its April 2016 human rights report covering the year 2015, the USDOS notes that “[a]uthorities detained independent artist Tania Bruguera several times throughout the year for her activity to promote freedom of speech”. The report goes on to say that in January 2015 “authorities confiscated her passport and held it for six months before she was allowed to travel abroad in July”. (USDOS, 13 April 2016, section 2a)

The British daily newspaper The Guardian in an October 2016 article reports on Tania Bruguera’s announcement to run for president in 2018 when Raul Castro steps down:

“Art is good at pointing out simple truths that otherwise get forgotten, or conveniently ignored. Cuban artist Tania Bruguera has just announced that she is running for president of Cuba when Raul Castro steps down – as he has said he will – in 2018.

There's just one snag. You can't run for president of Cuba. The socialist island is not a democracy but a one-party state. Bruguera's 'activism', as she calls it, is a satirical performance that draws attention to the embarrassing reality that Cuba's rulers are not freely elected by the people. 'Let's use the 2018 elections to build a different Cuba,' she says, 'to build a Cuba where we are all in charge and not just the few.' She says she hopes 'to change the culture of fear' with her utopian bid for the presidency." (The Guardian, 17 October 2016)

2.1.1.4 Media

14ymedio, Yoani Sánchez

Reporters Without Borders in its 21 October 2016 article notes that 14ymedio is a website founded by Yoani Sánchez. (RSF, 21 October 2016)

BBC News in its 19 March 2012 article writes the following about Yoani Sánchez:

"The blogger Yoani Sanchez, 34, is not a dissident in the traditional sense. Her blog, Generation Y, has become a trusted source for news on Cuba, with the site receiving 14 million hits a month. In 2009, she received a journalism prize from Columbia University in New York, but was barred from travelling to accept it." (BBC News, 19 March 2012)

The Washington Post in its 23 January 2015 article mentions that the offices of 14ymedio.com are in Havana and refers to Yoani Sánchez as its director "whose blog about the situation here is blocked in Cuba but widely read outside the country". (The Washington Post, 23 January 2015)

CRS in May 2017 describes Yoani Sánchez and 14ymedio in the following terms:

"Cuban blogger Yoani Sánchez has received considerable international attention since 2007 for her website, Generación Y, which includes commentary critical of the Cuban government. In May 2014, Sánchez launched an independent digital newspaper in Cuba, 14 y medio, available on the Internet, distributed through a variety of methods in Cuba, including CDs, USB flash drives, and DVDs." (CRS, 26 May 2017, p. 10)

"14ymedio.com, independent digital newspaper, based in Havana available at <http://www.14ymedio.com/>." (CRS, 26 May 2017, p. 11)

The Freedom on the Net 2016 report by Freedom House, covering the time period from June 2015 to May 2016, explains:

"In May 2014, Yoani Sánchez launched an independent online news site, 14ymedio. Although the site is blocked in Cuba, the editorial team is able to post content by emailing it to friends abroad. Users access content from the site through proxies and offline versions that are shared via USB flash drives." (Freedom House, November 2016)

The US online newspaper The Huffington Post provides the following biography of Yoani Sánchez:

“Yoani Sanchez

Publisher of 14ymedio, independent newspaper in Cuba

Yoani Sanchez, a University of Havana graduate in philology, emigrated to Switzerland in 2002, to build a new life for herself and her family. Two years later, she decided to return Cuba, promising herself to live there as a free person. Her blog Generation Y is an expression of this promise. Yoani calls her blog ‘an exercise in cowardice’ that allows her to say what is forbidden in the public square. It reaches readers around the world in over twenty languages. [...] In November 2009, U.S. President Barack Obama, wrote that her blog ‘provides the world a unique window into the realities of daily life in Cuba’ and applauded her efforts to ‘empower fellow Cubans to express themselves through the use of technology.’ Time magazine listed her as one of the world’s 100 most influential people in 2008, stating that ‘under the nose of a regime that has never tolerated dissent, Sánchez has practiced what paper-bound journalists in her country cannot; freedom of speech.’ She has received much international recognition for her work, including: the Ortega y Gasset Prize, Spain’s highest award for digital journalism; the Maria Moors Cabot Prize from Columbia University; the World Press Freedom Hero Award from the International Press Institute; and the Prince Claus Award from the Netherlands. Foreign Policy magazine named her one of the 10 Most Influential Latin American Intellectuals in 2008, and one of The World’s Top Dissidents in 2010. Yoani lives with her husband, independent journalist Reinaldo Escobar, and their teenage son Teo, in a high rise apartment in Havana, overlooking Revolution Square. There they host the ‘Blogger Academy’ to help grow the Cuban blogosphere; some of the results of this work are available in English at Translating Cuba. She blogs about daily life in the Castros’ Cuba at Generation Y.” (The Huffington Post, undated)

The website of 14ymedio can be accessed via the following link:

- 14ymedio: Diario hecho en Cuba, undated
<http://www.14ymedio.com/>

Generación Y, the blog of Yoani Sánchez, can be accessed via the following link:

- Generación Y: Generación Y, undated
http://www.14ymedio.com/blogs/generacion_y/

Hablemos Press

IWPR in a November 2015 article characterises Hablemos Press as “a news agency barely tolerated by the government”. (IWPR, 15 November 2015)

Freedom House in its report of April 2016 on the freedom of press in Cuba describes Hablemos Press as an “independent news agency” and mentions Roberto de Jesús Guerra as its founder and director. (Freedom House, 27 April 2016)

Reporters Without Borders (RSF) in an undated article provides the following information on the news agency Hablemos Press:

“Founded in 2009, Hablemos Press is an independent news agency that covers a range of subjects including human right violations by the authorities. Thanks to its 30 correspondents in Cuba’s 15 provinces, it has established itself as a key source of online information about Cuba. Blocked by the government and inaccessible in Cuba since 2011, its website is hosted abroad. Its journalists and contributors are hounded by the regime. Their equipment is confiscated. Their mobile phones are disconnected. They are summoned by the department for internal security and told to change their editorial policies. Like other independent journalists and bloggers in Cuba, they are exposed to death threats, intimidation, smear campaigns, arrest, arbitrary detention and physical violence.” (RSF, undated)

The Committee to Protect Journalists (CPJ) in a September 2016 report describes Roberto de Jesús Guerra Pérez as “a dissident-turned-journalist who founded the news website Hablemos Press in 2009” and quotes him as saying that “so far this year, 30 writers for Hablemos Press, which is critical of the authorities’ policies toward the press, have been detained for short periods by state agents”. (CPJ, 28 September 2016)

In an October 2016 article, RSF states that the director of Hablemos Press was harassed and threatened and decided to go into exile:

“Hablemos Press has been the target of harassment and arbitrary arrests for 13 years. Guerra Pérez told RSF he had been constantly harassed by the government in recent weeks in the form of comments by state employees in the street, telephone death threats or being repeatedly prevented from working. Now that he is in exile, he fears an illegal raid on the news agency’s headquarters in the coming weeks.” (RSF, 21 October 2016)

In its Freedom on the Net 2016 report, covering the time period from June 2015 to May 2016, Freedom House mentions that the telecommunications provider “ETECSA commonly blocks dissident or independent news sites, such as Cubanet, Penúltimos Días, Diario de Cuba, Cubaencuentro, Hablemos Press, and 14ymedio”. The report further states that “[r]eporters associated with independent online newspapers or forums, including Hablemos Press, Somos Mas, Foro por los Derechos y Libertades or UNPACU have faced significant harassment”. (Freedom House, November 2016)

The website of Hablemos Press can be accessed via the following link:

- Hablemos Press: Análisis – Hablemos Press, undated
<https://hablemos-press.com/>

State of Sats (Estado de Sats), Antonio Rodiles

IACHR in its April 2017 annual report covering the year 2016 mentions Antonio Rodiles as the “director of the Estado de Sats project”. (IACHR, 27 April 2017, p. 550)

In a November 2015 testimony before the Subcommittee on the Western Hemisphere of the Committee on Foreign Affairs of the House of Representatives, Antonio Rodiles described himself and State of Sats in the following terms:

“My name is Antonio G. Rodiles. I am director of State de SATS, a forum created in 2010 by a group of young artists, intellectuals, and professionals to encourage debate about social, cultural, and political issues in Cuba. I am also one of the coordinators of the Forum of Rights and Freedoms in Cuba. I holds a master’s degree in Mathematics from Florida State University and was a Ph.D. candidate in Physics at the National Autonomous University of Mexico.” (Subcommittee on the Western Hemisphere, 6 November 2015, p. 1)

With regard to Antonio Rodiles and State of Sats, the March 2016 article of the IWPR notes:

“Antonio G Rodiles, the director of the opposition group State of Sats, is one of the most vocal critics of the detente. [...]

State of Sats, along with other groups such as the Damas de Blanco (Ladies in White), were supporting [a] new campaign calling for the release of political detainees, under the auspices of the Rights and Freedom Forum. Todos Marchamos (We All March) demands an end to repression and amnesty for political prisoners. ‘The arbitrary arrests started to become more frequent. The Rights and Freedom Forum responded with this campaign,’ Rodiles said.” (IWPR, 19 March 2016)

CRS in its aforementioned May 2017 report states:

“Estado de SATS, a forum founded in 2010 by human rights activist Antonio Rodiles, has had the goal of encouraging open debate on cultural, social, and political issues. The group has hosted numerous events and human rights activities over the years, but it also has been the target of government harassment, as has its founder.” (CRS, 26 May 2017, p. 10)

In an Urgent Action of October 2015, Amnesty International characterises State of Sats as follows:

“Danilo Maldonado Machado is a Cuban graffiti artist who regularly collaborates with the artistic group Estado de SATS, an organization which seeks ‘to create a plural space of participation and debate, where civil liberties, practically annulled in Cuba, can be exercised, and to redesign everything based on our worries, and immediate future’. The group also campaigns for human rights through artistic experiences. They recently campaigned for the ratification by Cuba of the International Covenants on Civil and Political Rights, and on Economic, Social and Cultural Rights, and are currently demanding an amnesty law for all those imprisoned on politically-motivated charges.” (AI, 19 October 2015, p. 2)

The website of State of Sats can be accessed via the following link:

- Estado de Sats: Estado de Sats – Studying the Intersection between Ideas Arts Public Policy & Social Action, undated
<http://www.estadodesats.com/>

2.1.2 Actions considered as political opposition by the government

Diario de Cuba in an April 2017 article explains how an ordinary person in Cuba can be considered a dissident by the authorities:

“Status as a ‘dissident’ is not the product of any coherent calculation. It does not refer to a particular affiliation or a specific creed. It does not even necessarily stem from a primeval hatred of what they call ‘Revolution.’ It is everyday abuse, accumulated disappointment, insufferable humiliation, and, largely, chance, that turn a simple citizen into a dissident. You do not need to read Havel, but rather be the victim of an eviction. Neither do you need to embrace the ideas of Adam Smith, but rather witness an act of repudiation perpetrated against a classmate. You do not even have to train with the CIA. It suffices to descry, as an honest Communist (and there are many) the tremendous distance between utopia and reality.

In a country where feigning and opportunism are distinctive hallmarks of the national psyche, you do not need the makings of a hero to become a dissident: the young teacher, struggling against dogma and weariness, who encourages critical thinking in his classes; the activist who fights every day with local bureaucrats to revive the fading life of her neighborhood; the poet who refuses to sell out, and disappears from congresses and catalogues; the humble and fragile woman worker who refuses to renounce her friendship with a neighbor, who happens to support the opposition. These are all dissidents. And not in a metaphorical sense: when the files are opened we will be astonished at the magnitude of the paranoia harbored towards these people. At the end of the day, it is always those in power who define the conditions of existence – and struggle – for who those who reject their plans and policies.” (Diario de Cuba, 5 April 2017)

Eliécer Ávila, the leader of Somos +, indicates in an interview with Martí Noticias published in May 2017 that there has been a radical change in the methods of the State Security less than a year before the end of Raúl Castro’s term. According to Ávila, the officials that interrogate him and his colleagues during their arrests make it clear that they don’t even want a fly to move while they are preparing Cuba for the end of the Castro era:

“El líder del movimiento disidente Somos + conversó con Martí Noticias acerca de los móviles del gobierno para bloquear el blog y de los intentos por desactivar a la oposición interna. El blog del grupo opositor Somos + está bloqueado dentro de Cuba, según confirmó el miércoles su líder Eliécer Ávila, quien advirtió sobre ‘un cambio radical’ en los métodos de la Seguridad del Estado a menos de un año de que finalice el mandato de Raúl Castro. En entrevista con Martí Noticias, el joven opositor dijo que en las detenciones los oficiales que los interrogan dejan claro que ‘no quieren que se mueva ni una mosca’ mientras preparan a la isla para el fin de la era de los Castro.” (Martí Noticias, 17 May 2017)

IACHR in its April 2017 annual report covering the year 2016 reports on the obstacles which dissidents, human rights defenders and independent journalists face:

“In the period covered by this report, the obstacles that dissidents, human rights defenders, and independent journalists face when they say what they think, or defend and promote respect for human rights have persisted. Harassment and threats, followed by attacks and brief arbitrary detentions, seek to discourage demonstrations criticizing the Government and the work of defending and promoting fundamental rights and to maintain a homogenized line of thought and expression.” (IACHR, 27 April 2017, p. 549)

Freedom House in its January 2017 annual report on political rights and civil liberties in 2016 explains the following with regard to political dissent:

“Political dissent, whether spoken or written, is a punishable offense, and dissidents are systematically harassed, detained, physically assaulted, and frequently sentenced to years of imprisonment for seemingly minor infractions. The regime has called on its neighborhood-watch groups, known as Committees for the Defense of the Revolution, to strengthen vigilance against ‘antisocial behavior,’ a euphemism for opposition activity.” (Freedom House, January 2017)

In its Freedom on the Net 2016 report, covering the time period from June 2015 to May 2016, Freedom House mentions that “[t]he government closely monitors users who post or access political information online and delivers harsh penalties to those it perceives as dissidents”. (Freedom House, November 2016)

In an October 2012 submission for the UN Universal Periodic Review AI mentions that “Cuba does not tolerate any criticism of the state outside the official mechanisms established under government control”. (AI, October 2012, p. 4) In addition, AI refers to the general and vague description of some proscribed acts within the legal system which are open to interpretation:

“The legal framework provides for certain rights and freedoms. However, their exercise is criminalized if perceived to be contrary to Cuba’s political system. Amnesty International is concerned that the description of a number of proscribed acts within the legal system is so general and vague as to risk being interpreted in a manner which infringes upon fundamental freedoms. This is the case, for example, with provisions in the Criminal Code (Law 62), which in Article 91 provides for sentences of ten to 20 years for anyone ‘who in the interest of a foreign state, commits an act with the objective of damaging the independence or territorial integrity of the Cuban state’. The behaviour which this article is meant to prohibit is ill-defined and open to interpretation.” (AI, October 2012, p. 2)

BBC News in its 19 March 2012 article quotes Kerrie Howard, then deputy Americas director at Amnesty International as saying: “The laws are so vague that almost any act of dissent can be deemed criminal in some way, making it very difficult for activists to speak out against the government”. (BBC News, 19 March 2012)

The Swedish Ministry for Foreign Affairs (Utrikesdepartementet, UD) in April 2017 similarly explains that the criminal law contains vague offences that are often used to arrest and sometimes convict dissidents. (UD, 26 April 2017, p. 1)

In its March 2017 human rights report covering the year 2016, the USDOS also indicates that a “[l]ack of governmental transparency and systemic violations of due process rights obfuscated the true nature of criminal charges, investigations, and prosecutions, allowing government authorities to prosecute and sentence peaceful human rights activists for criminal violations or ‘dangerousness’”. (USDOS, 3 March 2017, section 1e)

The following section gives some examples of grounds on which dissidents or human rights activists were detained, charged or convicted.

The January 2017 report of CRS refers to several human rights activists or dissidents charged with various crimes or convicted on various grounds:

“Two of the five prisoners of conscience, Emilio Planas Robert and Iván Fernández Depestre, had been imprisoned since September 2012 and July 2013, respectively, and had been convicted of ‘dangerousness’ (a preemptive measure defined as the special proclivity of a person to commit crimes). The other three ‘prisoners of conscience,’ brothers Alexeis, Django, and Vianco Vargas Martín, were members of UNPACU. They were detained in late 2012 and convicted in June 2014 after a summary trial in which they were charged with ‘public disorder.’ [...]

Ciro Alexis Casonova Pérez, who had been placed under house arrest in June 2014 after demonstrating in the streets, was convicted in December 2014 of public disorder and sentenced to one year in prison. [...]

Danilo Maldonado Machado (known as El Sexto), a graffiti artist, was unconditionally released from prison in October 2015, after almost 10 months in prison. Although he was never formally charged, Maldonado reportedly was accused of ‘aggravated contempt’ for painting the names Fidel and Raúl on two pigs that he intended to release in Havana’s Central Park as part of an art show. [...] On November 26, 2016, however, Maldonado was arrested again after he made a video celebrating the death of Fidel Castro, and he was subsequently again declared a prisoner of conscience by AI, which has called for his immediate and unconditional release. [...]

As noted above, 6 of the 53 political prisoners released in December 2014 at the time of the improvement in U.S.-Cuban relations were rearrested in 2015. One of the prisoners, Vladimir Morera Bacallao, detained in April 2015 for hanging a sign outside his home in protest of municipal elections, began a hunger strike in early October 2015 that endured more than 80 days. [...]

CCDHRN’s [Cuban Commission for Human Rights and National Reconciliation] report includes dozens of opposition activists, a number of whom are members of UNPACU [Patriotic Union of Cuba], as well as those convicted on such charges as hijacking, terrorism, sabotage, other acts of violence, and espionage.” (CRS, 18 January 2017, pp. 10-11)

In an Urgent Action of April 2017 AI mentions the case of a family of four human rights defenders sentenced for “‘defamation of institutions, organizations and heroes and martyrs of the Republic of Cuba’ and ‘public disorder’ for allegedly leaving their house during the period of state mourning””. (AI, 3 April 2017, p. 1)

In an Urgent Action of March 2017 AI reports on the case of Eduardo Cardet, the leader of the Christian Liberation Movement, who “was charged with attacking an official of the state (atentado) after he publicly criticized Fidel Castro a few days after his death”. As reported by AI, “Eduardo Cardet was pushed off his bicycle and violently detained in the early evening of

30 November 2016 by at least four plain clothed and one uniformed police officer as he returned home after visiting his mother". (AI, 27 March 2017, pp. 1-2)

In its March 2017 human rights report covering the year 2016, the USDOS mentions the conviction of UNPACU activist Luis Bello Gonzalez to three years in prison. According to UNPACU leaders, "authorities arrested and charged Gonzalez because of his regular participation in protests alongside other UNPACU members". (USDOS, 3 March 2017, section 1d)

2.1.3 Political prisoners

Voice of America (VOA) in a March 2016 article reports that the president of the Cuban Commission for Human Rights and National Reconciliation (CCDHRN) during his visit to Cuba gave US President Barack Obama a list containing the names of 89 political prisoners:

"In a small, white room of the newly opened United States embassy in Havana, the simple exchange of a document summed up the significance of a meeting between President Barack Obama and 13 Cuban dissidents. [...] The list Obama received from the dissident contained the names of 89 political prisoners. Sánchez Santacruz, the president of the Cuban Commission for Human Rights and National Reconciliation, gave the list to the U.S. leader when Sánchez Santacruz brought up the moment when Cuban President Raul Castro, almost agitated, responded to the inquiry of an American reporter at a rare press conference Monday about political prisoners on the island. Castro stated there are no political prisoners in Cuba." (VOA, March 2016)

Freedom House in its January 2017 annual report on political rights and civil liberties in 2016 reports the following concerning political prisoners:

"The Cuban government claims it holds no political prisoners or prisoners of conscience, but various rights groups claimed there were dozens in 2016. At an impromptu and unprecedented joint press conference with Presidents Raúl Castro and Barack Obama during the latter's state visit to Cuba in March 2016, an American journalist asked Castro why Cuba held political prisoners. Castro angrily denied holding any such prisoners and demanded a list of them saying, 'If there are political prisoners, they'll be free before nightfall.' The CCDHRN subsequently produced a list of 93 prisoners but no releases were made." (Freedom House, January 2017)

The HRW annual report published in January 2017 also contains information about political prisoners:

"Despite the release of the 53 political prisoners in conjunction with the agreement to normalize relations with the US, dozens more remain in Cuban prisons, according to local human rights groups. The government denies access to its prisons by independent human rights groups, which believe that additional political prisoners, whose cases they cannot document, remain locked up." (HRW, 12 January 2017)

In its March 2017 human rights report covering the year 2016, the USDOS elaborates on political prisoners as follows:

“Long-term imprisonment of peaceful government critics, while rare, sometimes occurred. In December UNPACU published a list of 46 political prisoners throughout the country serving more than one month in prison for reported peaceful protests or assemblies.” (USDOS, 3 March 2017, section 1d)

“The government continued to deny holding any political prisoners but refused access to its prisons and detention centers by international humanitarian organizations and the United Nations. The number of political prisoners was difficult to determine. [...] The government used the designation of ‘counterrevolutionary’ for inmates deemed to be political opposition, but it did not release those numbers. The government continued to deny access to its prisons and detentions centers by independent monitors who could help determine the size of the political prisoner population. At least two independent organizations estimated there were 75 to 95 political prisoners. The government closely monitored these organizations, which often faced harassment from state police. [...] Political prisoners reported the government held them in isolation for extended periods. They did not receive the same protections as other prisoners or detainees. The government also frequently denied political prisoners access to home visits, prison classes, telephone calls, and, on occasion, family visits.” (USDOS, 3 March 2017, section 1e)

In May 2017 CRS provides the following information on political prisoners:

“Over the past decade, the Cuban government has released a large number of political prisoners at various junctures. In 2010 and 2011, with the intercession of the Cuban Catholic Church, the government released some 125 political prisoners, including the remaining members of the ‘group of 75’ arrested in 2003 who were still in prison. In the aftermath of the December 2014 shift in U.S. policy toward Cuba, the Cuban government released another 53 political prisoners, although several were subsequently rearrested.

To date in 2017, the Cuban government has released several political prisoners dubbed ‘prisoners of conscience’ by Amnesty International (AI). On January 21, graffiti artist Danilo Maldonado Machado (known as El Sexto), who had been arrested in November 2016 after he made a video celebrating the death of Fidel Castro, was released from prison; [...] Maldonado had previously spent 10 months in prison in 2015. On April 2, 2017, the Cuban government conditionally released three siblings who had been arrested in November 2016 for defamation and public disorder after the death of Fidel Castro; the three had been on a hunger strike for almost a month.

AI maintains that Cuba continues to hold two prisoners of conscience. Dr. Eduardo Cardet Concepción, a member of the Christian Liberation Movement, was arrested after Fidel Castro’s death in November 2016 for publicly criticizing the former Cuban leader, and in March 2017 Cardet was sentenced to three years in prison. [...] In early April 2017, AI issued an urgent action alert for Maydolis Leyva Portelles (the mother of the three released siblings noted above), who also was arrested in November 2016 for defamation and public disorder after Fidel Castro’s death. She remains under house arrest.

Going beyond AI's narrow definition of prisoners of conscience, the Cuban government has held a larger number of political prisoners, generally defined as a person imprisoned for his or her political activities. [...]

In recent years, several political prisoners have conducted hunger strikes; two hunger strikers died - Orlando Zapata Tamayo in 2010 and Wilman Villar Mendoza in 2012. In February 2017, Hamel Santiago Maz Hernández, a member of UNPACU who had been imprisoned since June 2016 after being accused of *descato* (lack of respect for the government), died in prison." (CRS, 26 May 2017, pp. 6-8)

In February 2017 the CCDHRN released a report for the month of January 2017 in which it states that the number of political prisoners is still over 100, 55 of which are members of the Patriotic Union of Cuba (UNPACU). (CCDHRN, 6 February 2017, p. 1)

In May 2017 the CCDHRN provides the information that the number of political prisoners has doubled from about 70 in April 2016 to at least 140 in April 2017. (CCDHRN, 8 May 2017, p. 1)

The Cuban Democratic Directorate (Directorio) which describes itself as "a non-profit organization that works for democracy in Cuba by way of a civic, nonviolent struggle" (Directorio, undated (a)) publishes on its website an undated list of 117 Cuban political prisoners adding that "Amnesty International defines as a political prisoner: 'any prisoner whose case has a significant political element: whether the motivation of the prisoner's acts, the acts themselves, or the motivation of the authorities.' We are convinced that there are possibly thousands of Cubans, incarcerated under the 'dangerousness' law, who fit this definition" (Directorio, undated (b)).

The list can be accessed via the following link:

- Directorio: Partial List - Current Cuban Political Prisoners - Sentenced or Pending Sentence 117+, undated (b)
<http://www.directorio.org/cubanpoliticalprisoners>

2.1.4 Human rights violations against political dissidents and government critics

The HRW annual report published in January 2017 points out that "[t]he Cuban government continues to repress dissent and punish public criticism" and that the "repressive tactics employed by the government" include short-term arbitrary arrests, beatings, public shaming, and termination of employment. (HRW, 12 January 2017)

The German Federal Foreign Office (Auswärtiges Amt, AA) states in its country information profile on Cuba (last update: March 2017) that abuses against dissidents are systematic. (AA, March 2017b)

Freedom House in its January 2017 annual report on political rights and civil liberties in 2016 explains that "dissidents are systematically harassed, detained, physically assaulted, and frequently sentenced to years of imprisonment for seemingly minor infractions". (Freedom House, January 2017)

In its March 2017 human rights report covering the year 2016, the USDOS refers to “the use of government threats, physical assault, intimidation, and violent government-organized counter protests against peaceful dissent” as well as “harassment and detentions to prevent free expression and peaceful assembly”. (USDOS, 3 March 2017, executive summary)

2.1.4.1 Actos de repudio (acts of repudiation), violence

Amnesty International in a December 2015 article mentions “increased violence from state authorities towards peaceful political dissidents and activists”. (AI, 10 December 2015)

According to the 2017 Crime and Safety Report for Cuba, published by the US Department of State’s Overseas Security Advisory Council (OSAC), “[g]overnment-organized actions (actos de repudio) against domestic civil society and opposition groups can turn violent”. (OSAC, 10 March 2017)

In its Urgent Action of 3 April 2017 AI explains that an “‘act of repudiation’ (acto de repudio)” is “a government-led demonstration that is common in Cuba. (AI, 3 April 2017, p. 2)

The German Federal Foreign Office (AA) in its country information profile on Cuba (last update: March 2017) describes the “actos de repudio” as staged acts of intimidation, especially against human rights activist or dissidents, committed by allegedly dissatisfied people, which are in fact government controlled actions. (AA, March 2017b)

The German Gesellschaft für Internationale Zusammenarbeit (GIZ) in May 2017 notes that “actos de repudio” are an increasingly popular means of repression. During these acts mobs organised by the state harass, intimidate and sometimes physically attack oppositional activists. (GIZ, May 2017a)

In its March 2017 human rights report covering the year 2016, the USDOS provides the following information on actos de repudio:

“The government also continued to organize repudiation acts in the form of mobs organized to assault and disperse those who assembled peacefully. Participants arrived in government-owned buses or were recruited by government officials 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. The targets of this harassment at times suffered physical assault or property damage. Government security officials at the scene, often present in overwhelming numbers, did not arrest those who physically attacked the victims or respond to victims’ complaints and instead frequently orchestrated the activities. Officials reportedly took direct part in physical assaults.” (USDOS, 3 March 2017, section 2b)

The IACHR in its April 2017 annual report covering the year 2016 writes that activist “complain of stepped up levels of violence in the civilian population’s acts of repudiation against them, in which they have their limbs twisted, bones broken, and injuries caused by bites and blows, all with the alleged acquiescence of the State authorities”. (IACHR, 27 April 2017, p. 553)

Agencia EFE in the 20 April 2017 article on the alleged dissolution of the Ladies in White movement before the end of President Castro's term in February 2018 mentions "beatings, 'harsh and cruel' interrogations including humiliations such as being forced to strip naked in front of male State Security and police officials". (Agencia EFE, 20 April 2017)

In its March 2017 human rights report covering the year 2016, the USDOS notes that there were reports of police "being complicit in public harassment of and physical assaults on peaceful demonstrators" and provides the following examples:

"On January 10, activists Antonio Rodiles and Ailer Gonzalez reported state security officers injected them with an unknown substance when they participated in a public march calling for the release of political prisoners. Medical evaluations in Miami produced inconclusive results about the nature of the substance.

On March 27, police officers allegedly beat two members of the Damas de Blanco with cables, and one Dama suffered an arm sprain. Members of the Damas de Blanco reported receiving head injuries, bites, bruises, and other injuries during government-sponsored counter protests and detentions.

On July 20, Guillermo 'Coco' Farinas, president of the United Anti-Totalitarian Forum (FANTU), complained of a beating by police officers that caused injuries to his ribs, abdomen, and tongue when he tried to visit a police station to check on a fellow FANTU activist." (USDOS, 3 March 2017, section 1c)

For March 2017, the CCDHRN reports eleven cases of physical aggression, eight of harassment and at least one act of vandalism committed by the "secret political police and para-police agents" against peaceful dissidents. (CCDHRN, 4 April 2017, p. 1)

For April 2017, the CCDHRN mentions at least eleven cases of physical aggression, nine cases of harassment and two acts of repudiation against peaceful dissidents. (CCDHRN, 8 May 2017, p. 1)

In June 2017 the CCDHRN refers to 14 cases of physical aggression and 23 cases of harassment against peaceful dissidents in May 2017. The report goes on to say that the authorities know that physical aggression against peaceful dissidents has an intimidating and deterrent, almost paralysing effect, both on the direct victims as on the circles of society they belong to. The same is valid for cases of harassment, which basically consist of threats of imprisonment or repressive actions against family members. (CCDHRN, 5 June 2017, p. 1)

2.1.4.2 Arbitrary detention

In June 2012 the UN Committee Against Torture (CAT) refers in its concluding observations to the provisions regarding "dangerousness and security measures" established in the Cuban Criminal Code:

"The Committee expresses concern about the provisions of Chapter XI of Book I (Dangerousness and security measures) of the Criminal Code and in particular the

definition, based on subjective and extremely vague concepts, of ‘dangerousness’, which purports to refer to ‘an individual’s particular proclivity to commit offences, as demonstrated by conduct that is manifestly contrary to the norms of socialist morality’ (art. 72). The Committee takes note of the delegation’s explanation that criminal penalties are not imposed on persons declared to be ‘dangerous’. However, the Committee notes that the rehabilitative, therapeutic and supervisory measures established in articles 78 to 84 of the Criminal Code can entail internment in specialized labour, educational, care, psychiatric or detoxification institutions for a period of between 1 and 4 years.” (CAT, 25 June 2012, p. 5)

Reporting on 2014, the UK Foreign and Commonwealth Office (FCO) mentions that “[t]here was no time limit on pre-trial detentions and suspects were sometimes held for months or years without charge. Offences such as ‘public disorder’ and ‘dangerousness’ were used to arrest and convict Cubans who spoke out about human rights or against the government”. (FCO, 12 March 2015)

Civil Rights Defenders, an organisation founded in Stockholm in 1982 with the aim of defending human rights, in a December 2016 report elaborates as follows:

“A great number of arrests and detentions in Cuba are based on constitutional and legal provisions that link legally-accepted behaviour to the socialist nature of the State. The Constitution restricts freedoms and therefore allows subsequent punishment when their exercise is deemed as ‘contrary to the existence and objectives of the socialist State.’ As a legal construct of particular concern, Title XI of the Penal Code, also referred to as the ‘Ley de Peligrosidad’ (‘Dangerousness Law’), defines the security measures allowed by law to deal with ‘dangerous state’, defined in art. 72 as ‘the special proclivity of a person to commit crimes, demonstrated by the conduct they observe in manifest contradiction with the norms of socialist morality.’ Such security measures, applicable as prevention before any crime is actually committed, include therapeutic, re-educational and vigilance measures of periods up to four years and that can comprise detention. Decree Law no. 128 of 1991 further establishes that the declaration of ‘dangerous state’ is emitted at the end of a summary judgement – thus potentially making the use of this figure even more arbitrary.” (Civil Rights Defenders, 8 December 2016, p. 20)

In its March 2017 human rights report, the USDOS also gives insights into the concept of dangerousness:

“The law allows a maximum four-year preventive detention of individuals not charged with 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, authorities also used such detention to silence peaceful political opponents.” (USDOS, 3 March 2017, section 1d)

In its 10 December 2015 article AI mentions that Cuban activists are often accused, but not formally charged under the Cuban Penal Code:

“Arbitrary arrests and detentions typically peak during official visits or summits. [...] Many of those detained are held between one and 30 hours. [...]

Cuban political activists and human rights activists are often accused, but not formally charged, under articles of the Cuban Penal Code as a way to curb legitimate exercise of the right to freedom of expression and peaceful protest. Provisions often invoked include insult or contempt of a public official (*‘desacato’*), resistance to public officials carrying out their duties (*‘resistencia’*), and *‘desórdenes públicos,’* which criminalizes any large meeting or act in public spaces which aims to provoke panic or disturbance.” (AI, 10 December 2015)

Concerning the number of and the grounds for arbitrary arrests and short-term detentions, the UN Office of the High Commissioner for Human Rights (OHCHR) in December 2015 reports on the concerns of the United Nations High Commissioner for Human Rights Zeid Ra’ad Al Hussein:

“United Nations High Commissioner for Human Rights Zeid Ra’ad Al Hussein said Tuesday that he is concerned at the extremely high number of arbitrary arrests and short-term detention of individuals, including human rights defenders and dissidents, in Cuba in recent weeks. ‘There have been many hundreds of arbitrary arrests and short-term detentions – which in my view amount to harassment – in the past six weeks alone. These often take place without a warrant and ahead of specific meetings or demonstrations, and seem to be aimed at preventing people from exercising their right to freedom of expression and to peaceful assembly,’ High Commissioner Zeid said.” (OHCHR, 15 December 2015)

HRW indicates in March 2016 that “the government increasingly relies on arbitrary, short-term detention to keep people from participating in peaceful marches and meetings”. (HRW, 16 March 2016)

In its March 2017 human rights report covering the year 2016, the USDOS features further details on this topic:

“Arbitrary arrests and short-term detentions continued to be a common government method for controlling independent public expression and political activity. [...] Police and security officials continued to use short-term and sometimes violent detentions to prevent independent political activity or free assembly. Such detentions generally lasted from several hours to several days. The CCDHRN counted 9,940 detentions through the end of the year, compared with 8,616 in 2015. Members of the #TodosMarchamos campaign, which included Damas de Blanco, reported weekly detentions of members to prevent demonstrations. The largest opposition group, Patriotic Union of Cuba (UNPACU), also reported an increase in short-term detentions.” (USDOS, 3 March 2017, section 1d)

In its February 2017 annual report covering the year 2016 AI describes the situation concerning arbitrary arrest and short-term detention in the following terms:

“Reports continued of government critics and activists – such as the Ladies in White – being routinely subjected to arbitrary arrest and short-term detention for exercising their rights to freedom of expression, association, assembly and movement. The authorities engaged in a game of ‘cat and mouse’ whereby activists were repeatedly picked up, detained for

periods of between eight and 30 hours and then released without charge, often several times a month. [...] Those held for longer periods in ‘provisional detention’ were often not charged and their relatives were rarely provided with documents giving the reasons for the detention.” (AI, 22 February 2017)

El País notes in its 13 April 2017 article that “[t]he Madrid-based Cuban Human Rights Observatory says that in 2016, there were 9,351 politically motivated ‘arbitrary detentions,’ up almost 10% on the previous year. These tend to see the release of detainees within 24 hours.” (El País, 13 April 2017)

IACHR in its April 2017 annual report covering the year 2016 provides the following information on summary arbitrary arrests:

“Ever since its 1992-1993 Annual Report, the Commission has been observing with great concern the use of summary arbitrary arrests as a means of harassing human rights defenders, independent journalists, activists, trade union leaders, and anyone else openly voicing criticism of the Cuban Government. That notwithstanding, this Commission is particularly alarmed by the sudden increase in summary arbitrary detentions in the year under review, accompanied by a surge in the violence with which they are carried out.

In the last quarter of 2015, the Cuban Commission for Human Rights and National Reconciliation (Comisión Cubana de Derechos Humanos y Reconciliación Nacional - CCDHRN) documented 1,093 detentions on political grounds in October, 1,447 in November, and 930 in December, whereby most of those detained were members of the group Damas de Blanco (Ladies in White). According to records kept by the Observatorio Cubano de Derechos Humanos, in 2015, there were 8,314 summary arbitrary detentions, followed by 6,094 more in just the first half of 2016: a 46.6 percent increase. The Observatorio Cubano de Derechos Humanos also reported 500 more detentions in July, 907 in August, and 494 in September 2016, making a grand total of 7,995 detentions carried out in the first nine months of 2016, most of them directed against women. [...]

Before and during the visit of United States President Barack Obama to the island in March 2016, civil society organizations reported an intensification of State actions designed to minimize their impact. They allege that one example had to do with Berta Soler Fernández, leader of the Damas de Blanco movement. Others involved Daniel Ferrer, a former political prisoner and leader of UNPACU [Unión Patriótica de Cuba]; Antonio González Rodiles, director of the Estado de Sats project; Danilo Maldonado Machado -‘El Sexto’-, a graffiti artist, winner of the Oslo Freedom Forum’s Vaclav Havel 2015 international award; and Iván Hernández Carrillo, a journalist and Secretary General of the Confederation of Independent Workers of Cuba, who were all detained prior to Obama’s visit, and independent journalist Lázaro Yuri Valle Roca, who was violently detained on March 20, 2016, when he was covering the Sunday march of the Damas de Blanco in Miramar, Havana. His whereabouts were unknown for several days. According to the CCDHRN, 498 arrests were made just during the visit, many of them accompanied by acts of violence.

In addition to the Damas de Blanco movement, formed in 2003 by the wives, mothers, and children of men and women imprisoned in Cuba for reasons they consider unjust, other groups and movements have joined the #TodosMarchamos por la libertad de los presos políticos campaign. This is one of the initiatives of the Foro Por los Derechos y Libertades, in which marches are organized every Sunday in different cities in Cuba. In connection with these marches, the Commission has consistently received information documenting the systematic practice of summary arbitrary detentions.

Despite being beneficiaries of precautionary measures granted by this Commission, the women in the Damas de Blanco movement have documented more than 1,600 summary arbitrary detentions between January and October of this year. They report, for instance, that mothers demonstrating with their young children are detained with them for up to 24 hours, with their children unable to attend school for the duration of the detention.

The Commission observes that the increase in the number of presumed summary arbitrary detentions has been accompanied by the use of - sometimes excessive and disproportionate force - by State security agents. The above comments are based on information received by the Commission that the detentions are carried out with the detainees being beaten, having their arms and legs twisted, and with very tight-fitting handcuffs and shackles. There are also denunciations of piercings of detainees' bodies with unknown objects and beatings during detention, as recounted by Antonio González Rodiles and Iván Hernández Carrillo, for both of whom precautionary measures had been granted by this Commission. Their account matches similar reports of similar incidents documented in the past.

Other situations denounced have included the alleged detention of people for up to 72 hours in closed police vehicles, exposed to the high temperatures found on the island, without being allowed access to water, food, or showers. According to information in the public domain, on August 9, 2016, Leticia Ramos, a human rights defender, member of the Damas de Blanco, beneficiary of Precautionary Measures 264/13, and a participant in the hearings held during the Commission's 157th regular period of sessions, was detained by police for more than three hours in a totally closed vehicle before being taken to her home and threatened with criminal proceedings if she attempted to leave it. There she was kept under State surveillance until at least August 12, 2016, a situation that, along with other adverse scenarios, prompted a public pronouncement of concern by the Commission. The Commission was also told of the case of two members of Damas de Blanco (Ivoiny Moralobo Melo and María Josefa Acon Sardiña), and of Servilio Villegas Merrero, a member of the Frente de Acción Cívica Orlando Zapata Tamayo (FACOZT), all of whom had been kept for several hours in police patrol cars out in the sun." (IACHR, 27 April 2017, pp. 549-551)

In May 2017 CRS refers to the following figures published by CCDHRN concerning short-term detentions between 2010 and 2017:

"Short-term detentions for political reasons have increased significantly over the past several years, a reflection of the government's change of tactics in repressing dissent away

from long-term imprisonment. The CCDHRN [Cuban Commission for Human Rights and National Reconciliation] reports that the number of such detentions grew annually from at least 2,074 in 2010 to at least 8,899 in 2014. The CCDHRN reported a very slight decrease to 8,616 short-term detentions in 2015, but this figure increased again to at least 9,940 detentions for political reasons in 2016, the highest level recorded by the human rights organization. In the first four months of 2017, there were at least 1,867 detentions.” (CRS, 26 May 2017, p. 10)

In February 2017 the CCDHRN released a report for the month of January 2017 during which it counted at least 478 arbitrary detentions of peaceful dissidents. The report also contains the figures of the years 2010 to 2016 as well as the monthly average of arrests. During 2016 the CCDHRN documented a total of at least 9,940 arbitrary arrests for political reasons, with a monthly average of 827. (CCDHRN, 6 February 2017, p. 1)

The report which also contains a list of all the documented cases of January 2017 specifying the date, the place of the incident, the victim, the type of the incident and the source of information can be accessed via the following link:

- CCDHRN - Comision Cubana De Derechos Humanos Y Reconciliacion Nacional: Cuba: Algunos actos de represion politica en el mes de Enero de 2017, 6 February 2017
http://www.14ymedio.com/nacional/OVERVIEW-ENERO_CYMFIL20170206_0001.pdf

The CCDHRN states in April 2017 that it documented at least 432 politically motivated arbitrary detentions during March 2017. (CCDHRN, 4 April 2017, p. 1)

The report which also contains a list of all the documented cases of March 2017 can be accessed via the following link:

- CCDHRN - Comision Cubana De Derechos Humanos Y Reconciliacion Nacional: Cuba: Algunos actos de represion politica en el mes de Marzo de 2017, 4 April 2017
http://www.14ymedio.com/nacional/OVERVIEW-MARZO_CYMFIL20170404_0001.pdf

In May 2017 the CCDHRN provides the information that it recorded at least 475 politically motivated arbitrary detentions during April 2017. (CCDHRN, 8 May 2017, p. 1)

The report can be accessed via the following link:

- CCDHRN - Comision Cubana De Derechos Humanos Y Reconciliacion Nacional: Cuba: Algunos actos de represion politica en el mes de Abril de 2017, 8 May 2017
http://www.14ymedio.com/nacional/informeabrilDDHH_CYMFIL20170508_0001.pdf

In June 2017 the CCDHRN released a report stating that at least 373 politically motivated arbitrary detentions occurred in May 2017. (CCDHRN, 5 June 2017, p. 1)

The report can be accessed via the following link:

- CCDHRN - Comision Cubana De Derechos Humanos Y Reconciliacion Nacional: Cuba: Algunos actos de represion politica en el mes de Mayo de 2017, 5 June 2017
http://www.14ymedio.com/nacional/OVERVIEW-MAYO_CYMFIL20170605_0001.pdf

The Cuban Democratic Directorate (Directorio Democrático Cubano, Directorio) and Mothers against Repression (M.A.R. Por Cuba), a Miami based human rights organisation, in a joint email response of 9 June 2017 provide the following information:

“Cubans are also subject to being placed in psychiatric hospitals and subject to unnecessary treatments as is the current case of the Cuban man that waved an American flag during the May 1st ceremony in Cuba. For that action, Daniel Llorente was publicly beat up and imprisoned without trial since May 1st and has been placed in Boyeros Psychiatric Hospital, also known as ‘Mazzora’ where he is at this time.” (Directorio/ Mothers against Repression, 9 June 2017)

14ymedio reports in a June 2017 article on the case of Daniel Llorente who was demonstrating on Revolution Square during the celebrations on 1st May 2017 while brandishing a flag of the United States. Llorente whom other dissidents consider an “opposition activist on his own” has been transferred from prison to a Psychiatric Hospital in Havana. According to the article, Llorente believes that his placement in the hospital is a strategy of the State Security and has nothing to do with his mental condition:

“La vida de Daniel Llorente dio un vuelco desde que el pasado 1 de mayo se manifestó con una bandera de Estados Unidos en la Plaza de la Revolución. Pasó de ser taxista privado a estar recluso en el Hospital Psiquiátrico de La Habana, el temido Mazorra. Desde la sala donde dice estar ‘encerrado con candado’ conversó este lunes vía telefónica con 14ymedio.

Llorente (1963) es visto por el resto de los grupos disidentes como un opositor ‘por cuenta propia’ al no tener ningún militancia y haber elegido enarbolar la insignia norteamericana por decisión personal. Desde aquel momento ha estado preso y hace una semana fue trasladado hacia el centro hospitalario ubicado en el municipio Boyeros. [...]

Sin embargo, Llorente cree que la espera en el hospital es ‘una estrategia de la Seguridad del Estado’ y desgana con voz firme sus sospechas de que el encierro no se deba a su condición mental, sino que es una forma de sacarlo de las calles.” (14ymedio, 6 June 2017)

2.1.4.3 Discrimination regarding employment

IWPR in an August 2013 article notes the following with regard to employment of “Cubans marked out as dissidents”:

“Cubans marked out as dissidents say it is nearly impossible to find work because of state controls over all areas of employment. For decades, the Cuban state was the sole employer, and despite recent reforms allowing for limited private enterprise known as ‘cuentapropismo’, getting an operating license still entails vetting by the authorities.

Renato Olazábal was designated a ‘counterrevolutionary’ after an unsuccessful attempt to escape to the United States on a ‘balsa’ or home-made raft in 2006. Olazábal, a 38-year-old English graduate, said that afterwards, he found it next to impossible to find work, and was turned down for five public-sector jobs. He said that even when candidates fulfilled the criteria for a particular job, they still had to be cleared by State Security and Military

Intelligence before being offered the job. The vetting process involves quizzing candidates' neighbours about their political views, and enquiries among local officials from Committees for Defence of the Revolution – a nationwide neighbourhood surveillance network – the Communist Party, the armed forces and the interior ministry. 'They are very interested in whether you've taken part in elections, the May 1 parade and things like that,' Olazábal said. 'Also, they ask people whether they consider you to be a revolutionary or not.' Olazábal now supports his family by selling handicrafts, risking prosecution since he does not have a trader's license.

Independent journalist and veteran opposition member, José Fornaris, says the job market is part of a police state. The government is 'the owner of businesses, factories, institutions – of every type of employment in general,' he said. 'For people to exercise their right to work and maintain their dignity, they have to submit to the conditions and blackmail of the regime'. After Fornaris joined the Cuban Committee for Human Rights in 1988, official harassment forced him to leave his work as a journalist and presenter at the National Radio Progreso station. In 1990, he found work as a manual labourer, only to be fired after a fellow-worker denounced him, accusing him of conspiring against then President Fidel Castro. 'They wanted to incriminate me, claiming that the United States Interests Section [unofficial diplomatic mission to Cuba] had given me some explosives to assassinate the then leader of the regime,' said Fornaris. 'They were trying to prosecute me as a terrorist, without any coherent motives.' After being cleared of the accusations, Fornaris became a leading voice within the opposition movement. He recalled being contacted by a Cuban security officer known as 'Sol', whose job was to monitor staff at the Cuban Institute for Radio and Television. The officer promised to get him reinstated at Radio Progreso, and later a promotion to a managerial job in the institute. The price was that Fornaris should abandon his political activities and collaborate with the regime. He turned the offer down. He recounts the story as a clear example of 'the extent to which the intelligence agencies are involved in making decisions about who is suitable to work in this country'." (IWPR, 6 August 2013)

The HRW annual report published in January 2017 mentions "termination of employment" as a tactic employed by the government to repress dissent and punish public criticism. (HRW, 12 January 2017)

In its March 2017 human rights report covering the year 2016, the USDOS also describes discrimination in employment "for expressing dissenting opinions":

"Several government workers reported being fired for expressing dissenting opinions or affiliating with independent organizations. For example, in August local radio station journalist Jose Ramirez Pandoja was fired for publishing a controversial speech by the deputy director of the CP's [Communist Party] official newspaper, Granma, on his personal blog. The speech cited young journalists leaving traditional media outlets due to censorship policies and low salaries. Several university professors and researchers reported they were forced from their positions or demoted for expressing ideas or opinions outside of government-accepted norms." (USDOS, 3 March 2017, section 2a)

The Swedish Ministry for Foreign Affairs (Utrikesdepartementet, UD) explains in the report published in April 2017 that human rights defenders and representatives of political parties who raise questions about civil and political rights state that they are subjected to reprisals in the form of arrests, seizure of belongings and travel restrictions. They also report that they are often denied jobs and placements at institutes of education due to their political activities. (UD, 26 April 2017, p. 5)

14ymedio in April 2017 reports on the case of Karla Pérez González, a journalism student expelled from university due to contacts with oppositional activists and her publishing on sites critical of the government. Additionally, the article mentions the cases of professor Dalila Rodríguez González, expelled from university due to her “bad influence on the students” and of David Mauri Cardoso, a student who was not allowed to enrol in the law school of the University in Cienfuegos:

“Karla Pérez González was not summoned to the meeting where her future was decided. The first-year Journalism student received a telephone call on Wednesday to notify her of her expulsion from Marta Abreu University in Santa Clara. Her crime? Having contacts with the Somos+ (We Are More) Movement and publishing on digital sites critical of the government, as confirmed by the young woman herself speaking to 14ymedio. [...]

This same week the philologist Dalila Rodríguez González, who had worked as a professor for over ten years, was expelled from Marta Abreu University. The academic told the independent press that her departure was due to the university authorities considering her ‘a bad influence on the students,’ in addition to the security forces linking her to her father, Leonardo Rodríguez Alonso, a defender of human rights and an opponent of the government. Rodríguez González also denounced that she has been harassed by State Security in recent months and clarified that she does not belong to any opposition group and does not participate in activities organized by activists or dissidents.

Last February, a young student of 24, David Mauri Cardoso, was not allowed to enroll in the law school of Carlos Rafael Rodríguez Provincial University, in Cienfuegos, for expressing ideas ‘against the Revolutionary Process’ in a Spanish exam.” (14ymedio, 13 April 2017)

USCIRF in May 2017 features information regarding the expulsion of Félix Yuniel Llerena López from university after a trip to the United States where he talked about the “restrictive and repressive religious climate in Cuba”:

“The U.S. Commission on International Religious Freedom (USCIRF) condemns the latest harassment of Félix Yuniel Llerena López by the government of Cuba. He traveled to the United States last month – his first trip ever outside of Cuba -- to discuss the restrictive and repressive religious climate in Cuba. Félix was immediately detained and questioned on his return and forced to sign a pre-arrest warrant for public disorder. Now the University of Cuba – an arm of the Castro regime -- has expelled this promising young religious freedom leader.” (USCIRF, 9 May 2017)

2.1.4.4 Harassment and discrimination

Freedom House in its January 2017 annual report on political rights and civil liberties in 2016 provides the following information:

“In recent years, dissident leaders have reported an increase in intimidation and harassment by state-sponsored groups as well as in short-term detentions by state security forces.” (Freedom House, January 2017)

In its February 2017 annual report covering the year 2016 AI points out that “[l]ocal civil society and opposition groups reported increased politically motivated detentions and harassment of government critics”. (AI, 22 February 2017)

In its March 2017 human rights report covering the year 2016, the USDOS mentions “harassment and detentions to prevent free expression and peaceful assembly”. (USDOS, 3 March 2017, executive summary)

The May 2017 CRS report notes that “[t]he government has continued to harass members of human rights and other dissident organizations”. (CRS, 26 May 2017, p. 8)

In May 2017 the CCDHRN notes that the political repression in Cuba has changed in the last year and has become more widespread across the country while also being selective and “less noisy”. While avoiding political arrests, the government increasingly relies on preventive measures of repression such as police threats and other systematic acts of intimidation, bans on travelling abroad or within Cuba, house searches, arbitrary seizures of materials, means of work and money, surveillance, defamation campaigns as well as unfair and disproportionate fines. (CCDHRN, 8 May 2017, p. 1)

According to the Americas Director at Amnesty International as quoted in an article from March 2017, “[f]or decades, the Cuban authorities have harassed and intimidated members of the Christian Liberation Movement in an attempt to silence any dissenting ideas”. (AI, 21 March 2017)

El País in its 13 April 2017 article refers to the opposition group Somos+ which “accuses the Cuban authorities of waging a war of ‘psychological attrition’ against opponents”:

“Somos+ accuses the Cuban authorities of waging a war of ‘psychological attrition’ against opponents, saying that they have been subjected to humiliating treatment at Havana airport when returning from overseas trips and that another activist had the contents of his house removed. ‘They left him a mattress and a television,’ says Ávila.

Other opponents of the Cuban government have reported similar low-level repression that they say is designed to wear out dissidents without the use of prison terms, which damage the country’s international reputation. [...]

Four years on, Ávila says that he is under constant surveillance. Later this year he is considering running as a community representative. He says he accepts that he has few

options, but that it is important to ‘compete in the community,’ describing it as planting a ‘seed of democracy.’” (El País, 13 April 2017)

14ymedio in its aforementioned 15 April 2017 article also refers to repressive measures against Somos+. In addition, the article provides information on the case of Professor Dalila Rodríguez González who was expelled from university and indicated that she was harassed by State Security:

“The expulsion of Karla Pérez González joins a series of repressive actions against the Somos+ Movement in recent days. Last Thursday the General Customs of the Republic confiscated Eliécer Ávila’s laptop computer, which provoked a protest of several members of the organization in Terminal 3 of the José Martí International Airport. Avila was arrested on Saturday and police searched his home where they seized ‘hundreds of things from pens, clothes, business cards, books, phone chargers, cables, mirrors, everything they found,’ the leader told 14ymedio. Since the raid, he is now being prosecuted for crimes of illicit economic activity and ‘receiving’ unauthorized goods.

This same week the philologist Dalila Rodríguez González, who had worked as a professor for over ten years, was expelled from Marta Abreu University. [...] Rodríguez González also denounced that she has been harassed by State Security in recent months and clarified that she does not belong to any opposition group and does not participate in activities organized by activists or dissidents.” (14ymedio, 13 April 2017)

In an Urgent Action of November 2016 AI reports on members of Cubalex being subjected to “months of harassment and intimidation”:

“Progressively since September, Cuban authorities have intimidated members of Cubalex (Legal Information Center), a non-government organization, not recognized by the Cuban authorities, which provides free legal and human rights advice in Havana, the capital.

On 23 September, according to its Director, Laritza Diversent, authorities searched Cubalex’s centre of operation without warrant, confiscated a number of laptops and documents, and forced at least one woman to undress. The provincial prosecutor in Havana provided notice to Cubalex that it was under a tax investigation.

According to Cubalex, since then, state prosecutors have summoned at least two members of the organization for questioning. Cubalex stated that the interviews, which reportedly lasted up to one hour and 45 minutes, were filmed, leading members to believe that the authorities were seeking information to criminalize activities of the organization. According to Cubalex, authorities have also questioned people who received advice and information from their centre.

Cubalex’s Director reported that she has been stopped and questioned a number of times at the airport during her recent trips. She believes her home, which provides a base for Cubalex’s activities, is under surveillance. One of Cubalex’s members, Julio Ferrer Tamayo, reported being strip searched and detained during the search of Cubalex on 23 September and remains in custody.” (AI, 18 November 2016, p. 1)

2.1.4.5 Politically motivated trials and criminal prosecution

Civil Rights Defenders in its December 2016 report provides the following general information concerning fair trials in Cuba:

“The Cuban legal framework presents several weaknesses, both at constitutional and at lower levels, with regard to the right to a fair trial. Art. 121 of the Constitution, while establishing functional independence of courts also states their subordination to the National Assembly and the Council of State, headed by the President, thus defeating the principle of independence of the judiciary vis-à-vis the other powers of the State. The Inter-American Commission on Human Rights has in several instances defined tribunals in Cuba as lacking in independence, competence and impartiality.

The crucial principle of presumption of innocence is put in jeopardy by the existence of preventive measures foreseen in the Penal Code, targeting individuals before any crime is even committed and allowing detention for up to four years through summary trials.

The fact that individuals accused of crimes are only allowed to have access to defence counsel late in the instruction procedure is also of concern as it increases the chances of violations of the rights of the accused. Overall, delays in processing persons in preventive detention are common and a source of concern particularly as they are regularly practiced against human rights defenders. The legal construct of summary trials, included in the Criminal Procedure Code, is a specific problem as it is of common use in cases of political interest and does not provide sufficient guarantees for the accused to prepare a defence or to collect and present evidence in their favour.

Defence rights are also severely affected by the lack of independent lawyers. All lawyers must be part of the National Organization of Collective Law Firms (ONBC), an entity dependent on the Ministry of Justice, that inspects it, supervises it and controls it. To be members, lawyers must ‘have moral conditions in agreement with the principles of socialist society.’ While those who are not members can theoretically exercise the profession for nongovernmental organizations, the fact that so far no such organizations have been able to receive authorization to register makes this option virtually inexistent. As a result, the great majority of lawyers have direct links with the State, which makes their independence – particularly in defence of dissidents – highly questionable.” (Civil Rights Defenders, 8 December 2016, p. 22)

In the October 2012 submission for the UN Universal Periodic Review AI elaborates on politically motivated criminal prosecutions:

“Cuba does not tolerate any criticism of the state outside the official mechanisms established under government control. Laws on ‘public disorder’, ‘contempt’, ‘disrespect’, ‘dangerousness’ and ‘aggression’ are used to prosecute government opponents, many of whom then become subject to politically motivated criminal prosecutions and other forms of harassment.” (AI, October 2012, p. 4)

Reporting on 2014, the UK Foreign and Commonwealth Office (FCO) gives information about Cubans being arrested and convicted because of offences such as “dangerousness”:

“Offences such as ‘public disorder’ and ‘dangerousness’ were used to arrest and convict Cubans who spoke out about human rights or against the government. Trials were sometimes postponed with no reason given.” (FCO, 12 March 2015)

Freedom House in its January 2017 annual report on political rights and civil liberties in 2016 also notes that “[l]aws on ‘public disorder,’ ‘contempt,’ ‘disrespect for authority,’ ‘pre-criminal dangerousness,’ and ‘aggression’ are frequently used to prosecute political opponents”. (Freedom House, January 2017)

In its February 2017 annual report covering the year 2016 AI points out that “[t]he judicial system remained under political control. Laws covering ‘public disorder’, ‘contempt’, ‘disrespect’, ‘dangerousness’ and ‘aggression’ were used in politically motivated prosecutions.” (AI, 22 February 2017)

In its March 2017 human rights report, the USDOS provides the following information on “trials where defendants are charged with ‘potential dangerousness’”:

“In trials where defendants are charged with ‘potential dangerousness’ [...], the state must show only that the defendant has ‘proclivity’ for crime, so an actual criminal act need not have occurred. Penalties may be up to four years in prison. Authorities normally applied this provision to prostitutes, alcoholics, young persons who refused to report to work centers; repeat offenders of laws restricting change of domicile; and political activists who participated in public protests. [...]

Lack of governmental transparency and systemic violations of due process rights obfuscated the true nature of criminal charges, investigations, and prosecutions, allowing government authorities to prosecute and sentence peaceful human rights activists for criminal violations or ‘dangerousness’.” (USDOS, 3 March 2017, section 1e)

The Swedish Ministry for Foreign Affairs (UD) explains in its report published in April 2017 that the judiciary is in practice subject to the executive power and the criminal law contains vague offences that are often used to arrest and sometimes convict dissidents. (UD, 26 April 2017, p. 1)

IACHR in its April 2017 annual report covering the year 2016 notes:

“The Commission has also been informed of use of the criminal system to criminalize the activities of human rights defenders, journalists, and activities. Thus, the Commission was notified that repeatedly detained persons sometimes end up being included in summary criminal proceedings that may lead to prison sentences for ‘pre-criminal dangerousness’ (peligrosidad predelictiva) [...]” (IACHR, 27 April 2017, p. 552)

The January 2017 report by CRS refers to the cases of several human rights activists convicted on various grounds:

“Two of the five prisoners of conscience, Emilio Planas Robert and Iván Fernández Depestre, had been imprisoned since September 2012 and July 2013, respectively, and had

been convicted of 'dangerousness' (a preemptive measure defined as the special proclivity of a person to commit crimes). The other three 'prisoners of conscience,' brothers Alexeis, Django, and Vianco Vargas Martín, were members of UNPACU. They were detained in late 2012 and convicted in June 2014 after a summary trial in which they were charged with 'public disorder.' [...]

Ciro Alexis Casonova Pérez, who had been placed under house arrest in June 2014 after demonstrating in the streets, was convicted in December 2014 of public disorder and sentenced to one year in prison. [...]

In April 2016, the Havana-based Cuban Commission for Human Rights and National Reconciliation (CCDHRN) estimated that the Cuban government held 82 people imprisoned for political motives (up from 60 people in June 2015), with 11 others released from prison but still on parole - for a total of 93 convicted for political reasons. CCDHRN's report includes dozens of opposition activists, a number of whom are members of UNPACU, as well as those convicted on such charges as hijacking, terrorism, sabotage, other acts of violence, and espionage." (CRS, 18 January 2017, pp. 10-11)

In its March 2017 human rights report, the USDOS mentions the case of UNPACU activist Luis Bello Gonzalez who was charged with "precriminal social dangerousness" and sentenced to three years in prison". According to UNPACU leaders, "authorities arrested and charged Gonzalez because of his regular participation in protests alongside other UNPACU members". (USDOS, 3 March 2017, section 1d)

In the Urgent Action of 27 March 2017 AI reports on the conviction of Eduardo Cardet to three years in prison for attacking an official of the state, even though it was Cardet who was pushed off his bicycle and violently detained, as witnesses report:

"Dr. Eduardo Cardet Concepción, leader of the Christian Liberation Movement (Movimiento Cristiano Liberación, MCL) since 2014 was sentenced to three years in prison on 20 March. He was arrested in Holguín on 30 November 2016, five days after the death of the former leader of Cuba, Fidel Castro. [...] Eduardo Cardet was charged with attacking an official of the state (atentado) after he publicly criticized Fidel Castro a few days after his death. Prior to his arrest, Eduardo Cardet had given interviews published in international media in which he had been critical of the Cuban government. [...]

According to five witnesses who spoke to Amnesty International by telephone on the condition of anonymity, Eduardo Cardet was pushed off his bicycle and violently detained in the early evening of 30 November 2016 by at least four plain clothed and one uniformed police officer as he returned home after visiting his mother. It is not clear on what grounds Eduardo Cardet was initially detained. According to his wife, who witnessed her husband's detention with their two children, Eduardo Cardet is charged with attacking an official of the state (atentado). This offence is covered under Article 142.1 of the Criminal Code. One officer is alleging that Eduardo Cardet pushed him during his arrest. All witnesses who spoke with Amnesty International counter this allegation, and state that Eduardo Cardet was quickly and violently restrained by plain clothed officials, placed in handcuffs, and

beaten, and had no opportunity for self-defence. The witnesses believe that Eduardo Cardet was arrested for his beliefs and ideas.” (AI, 27 March 2017, pp. 1-2)

A 14ymedio article of April 2017 contains information about the conviction of Lisandra Rivera Rodríguez of the Patriotic Union of Cuba to two years imprisonment after being accused of the crime of “attack”. According to her husband, she has not committed any crime and was punished for her activism:

“Confined for more than 80 days in a punishment cell, without a single contact with the outside, the activist Lisandra Rivera Rodríguez of the Patriotic Union of Cuba (UNPACU) received her first family visit this Tuesday, in the Mar Verde Women’s Prison in Santiago de Cuba.

Lisandra Rivera, 28, was arrested after her home was raided by State Security on 31 December of last year. On that occasion, and despite having been beaten by the agents, she was accused of an alleged criminal ‘attack,’ according to UNPACU activists. Her family had not been able to contact her since 17 January when her trial was held in the Provincial Court and she was sentenced to two years imprisonment. [...]

Her husband, Yordanis Chavez, commented in a telephone interview with 14ymedio that both he and her parents managed to be with her for almost two hours. [...] Yordanis Chavez explained that they have not appealed the ruling because they do not trust the judicial system. ‘Lisandra has not committed any crime, it is only because it was an order of State Security as punishment for her activism in UNPACU in favor of freedom and democracy in Cuba.’

José Daniel Ferrer, UNPACU’s leader, fears that, in the midst of the difficult international situation, there could be a repeat of what happened in the spring of 2003, when 75 regime opponents were arrested and sentenced to extremely long prison terms. That crackdown, which came to be known as the Black Spring, coincided with the United States’ invasion of Iraq, a time when the world was looking the other way. At present, more than 50 UNPACU activists remain in prison in several provinces, many of them accused of crimes they have not committed.” (14ymedio, 12 April 2017)

In another April 2017 article 14ymedio reports on the conviction of Micaela Roll Gibert, a member of the Ladies in White to two years in prison for attacking an official from the Ministry of the Interior. According to Berta Soler, the leader of the Ladies in White, “the trial was rigged”:

“On Tuesday morning the Court in Havana’s municipality of Diez de Octubre, confirmed the prosecutor’s request of two years and eight months in jail for Micaela Roll Gibert, 53. The woman, a member of the opposition group Ladies in White, is charged with the crime of attack, alleging that she knocked down Luanda Mas Valdés, an official from the Ministry of the Interior (MININT), during an arrest. According to Berta Soler, the leader of the women’s group who spoke with 14ymedio, the incident took place on May 1, 2016, when Roll Gibert left the headquarters of the Ladies in White.

‘Roll was beaten by two cops. When they put her inside the bus to take her to the police station, one of the officers twisted her arm and knocked her down. As she fell, Roll took with her another police officer who was trying to repress her,’ explained Soler. [...] According to the opposition leader the trial was rigged, prepared by State Security.

‘It’s one more woman they are going to send to prison,’ says the activist, who notes that some time ago a State Security official proposed to Roll Gibert that she ‘collaborate with them.’ ‘When she refused him, they warned her that her life would become a nightmare,’ Soler adds.” (14ymedio, 25 April 2017a)

2.1.5 Repercussions for family members of political activists, political prisoners and human rights activists

Reporting on 2014, the UK Foreign and Commonwealth Office (FCO) mentions “frequent reports of physical attacks, threats and harassment of family members” of human rights defenders. (FCO, 12 March 2015)

Civil Rights Defenders in its December 2016 report elaborates as follows:

“Another form of violation of family life is guilt by association, whereby family members of perceived dissidents are the targets of school or work discrimination, arbitrary arrests and detentions, unfair trials, etc. – all in an attempt to convince individuals to renounce their activities in order to protect their relatives.” (Civil Rights Defenders, 8 December 2016, p. 22)

Agencia EFE reports in 16 March 2017 that a short documentary titled “Prisioneros políticos en Cuba. Avatares de la familia” (Political Prisoners in Cuba. Avatars of the family), directed by Orlando Rodríguez Lobaina, was presented on 16 March 2017 in Miami. The aim of the film is to denounce the isolation and social exclusion that families of imprisoned Cuban dissidents suffer. The film features interviews with relatives and former political prisoners. According to Rodríguez Lobaina all the cases shown reflect a common denominator: the “nightmare” the whole family suffers when one of its members is arrested for political reasons, the “punishment imposed by the regime”. At the screening Rodríguez Lobaina also narrated his own experience as a former political prisoner and the consequences which his being declared a pariah by the state had for his son at school. The first ones that have to pay for the ethical and political commitment of an opponent in Cuba are the children, said Orlando Rodríguez Lobaina. According to Rodríguez Lobaina, not only the dissident is arrested, but also the family suffers, which is subjected to permanent offenses, attacks and exclusion as the regime tries to isolate families of political prisoners from their neighbours. The documentary features interviews with ten members of different families of opponents who denounce the repressive measures they suffer, with constant raids, looting, police abuse and acts of repudiation by the neighbours. The movie shows young wives, mothers, children and relatives of arrested Cuban dissidents who talk about their experiences, about the acts of vandalism against them, for example the throwing of eggs, stones and pig excrements at their houses:

“El corto documental ‘Prisioneros políticos en Cuba. Avatares de la familia’ se proyectó hoy en Miami para denunciar el ‘aislamiento, señalamiento y exclusión social’ que, según su

autor, sufren las familias de los disidentes cubanos presos. Orlando Rodríguez Lobaina, realizador de la cinta, muestra en 29 minutos de entrevistas a familiares y expresos políticos la realidad en los hogares de los opositores al régimen castrista. Según dijo a Efe este ingeniero informático, todos los casos recogidos reflejan un denominador común: la ‘pesadilla’ que sufre la familia entera cuando uno de sus miembros es arrestado por razones políticas, el ‘castigo que le impone el régimen’.

Rodríguez presentó el documental en la Casa Bacardí/Instituto de Estudios Cubanos y Cubano-Americanos, dependiente de la Universidad de Miami (UM), donde expuso su propia experiencia de expreso político y de cómo, convertido en apestado por el régimen, ese destino alcanza también a su hijo en la escuela. Y es que, los ‘primeros en pagar’ el compromiso ético y político de un opositor en la isla son los hijos. ‘Llevo veinte años en la lucha y sobre mi hijo, que tiene nueve años, pesa en la escuela el expediente de opositor de su padre, del que le dicen que es lo peor y le siembran la semilla del odio’, dijo. De manera que ‘no solo está preso el disidente, sino también la familia, que tiene que vivir bajo permanentes ofensas, vituperación y la exclusión de los vecinos, a los que el régimen trata de aislar de la familia’ del preso político.

Producido por la compañía independiente Palenque Visión, Rodríguez tardó dos años en completar el documental en el que entrevista a diez miembros de diferentes familias de opositores que denuncian las medidas represivas que sufren, con allanamientos constantes, saqueos, abuso policial y actos de repudio vecinal. El arresto de un opositor entraña un ‘cataclismo en las familias. Se quedan desamparadas y los niños traumatizados con los registros y detenciones y cacheos’, señaló uno de los entrevistados. Esposas jóvenes, madres, hijos y parientes de los cubanos opositores arrestados hablan de sus terribles experiencias, de los actos vandálicos que sufren, entre otros el de personas que les arrojan ‘chapapote a la casa, huevos, piedras o excrementos de cerdo’.” (Agencia EFE, 16 March 2017)

The documentary of Orlando Rodríguez Lobaina can be accessed via the following link:

- Palenque Vision: Prisioneros políticos en Cuba. Avatares de la familia, 16 March 2017 (available on Youtube)
<https://www.youtube.com/watch?v=x0U5Lb5RHXA>

Diario de Cuba mentions in March 2017 that a detailed report which describes the repression the Ladies in White have experienced during 2016 and 2017 was handed over to the Attorney General’s Office by a representative of the movement. The report describes, among other things, the harassment of relatives, children and spouses:

“Una representación de las Damas de Blanco entregó este lunes a la Fiscalía General de la República un informe detallado con la represión que ha sufrido el movimiento femenino durante el 2016 y en lo que va de 2017, informó a DIARIO DE CUBA la líder del grupo Berta Soler. En el documento - también hecho llegar a la delegación de la Unión Europea (UE) en la Isla y a la Nunciatura Apostólica de La Habana -, ‘refleja las multas, el acoso a los familiares, hijos y esposos, la represión brutal que tienen el Departamento de la Seguridad

del Estado (DSE) y la Policía Nacional (PNR) contra las Damas de Blanco’.” (Diario de Cuba, 28 March 2017)

According to Leticia Ramos Herreria, a member of the Ladies in White, as quoted in the 20 April 2017 article of Agencia EFE, the authorities arrest children of members of the movement on fabricated charges. In addition, Leticia Ramos Herreria states that children of members of the Ladies in White are subjected to threats:

“Ramos spoke at a press conference about the alleged Cuban government plan to ‘destroy’ the Ladies in White at a time when the repression of dissidents on the island is being intensified. She said that elements of the plan to break the resistance of the Ladies in White is to be seen in the beatings, ‘harsh and cruel’ interrogations including humiliations such as being forced to strip naked in front of male State Security and police officials, and the arrest of members’ children for ‘crimes fabricated’ by the authorities. But Ramos expressed the firm resolve of the Ladies in White to continue with their public - and peaceful - peaceful protests’ despite the beatings, threats against our children and increase in repression’ and to ‘demonstrate’ to the Cuban regime that they will not stop their demands for ‘freedom for political prisoners and the Cuban people.’” (Agencia EFE, 20 April 2017)

The 26 April 2017 article of 14ymedio which provides information on the conviction of Micaela Roll Gibert, a member of the Ladies in White, quotes Berta Soler as saying that “Micaella Roll Gibert’s 16-year-old daughter was expelled from the School of Nursing because of her mother’s activism and another of her children, a son, was fired from his job in retaliation against his mother”. (14ymedio, 26 April 2017a)

In May 2017, Diario de Cuba reports on the harassment of children and minor relatives of political activists in the days before the publication of the article, including an eight-year-old girl, a ten-year-old boy and a 16-year-old teenager. They have been threatened with the opening of conduct records or with imprisonment or have been detained for several hours:

“Fuerzas del régimen han hostigado en los pasados días a hijos y familiares menores de edad de opositores pacíficos, entre ellos una niña de ocho años, otro niño de diez y un adolescente de 16 años. Los amenazan con abrirles ‘expedientes de conducta’, con años de cárcel o, incluso, han llegado a retenerlos durante horas. ‘No quiero que a mi hija le abran ningún expediente de conducta porque no ha cometido ningún delito. Es una niña de ocho años que es muy preocupada en la escuela y tiene muy buenos resultados’, denunció María de la Caridad Herrera Alfonso, esposa del activista preso Yeider Fuentes Arias.

Según relató Herrera Alfonso en un vídeo difundido por la Unión Patriótica de Cuba (UNPACU), desde el pasado 20 de septiembre fuerzas del régimen se acercaron a la familia y le dijeron que iban a ‘abrirle un expediente de conducta a mi niña. Dijeron que era una orden que venía de La Habana’. De acuerdo con la madre, el motivo del expediente, según afirmaron las autoridades, es una medida que se ‘está haciendo a los hijos de los padres que están presos’.

‘Este tipo de procedimientos se aplica a menores con tendencias delictivas. No estamos hablando de un centro de rehabilitación, de una consulta o apoyo que se le pueda a dar un niño. Evidentemente estamos ante un caso de represión, ante una forma de castigar y de presionar a los padres usando la represión contra los hijos’, señaló en referencia al expediente de conducta el líder de la UNPACU, Carlos Amel Oliva.” (Diario de Cuba, 3 May 2017)

In May 2017 14ymedio, in an article that deals with the arrest of 38 Ladies in White, mentions threats against activists and their families and that many are fined for “evading the police cordon in front of their homes”:

“At least 38 Ladies in White were arrested this Sunday in Havana, Matanzas, Guantanamo, Ciego de Avila and Santa Clara, during the 100th day of the #TodosMarchamos (We All March) campaign for the release of Cuba’s political prisoners. [...] In Matanzas, at least a dozen of the movement’s women managed to reach the church to attend Sunday Mass, while 19 were arrested on the way to the parish. ‘We have had an operation since Saturday in front of the houses of the Ladies in White,’ said Matanzas activist Leticia Ramos Herrería. The police ‘have been embroiled in trying to end our movement,’ says the opponent. ‘The threats they are making against the activists and their families are serious. Many are being fined for simply evading the police cordon in front of their homes.’” (14ymedio, 8 May 2017)

The Miami Herald in the 13 May 2017 article notes that Laritza Diversent, director of Cubalex, decided to seek political asylum in the United States out of concern for her son. The article further reports on threats against relatives of activists:

“Diversent said she was so concerned about the impact her activism might have on her 17-year-old son that she decided to ask for political asylum in the United States. She and several other Cubalex activists recently left the island for the U.S. ‘You can’t work when you’re afraid of what can happen to your family and your son,’ she said by phone from her new home in Memphis, Tennessee, where she was relocated by an agency that helps refugees. ‘I am committed to my work and I love Cuba, but I am a mother.’ [...]”

Diversent — who is described as an ‘anti-Cuban mercenary’ in EcuRed, Cuba’s version of Wikipedia — said Cubalex had been studying how authorities are changing the mechanisms for harassing and repressing independent groups. Although the number of politically motivated detentions has been falling so far this year in comparison to 2016, she said, ‘the repression has intensified because they are targeting the private lives of activists. The home searches, the raids and the threats to relatives have increased.’ [...]

The leader of the Ladies in White, Berta Soler, has complained for months about the heavy fines imposed on members of the dissident organization. She told el Nuevo Herald by phone from Havana that state security agents also have threatened some of the women’s relatives with jail. Rey Hanoi Barrueto, 17, the son of member Aliuska Gómez, is in prison for an alleged brawl although the accuser has disappeared, she added.” (The Miami Herald, 13 May 2017)

In a June 2017 article 14ymedio reports on the expulsion of Professor Dalila Rodriguez from university. Her father is said to be the coordinator of an organisation that defends religious rights. According to Dalila Rodriguez, the authorities “have done all this to make my father feel guilty”:

“The Ministry of Higher Education (MES) ratified the expulsion of Professor Dalila Rodriguez from the Marta Abreu Central University of Las Villas. A letter dated May 9 and delivered this Friday to the academic, responds to her earlier appeal and confirms the revocation of her teaching status, as Rodriguez explained to 14ymedio. [...]

On April 11 the professor received an order of dismissal from her position on the Humanities Faculty, issued by the dean Andres Castro Alegria, and it invoked Article 74 of the Regulation for the application of the Higher Education Teaching Categories. The argument put forward to justify the expulsion was that the professor had not managed ‘to rectify a set of attitudes that deviate socially and ethically from the correct teaching activity that her teaching status demands, and that can affect the education of students.’ Rodriguez received the news with surprise. [...]

From the beginning of 2015, the academic experienced pressure from State Security. Several agents interviewed her in order to find out if she had contacts with the activist and evangelical pastor Mario Felix Leonart. There were also interested in knowing about relationships of her father, Leonardo Rodriguez Alonso, coordinator of the Patmos Institute, an independent organization that defends religious rights in Cuba.

Dalila Rodriguez asserts that she does not belong to any dissident group, nor does she even attend events convened by independent entities on the Island. ‘They have done all this to make my father feel guilty,’ she says.” (14ymedio, 3 June 2017a)

Martí Noticias in a May 2017 article provides information on the case of the opposition activist Adairis Miranda of the Cuban Reflection Movement whose children suffer harassment and political discrimination in a primary school in Holguín. The activist called the actions against her two children (ten and nine years old) political discrimination. According to Miranda, her children are attacked by the other children who in most cases call them “counterrevolutionaries” while using insults and committing moral offenses. The mother adds that the other pupils don’t want to play with her children and say that even their parents prohibit it:

“Los dos hijos pequeños de la activista del Movimiento Cubano Reflexión, Adairis Miranda Leyva, sufren acoso y discriminación política en una escuela primaria de Holguín. La activista Adairis Miranda, integrante del Comando Olegario Charlot Spileta, del Movimiento Cubano Reflexión, calificó de discriminación política las acciones contra sus dos hijos, Tahimí Rodríguez Miranda, (10 años), y Alain Michel Rodríguez Miranda (9 años), en la escuela primaria Julio Grave de Peralta, en la ciudad de Holguín. Miranda Leyva dijo a Martí Noticias que sus hijos sufren ataques de parte de los demás niños del aula donde estudian, y agregó que en la mayoría de las ocasiones los menores acompañan los insultos y ofensas morales con el adjetivo ‘contrarrevolucionarios’. En el caso del niño, lo que

ocurre es que los demás menores del aula no quieren jugar con él, porque dicen que ‘sus padres también lo prohíben’, aseguró.” (Martí Noticias, 14 May 2017)

The Cuban Democratic Directorate (Directorio) and Mothers against Repression (M.A.R. Por Cuba), in their joint email response of 9 June 2017 provide the following assessment:

“Any Cuban that declares their desire for an end to the Castro regime is subject to harassment, bogus fines, short-term detention, false charges, inability to work, this also transcends to their family. Children of opposition members have suffered harassment at school or kicked out of schools all together.” (Directorio/ Mothers against Repression, 9 June 2017)

The Cuban Democratic Directorate (Directorio) published on its website several videos with the title “Vamos por ti y tu familia” (We will come for you and your family) about the violence and harassment against families and activists of the Forum for Rights and Liberties (Foro por los Derechos y Libertades), a group of different opposition organisations, independent journalists and activists. The videos can be accessed via the following link:

- Directorio: Vamos Por Ti Y Tu Familia, undated (c)
<http://www.directorio.org/Vamos-Por-Ti-Y-Tu-Familia>

2.2 Military deserters and humanitarian mission deserters

According to the CIA World Factbook, the age for compulsory military service is 17 to 28 years. There is a two year obligation for males, military service for females is optional. (CIA, 1 August 2017)

2.2.1 Military deserters

In a March 2014 query response on military service and consequences of refusal, the Immigration and Refugee Board of Canada (IRB) provides a translation of Articles 171 and 172 of the Cuban Penal Code of 1987:

“Penalties for Evasion

Articles 171 and 172 of the Cuban Penal Code of 1987 list the following penalties related to violations of duties related to general military service:

[translation]

ARTICLE 171.

1. The punishment of deprivation of freedom for a period of from three months to one year or a fine of one hundred to three hundred cuotas [installments between one and fifty pesos (Cuban peso is about C\$0.041 [XE 4 Apr. 1014]) (Cuba 1987, Art. 35.2)] shall be imposed on the authority, official or employee who:

a. impedes, obstructs or aids, in any fashion whatsoever, the fulfillment of the duties with reference to the General Military Service by the party who is subordinated to him in terms of work or administration;

b. fails to fulfill his duties with the military registry, with the execution of notice and delivery of personnel, means or equipment of the national economy allocated to the Revolutionary Military Service.

2. The same punishment shall be imposed on whomever, in order to avoid the fulfillment of his duties concerning the General Military Service, fails to comply with the tasks related to his incorporation to the Active Military Service or the Reserve, or with other acts related to the General Military Service.

3. Should fraudulent means be utilized for the execution of the acts mentioned in the preceding paragraph, the individual shall be subject to a punishment for a period of from six months to two years or a fine between two hundred and five hundred cuotas.

ARTICLE 172.

The reservist who fails to appear upon a call in request for his joining up the ranks in the event of a possible aggression of the enemy, shall be subject to a punishment of deprivation of freedom for a period of from six months to two years. (Cuba 1987, Art. 171, Art. 172)” (IRB, 28 March 2014)

A Spanish version of the Penal Code with amendments up to 7 December 2013 is available as part of an annotated collection of legal provisions. It can be accessed via the following link:

- Medina Cuenca, Arnel: Comentarios a las leyes penales cubanas, 15 December 2014
<http://www.lex.uh.cu/sites/default/files/3.Comentarios%20a%20las%20leyes%20penales%20cubanas.PDF>

The text of the Penal Code as cited by IRB regarding the articles 171 and 172 corresponds with the above version of 2013.

In a March 2013 state report on the implementation of the Convention on the Rights of the Child, the government of Cuba notes:

“Article 18 of Military Offences Act No. 22 of 15 February 1979, as amended by Decree-Law No. 152 of 1994, establishes penalties for the crime of desertion ranging from 2 to 5 years’ imprisonment.” (Government of Cuba, 1 March 2013, p. 19)

The Military Offences Act No. 22 of 15 February 1979 can be accessed via the following link:

- Ley No. 22 - Ley de los Delitos Militares de 15 de febrero de 1979, published in the Gaceta Oficial No. 6 of 5 March 1979, pp. 111-119
<http://juriscuba.com/wp-content/uploads/2016/07/Ley-No.-022-Ley-de-los-Delitos-Militares.pdf>

The ordinary edition No. 10 of the Official Gazette of Cuba of 31 August 1994 contains the abovementioned law 152 of 1994 which modified the Military Offences Act No. 22 of 15 February 1979:

- Decreto-Ley No. 152 de 26 de agosto de 1994, published in the Gaceta Oficial de la República de Cuba No. 10 of 31 August 1994, p. 146
https://www.gacetaoficial.gob.cu/pdf/GO_O_010_1994.rar (Save RAR archive locally and extract file)

2.2.1.1 Treatment upon return to Cuba

In its March 2017 human rights report, the USDOS notes that military deserters could be more severely punished for an unauthorised departure than other persons:

“The law provides for imprisonment of up to three years or a fine of 500 nonconvertible pesos (CUP) (\$20) for first-time ‘rafters’ (those who attempted to depart using clandestinely constructed vessels). The largest fine reported during the year was 3,000 CUP (\$120) for an unauthorized departure from the country. Most persons caught attempting unauthorized departures via sea were detained briefly. In the case of military or police defectors, or those traveling with children, the punishment could be more severe. Prison terms were also more common for persons attempting to flee to the United States through the Guantanamo U.S. Naval Station.” (USDOS, 3 March 2017, section 2d)

The Miami Herald columnist Helen Aguirre Ferré in a November 2014 article provides some information relating to Dayro Andino Leon, a military deserter who was returned to Cuba and allegedly committed suicide in prison:

“Like most other 18-year-olds, Dayro Andino Leon was determined to find his own way in the world. For Dayro, that meant leaving his home and country. Living in Cuba’s police state was not what he envisioned for his family, especially his young wife and their 1-month-old daughter. So he did what so many others do: He joined a group of neighbors who got on a makeshift boat that was barely seaworthy and headed toward the United States.

Cubans intercepted at sea are supposedly interviewed by a member of the Coast Guard to determine if they qualify for special consideration for asylum to enter into the United States. Dayro had a good claim: He was a military deserter. The return of any Cuban deserter guarantees imprisonment under brutal circumstances. Incredibly, Dayro was returned to Cuba with the other refugees and, sure enough, was taken by State Security thugs while the others were allowed to go free.

At no time was he allowed to speak to or see his family. He was transferred to the Red Beret Military Unit in Cienfuegos province. His cell mates said that he was behaving erratically and informed the guards, according to independent journalist Alejandro Tur Valladares on the radio show Cuba Today. Dayro was not known for that type of behavior. Could he have been drugged? What we do know is that the 18-year-old was found dead in his cell, hanging from a bed sheet.

It has been called a suicide, but was it? We may never know. What we need to know is why the Coast Guard repatriated this young man when they had to know that his fate was sealed upon return to the Communist island. Perhaps the Coast Guard official who interviewed Dayro thought he was evading military service rather than deserting.” (The Miami Herald, 29 November 2014)

A November 2014 article of Cubanet contains similar information on this case and features further details on the detention of Dayro Andino Leon in Cienfuegos:

“Cuando Dairo Andino León se lanzó a la mar era consciente que arriesgaba la vida. Lo que nunca sospechó fue que no serían las olas las que apagarían su existencia, sino una serie de eventos legales y represivos adversos, los que le inducirían a quitarse la vida. [...]

Apenas tuvo conocimiento de la fecha en que zarparía la rústica embarcación abandonó la unidad militar en la que cumplía el periodo de Servicio Militar Obligatorio y se unió, junto a dos amigos del barrio, a la desconocida masa de hombres – algo más de una veintena– que durante los siguientes días serían sus compañeros en el mar. [...] Ya a punto de naufragar fueron rescatados por la guardia costera de Estados Unidos. En el barco refugio fue entrevistado por un funcionario de emigración estadounidense. Las condiciones en que se dio la entrevista o los asuntos tratados son una incógnita. Probablemente nunca sabremos si Andino le contó al funcionario que era un desertor de las Fuerzas Armadas Cubanas (FAR) y que su regreso al país tendría consecuencias. [...]

Cuenta su vecina Maricela Herrera Cordero que tras varios días en el Hospital Naval de La Habana, recuperándose físicamente, fue trasladado en condición de detenido hasta la sede provincial de la Seguridad del Estado (G2) en Cienfuegos. [...]

Luego de siete días de encierro al fin le permitieron ver al padre, que estaba acompañado de su quinceañera esposa y su bebé de mes y medio de nacido. En el momento del encuentro la esperanza le acompañaba: ‘Si Dios quiere pasado mañana estaré suelto’, les dijo.’ Pero no sucedió. Por el contrario, fue trasladado a un lugar más tenebroso que el anterior, a un calabozo de ‘Prevención’, unidad militar que funge como sede de las Brigadas de Tropas Especiales, ‘Boinas Rojas’.

Cuenta un compañero de cautiverio de Dairo que, encontrándose aún en la Unidad del G2, se había percatado que algo no andaba bien con el joven, y que se lo comunicó al oficial de guardia, quien le contestó despectivamente, ‘ése no es tu problema’. La noche final le dijo al carcelero que tenía frío, que quería una sábana para taparse. Aprovechando que el guardia dormía colocó el blanco lienzo en su garganta y puso fin a su existencia.” (Cubanet, 24 November 2014)

Martí Noticias in July 2015 reports on the case of two young men who were completing the general military service in the Cuban Border Troops and fled in a boat that was government property. They were being held in the Bahamas and were afraid of facing trial in case of their deportation to Cuba. Their lawyer indicated that, if returned to the island, the two could face charges of desertion, treason or theft. According to the lawyer, the authorities in Cuba strongly condemn desertion:

“Ángel Luis Llorente y Yoiselandy Alfonso, dos jóvenes que cumplían el Servicio Militar General (SMG) en las Tropas Guardafronteras y que huyeron de la isla en una embarcación propiedad del Gobierno, se encuentran detenidos en Bahamas y temen enfrentarse a la justicia en caso de ser deportados a Cuba. [...]

El abogado Willy Allen, especializado en temas de Inmigración en Estados Unidos, señaló que de ser devueltos a la isla ambos jóvenes pueden enfrentar las acusaciones de desertión, traición o robo. ‘En la isla condenan con mucha fuerza la desertión y me preocupa la situación de ellos’, dijo Allen quien recordó que la visión de los Gobiernos de Estados Unidos, Bahamas y Cuba sobre esos casos ‘es diferente’.” (Martí Noticias, 7 July 2015)

An August 2015 article of Diario de Cuba contains similar information and adds that the two deserters could face long prison sentences in Cuba:

“Dos jóvenes reclutas que cumplían el Servicio Militar en las Tropas Guardafronteras y escaparon de Cuba el pasado 5 de junio en una embarcación propiedad del Gobierno, temen ser deportados y enfrentar cargos por desertión, traición y robo. [...] Los reclutas temen ser devueltos a la Cuba, donde podrían enfrentar largas penas de cárcel.” (Diario de Cuba, 19 August 2015b)

Sebastián A. Arcos, Associate Director of the Cuban Research Institute at Florida International University, in his 24 May 2017 email response states that “[t]raditionally, military deserters were put in prison [...]. There is no indication this behavior has changed.” (Arcos, 24 May 2017)

According to information given by a German expert on Cuba in a phone conversation on 31 May 2017, nobody knows about the exact situation of military deserters upon return to Cuba. The return of military deserters was a major issue in the 1970s and 1980s when the Cuban military was deployed in Africa in large numbers. But this has ceased to be an important issue, because only a few Cuban military advisors remain abroad. At the moment no major cases are known and concerning the cases that do exist there is no transparency at all. (German expert on Cuba, 31 May 2017)

No further information could be found on this topic.

2.2.1.2 Treatment of family members of military deserters

Only little information could be obtained regarding the situation of family members of military deserters. Therefore, the following sources also contain information on families of persons with government jobs who left Cuba illegally:

A 26 April 2017 article of 14ymedio describes the situation of the wife of a former member of the Cuban Ministry of the Interior (MININT) who fled Cuba:

“Cuban police are searching for a boat stolen from the Revolutionary Armed Forces (FAR) and to find it they are raiding houses of former rafters, according to Solainy Salazar, whose husband tried to leave the island several times. That was the justification given by the authorities, including several State Security agents, who searched her home on Monday. [...] ‘They came into the house and told me they were going to search everything because they were looking for an inflatable boat and that I and my husband were accomplices to the theft,’ she adds. José Yans Pérez Jomarrón, Salazar’s husband, has tried unsuccessfully to escape from Cuba six times, but has been intercepted by the Cuban Coast Guard or

returned to the authorities of the island by its American counterparts. On his last voyage he took refuge, with some twenty Cubans, in a lighthouse 30 kilometers northeast of Key West.

Although most of the rafters managed to be admitted a special program that gives them the opportunity to be relocated in a third country, because they were able to demonstrate 'credible fear' of being persecuted in Cuba, for Pérez Jomarrón the outcome was different. 'When I finished my military service they offered me a job with the Ministry of the Interior (MININT). As an inexperienced boy I agreed and when the immigration agents in the United States learned that I had once belonged to that repressive organ, they returned me to Cuba,' explains the rafter-turned-entrepreneur who at the moment is in Guyana looking at the possibility of some business linked to his commercial activity. [...]

Police and State Security agents accused Solayni Salazar of being an accomplice in the theft of the boat and described all the members of her family as antisocial and counterrevolutionary. [...] 'They threatened to arrest me. But they never brought the witnesses (required by law) when they did the search and they never showed me a court order to enter my home. And they did all this in front of my little boy,' she says. [...]

Salazar believes that the authorities are persecuting her family due to her husband's multiple attempts to illegally exit the country and because of his opposition to the government." (14ymedio, 26 April 2017)

In an April 2016 article Cubanet includes a video featuring an interview with a former Cuban policeman of the National Revolutionary Police. Michel Herrera who recently reached US shores on a makeshift boat says that he is very upset by the fact that former colleagues of his now harass and threaten members of his family and that he is worried about his parents, his wife and his children. (Cubanet, 7 April 2016)

Sebastián A. Arcos in the abovementioned email response of 24 May 2017 mentions that families of military deserters traditionally suffered discrimination (labour, education, etc.) and that there is no indication this behaviour has changed. He further adds that "[d]iscrimination usually involves dismissal from state employment; transfer to a menial, less remunerated employment; difficulties finding employment; harassment of school children by school authorities and/or other students; expulsion from school/college/university; refused admission to school/college/university [...]; and harassment from authorities." (Arcos, 24 May 2017)

2.2.2 Humanitarian mission deserters

14ymedio reports in April 2017 that Cuba suspended the mission of a group of 710 doctors to Brazil for fear of desertions:

"Cuba just suspended the sending of a group of 710 health professionals who would have worked on the 'More Doctors' mission in Brazil, out of fear of desertions, according to a report from the Brazilian press informed by that country's Ministry of Health. The decision not to send the doctors is an act of pressure from Havana in the face of the role played by

the Brazilian government of Michel Temer, which has allowed more than 80 Cuban health professionals to stay in the country after the end of their mission. [...]

‘The Cuban government fears that what is happening in Brazil could infect other Cuban doctors working in third countries,’ says Julio César Alfonso, president of Solidarity Without Borders (SSF), a non-profit organization that helps doctors who deserted from the missions and to move to the United States and join the workforce in the healthcare system there. [...] Cuba has tens of thousands of doctors abroad. [...]

Last January, in the last days of the Democratic administration of Barack Obama, the United States eliminated the Parole Program for Cuban doctors working abroad, a program that allowed deserters to travel legally to US territory and to benefit from the Cuban Adjustment Act. [...]

Since 2006 the Cuban Medical Professional Parole has allowed 8,000 Cuban health professionals to escape and travel to the United States. In 2016, some 1,400 professionals from Brazil’s More Doctors program took advantage of these facilities. It is also estimated that more than 1,000 doctors from the island married Brazilians, a way to obtain permanent residency in Brazil and avoid the compulsory return to the island. Some 1,600 have taken the examinations to revalidate their titles and insert themselves in the labor market of Brazil.

Cuba has strictly forbidden its ‘health workers’ to have relationships with ‘natives’ and in its precise code of ethics requires that they ‘should be informed immediately,’ to remain consistent with ‘revolutionary thinking’ and ‘in no way be excessive’ (sic).” (14ymedio, 14 April 2017)

A February 2017 article of 14ymedio describes the situation of Cuban health professionals as follows:

“This past January 12, the then-president of the United States, Barack Obama, eliminated the CMPP [Cuban Medical Professional Parole], a program established under the administration of Republican George Bush that in a decade allowed the flight of more than 8,000 Cuban health professionals.

According to the non-profit organization Solidarity Without Borders, which helps integrate these doctors into the US health system, it helps those fleeing from the biggest human trafficking system in the modern history of the western hemisphere. [...]

The Cuban government appropriates two-thirds of the salary earned by the Cubans abroad. They are generally sent to the most remote places in deplorable working conditions. In countries like Brazil they do not have the right to receive their family while the aid program lasts, even though the laws of that country permit it.

Solidarity Without Borders is in the middle of a campaign to re-establish the Parole program for Cuban doctors. Currently they are working with the offices of Cuban American

congressmen in order to present a proposal to President Donald Trump to reinstate the CMPP. [...]

Working conditions and political pressure push thousands of professionals to accept the missions proposed by the Cuban government. Even though the salary was increased in 2014, the average salary of a doctor in Cuba is about 60 dollars a month.

The massive exportation of health services has generated income for the government on the order of 8.2 billion dollars a year in 2014 according to official sources.” (14ymedio, 6 February 2017)

2.2.2.1 Treatment upon return to Cuba

In an October 2015 query response about the treatment of deserters and whether the law regarding dereliction of duty is applied, the Immigration and Refugee Board of Canada (IRB) refers to penalties for dereliction of duty providing a translation of article 135 of the Cuban Penal Code:

“2. Dereliction of Duty

Article 135 of the Criminal Code (Código Penal) of 1987 indicates the following:

[translation]

Article 135.1. An official or employee charged with a mission in a foreign country who quits, or, having completed the mission, or being asked at any time to return, expressly or implicitly refuses to return is liable to a penalty of three to eight years in prison.

2. The same penalty applies to officials or employees who, having completed a mission abroad and against the express order of the Government, move to another country. (Cuba 1987, Art. 135)

According to the Canadian embassy official, Article 135.1 is still valid ‘in principle,’ but the government now applies the new immigration law, ‘which impedes a person who left illegally [from going back to Cuba] for at least eight years, unless the person left after the exit permit was lifted and re-enters Cuba within two years’ (Canada 6 Oct. 2015). The official also indicated that this rule does not apply to minors (ibid.).” (IRB, 8 October 2015)

A Spanish version of the Penal Code with amendments up to 7 December 2013 is available as part of an annotated collection of legal provisions. It can be accessed via the following link:

- Medina Cuenca, Arnel: Comentarios a las leyes penales cubanas, 15 December 2014
<http://www.lex.uh.cu/sites/default/files/3.Comentarios%20a%20las%20leyes%20penales%20cubanas.PDF>

The text of the Penal Code as cited by IRB regarding article 135 corresponds with the above version of 2013.

In its April 2016 human rights report, the USDOS mentions that “the government announced that healthcare workers, mostly physicians who had defected from their posts abroad, would be allowed to return to the country and resume their same work and pay without harassment”. (USDOS, 13 April 2016, section 1f)

An October 2015 article of the Spanish daily newspaper El País also reports the announcement of the Cuban government to grant amnesty to returning medical professionals who deserted their missions abroad:

“The Cuban Medical Professional Parole Program created by the Republicans in 2006 has become one of the stumbling blocks in the ongoing talks between Washington and Havana aimed at normalizing diplomatic relations. While President Barack Obama has slowed the process of granting visas under the program, Cuban President Raúl Castro has done his part by announcing last month that he will grant full amnesty to all returning medical professionals who deserted while stationed abroad. Castro said they can safely return to Cuba, where they will be given jobs and will not face any type of punishment or sanctions. Until now, deserters, whose medical licenses have been revoked, had been banned from returning to Cuba for seven years. Many of these defectors were sent on humanitarian missions to Brazil, Venezuela and Bolivia, where the leftist governments in those countries had set up social health programs in poor neighborhoods. [...]

Cuban sources explained that the doctors who decide to return will not only be offered jobs but will also receive further training in different areas of specialization and be allowed to apply for scholarships and to participate in conferences in other countries.” (El País, 13 October 2015)

A June 2016 article of The Miami Herald contains information about a doctor who deserted 2015 during her mission in Venezuela and is now prohibited from returning to Cuba for eight years. The article also refers to the announcement of the Cuban government that deserted doctors are allowed to return to Cuba, but indicates that those returned would need a special permit to travel abroad again:

“Tania Tamara Rodríguez never thought she would escape from the Cuban medical teams in Venezuela and become a ‘deserter,’ now blocked by her government from returning to her country for eight years. But the many difficulties that Cuban health professionals face in Venezuela as a result of the economic and political crisis in the South American country are leading a growing number to seek refuge in neighboring countries or obtain other jobs to make ends meet. [...]

During the 13 years that Cuba has been sending medical personnel to Venezuela, more than 124,000 have served in the South American country. Thousands have escaped to the United States and other countries, searching for better lives.

For many years, like Rodríguez, the medical defectors were banned from returning to Cuba for eight years. Last year, Cuba announced the defectors could return and would be guaranteed ‘a job similar to what they had before.’ But there was a catch: Those who

returned would need a special permit to travel abroad again.” (The Miami Herald, 22 June 2016)

In an article of 3 February 2017, 14ymedio notes that the Cuban authorities reiterated their willingness to take back deserted Cuban health professionals. According to a deserted doctor quoted in the article “[n]obody wants to return”:

“The Ministry of Public Health released a statement Thursday in the official newspaper Granma to reiterate the willingness of Cuban authorities to take back health professionals who have ‘defected’ from medical missions abroad. The announcement comes three weeks after the outgoing U.S. president, Barack Obama, eliminated the Cuban Medical Professional Parole (CMPP) program. [...]

‘This kind of offering is not new,’ said Yisel, a comprehensive general practitioner who left the island in 2015 via Ecuador. ‘The national health system has run out of workers because of the way they exploited us.’ She currently resides in Miami.

In 2014 the Cuban government, for the first time, offered health professionals who had defected a chance to rejoin the national system. The following year, Granma published an extensive article where medical personnel were guaranteed a similar job location to what they had before leaving the country. ‘Including those victims of the deceptive and vulgar practice of brain-drain,’ said the Communist Party organ at that time.

‘Nobody wants to return because what they offer is the same thing that we had,’ explains the doctor. Wages were raised in March 2014. Today, doctors in Cuba earn \$60 a month. However, after the massive export of health services, professionals who remain on the island have to work double shifts in hospitals and working conditions have significantly worsened.” (14ymedio, 3 February 2017)

14ymedio in the aforementioned 6 February 2017 article reports on a group of doctors who found themselves stranded in Colombia after the abolition of the Parole Program of the United States and who were then allowed to travel to Miami. The article quotes the spokesman for the group as saying that the Cuban government prohibits deserters from returning to Cuba for eight years despite the government’s assertions to the contrary:

“Mildre Ester Martinez, recently arrived in Miami, appreciates the help received through the media and the service of Solidarity Without Borders. ‘I did not feel right. I was disgusted, disappointed by all the work we did there. I thank God to be here,’ she added. Maikel Palacios, health professional and spokesman for the group of Cubans, reminded that although Cuba has said publicly that they can rejoin the public health system, ‘they don’t let defectors enter the country for eight years.’ Palacios also questioned the supposed good will of the Island’s government when the official communication from the Minister of Public Health did not mention the frozen bank accounts that the aid workers lose once they abandon the mission. ‘They don’t talk about the money. There are people who have up to 7,000 dollars, and they lose it all the day they decide to escape,’ he said.” (14ymedio, 6 February 2017)

A January 2017 article of The Miami Herald also reports on Cuban health professionals stranded in Colombia after the abolition of the US Parole Program. They state that going back to Cuba is no option as they would be considered “scum, political pariahs”. According to them, “they would never be allowed to work as doctors again or hold any job worthy of the years they’ve put into study”. The article goes on to say that “[t]he level of rejection against medical ‘deserters’ is a direct reflection of how important the doctors are to Cuba’s foreign policy and its very survival.” (The Miami Herald, 20 January 2017a)

Another January 2017 article of The Miami Herald describes the case of Elisabet Casero, a Cuban dentist, who deserted her mission in Venezuela in January 2017. According to her, “[d]eserting a medical mission is almost seen as an act of treason. ‘My record is stained, they’ll take away my degree and you’re looked down on by everyone,’ she says. ‘You were once a dentist but now you’re a nobody.’” (The Miami Herald, 20 January 2017b)

The American news channel Fox News in a February 2017 article refers to Cuban health professionals stranded in Mexico:

“Scores of Cubans meet every day at the Gateway to the Americas International Bridge in Nuevo Laredo on the U.S. border after an odyssey through 10 countries, never knowing if they would achieve their dream of entering the United States, but with the conviction that returning to the island is ‘not an option.’ [...]

More than 11,000 Cubans arrived in Mexico during the last three months of 2016. Since last Friday the Mexican government began deporting dozens from the 21st Century Migration Station in Tapachula, Chiapas state. ‘Returning to Cuba is not an option,’ said Lester Diaz, who lived in Havana. ‘It’s unfair what is happening to us.’ About their prospects after a possible deportation, Sara Ramos said ‘Cuba supposedly has no political prisoners, but they pin other charges on you to put you in jail.’

Others who were interviewed asked to remain anonymous in case they are deported to Cuba, while all agreed that economic conditions on the island are insupportable and are what forced them to leave their country.” (Fox News, 1 February 2017)

The doctor in the abovesited 6 February 2017 article of 14ymedio who deserted her mission in Venezuela is quoted as stating that she could not go back to Cuba because she “would be marginalized and looked at badly”. She adds that “[t]hey put you in another place, not in your job because they look down on you because you don’t agree with what you experienced and for what you were badly prepared”. (14ymedio, 6 February 2017)

NBC News, a division of the broadcast television network NBC, in a February 2017 article reports the following with regard to Cuban health professionals waiting in Colombia:

“Just like Lezcano, there are over a dozen Cuban doctors and other medical professionals who abandoned their posts in Venezuela and were in transit to the U.S. embassy in Bogotá when the parole program was abruptly ended. They say they cannot return to Cuba and they face deportation if they remain in Colombia. The only reason they risked deserting was to apply for the now defunct program. The government of Cuba has said it will accept

Cuban doctors and reincorporate them into the national health system. But, those stranded in Colombia insist this is not true. They say desertion is considered treason in the communist island. Those who defect are punished, medical degrees are revoked, and society scorns them. [...]

Marisleidy Boza Varona, a 26 year-old dentist from Camaguey, thought of defecting from the beginning. [...] On the 13th, she decided it was safe enough to make her way to Colombia and it was along the way that she found out Obama had already ended the program. 'I was in shock. Everything came crashing to the ground ... I know people who have returned to Cuba and they lose everything. They lose their diploma. They send you to work in the mountains as punishment,' she said.' (NBC News, 20 February 2017)

The Spanish news agency EFE in an April 2017 article cites the spokesman for a group of stranded Cuban doctors in Colombia as saying that in Cuba they are "persecuted politically because we deserted a Cuban medical mission, which is also a political project". (EFE, 17 April 2017)

Sebastián A. Arcos in his email response of 24 May 2017 indicates that "[h]umanitarian mission deserters don't usually go to prison". (Arcos, 24 May 2017)

According to information given by a German expert on Cuba in a phone conversation on 31 May 2017, there are no clear rules for the return of humanitarian mission deserters. Usually, it comes to serious conversations, demotions, transfers to a less attractive workplace and minor forms of harassment, but there are no dramatic cases. The situation of the returnee also depends a lot on their behaviour upon return, whether they show remorse or not, for example. (German expert on Cuba, 31 May 2017)

2.2.2.2 Treatment of family members of humanitarian mission deserters

In its March 2017 human rights report, the USDOS mentions that "[f]amily members of government employees who leave international work missions without official permission at times faced government harassment or loss of employment, access to education, or other public benefits." (USDOS, 3 March 2017, section 1f)

The Human Rights Foundation (HRF) which describes itself as a nonpartisan non-profit organisation that promotes and protects human rights globally, with a focus on closed societies, mentions in an April 2017 report that relatives of defected health workers "endure reprisals and systematic harassment ". (HRF, 14 April 2017b, p. 2)

Sebastián A. Arcos in the abovementioned email response of 24 May 2017 indicates that the relatives of humanitarian mission deserters do suffer discrimination (labor, education). He further adds that "[d]iscrimination usually involves dismissal from state employment; transfer to a menial, less remunerated employment; difficulties finding employment; harassment of school children by school authorities and/or other students; expulsion from school/college/university; refused admission to school/college/university [...]; and harassment from authorities." (Arcos, 24 May 2017)

According to information given by a German expert on Cuba in a phone conversation on 31 May 2017, relatives of humanitarian mission deserters usually don't face pressure, but there are certainly also exceptions. As a rule, there is organised social pressure, but no wide-ranging / permanent sanctions are put in place. (German expert on Cuba, 31 May 2017)

2.3 Freedom of expression and thought

2.3.1 *General overview of the right to freedom of expression and thought*

In its Freedom of the Press report covering the year 2016, Freedom House lists Cuba as “not free” with a score of 91 out of 100 (0 being the best and 100 being the worst), which means that Cuba is among the ten worst performing countries (Freedom House, April 2017, p. 9). The report further states:

“Although Cuba remains one of the most closed media environments in the world, several new news websites emerged on the island in 2016, and the more established outlets expanded their reach. In response, authorities stepped up arrests and intimidation of critical journalists, seizing their materials and preventing some from traveling abroad to trainings or conferences. However, the regime was unable to prevent an improvement in the range and quality of information available.” (Freedom House, April 2017, p. 21)

The Freedom on the Net 2016 report by Freedom House, covering the time period from June 2015 to May 2016, contains information about internet access:

“Despite modest steps to increase internet access, Cuba remains one of the world’s most repressive environments for information and communication technologies. High prices, old infrastructure, prohibition of home connections, and extensive government regulation have resulted in a pronounced lack of access.” (Freedom House, November 2016)

The Committee to Protect Journalists (CPJ) in its report Attacks on the Press 2017 (covering the year 2016) provides the following assessment of the media landscape in Cuba:

“Cuba’s media landscape has begun opening up in recent years, transformed by a lively blogosphere, an increasing number of news websites carrying investigative reporting and news commentary, and an innovative breed of independent reporters who are critical of, yet still support, socialist ideas. The energized press scene contrasts with the island nation’s restrictive legal framework, which curbs freedom of speech under the guise of protecting the ‘independence or territorial integrity of the state.’ Though the constitution bans private ownership of the press and all media are supposedly controlled by the one-party Communist state, the spread of independent reporting is a sign of change.

Reporters, from the most critical - who are known as dissidents - to journalism school graduates, documentary filmmakers, and pro-revolutionary bloggers, are opening new spaces for free expression and entrepreneurial journalism that seemed off limits just a few years ago. Bloggers said they have embraced the loosening of restrictions. ‘We are seeing opportunities that were inconceivable five years ago,’ said Alejandro Rodríguez, who quit his job in 2012 at Adelante, a state-run weekly in the eastern city of Camagüey, to start a

blog. However, many said that more work needs to be done, with the threat of arbitrary detention, vague and outdated laws, and limitations on internet access slowing Cuba's press freedom progress.

Internet access in Cuba, which the U.N. rates among the lowest in the Western Hemisphere, is still inaccessible to most citizens. And though large-scale systematic state repression has eased significantly, the most strident opponents in the media say they still face harassment and intimidation from authorities. [...]

And though there is almost no criticism of government policies in the state media, most newspapers--including the national daily Granma--have started 'Letters to The Editor' sections that provide a vehicle for Cubans to express opinions. [...]

Though Cuba's tight grip on the press has waned in recent years, authorities still exert control over the media and the most critical independent journalists continue to face harassment. Long-term incarcerations have become rare since the 2003 crackdown (during which CPJ documented 29 journalists serving lengthy prison sentences), but detentions and summons are still common, CPJ research shows. The once-common tactic of accusing journalists of acting as 'mercenaries' at the service of the United States has become almost obsolete." (CPJ, 25 April 2017)

In its Freedom of the Press 2016 report (covering 2015) Freedom House features the following more detailed account concerning media in Cuba:

"Cuba has the most repressive environment for the media in the Americas. The Cuban government continues to suppress dissent, including harassing, intimidating, and detaining independent journalists. [...]

For years, independent or critical Cuban journalists and bloggers have suffered harassment for their reporting on topics deemed sensitive by the government. However, since the strong international repudiation the Cuban government received in response to a wave of imprisonments in 2003 (known as the Black Spring), such harassment now more often takes the form of arbitrary short-term detentions, beatings, threats against journalists and their family members, internal deportations, house arrest, 'public repudiations,' and demotions. Due to their unofficial and short-term nature, these tactics generate less international condemnation.

In October 2013, news editors who were considered less hardline were assigned to head the country's two major newspapers, the Communist Party paper Granma and Juventud Rebelde, the paper of the Communist Party's youth wing. This was seen as part of the Cuban government's self-described process of promoting generational renewal to modernize the papers and reduce media censorship and secrecy. Some state media have recently offered more criticism of problems in the country, including corruption and misuse of resources, although outright criticism of the government or political system does not occur. Self-censorship in the official press is rampant, and investigative reporting is nonexistent. Problems with state policies are often blamed on 'social indiscipline' rather than the system or its leaders. Reporting on foreign events is filtered through the lens of

the Cuban government's foreign policy objectives, with governments in countries such as Syria and Venezuela receiving sympathetic coverage in Cuban state media.

A number of publications associated with the Roman Catholic Church are occasionally critical of the government and have emerged as key players in debates over the country's future, including Espacio Laical, Palabra Nueva, and Convivencia.

Additionally, in recent years Cuba has witnessed incremental growth of citizen journalism, an increase in the number of independent bloggers, and the appearance of a small number of independent, island-based news outlets — including the sites Havana Times, Periodismo de Barrio, On Cuba, and 14ymedio.” (Freedom House, 27 April 2016)

Reporters Without Borders (Reporters Sans Frontières, RSF) in its 2017 World Press Freedom Index ranks Cuba 173th among 180 countries (compared to rank 171 in the 2016 index). In its country profile on Cuba, RSF provides the following summary with regard to media freedom:

“A self-styled socialist republic with a single party, Cuba continues to be Latin America's worst media freedom violator year after year. Fidel Castro's death in 2016 effectively changed nothing. The Castro family, which has ruled since 1959, maintains an almost total media monopoly and tolerates no independent reporting. Arbitrary arrests and imprisonment, threats, smear campaigns, confiscation of equipment, and closure of websites are the most common forms of harassment. These practices are ubiquitous and are buttressed by an arsenal of restrictive laws. Unless forced to flee the island to protect themselves or to keep working, the few independent bloggers and journalists must cope with drastic restrictions on Internet access.” (RSF, 2017)

In its annual report published in January 2017 Human Rights Watch (HRW) describes the situation as follows:

“A small number of journalists and bloggers who are independent of government media manage to write articles for websites or blogs, or publish tweets. However, the government routinely blocks access within Cuba to these websites. Moreover, only a fraction of Cubans can read independent websites and blogs because of the high cost of, and limited access to, the internet. Independent journalists who publish information considered critical of the government are subject to smear campaigns and arbitrary arrests, as are artists and academics who demand greater freedoms.” (HRW, 12 January 2017)

In its January 2017 annual report on political rights and civil liberties in 2016, Freedom House gives the following overview with regard to media in Cuba:

“The Cuban news media are owned and controlled by the state. The independent press is considered illegal and its publications are classified as ‘enemy propaganda.’ Government agents routinely infiltrate the ranks of independent journalists, often accusing them of being mercenaries. Independent journalists, particularly those associated with the island's small independent news agencies or human rights groups, are subject to harassment.

Some state media have begun to cover previously taboo topics, such as corruption in the health and education sectors. A number of publications, especially those associated with

the Catholic Church, have engaged in debates about the country's future. Additionally, in recent years Cuba has witnessed the growth of citizen journalism, an increase in the number of independent bloggers, and the appearance of a small number of independent, island-based news outlets. [...] While political censorship, high costs, slow speeds, and limited access continue to characterize the internet in Cuba, the past five years have seen increases in web access via state channels like cybercafés and Wi-Fi hotspots, as well as through inventive workarounds that Cubans have designed to produce and distribute digital content." (Freedom House, January 2017)

The DW Akademie, a German organisation for international media development, in September 2015 publishes a summary of a panel discussion of media experts held by DW Akademie and the German public broadcaster ARD about the media landscape in Cuba featuring contrasting opinions:

"‘There are now more freedoms [in Cuba] than there were before,’ opined moderator Matthias Reiche, radio correspondent with the German public broadcaster, MDR, and former correspondent for Mexico, Central America and the Caribbean, as he opened the discussion. Cuban journalist and author Francis Sánchez didn’t share this view. ‘There’s no sense things are changing in the media,’ he said, adding that the government’s push to improve Cuba’s image abroad was one of the reasons for this. Restrictions, some of which are extremely subtle, continue to suppress independent journalism within Cuba, explained Sánchez, who founded the independent online magazine, *Árbo Invertido*. Even just getting online is difficult for independent journalists because it is so expensive, he said, whereas journalists working for the state media can access the Internet for free.

‘The Internet costs me more than five US dollars an hour,’ Sánchez said. That, he pointed out, is a lot of money in a country where the average monthly income is little more than 20 US dollars. As such, media freedom in Cuba is about media freedom for others, not for independent journalists like himself, Sánchez said. ‘There are still lines that you’re not allowed to cross,’ he said, ‘especially when it comes to the government preserving its hold on power.’ [...] Bernd Pickert, Latin America expert for the German daily newspaper, *Die Tageszeitung (taz)*, was more optimistic. ‘There’s a lot happening within Cuba’s government-controlled media,’ he said, citing the example of state-employed journalists now being able to travel outside of the country for training. That is a ‘novelty and a great opportunity,’ Pickert said. [...] Professor Bert Hoffmann, Cuba expert and senior fellow at the German Institute of Global and Area Studies, sees Cuban leaders becoming more tolerant, especially when it came to online content. ‘Traditional mass media such as radio, television and print are under much tighter restrictions than blogs and mailing lists,’ he said. [...]

A representative from Reporters Without Borders sitting in the audience pointed out that even though the media had more leeway now, the environment was still highly restrictive. ‘At least two Cuban journalists and one blogger are currently serving lengthy prison sentences,’ he said. Pablo Díaz Espi also noted that numerous paragraphs in the Cuban constitution continue to allow for ‘undesirable’ journalists to arbitrarily be sent to prison. ‘It doesn’t look like the communist party is getting ready to change that,’ he said. Online

journalist Francis Sánchez warned of too much enthusiasm. ‘The Arab Spring won’t be coming to Cuba,’ he said.” (DW Akademie, 11 September 2015)

2.3.2 Measures of repression and control of the press and media

2.3.2.1 Legal framework

The March 2017 human rights report by the USDOS mentions the following concerning laws restricting freedom of expression:

“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 in prison.” (USDOS, 3 March 2017, section 2a)

IACHR in its April 2017 annual report covering the year 2016 notes the following:

“During 2016, the IACHR and its Special Rapporteurship continued to receive troubling information about the use to which Cuba puts criminal law, that is to say both substantive and procedural law, and the crime of desacato as ulterior liability mechanisms to the detriment of journalists and activists who disseminate ideas, opinions and information that is critical of the ruling party.” (IACHR, 27 April 2017, p. 568)

The CPJ in a comparative study published in March 2016 provides the following information on existing laws restricting freedom of expression and their enforcement in Cuba:

“A. Criminal Laws Restricting Freedom of Expression

Cuba has the most restrictive laws on free speech and press freedom in the Americas. The constitution prohibits private ownership of media outlets and allows free speech and journalism only if they are ‘in keeping with the objectives of a socialist society.’

The Penal Code offers the Cuban authorities an array of criminal provisions to suppress dissent and punish those overtly critical of the government. In general, the Penal Code addresses three forms of criminal defamation offences: defamation (difamación), insults (injuria) and contempt of authority (desacato).

1. Defamation

Cuba’s Penal Code expressly criminalizes defamation and slander under its section on crimes against honor. In particular, Article 318 provides that ‘[h]e who, before third parties, imputes to another a conduct, fact or characteristics, contrary to honor, which may damage his social reputation, belittle him in public opinion or expose him to loss of the trust required to perform his job, profession or social function,’ will be punished with three months to one year in prison with/or a fine. Separately, the Penal Code maintains a prohibition against defaming any government institutions, political organizations or ‘heroes or martyrs of the Republic,’ which is also punishable by three months to one year in prison or fine.

Additionally, Article 319 typifies the crime of slander, providing that '[h]e who, knowingly, divulges false facts that result in the discredit of a person' will be punished with six months to two years in prison or a fine.

2. Insult

Cuba's Penal Code also criminalizes insults under its section on crimes against honor. Specifically, Article 321 states that '[h]e who, knowingly, in writing or verbally, through drawings, gestures or acts, offends another in his honor,' will be punished with three months to one year in prison or a fine.

3. Contempt of Authority

In addition to the abovementioned provisions, Cuba's Penal Code also punishes slander, defamation, insult, injury 'or any other mode of scornful or offensive expression' against highranking public officials with up to three years in prison. In particular, Article 144 punishes this conduct with three months to one year in prison and/or a fine when it is directed against a public official. However, when the conduct is directed against the President or other senior officials the punishment is of one to three years in prison and/or fine. This provision has been deemed among the most troubling for press freedom due to its vagueness and seemingly limitless application.

4. Other Relevant Laws

Cuban laws include other far-reaching criminal provisions that have been used to restrict the exercise of freedom of expression. For example, Cuba maintains prohibitions against dissemination of 'false news' with the aim to 'disturb international peace' or 'endanger the prestige of, or discredit, the Cuban state.' This offense is punishable with one to four years in prison. Moreover, Article 103 of the Penal Code sets out penalties of up to 15 years of imprisonment for engaging in 'enemy propaganda.' Similarly, the 1997 Law of National Dignity provides for prison sentences of three to ten years for 'anyone who, in a direct or indirect form, collaborates with the enemy's media,' which is aimed at independent news agencies that send their material abroad.

Of particular concern are Article 91 of the Penal Code, which imposes lengthy prison sentences or death for those who act against 'the independence or the territorial integrity of the state,' and Law 88 for the Protection of Cuba's National Independence and Economy, which imposes up to 20 years in prison for passing information to the U.S. government, or looking for classified information, 'aimed at breaching the internal order, destabilizing the country and ending the Socialist State and the independence of Cuba.'

Lastly, Cuba's Penal Code offers several other criminal provisions that have been used to restrict freedom of expression and freedom of peaceful assembly and association, such as charges of rebellion, clandestine printing, pre-criminal social dangerousness, illicit associations, reunions and demonstrations, resistance, and spying.

B. Enforcement of Criminal Defamation Laws

Cuba's legal and institutional structures are firmly under the control of the executive branch. Laws criminalizing defamation, contempt and 'enemy propaganda' have been extensively used to restrict freedom of speech under the guise of protecting state security. [...]

In Cuba, most criminal prosecutions threatening freedom of speech have included charges of contempt, under Article 144 of the Penal Code, or 'enemy propaganda,' under Article 115, or of acting against 'the independence or the territorial integrity of the state,' under Article 91, which is often used in conjunction with Law 88. Moreover, most of the criminal prosecutions for defamation refer to the defamation of public institutions, organizations, national heroes and martyrs, which is also often used in conjunction with other provisions to curb freedom of expression by preventing public debate and criticism of the authorities and of government policies." (CPJ, March 2016, pp. 59-61)

In its report *Attacks on the Press 2017* (covering the year 2016) the CPJ provides similar information in a more summarised form:

"Cuba, which was ranked 10th on CPJ's 2015 list of the world's most censored countries, has the most restrictive laws on free speech and press freedom in the Americas. Its penal code contains restrictive press freedom provisions.

Most criminal prosecutions that threaten freedom of speech include charges of contempt of authority under Article 144 of the penal code, 'enemy propaganda' under Article 115, or acting against 'the independence or the territorial integrity of the state,' under Article 91, which is often used in conjunction with Law 88, 'protection of Cuba's national independence and economy,' according to a 2016 comparative study of criminal defamation laws in the Americas prepared for CPJ by the law firm Debevoise & Plimpton in collaboration with the Thomson Reuters Foundation. The charges can carry a prison term of up to 20 years.

Most of the prosecutions refer to the defamation of public institutions, organizations, national heroes and martyrs, which is also often used in conjunction with other provisions to curb freedom of expression by preventing public debate and criticism of the authorities and government policies.

The internet is perhaps the biggest hurdle for journalists seeking to become relevant, because most of their content is consumed outside the island. At the same time, they must pay high prices for online access and find original ways to disseminate their work to a home audience that is largely offline.

These new media journalists also operate in a legal limbo, in part because Article 53 bans private ownership of the press and recognizes 'freedom of speech and the press in accordance with the goals of the socialist society.' Many of the journalists interviewed said they approach their work cautiously and sometimes veer away from publishing overtly critical work because of the current legal framework." (CPJ, 25 April 2017)

Civil Rights Defenders in its December 2016 report elaborates as follows:

“Article 53 of the Constitutions establishes that ‘citizens have freedom of speech and of the press in keeping with the objectives of socialist society’ and that the law regulates the exercise of freedoms. The legal framework adopted further limits the right to freedom of expression. The Penal Code lists a number of crimes that are used to restrict this right: contempt, dissemination of false information, defamation, etc. Such crimes can be punished with detention sentences of up to four years – or more, if it is found that they created a danger to the State. Special laws – such as the infamous ‘Gag Law’ (‘Ley Mordaza’) no. 88, with its ‘high levels of’ abstraction and ambiguity (...) making the interpretation and application of this legal disposition a source of arbitrariness’ – further restrict the exercise of freedom of expression.

The will of the Government to strictly control what citizens say about its rule makes freedom of expression one of the most restricted rights in Cuba. Artistic expressions such as music and painting are also restricted if they are considered a risk to national security or a way to offend public authorities. According to article 144 of the Penal Code, a person who ‘threatens, slanders, defames, insults, libels or in any way outrages or offends, orally or in writing, the dignity or decorum of an authority, public functionary, or his agents or assistants’ can be punished with imprisonment of three months to one year – extendable to three years if the authorities in question are the President of the State Council, the President of the Nacional Assembly, members of the State Council or of the Ministerial Council, Ministers or Parliamentarians.

Also of particular concern is section V of the Penal Code on enemy propaganda. Article 103 in particular establishes that those who ‘incite against the social order, international solidarity or the socialist State, through oral or written or any other kind of propaganda’ can be sentenced to between one and eight years of detention. Also punishable are those who put together, distribute or own such propaganda. This makes work for democracy impossible. The right to freedom of the press is also constitutionally limited to the aims of the socialist society.” (Civil Rights Defenders, 8 December 2016, p. 23)

In its Freedom of the Press 2016 report (covering 2015), Freedom House also refers to laws on freedom of expression and the press in Cuba:

“Cuba has the most restrictive laws on freedom of expression and the press in the Americas. The constitution prohibits private ownership of media outlets and allows free speech and journalism only if they ‘conform to the aims of a socialist society.’ Article 91 of the penal code prescribes lengthy prison sentences or death for those who act against ‘the independence or the territorial integrity of the state,’ and Law 88 for the Protection of Cuba’s National Independence and Economy imposes up to 20 years in prison for acts ‘aimed at subverting the internal order of the nation and destroying its political, economic, and social system.’ Cuba’s legal and institutional structures are firmly under the control of the executive branch. Laws criminalizing ‘enemy propaganda’ and the dissemination of ‘unauthorized news’ are used to restrict freedom of speech under the guise of protecting state security. Insult laws can carry penalties of three months to one year in prison, with sentences of up to three years if the president or members of the Council of State or National Assembly are the objects of criticism. The 1997 Law of National Dignity targets

independent news agencies that send their material abroad by authorizing prison sentences of 3 to 10 years for anyone who, in a direct or indirect form, ‘collaborates with the enemy’s media. [...]

The regime threatens anyone accessing the internet illegally with five years in prison, and the sentence for writing articles deemed ‘counterrevolutionary’ for foreign websites is up to 20 years.” (Freedom House, 27 April 2016)

2.3.2.2 Restricted internet access, media monopoly

The Freedom on the Net 2016 report by Freedom House, covering the time period from June 2015 to May 2016, contains information on internet access, penetration rates and internet speeds in Cuba:

“Penetration rates and internet speeds continue to lag behind regional averages, and access to the global internet in Cuba is extremely restricted, due to high prices and government regulation of access points. Many users are still relegated to a tightly controlled government-filtered intranet and related email service. Nevertheless, some openings have taken place over the past years, and more Cubans have gained access to the global internet or to other channels for sharing information with fellow citizens. Email access via mobile devices has been enabled and hundreds of state-run access points are now available, including the first paid public Wi-Fi hotspots. [...]

High costs and slow speeds also constitute major barriers, mainly due to weak domestic infrastructure. [...] While the government has cut prices for internet access points, hourly charges still amount to roughly 10 percent of the average monthly salary. In February 2015, ETECSA temporarily reduced the hourly charge for using the internet at state-run cybercafes from US\$4.50 an hour to US\$2.00 per hour. For a much lower fee of US\$0.60 an hour, Cubans were able to access domestic websites only. According to one blogger’s account, users at navigation halls can access foreign news sites like the BBC, El País, and the Financial Times, as well as Miami-based El Nuevo Herald and Diario de las Américas if they can afford the higher fees for international websites. [...] The backbone structure of the internet in Cuba is entirely controlled by the government, and state authorities have the capability and the legal mandate to restrict connectivity at will. At times of heightened political sensitivity, the government has used its complete control of the cell phone network to selectively obstruct citizens’ communications.” (Freedom House, November 2016)

IACHR in its April 2017 annual report covering the year 2016 notes that the state-owned Telecommunications Company of Cuba (ETECSA) controls access to the internet infrastructure and devices:

“It is worth recalling that access to the infrastructure and devices needed to search for, receive, and share information and ideas on the web in Cuba remains under State control via the State-owned company Empresa de Telecomunicaciones de Cuba S.A (Etecsa). This limits the cultural expressions, access to information, and the discussion of ideas to which Cubans have access via radio, Internet, and the press. The available information suggests that barely 5 percent of the population can connect to the Internet from home, in a context

in which Internet connections are costly. Likewise, only about two million people in a population of 11 million are said to have a mobile phone, so that access to the Internet is still not possible for a majority of Cubans.” (IACHR, 27 April 2017, p. 570)

In its February 2017 annual report covering the year 2016 Amnesty International points out that “[t]he government continued to use limitations on access to the internet as a key way of controlling both access to information and freedom of expression”. The report goes on to say that “[o]nly 25% of the population was able to get online and only 5% of homes had internet access. By August, there were reportedly 178 public Wi-Fi spots in the country. However, there were frequent reports of the Wi-Fi service being interrupted”. (AI, 22 February 2017)

Civil Rights Defenders in its December 2016 report explains:

“The state has also a strict control of access to and surveillance of internet. Control of access is achieved by restricting private connections, access to needed hardware and high connection costs (\$2 dollars per hour in a country where the official average salary for 2015 was \$25 per month).” (Civil Rights Defenders, 8 December 2016, p. 24)

The HRW annual report published in January 2017 states that “only a fraction of Cubans can read independent websites and blogs because of the high cost of, and limited access to, the internet”. The report further notes that “[t]he government controls virtually all media outlets in Cuba and restricts access to outside information”. (HRW, 12 January 2017)

The March 2017 human rights report by the USDOS elaborates as follows on the control and ownership of media outlets by the state:

“The government directly owned all print and broadcast media outlets and all widely available sources of information. News and information programming was generally uniform across all outlets, with the exception of broadcasts of Venezuelan government news programming. The government also controlled nearly all publications and printing presses, and the CP [Communist party] must give prior approval for printing of nearly all publications. The party censored public screenings and performances. The government also limited the importation of printed materials. [...]

The law prohibits distribution of printed materials considered ‘counterrevolutionary’ or critical of the government. Foreign newspapers or magazines were generally unavailable outside of tourist areas. Distribution of material with political content--interpreted broadly to include the Universal Declaration of Human Rights, foreign newspapers, and independent information on public health - was not allowed and could result in harassment and detention.” (USDOS, 3 March 2017, section 2a)

According to the 2017 Crime and Safety Report for Cuba, published by the US Department of State’s Overseas Security Advisory Council (OSAC) “[the government of Cuba maintains tight control of information through ownership of the communications networks and restricting Internet access, meaning that there is very little privacy for companies or individuals”. (OSAC, 10 March 2017)

In its Freedom of the Press 2016 report (covering 2015), Freedom House notes that the government is the owner of almost all traditional media:

“The government owns virtually all traditional media except for a number of underground newsletters. It operates three national newspapers, five national television stations, six national radio stations, and one international radio station, in addition to numerous local print and broadcast outlets. All content is determined by the government. [...] Cubans do not have the right to possess or distribute foreign publications, although some international papers are sold in tourist hotels. Private ownership of electronic media is also prohibited. Nevertheless, the Roman Catholic Church’s publications and the few independent outlets that operate do provide some alternative to the government media.” (Freedom House, 27 April 2016)

Civil Rights Defenders notes in its December 2016 report:

“The State has a constitutional monopoly on communication media and the private property of them is forbidden. This means that there are no legally recognized independent media in the country.” (Civil Rights Defenders, 8 December 2016, p. 23)

RSF mentions in a December 2016 article that “Cuba’s constitution permits only state-controlled media outlets. Independent news agencies and bloggers who try to dispute the state’s monopoly of news and information are subjected to intimidation, arbitrary arrest and draconian censorship.” (RSF, 2 December 2016)

2.3.2.3 Blocking of websites and SMS, censorship

A September 2016 article by 14ymedio features information on blocking of SMS and websites and a filter implemented by the Telecommunications Company of Cuba S.A. (ETECSA):

“If you are considering sending a text message to a friend to wish him a ‘happy coexistence’ with his family or to suggest that he not give in to ‘the dictatorship of work,’ it is very likely that the phrase will never reach its destination. A filter implemented by the Telecommunications Company of Cuba S.A. (ETECSA) blocks certain words from flowing through the cellular network. (See below for the list.) For years, users of the only cellphone company in the country have suffered from congestion on the lines and areas of poor coverage, but few have noticed that there is also a strict blockade on the use of key terms and phrases in mobile messaging.

The discovery of this list has happened almost by chance. Several users, upset that their messages were charged for but not delivered, exchanged experiences. This week they connected the dots and found that texts containing the following references never reached their destinations: ‘human rights,’ ‘hunger strike,’ ‘José Daniel Ferrer,’ or the name of the independent magazine ‘Coexistence.’ Over several days and at different points in the national geography, this newspaper has run tests from terminals with very different owners, ranging from opponents and activists to people without any links to independent movements. In all cases, messages containing certain expressions ‘were lost on the way.’ [...] Arnulfo Marrero, deputy chief of the ETECSA branch at 19 and B in Vedado, Havana, was surprised on Friday morning by a complaint presented to his office about the

censorship. ‘We have nothing to do with this, you should contact the Ministry of Communications (MICOM),’ the official explained to the bearer of the complaint. ‘MICOM governs communications policy, because we don’t make any decisions here. All I can do is report it,’ said Marrero. [...]

During his students years at the University of Information Sciences (UCI), the engineer Eliecer Avila worked on the so-called Operation Truth. His group monitored the internet and created matrices of opinion favorable to the government in forums, blogs and digital diaries. At present, Avila leads the independent Somos+ (We Are More) Movement, which is also on the long list of terms blocked by Cubacel messaging. ‘We implemented algorithm projects that, given certain phrases or words entered by a user into their browser, they would appear preferentially in official pages,’ Avila recalled for this newspaper. ‘We tried to invisibilize alternative proposals or criticisms.’

The presence of an intelligent filter is obvious in this case. If you type in the text ‘cacerolazo’ – a word meaning the banging and pots and pans as a form of protest – your message will take much longer to arrive than some other text. A similar slowdown occurs if you write the names of Fidel Castro or Raúl Castro, and it is true in the latter case with or without the accented letter U. [...]

Telecommunications censorship is not a new tool for the Plaza of the Revolution. Activist frequently denounce the blocking of their cellphones on December 10th, Human Rights Day, or other times when they want to gather together. During the visit of Pope Benedict XVI to the island in September of 2012, more than 100 opponents reported the suspension of their cellphone service, along with house arrests and arbitrary detentions. [...]

A blockade of uncomfortable digital sites has also been a common practice for officialdom. On the list of inaccessible sites are portals set up from abroad such as Cubaencuentro, as well as local newspapers like 14ymedio. More than a few users manage to circumvent the censorship by sending news via email or sending offline copies of pages that pass from hand to hand thanks to technological devices like USB flash drives and external hard drives. [...]

In July 2014, the governments of Cuba and China signed an agreement on ‘cooperation in cyberspace.’ China has transferred to the island its experience in monitoring and blocking content on the web, especially what they have learned from their launch in 1998 of the so-called Golden Shield Project, known worldwide as the Great Firewall, which employs more than 30,000 censors.

Raul Castro’s government has not only copied China’s content filtering strategy, but also the creation of its own social networks to discourage Cubans from using Facebook, Twitter or Google Plus. To achieve this an ersatz Wikipedia, called Ecured, was created, along with a platform-style Facebook dubbed La Tendera (The Shopkeeper) and an unpopular substitute for Twitter known as El Pitazo (The Whistle), all with little success.” (14ymedio, 3 September 2016)

The article which provides the list of the words and phrases known to be blocked by the cellphone network Cubacel can be accessed via the following link:

- 14ymedio: Cubacel Censors Texts With The Words “Democracy” Or “Hunger Strike”, 3 September 2016
<http://translatingcuba.com/cubacel-censors-texts-with-the-words-democracy-or-hunger-strike-14ymedio-yoani-sanchez-reinaldo-escobar/>

In its January 2017 annual report on political rights and civil liberties in 2016, Freedom House refers to the blocking of critical blogs and websites as well as SMS containing certain words:

“In December 2016, Etecsa, the state telecommunications company, launched a pilot program providing 2,000 residents of Old Havana with home internet access. However, critical blogs and websites are often blocked. Activists have reported that the state mobile provider has blocked the delivery of SMS messages containing terms like ‘democracy,’ ‘human rights,’ and ‘hunger strike.’

While it remains illegal to print or distribute independent media, both journalists and Cuba’s new media start-ups have used innovative methods to share information online via e-mail subscription services or weekly news digests. A sophisticated data packet distribution system uses flash drives to circulate digital information, and Cuba’s new private mobile phone repair shops often double as independent media and phone app distribution points. Various apps like Feedly and Pocket allow Cubans to maximize their limited time online by quickly downloading articles to read later, offline. Another app called Psiphon creates a virtual private network (VPN) that lets users access blocked sites anonymously.” (Freedom House, January 2017)

The Freedom on the Net 2016 report by Freedom House notes that Cuba does not rely on “technically sophisticated filtering and blocking”. The report further states that dissident websites and blogs are periodically blocked or disabled:

“Rather than relying on the technically sophisticated filtering and blocking used by other repressive regimes, the Cuban government continues to limit users’ access to information primarily via lack of technology and prohibitive costs. Restrictions on email in the workplace, however, have been growing in recent years, and dissident websites and blogs continue to be subject to periodic disabling or blocking. Moreover, a series of recent tests conducted by 14ymedio found that ETECSA’s cellphone network, Cubacel, has been systematically filtering domestic SMS containing specific words, such as references to ‘democracia’ (democracy) and ‘derechos humanos’ (human rights). [...]

The websites of foreign news outlets - including the British Broadcasting Corporation (BBC), El País, the Financial Times, and El Nuevo Herald (a Miami-based Spanish-language daily) - are accessible in Cuba. However, ETECSA commonly blocks dissident or independent news sites, such as Cubanet, Penúltimos Días, Diario de Cuba, Cubaencuentro, Hablemos Press, and 14ymedio. The sites of some Cuban activists and dissident organizations based on the island, such as the Patriotic Union of Cuba (UNPACU), the Christian Liberation Movement (MCL), and the civic project Estado de SATS, also face blocking. Revolico, a platform for posting classified advertisements for products circulating on the black market was only

recently unblocked, according to reports in August 2016. Beginning in 2007, the government systematically blocked core internet portal sites such as Yahoo, MSN, and Hotmail. As of 2015, some of these sites remain blocked in some government institutions, although they are largely accessible from hotels. Blocking occurs not only at the national level but also at the level of various intranet networks and at access points. [...] Social-networking platforms such as Facebook and Twitter are sometimes blocked at certain universities and government institutions, but may be accessed - with consistent monitoring and varying reliability - from Wi-Fi hotspots, some cybercafes and hotels.” (Freedom House, November 2016)

The Freedom of the Press 2016 report by Freedom House (covering 2015) also mentions that “the authorities do not have the means to engage in systematic filtering”. (Freedom House, 27 April 2016)

IACHR in its April 2017 annual report covering the year 2016 notes that the government controls and blocks critical websites on the Internet:

“With respect to this matter, the IACHR and its Special Rapporteurship continued to receive information that the Cuban State has not given up its policy of control and hostility toward the critical press on the Internet and still blocks content that the regime decides to censure. Along those lines, on August 25, 2016, the Director for United States affairs of the Cuban Ministry of Foreign Affairs, Josefina Vidal, reportedly said that a meeting organized by the Office of Cuba Broadcasting (OCB) in Miami on the use of the Internet in Cuba was an attempt to foster ‘internal subversion.’” (IACHR, 27 April 2017, pp. 569-570)

In May 2017, 14ymedio reports that the website of Somos+ is now blocked by the government and that several dozen critical pages are not accessible:

“The digital site of the Somos+ (We Are More) Movement has now joined the list of pages censored on the servers of the Cuban Telecommunications Company (ETECSA) which supply public WiFi. The leader of the organization, Eliecer Avila, links this measure to ‘the growing influence’ of the site among the younger generation. The government is ‘very aware of the statistics of who reads our blog and from where they are reading it,’ says the opponent. ‘They have simply detected that the site is a threat to the system’s monolithic discourse,’ he told 14ymedio on Tuesday. ‘The blocking is the clearest sign our site is effective,’ he adds. ‘We are trying to make a video tutorial of how it can be accessed despite censorship’ and for months ‘we have had a weekly newsletter that is sent by email.’ [...]

Officialdom maintains censorship over several dozen critical pages, as well as blogs and opinion sites that shed light on Cuba’s most serious social problems. Among the sites shuttered in this way are 14ymedio and the news portals CubaNet, Diario de Cuba and Martí Noticias, among others. [...] Cuban authorities have copied the Chinese model of filtering digital sites by their content. A situation that Internet users are struggling to overcome through the use of anonymous proxies, the so-called ‘virtual private networks’ (VPNs), and other tools such as the Android operating system app Psiphon and the Tor browser.” (14ymedio, 16 May 2017b)

2.3.3 Incidents of abuse and harassment of members of the press/media

In its 2017 country profile on Cuba, RSF provides the following summary with regard to the treatment of bloggers and journalists:

“Arbitrary arrests and imprisonment, threats, smear campaigns, confiscation of equipment, and closure of websites are the most common forms of harassment. These practices are ubiquitous and are buttressed by an arsenal of restrictive laws. Unless forced to flee the island to protect themselves or to keep working, the few independent bloggers and journalists must cope with drastic restrictions on Internet access.” (RSF, 2017)

Civil Rights Defenders in its December 2016 report describes the situation as follows:

“Independent and critical journalists and bloggers are continuously harassed for their reporting on topics that are considered sensitive, suffering arbitrary shortterm detentions, internal deportations, house arrest, public acts of repudiations, demotions and the blocking of individuals’ mobile-telephone service are frequent occurrences for them.” (Civil Rights Defenders, 8 December 2016, p. 23)

The March 2017 human rights report by the USDOS covering the year 2016 provides the following information on independent journalist and bloggers:

“The government does not recognize independent journalism, and independent journalists sometimes faced government harassment, including detention and physical abuse. Most detentions involved independent journalists who filmed arrests and harassment of #TodosMarchamos activists. Several journalists were detained, had their equipment confiscated, and were harassed for covering the aftermath of Hurricane Matthew. Some independent journalists reported interrogations by state security agents for publishing articles critical of government institutions. [...]

Despite poor access, harassment, and infrastructure challenges, a growing number of citizens maintained blogs in which they posted opinions critical of the government, with help from foreign supporters who often built and maintained the blog sites. The government blocked local access to many of these blogs. In addition, a small but growing number of citizens could use Twitter, Facebook, Instagram, and other social media channels to report independently on developments in the country, including observations critical of the government. Like other government critics, bloggers faced government harassment, including detention and physical abuse.” (USDOS, 3 March 2017, section 2a)

The IACHR in its April 2017 annual report covering the year 2016 describes the situation of members of the press as follows:

“Nongovernmental organizations have complained of an increase in hostile acts, threats, intimidation, detention, and house arrests, against journalists, activists, human rights defenders and members of the opposition on account of their statements and positions criticizing the official line. They have also pointed to selective and deliberate persecution of media and independent organizations responsible for gathering and disseminating citizens’ views on matters of national interest. [...] State Security agencies have allegedly maintained a policy of harassing journalists, activists associated with cultural activities,

human rights defenders, and political dissidents. Cuban agents are said to be deploying various tactics to prevent these people from acting freely, such as arbitrary -- mainly brief -- detentions, deportations to other parts of the country, citations to appear at police stations, searches of activists' homes, and the confiscation of tools they need to go about their work. [...] The Office of the Special Rapporteur for Freedom of Expression has documented multiple cases in which journalists and activists have been detained in 2016 in its Annual Report for this year on the Situation of Freedom of Expression in the Hemisphere. [...] Apart from the brief detentions, other journalists are reported to be under house arrest. [...] According to Instituto Cubano por la Libertad de Expresión y Prensa (Iclep), its journalists are being watched, harassed, detained, and threatened with imprisonment or even death threats. [...] Furthermore, in 2016, in connection with U.S. President Barack Obama's official visit in March, there was an increase in harassments, threats, acts of intimidation, detentions, and house arrests directed against journalists, activists, human rights defenders, and opponents of the Government. [...] The IACHR and its Special Rapporteurship also received information to the effect that the Cuban Government would continue to pursue an arbitrary policy with respect to the entry into the country of Cubans or foreign nationals in some way connected to journalism, freedom of expression, and the defense of human rights." (IACHR, 27 April 2017, pp. 564-565)

14ymedio in a May 2017 article describes the situation of the independent Cuban press during 2016, referring to a report of the Cuban Association for Freedom of the Press (APLP):

"The independent Cuban press has been especially harassed after the passage of Hurricane Matthew in the eastern part of the country. Several reporters were arrested while trying to cover the situation of the victims, reports the Association for Freedom of the Press (APLP) in its latest report. 'The population of Baracoa became the epicenter of attacks against the press,' says the report, which highlights among the most affected journalists Diario de Cuba, El Estornudo and Journalism de Barrio.

The APLP's Commission of Attention to Journalists and their Families documented 213 cases of the violation of human and professional rights against journalists during 2016. The report shows a peak of 43 attacks against reporters during the month of March, during President Barack Obama's visit to the Island. Attacks against the press included 'arbitrary arrest, harassment, theft from their homes, threats of all kinds (including death), attempted blackmail, prison sentences, defamation, humiliation and confiscation of the tools of their profession,' it continues." (14ymedio, 10 May 2017)

The mentioned report of the APLP can be accessed via the following link:

- APLP – Asociación pro Libertad de Prensa: El cambio en el modelo de represión aumenta los riesgos para el periodismo libre en Cuba, 8 May 2017
<http://cubaprensalibre.com/wp-content/uploads/2017/05/Informe-APLP.pdf>

The 21 October 2016 article by RSF contains information on arrests of journalists after the passage of Hurricane Matthew, on "subjects that are off-limits" for independent media outlets and on cases of harassment:

“The arrests of journalists trying to inform fellow citizens about the widespread damage caused by Hurricane Matthew’s passage over eastern Cuba on 4 October are the latest example of how the Cuban government continues its harassment of independent journalism. Their reporting clearly did not please the authorities.

Maykel González Vivero, a journalist working for the Diario de Cuba news website, was arrested in the eastern city of Baracoa on 10 October while interviewing people about hurricane damage and was held for three days. He had just been fired from state-owned Radio Sagua for working for independent media. On 11 October, it was the turn of six members of the Havana-based Periodismo de Barrio news website, include its director, Elaine Díaz, to be arrested while visiting Baracoa to cover the aftermath of the hurricane. Their equipment was confiscated for several hours. According to the authorities, the journalists were arrested under the state of emergency proclaimed by President Raúl Castro on 4 October, which supposedly prohibited journalistic reporting without special authorization. But for the state of emergency to be valid, it should have been accompanied by a resolution defining how and in what regions of the country it was to be applied. No such resolution was ever formally issued by the authorities.

There is no shortage of subjects that are off-limits for unauthorized media outlets. Reinaldo Escobar, a journalist with the 14ymedio website, was unable to cover the inauguration of the first regular flight between the United States and Cuba. He was arrested in Santa Clara on 31 August for doing ‘enemy journalism’ and was forcibly escorted back to Havana. Oscar Sánchez Madan, a reporter for the Hablemos Press independent news agency, was arrested by three members of the National Revolutionary Police (PNR) in the municipality of Cárdenas on 18 August while interviewing Leticia Ramos Herrería, a representative of the Ladies in White, a movement formed by the wives of political prisoners. [...]

There have been many cases of harassment in recent months, making independent reporting impossible. RSF has learned that four Hablemos Press members – director Roberto Jesús Guerra Pérez, deputy director Eduardo Herrera, executive director Magalay Otero Suárez and reporter Arian Guerra – had no choice but to leave Cuba at the end of September after repeated threats. Hablemos Press has been the target of harassment and arbitrary arrests for 13 years. Guerra Pérez told RSF he had been constantly harassed by the government in recent weeks in the form of comments by state employees in the street, telephone death threats or being repeatedly prevented from working. Now that he is in exile, he fears an illegal raid on the news agency’s headquarters in the coming weeks.

The Centro de Información Legal (Cubalex), a Cuban NGO that defends media freedom, has been subjected to various forms of harassment – including searches, disconnected phone lines and humiliating interrogations – since it issued a report on free speech in Cuba and presented it to the United Nations in Geneva. The level of persecution of Cubalex got to the point that the office of the special rapporteur on freedom of expression of the Inter-American Commission on Human Rights issued an alert on 13 October condemning the harassment.” (RSF, 21 October 2016)

In its Freedom of the Press 2016 report (covering 2015), Freedom House features information on travel restrictions for as well as arrests and beatings of journalists:

“Nevertheless, passports are still issued at the government’s discretion and have been withheld from select journalists for state-defined ‘reasons of public interest.’ In particular, journalists who formerly served jail time for alleged antigovernment activities have been denied the right to exit Cuba. Further, some journalists who have traveled abroad, including Roberto de Jesús Guerra, founder and director of independent news agency Hablemos Press, have complained of harassment and confiscation of documents upon their return. [...]

In June, independent journalist Lázaro Yuri Valle Roca denounced a series of short-term arrests and beatings he had suffered at the hands of Cuban state security for his coverage of marches by the Ladies in White, a group of spouses and relatives of persecuted dissidents. In an interview with 14ymedio, as well as in letters to the Inter American Press Association (IAPA) and Reporters Without Borders, he described being held for periods of hours or days - without being officially processed - by state security agents, as well as the state tactic of confiscating cell phones, cameras, and flash drives and deleting the data they contain.

Independent journalists reported being temporarily held or deported, having their equipment confiscated, and having mobile phone service cut off. One independent Cuban reporter, Miriam Leiva, was detained for four hours in September to prevent her from meeting with Pope Francis, despite an invitation from the Embassy of the Holy See in Havana. In addition, of the 3,522 prisoners released as a gesture of good will during the pope’s visit, none was a journalist, according to the Cuban Commission for Human Rights and National Reconciliation.

With the release of Santiesteban, two journalists remained in prison in Cuba at year’s end. Yoeni de Jesús Guerra García of the Yayabo Press agency, first detained in October 2013, was sentenced in March 2014 to seven years in prison on charges of illegally slaughtering cattle - charges he claims were fabricated due to his reporting. The second, José Antonio Torres, a former correspondent for Granma, has been detained since 2011 and was sentenced in July 2012 to 14 years in prison for espionage after he published articles denouncing irregularities in the management of an aqueduct project in Santiago de Cuba and critiquing the installation of a fiber-optic cable between Cuba and Venezuela. However, during the year Torres was granted certain privileges, including weekend passes to visit family. Both prisoners claimed they had been subjected to deprivation and violence while in prison.” (Freedom House, 27 April 2016)

In its Freedom on the Net 2016 report covering the period June 2015 until May 2016, Freedom House mentions short-term detentions, censorship and intimidation against bloggers and independent journalists:

“Cuba outlaws a wide range of speech deemed to be counter-revolutionary or a threat to the public order. In recent years, the Cuban government has moved from issuing long, multi-year sentences to using short term detentions as a means of harassing independent

journalists and bloggers. Several episodes of censorship and intimidation against bloggers and independent journalists were reported during this coverage period.” (Freedom House, November 2016)

The following section gives some examples of members of the press being arrested, harassed or threatened.

A June 2017 article by Martí Noticias contains information about an independent journalist who was arrested in May 2017 in Havana while he was preparing to participate in the campaign “TodosMarchamos” for the release of Cuban political prisoners. He is now prohibited to leave his village and is being closely watched by the police:

“‘Tengo restricción de salida. No puedo salir de Cidra, y aquí dentro del pueblo solo puedo hacerlo para resolver mis necesidades básicas’, dijo el periodista independiente Oscar Sánchez Madam. La policía castrista vigila de cerca al periodista independiente Oscar Sánchez Madam en su vivienda en Cidra, municipio matancero de Unión de Reyes.

El opositor fue detenido el 31 de mayo en La Habana cuando se disponía a participar en la campaña #TodosMarchamos por la libertad de los presos políticos cubanos.” (Martí Noticias, 10 June 2017)

A May 2017 article by 14ymedio features information on two journalists who were threatened with house searches and confiscation of their equipment if they continue to publish on social networks and in independent magazines:

“Journalists Sol García Basulto and Henry Constantín were summoned Thursday to Camagüey’s Third Police Unit, where they were threatened with having their homes searched and the equipment they use to do their work confiscated if they do not stop ‘publishing on social networks and in independent magazines.’ An official, who identified himself as Lieutenant Francisco Pacheco, reproached the young people for continuing to work as journalists and issued each of them a warning. On March 23, both reporters were charged with the alleged crime of ‘usurpation of legal capacity,’ a charge that is still active, according to Constantín speaking to 14ymedio a few minutes before the meeting with the police on Thursday. If the charge goes to trial, they could be tried under Article 149 of the Criminal Code, which punishes those who ‘perform acts of a profession for which they are not properly qualified.’ They would then be subject to a prison sentence of between three months and one year.

The reporters are part of the editorial team of the independent magazine La Hora de Cuba (Cuba’s Hour), which is distributed in digital format. In addition they collaborate with different independent media and García Basulto is a correspondent for 14ymedio in the province of Camagüey. At the end of last year, Constantín was named regional vice president for Cuba for the Inter American Press Association (IAPA). Recently the reporter was not able to attend a conference in Los Angeles about the current situation of journalists on the Island, nor was he able to attend a later meeting of the IAPA in Guatemala, due to the restrictions of movement imposed on him by police authorities. García Basulto was warned by the police again this Thursday, about her job of interviewing

people and collecting information in public places. A task that she undertakes, according to the officers, to 'misrepresent information and write against the government.' The police showed particular annoyance at an interview with the rapper Rapsheela published in 14ymedio in March. In November 2016, State Security prevented the 14ymedio correspondent from leaving her home in the days following the death of former President Fidel Castro, while the funeral procession transported his ashes to Santiago de Cuba. At that time the young woman denounced the escalating repression against her, which began in December 2015 when she solicited opinions outside the Provincial Court of Camagüey where the trial was being held for the murder of musician Pedro Armando Junco, known as Mandy." (14ymedio, 4 May 2017c)

14ymedio in its aforementioned 13 April 2017 article reports on the case of Karla Pérez González, a journalism student expelled from university due to her contacts with oppositional activists and publishing on sites critical of the government:

"Karla Pérez González was not summoned to the meeting where her future was decided. The first-year Journalism student received a telephone call on Wednesday to notify her of her expulsion from Marta Abreu University in Santa Clara. Her crime? Having contacts with the Somos+ (We Are More) Movement and publishing on digital sites critical of the government, as confirmed by the young woman herself speaking to 14ymedio." (14ymedio, 13 April 2017)

Another April 2017 article by 14ymedio outlines the case of a journalist arrested for reporting on the expulsion of the abovementioned journalism student Karla Pérez González:

"The independent magazine El Estornudo (The Sneeze) has denounced Monday's detention of its collaborator Maykel González Vivero. The young journalist was detained at Marta Abreu de las Villas Central University, while reporting on the expulsion of journalism student Karla Pérez González. The digital site asserts that the reporter 'did not at any time hide' that he was investigating on the case. [...]"

However, in the course of the investigation 'a number of teachers tried to confiscate Maykel's belongings and his tools of the trade.' He was subsequently 'held in a university department until police took him to the State Security Santa Clara Operations Unit.' At the Unit, the reporter was subjected to five hours of interrogation and his equipment was confiscated: a laptop, tape recorder and cell phone. El Estornudo clarified that the reporter 'is not facing any legal charges, but his devices will be returned to have after the police penetrate (sic) them and check their contents.' In October of last year, González Vivero was jailed for three days in Baracoa, Guantánamo, 'for covering as an independent journalist the passage of Hurricane Matthew through the East of the country,' the article notes." (14ymedio, 25 April 2017b)

2.3.4 Surveillance of communication by the Cuban authorities

The March 2017 human rights report by the USDOS covering the year 2016 describes the situation concerning communications surveillance as follows:

“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. Nevertheless, there were reports that government officials routinely and systematically monitored correspondence and communications between citizens, tracked their movements, and entered homes without legal authority and with impunity. Additionally, in August civil society organizations complained that text messages containing specific words including ‘democracy’ and ‘dissident’ were systematically blocked. [...] The Ministry of Interior employed a system of informants and neighborhood 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, visiting foreign officials and diplomats, academics, and businesspersons to frequent surveillance, including electronic surveillance.” (USDOS, 3 March 2017, section 1f)

“The government restricted or disrupted access to the internet and censored some online content, and there were credible reports that the government monitored without appropriate legal authority the limited e-mail and internet chat rooms and browsing that were permitted. The government controlled all internet access, except for limited facilities provided by a few diplomatic missions and a small but increasing number of black market facilities.

While the International Telecommunication Union reported that 31 percent of citizens used the internet in 2015, access often was limited to a national intranet that offered only e-mail or highly restricted access to the World Wide Web. Other international groups reported lower internet penetration, with approximately 5 percent of the population having access to open internet. [...]

During the year the government increased the number of Wi-Fi hot spots at computer centers to more than 200 countrywide. The government also expanded Wi-Fi hot spots in areas outside computer centers and proposed a pilot program to install internet in the homes of a limited number of persons in Old Havana. Authorities reviewed the browsing history of users, reviewed and censored e-mail, employed internet search filters, and blocked access to websites considered objectionable. [...]

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. The government-owned telecommunications provider ETECSA often disconnected service for human rights organizers, often just before their detention by state security, or to disrupt planned activities. During the 54-day hunger strike of activist Guillermo ‘Coco’ Farinas, the government reportedly disrupted Farinas’ telephone service and intercepted calls to provide false information.” (USDOS, 3 March 2017, section 2a)

The Miami Herald mentions in its 13 May 2017 article that “[t]he phones of dissidents and human rights activists also are tapped, making communication with journalists abroad difficult — all part of a campaign to crush criticism at a crucial time.” (The Miami Herald, 13 May 2017)

With regard to communications surveillance, Civil Rights Defenders in its December 2016 report notes:

“The right to respect for private and family life is enshrined in the Constitution (art. 56 and 57). Nevertheless, cases of grave concerns as to the protection of these rights in the island have been and continue to be reported on a daily basis. In particular, territorial and communications’ privacy is threatened by Government-led or Government-supported surveillance. It is widely reported that all means of communications are controlled by State security, including internet. The use of neighbourhood organization in the form of the ‘Committees for the Defence of the Revolution’ to control and denounce the activities of human rights defenders to state agents is also of great concern.” (Civil Rights Defenders, 8 December 2016, p. 21)

In its Freedom on the Net 2016 report covering the period June 2015 until May 2016, Freedom House provides the following information concerning communications surveillance:

“All calls and SMS from dissidents’ cell phones are monitored and service is sometimes cut for those working as freelance or citizen journalists voicing views the government does not condone. [...]

Surveillance of ICTs [information and communications technology] in Cuba is widespread, and dissident bloggers are subject to punishments ranging from fines and searches to confiscation of equipment and detentions. Anonymity and encryption technologies are strictly prohibited in Cuba, and web access points, such as Wi-Fi hotspots, cybercafes and access centers, are closely monitored and users are required to register with their identification information.

Despite constitutional provisions that protect various forms of communication and portions of the penal code that establish penalties for the violation of the secrecy of communications, users’ privacy is frequently violated. Tools for content surveillance are likewise pervasive. Under Resolution 179/2008, ISPs [internet service providers] are required to register and retain the addresses of all traffic for at least one year. The government routes most connections through proxy servers and is able to obtain all user names and passwords through special monitoring software called Avila Link, which is installed at most ETECSA and public access points. In addition, delivery of email messages is consistently delayed, and it is not unusual for a message to arrive censored or without its attachments.

Web use at Wi-Fi hotspots and ‘navigation halls’ remains tightly controlled. A recent decree from the Ministry of Communications reaffirmed the government’s continued monitoring of internet traffic, stating that ETECSA will immediately end a user’s access if he or she commits ‘any violation of the norms of ethical behavior promoted by the Cuban state.’ Users must show their national ID cards and sign an agreement stating that they will not use the service for anything ‘that could be considered ...damaging or harmful to public security’ - a vague term that could presumably extend to political dissent. Wi-Fi hotspots similarly prompt users to enter their national ID numbers.

If users attempt to send an email with attachments, ETECSA's own NAUTA interface system greets them with a pop-up window reminding them that 'other people may see what you are sending' and asking if they wish to continue. Although the pop-up window is marked 'Internet Explorer' and appears to be a real message generated by the search engine, several Cuban online users have said that they had never seen such a message when using internet cafes in Havana's tourist hotels. Such claims suggest that ETECSA may have programmed computers at its new access points to prompt users as a reminder that the government is monitoring their online activities." (Freedom House, November 2016)

In a March 2016 brief overview of censorship in Cuba, Amnesty International mentions the following:

"Amnesty International, along with many other independent international human rights monitors, including UN Special Rapporteurs, are not allowed to access Cuba. The landline, mobile and internet connections of government critics, human rights activists and journalists are often monitored or disabled. In the lead-up to Pope Benedict's three-day visit to Cuba in September 2012, a communications blockade prevented Amnesty International and other international organizations from gathering information on a wave of detentions that were taking place." (AI, 11 March 2016)

In its Freedom of the Press 2016 report (covering 2015), Freedom House features information on the Cuban intranet and the monitoring of email accounts by the authorities:

"Cuba has one of the lowest internet connectivity rates in the world, despite some improvements in 2015. The majority of users can reach only a closely monitored Cuban intranet consisting of e-mail addresses ending in '.cu' and a few government-controlled and approved websites. [...] The government prefers that internet use be conducted in public locales; home access is available to foreigners and to members of select professions who pay a premium for the privilege. In an important change, in 2014 ETECSA began providing access to e-mail via cell phone and activated 565,000 new mobile lines, although these accounts are monitored by the government." (Freedom House, 27 April 2016)

2.4 Freedom of religion

The US Commission on International Religious Freedom (USCIRF) in its annual report 2017 (reporting period 2016) writes that "[s]ixty to 70 percent of the population is estimated to be Roman Catholic and 5 percent Protestant. The practice of Catholicism is commonly syncretic, mixed with traditional African religions, especially Santería". (USCIRF, 26 April 2017, p. 135)

The German Federal Foreign Office (Auswärtiges Amt, AA) mentions in its country information profile on Cuba (last update: March 2017) that 85 percent of the population is Catholic and there are also some Protestants. Officially, the majority of the population has no religious affiliation. (AA, March 2017a)

The USDOS in its August 2016 annual report on international religious freedom covering 2015 presents the following figures concerning size and composition of religious groups in Cuba:

“The U.S. government estimates the total population at 11 million (July 2015 estimate). There is no independent, authoritative source on the overall size or composition of religious groups. The Roman Catholic Church estimates 60 to 70 percent of the population identify as Catholic. Membership in Protestant churches is estimated at 5 percent of the population. Pentecostals and Baptists are likely the largest Protestant denominations; the Assemblies of God reports approximately 110,000 members; and the four Baptist conventions estimate their combined membership at more than 100,000 members. Jehovah’s Witnesses report approximately 96,000 members; Methodists estimate 36,000; Seventh-day Adventists, 35,000; Anglicans, 22,500; Presbyterians, 15,500; Quakers, 300; and The Church of Jesus Christ of Latter-day Saints (Mormons), 50. The Jewish community estimates it has 1,500 members, of whom 1,200 reside in Havana. According to the Islamic League, there are 2,000 to 3,000 Muslims residing in the country, of which an estimated 1,500 are Cubans. Other religious groups include Greek Orthodox, Russian Orthodox, Buddhists, and Bahais.

Many individuals, particularly in the African Cuban community, practice religions with roots in West Africa and the Congo River Basin, known collectively as Santería. These religious practices are commonly intermingled with Catholicism, and some require Catholic baptism for full initiation, making it difficult to estimate accurately the total membership in these syncretic groups.” (USDOS, 10 August 2016, section I)

BBC News in a March 2012 article provides the following general short information regarding religion in Cuba:

“The Church was never banned, but the island was officially atheist until 1992. Practising Catholics could not join the Communist Party. ‘You had to be atheist to advance. If not, you were [thought] backwards, superstitious,’ remembers Gustavo Andujar, a devout Catholic. ‘There was a time in the early 1960s when churches were harassed. Children would throw stones to harass people during mass. We Catholics suffered in those times but fortunately, they’ve long gone.’ Cuba today is secular, the faithful are free to worship and the Catholic Church is busy reasserting itself. [...] While Cubans are now free to worship, they are still tightly controlled in other areas, such as the right to free assembly.” (BBC News, 28 March 2012)

The Bertelsmann Stiftung in its Transformation Index (BTI) 2016 (reporting period: February 2013 to January 2015) features further details concerning past and present religious developments in Cuba:

“The state is secular. Cuba was a secular society before the 1959 revolution. The Roman Catholic Church was disestablished in 1898, when the United States occupied Cuba. The syncretic Afro-Cuban Santería constitutes Cuba’s most widespread religion, but is only marginally institutionalized and does not have a hierarchical nationwide organization. The state owns and operates all schools, health care institutions, cemeteries and similar social institutions. About a fifth of Cubans tell pollsters that they belong to a community of faith, and a majority expresses some religious belief. Religious persecution occurred in the 1960s, but has diminished over time. Through the revision of the 1992 constitution, lawful

discrimination against religious believers was abolished, and the Communist Party no longer bans religious believers from its rank and file.

In recent years, particularly since Raúl Castro succeeded his brother Fidel as head of state, the government has sought increased contacts with the Catholic Church, whose public role has notably increased. This was highlighted in the church's mediating role in the 2010 release of political prisoners and again in the Pope's role as mediator in negotiations with the U.S. government in December 2014. While the government today does take greater account of the church's positions on social issues, it would at present be an overstatement to refer to the church as an influential political actor. Neither education nor gender and sexuality policies are subject to religious influence. However, in future scenarios of broader political transition, the Catholic Church can become a key actor." (Bertelsmann Stiftung, 2016, p. 6)

The USDOS in its August 2016 annual report on international religious freedom further provides details on the legal framework governing religious freedom:

"According to the constitution, 'the state recognizes, respects, and guarantees freedom of religion.' It also states that 'different beliefs and religions enjoy the same considerations under the law.' It prohibits discrimination based on religion. It also declares the country a secular state, provides for the separation of church and state, and declares 'the Communist Party of Cuba ...is the superior leading force of the society and the State...'

The Cuban Communist Party, through the ORA [Office of Religious Affairs], monitors attempts to regulate most religious institutions and the practice of religion.

By law, religious groups are required to apply to the Ministry of Justice (MOJ) for official recognition. The application process requires religious groups to identify the location of their activities, their proposed leadership, and the source of their funding. If the MOJ decides that the group is duplicating the activities of another recognized group, it will deny recognition. Once the ministry grants official recognition, the religious group must request permission from the ORA to conduct activities such as holding meetings in approved locations, publishing any decisions or minutes from internal meetings, receiving foreign visitors, importing religious literature, purchasing and operating motor vehicles, and constructing, repairing, or purchasing places of worship. Groups that fail to register may face penalties ranging from fines to closure of their organizations." (USDOS, 10 August 2016, section II)

The USCIRF in its 2017 annual report also refers to the legal framework and the control of religious activities by the government:

"While the Cuban constitution guarantees freedom of religion or belief, this protection is limited by other constitutional and legal provisions. Article 8 affirms that 'the State recognizes, respects, and guarantees religious freedom,' and article 55 further guarantees the right to 'change religious beliefs or not have any, and to profess, within the confines of the law, the religious worship of his/her preference.' However, article 62 qualifies that all rights can be limited based on the 'aims of the socialist State and the nation's

determination to build socialism and communism.’ The Cuban penal code’s Abuse of Liberty of Worship clause permits the imprisonment of any person the government determines abuses constitutional religious freedom protections by placing religious beliefs in conflict with other state goals.

The Cuban government controls religious activities through the Office of Religious Affairs (ORA) of the Central Committee of the Cuban Communist Party and the Ministry of Justice (MOJ). The government requires religious communities to register with the MOJ, including the disclosure of funding sources and locations for activities and certification that they are not duplicating the activities of other registered religious communities. The ORA has final authority over registration decisions. Currently, 54 religious communities are registered, primarily Christian denominations, more than half of which have some form of association with the government-recognized Cuban Council of Churches (CCC). Only registered religious communities are legally permitted to receive foreign visitors, import religious materials, meet in approved houses of worship, and apply to travel abroad for religious purposes. Local Communist Party officials must approve all religious activities of registered groups other than regular worship services, such as repairing or building houses of worship and holding processions or events outside religious buildings. The government also restricts religious practice by denying independent religious communities access to state media (which they use to broadcast services), limiting exit visas, requiring the registration of publications, limiting the entry of foreign religious workers, and restricting bank accounts to one per denomination or religious association.” (USCIRF, 26 April 2017, pp. 135-136)

In its January 2017 annual report on political rights and civil liberties in 2016, Freedom House writes about the present situation of freedom of religion:

“Official obstacles hamper religious freedom in Cuba. Churches may not conduct ordinary educational activities, and many church-based publications are plagued by state as well as self-censorship. However, the Roman Catholic Church has played an important role in civil society, enabling discussion of topics of public concern. Partly as a result of Pope Francis’s positive role in diplomatic negotiations between Cuba and the United States, Cuba’s Catholic Church has enjoyed a recent expansion in its pastoral rights, including periodic access to state media and public spaces, as well as the ability to build new churches and print and distribute its own publications. On the other hand, the church has systematically refused to side with dissidents and has been accused of being too close to the state.” (Freedom House, January 2017)

2.4.1 Treatment of members of religious communities

Concerning the treatment of members of religious communities, the USCIRF notes in its 2017 annual report (reporting period: 2016):

“During the reporting period, religious freedom conditions in Cuba continued to deteriorate due to the government’s shortterm detentions of religious leaders, demolition of churches, and threats to confiscate churches. In addition, the Cuban government harasses religious leaders and laity, interferes in religious groups’ internal affairs, and

prevents—at times violently—human rights and pro-democracy activists from participating in religious activities. The Cuban government actively limits, controls, and monitors religious practice through a restrictive system of laws and policies, surveillance, and harassment.” (USCIRF, 26 April 2017, p. 134)

“Morejon and other religious freedom advocates report that local community officials in rural areas discriminate against some Christian children, including denying them food in schools.” (USCIRF, 26 April 2017, p. 136)

“In 2016, the Cuban government destroyed four Apostolic Movement houses of worship. [...] In 2015, the government designated 2,000 Assemblies of God churches as illegal and ordered their closure, confiscation, or demolition. In 2016, the government began the process of expropriating 1,400 of these churches, although at the time of this writing none have been confiscated. [...] In 2016, the Cuban government detained dozens of religious leaders and followers. The vast majority of detentions occurred during the church demolitions described above to prevent church members from protesting and/or stopping the demolitions and alerting others to the incidents. [...] As in previous reporting periods, the Cuban government continued to deny pro-democracy and human rights activists their constitutional rights to freedom of religion or belief. [...] Religious leaders report exercising self-censorship during services, fearing official reprisals if they directly or indirectly criticize the government. [...]

Some religious leaders report increased opportunities to import religious literature and religious materials, conduct charitable operations, repair or expand religious buildings, and receive exit visas.” (USCIRF, 26 April 2017, pp. 136-138)

Christian Solidarity Worldwide (CWS) in its February 2017 report on freedom of religion or belief in Cuba (covering 2016) provides the following summary:

“In 2016 Christian Solidarity Worldwide (CSW) recorded 2,380 separate violations of freedom of religion or belief (FoRB) in Cuba. At least 2,009 of these violations involved entire church congregations, and around 260 involved groups of women or activists arrested to prevent them from attending Mass. This is a slight increase on the 2,300 cases documented in 2015 – a record high at the time. The spike can be attributed to the fact that 2,000 Assemblies Of God (AOG) churches were declared illegal in 2015, a ruling which still stands. By comparison, CSW reported 220 FoRB violations in Cuba in 2014, 180 in 2013, 120 in 2012 and 40 in 2011.

The brutal and public strategies used by the Cuban government to target religious groups, identified in CSW’s 2015 report, continued throughout 2016. These include public and arbitrary arrests, beatings, and interrogations in contexts such as going through airport security. CSW also received reports of more subtle tactics, including the spreading of disinformation about religious leaders.

FoRB violations documented in 2016 include:

- Confiscation of church property

- Threats of confiscation of land used for church services
- 2,000 Assemblies Of God churches remained illegal
- Close surveillance and interrogation of religious leaders
- Arbitrary detention
- Prevention from attending religious services
- Demolition of church property.

The Office of Religious Affairs (ORA) is the key perpetrator of FoRB violations across the island. [...]

Different religious groups face varying degrees of opposition from the state; but the groups who suffer the most (largely those who have been refused registration by the ORA) have also been the most active in publicly standing up to government pressure.” (CSW, 6 February 2017, p. 3)

“Each Sunday throughout 2016, across the island, government agents systematically detained dozens of women affiliated with the Ladies in White movement – a non-violent human rights movement – preventing them from attending Mass. Similarly to 2015, individual cases of this kind numbered in the thousands. In most cases the women were violently detained by security agents upon leaving their homes, the Ladies in White headquarters, or as they arrived at church services. There were particularly high numbers of arrests on 21 August and 18 December, with 88 and 80 women respectively arrested before Mass.” (CSW, 6 February 2017, p. 6)

The news agency Associated Press (AP) in March 2017 published an article that contradicts the information provided by the abovesited report by CSW, taking a more nuanced view:

“Fidel Castro’s government sent the Rev. Juan Francisco Naranjo to two years of work camp in the 1960s for preaching the Gospel in a Cuba where atheism was law and the faithful were viewed as suspect. For years, Naranjo’s church was almost abandoned, with just a handful of people daring to attend services. Naranjo died in 2000 but on a recent Sunday, his William Carey Baptist Church was packed and noisy. Government doctors treated disabled children at a clinic inside. A Bible study group discussed Scripture in one corner of the building before a service attended by 200 of the faithful. ‘In the 1960s, the few brothers and sisters who came here had to hide their Bibles in brown-paper covers,’ said Esther Zulueta, a 57-year-old doctor. ‘It’s night and day.’

Trump administration officials have repeatedly said religious freedom is one of the key demands they will make of Cuba when they finish reviewing former President Barack Obama’s opening with the island. The administration has never been more specific, but outside groups have accused Cuba of systematically repressing the island’s growing ranks of evangelicals and other Protestants with acts including the seizure of hundreds of churches across the island, followed by the demolition of many.

An Associated Press examination has found a more complicated picture. Pastors and worshippers say Cuba is in the middle of a boom in evangelical worship, with tens of thousands of Cubans worshipping unmolested across the island each week.

While the government now recognizes freedom of religion, it doesn't grant the right to build churches or other religious structures. It has demolished a handful of churches in recent years, but allowed their members to continue meeting in makeshift home sanctuaries. And like the Roman Catholic Church, the island's dominant denomination, evangelical churches have begun providing social services once monopolized by the Communist government. [...]

Clergy and academics say Cuba's 11 million people include some 40,000 Methodists, 100,000 Baptists and 120,000 members of the Assemblies of God, which had roughly 10,000 members in the early 1990s, when Cuba began easing restrictions on public expressions of religious faith. The church council estimates there are about 25,000 evangelical and other Protestant houses of worship across the country. About 60 percent of the population is baptized Catholic, with many also following Afro-Cuban syncretic traditions such as Santería. Naranjo was part of that opening. [...]

The opening culminated in the 1998 visit of Pope John Paul II, which led to new liberties for both Catholic and Protestant worshippers. The Cuban constitution now recognizes freedom of religion, but the law is silent on the issue of church construction. In a system where the government has long monopolized public life, virtually all activities are presumed illegal unless the law says otherwise. Authorities in some areas have prohibited new churches, even as they allow worship in religious buildings erected before Cuba's 1959 revolution.

The London-based advocacy group Christian Solidarity Worldwide issued a report alleging the Cuban government committed 2,380 violations of religious liberty in 2016, most linked to the declaration of 2,000 Assemblies of God churches as illegal, with 1,400 in process of confiscation. The group says it based that information on a source inside Cuba whom it would not name. Juan Whitaker, the Assemblies of God's treasurer in Cuba, told The Associated Press this month that none of its churches had been declared illegal or were at risk of confiscation. David Ellis, regional director for Latin America and Caribbean for world missions of the Missouri-based General Council of the Assemblies of God, told the AP, 'We are in ongoing contact with the Cuba Assemblies of God leadership and they have not reported any churches being confiscated. Neither have they reported that churches have been threatened with confiscation.'

Kiri Kankhwende, a spokeswoman for Christian Solidarity Worldwide, said its assessment hadn't changed and any statement to the contrary could be explained by official pressure on churches in Cuba.

Christian Solidarity has also cited the case of Juan Carlos Nunez, a minister in the Apostolic Movement in the eastern city of Las Tunas, while other religious freedom advocates have cited the case of Bernardo de Quesada, in the eastern city of Camaguey, as examples of religious persecution. Both men told the AP that churches they built in the yards of their homes were demolished by the government because they were constructed without permits. Both continue leading services inside their homes, where hundreds of

worshippers gather each week. ‘They tolerate me, but they don’t accept me,’ said de Quesada. ‘I’m not shutting up or leaving. We have passion and no one will stop us.’

Nunez said he was sentenced to a year of house arrest after neighbors complained about speakers he set up to boost the sound of services in his home. He blamed the situation on the vague status of new churches in Cuban law. ‘If there were a law on church activities, none of this would happen and everything would be clear,’ he said.

Even so, churches are working on projects that once would have been forbidden to them, including efforts on AIDS prevention, sustainable agriculture, renewable energy, medicine distribution, training of farm workers and disaster relief. ‘The Cuban authorities have understood the necessity of our presence and dialogue with the government, which still continues, even if we don’t always agree,’ said the Rev. Dorilin Tito, a 38-year-old pastor at William Carey Baptist Church.” (AP, 27 March 2017)

In its March 2017 human rights report covering the year 2016, the USDOS describes the situation as follows:

“During the year some religious groups reported greater latitude to express their opinions during sermons and at religious gatherings, although most members of the clergy continued to exercise self-censorship. Religious leaders in some cases criticized the government, its policies, and even the country’s leadership without reprisals. The Roman Catholic Church operated a cultural and educational center in Havana that hosted debates featuring participants expressing different opinions about the country’s future. On January 8, the government closed open-air churches in Camaguey and Las Tunas and detained three pastors associated with the Apostolic movement, an unregistered network of Protestant churches. The government claimed that the pastors erected the churches without permission, but the pastors denied that claim. One of the pastors was later charged and convicted of violating neighborhood noise ordinances related to his Sunday sermons.” (USDOS, 3 March 2017, section 2a)

“The government tolerated some gatherings, and many religious groups reported the ability to gather without registering or facing sanctions. [...]

Recognized churches (including 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 [communist party], and government-organized groups. Religious groups are under the supervision of the CP’s Office of Religious Affairs, which has the authority to deny permits for religious activities and exerted pressure on church leaders to refrain from including political topics in their sermons.” (USDOS, 3 March 2017, section 2b)

The August 2016 USDOS annual report on international religious freedom (covering 2015) contains the following information concerning the treatment of members of religious communities:

“The government harassed some religious leaders and their followers, with reports of threats, detentions, confiscation of religious materials, and restrictions on travel. Several evangelical religious leaders reported the government attempted to expropriate some religious properties under new zoning laws. Religious groups reported a continued increase in the ability of their members to conduct some charitable and educational projects, such as operating before- and after-school and community service programs and maintaining small libraries of religious materials, including fewer restrictions on the importation of Bibles. [...]

There were no reports of significant societal actions affecting religious freedom. [...]

The government harassed, detained, and restricted travel for outspoken religious figures, especially those who discussed human rights or collaborated with independent human rights groups. The government often detained and threatened a Baptist pastor and religious freedom activist as well as members of his congregation. They also confiscated religious materials. The pastor said state security officials detained younger members of his congregations and threatened imprisonment if they continued their activities. Many religious leaders stated they exercised self-censorship in what they preached and discussed during services. Some said they feared direct or indirect criticism of the government could result in government reprisals, such as denials of permits from the ORA [Office of Religious Affairs] or other measures that could limit the growth of their religious groups.

Some independent evangelical churches reported that government authorities closely monitored and detained, for unspecified periods of time, their leadership and members of their families. Pastors and members of these groups were often prevented from attending some church events and told to cease all religious activity. One evangelical organization reported in May that state security forces threatened to harm its leader, his family, and members of their church. The pastor of the evangelical organization said officials had confiscated religious materials from his home and had not returned them. [...]

In practice, most unregistered house churches operated with little or no interference from the government. A number of religious groups, including the Jehovah’s Witnesses and the Mormons, continued their wait for a decision from the MOJ on pending applications for official recognition. These groups reported the authorities permitted them to conduct religious activities, hold meetings, receive foreign visitors, make substantial renovations to their facilities, and send representatives abroad. They also reported that state security monitored their movements, telephone calls, visitors, and religious meetings. [...]

Some Protestant religious leaders reported the government attempted to stop or limit activity by threatening to expropriate property. [...] Several religious leaders, particularly those from smaller, independent house churches or Santeria communities, expressed concern the government was less tolerant of groups that relied on informal locations, including house churches and private meeting spaces, to practice their beliefs. They reported being monitored, and, at times, being prevented from holding religious meetings in their spaces.” (USDOS, 10 August 2016, section II)

In April 2017, Martí Noticias reports on the meeting of five Cubans with officials of the USCIRF. The Cubans, all coordinators of the Patmos Institute, an independent organisation that defends religious rights in Cuba, presented their views concerning violations of religious freedoms concerning the apostolic movement in Cuba. According to one of the delegation members, the group exposed the violations of religious freedom on the island, especially affecting the apostolic movement, the demolition of church buildings, and the outlawing of more than a thousand churches of the Assembly of God throughout the territory. In addition, the group addressed the issue of the Jehovah's Witnesses, who have been considered illegal in Cuba for more than three decades, as well as the methods which the government employs to harass religious groups which it deems "illegal". Those methods include arbitrary arrests, beatings, interrogations, demolition and confiscation of places of worship, as well as spreading rumors and misinformation about religious leaders:

"Un grupo de cubanos coordinadores del Instituto Patmos fueron recibidos en la Oficina Internacional de Asuntos Religiosos del Departamento de Estado de EEUU para exponer sus puntos de vista sobre las violaciones a la libertad de culto contra el movimiento apostólico en la isla. [...] Durante el encuentro, dijo Llerena, 'expusimos las violaciones de las libertades religiosas en la isla, sobre todo contra el movimiento apostólico, el derrumbe de los templos y también la ilegalización de las más de mil iglesias de la Asamblea de Dios en todo el territorio'.

El joven señaló que también abordaron el tema de los testigos de Jehová, que 'son considerados ilegales en Cuba desde hace más de tres décadas'. Otro de los planteamientos del grupo fue que el gobierno usa diversos métodos para acosar a los grupos religiosos, que tilda de 'ilegales', dijo Yiorvis Bravo, del Movimiento Apostólico en Camagüey. [...]

El grupo de religiosos detalló que entre las acciones contra ellos figuran los arrestos arbitrarios, golpizas, interrogatorios, demolición y confiscación de templos de culto, así como la difusión de rumores y desinformación sobre líderes religiosos." (Martí Noticias, 23 April 2017)

USCIRF in May 2017 published information regarding the expulsion of one member of the Patmos Institute delegation that met with the USCIRF from university after his trip to the United States:

"The U.S. Commission on International Religious Freedom (USCIRF) condemns the latest harassment of Félix Yuniel Llerena López by the government of Cuba. He traveled to the United States last month – his first trip ever outside of Cuba -- to discuss the restrictive and repressive religious climate in Cuba. Félix was immediately detained and questioned on his return and forced to sign a pre-arrest warrant for public disorder. Now the University of Cuba – an arm of the Castro regime -- has expelled this promising young religious freedom leader." (USCIRF, 9 May 2017)

The Miami Herald mentions in its 13 May 2017 article the cases of the Catholic Convivencia magazine and the Patmos Institute being harassed by the authorities:

“Police recently raided the home in the western Pinar del Río province of Karina Valdés, which serves as the offices of the lay Catholic Convivencia magazine, and accused her of tax evasion. State security agents also interrogated magazine director Dagoberto Valdés, who had denounced an increase in political repression since 2016. Baptist Pastor Mario Félix Leonart, who founded the Patmos Institute in 2013 to push for freedom of religion and an interfaith dialogue, said there is a similar pattern of police harassment at churches and other organizations that make their space available to his group. ‘After we held our meetings ... the government showed up to intimidate the institutions that collaborated with us,’ Leonart said. He added that his group is not legally registered and has no offices, ‘things that you can do anywhere in the world.’

Leonart said he believes the government harasses his institute because it also promotes education about human rights and political work. ‘We believe that religious people, aside from exercising their own freedoms, should influence political leaders and those who govern the country,’ he said. Authorities ‘are afraid’ of that kind of political activism, Leonart added, because although ‘political groups in Cuba are small and fragmented, religious groups are pretty big, have a much longer history and are growing a lot.’ ‘Obviously, they know that’s a dangerous mass of people,’ he said. Leonart and his family won U.S. political asylum last year after several violent arrests, but the harassment of members of his group has not stopped. One of its coordinators, Felix Llerena, was recently expelled from a university in Havana he was attending to become a teacher.” (The Miami Herald, 13 May 2017)

2.5 Human rights activists and organisations

2.5.1 *Government attitude towards NGOs and human rights organisations*

In the October 2012 submission for the UN Universal Periodic Review, Amnesty International refers to human rights, civil and professional associations in Cuba which are not controlled by the state:

“All human rights, civil and professional associations, and unions in Cuba that lie outside the state apparatus and mass organizations controlled by the government are barred from gaining legal status. This often puts individuals belonging to such associations at risk of harassment, intimidation or criminal charges for the legitimate exercise of their rights to freedom of expression, association and assembly. According to Article 208 of the Criminal Code, members of unofficial organizations may be sentenced to one to three months’ imprisonment, and directors of such organizations may be sentenced to three to nine months’ imprisonment. Trade unions and bar associations independent from those affiliated to the Cuban Communist Party are also not permitted to operate legally, and their members are subject to repressive measures.” (AI, October 2012, p. 3)

Human Rights Watch (HRW) states in an April 2013 submission for the UN Universal Periodic Review that “the Cuban government has continued to refuse to recognize human rights monitoring as a legitimate activity and to deny legal status to local human rights groups”. (HRW, 18 April 2013)

Civil Rights Defenders in its December 2016 report gives the following explanation:

“The core human rights problem in Cuba is the fact that the constitutional and legal framework makes repression legal and therefore engenders widespread human rights violations by state authorities. The Cuban constitution describes the country as a ‘socialist State’, where the ‘revolutionary political system ... shall be irrevocable’ and where the ‘Communist Party ... is the superior leading force of the society and the State.’ Article 53 of the Constitution establishes that ‘the mass media are State or social property and can never be private property.’

The Penal Code contains several laws that restrict the right to freedom of expression. The Association Law effectively prevents the recognition of an independent civil society and the election law only permits Cubans to vote for candidates vetted by the mass organisations loyal to the Communist party. They are not allowed to choose another government.

Finally, article 62 in the constitution is a catch-all clause that irrevocably outlaws human rights work: ‘None of the freedoms which are recognized for citizens can be exercised contrary to what is established in the Constitution and the law, or contrary to the existence and objectives of the socialist State, or contrary to the decision of the Cuban people to build socialism and communism. Violations of this principle can be punished by law.’

Within the current Cuban legal system, it is not only illegal to work for human rights and democracy but also extraordinarily difficult, as the government essentially owns all means of production relevant to civil society work, from print shops, cinemas, public spaces, sport arenas and culture venues to internet service providers. [...]

The Constitution itself subordinates the exercise and enjoyment of rights to the protection of the revolution and political power is concentrated in the ruling Communist Party, headed since more than fifty years by the Castro family. A very restrictive Association Law further prevents the development of a healthy civil society in the country. All this together means that human rights and democracy work is actually illegal in Cuba; human rights organizations cannot be registered and therefore officially do not exist and are not entitled to receive funding; and human rights defenders can be and actually are legally persecuted. [...]

Over the years, the Cuban Government has created a legal framework that severely restricts the capacity of human rights defenders to operate in the country. Apart from several articles in the Constitution subordinating the exercise of rights to the objectives of the socialist society, in particular in the civil and political areas, additional laws have been adopted to make human rights work a dangerous endeavour and human rights defenders a category highly at risk. Perceived threats to Cuba, its political regime or its sovereignty – particularly in the form of supposed foreign interference in internal affairs – have been used as reasons to hinder, repress and punish human rights work and those attempting to conduct it. Political rights and freedoms of association, expression, speech and movement have been particularly affected.” (Civil Rights Defenders, 8 December 2016, p. 5; pp. 18-19)

Civil Rights Defenders further notes:

“The Cuban Constitution (art. 54) has a highly unusual formulation when it comes to the right to freedom of assembly and association as instead of stating that this is a right it goes directly into defining who can exercise it as a right: ‘The rights of assembly, demonstration and association are exercised by workers, both manual and intellectual; peasants; women; students; and other sectors of the working people, [rights] to which they have the necessary ability (los medios necesarios) to exercise. The social and mass organizations have all the facilities they need to carry out those activities in which the members have full freedom of speech and opinion based on the unlimited right of initiative and criticism.’

Similarly, the Association Law no. 54 of 1985 surprisingly provides a detailed list of associations allowed by law (scientific or technical; cultural and artistic; sportive; of friendship and solidarity; and any others that in conformity with the Constitution and this law have objectives of social interest) that sees human rights organizations left in a limbo. The procedure provided by the law to gain recognition for an organization is cumbersome and arbitrary and in practice no human rights organizations so far have managed to successfully go through it.” (Civil Rights Defenders, 8 December 2016, p. 24)

In its January 2017 annual report on political rights and civil liberties in 2016, Freedom House provides the following information on restrictions on freedom of association:

“Restrictions on freedom of association remain a key political form of governmental control in Cuba. According to the constitution, citizens’ limited rights of assembly and association may not be ‘exercised against the existence and objectives of the Socialist State.’ In addition, based on the 1985 Law on Associations no. 54, the government will not register any new association or organization that is not supervised by the state. [...]

Independent racial advocacy or civil rights organizations are illegal, and no autonomous women’s or LGBT (lesbian, gay, bisexual, and transgender) organizations are recognized by the state. In February 2016, Proyecto Arcoiris, or Rainbow Project - a group blog defending sexual diversity that is hosted on the government-sponsored blogging platform Reflejos - was censored for a paragraph that ‘slandered the Revolution.’” (Freedom House, January 2017)

In its annual report published in January 2017 HRW explains that “[t]he Cuban government still refuses to recognize human rights monitoring as a legitimate activity and denies legal status to local human rights groups.” (HRW, 12 January 2017)

The USDOS in its March 2017 report on human rights practices in Cuba (reporting period: 2016) writes the following regarding freedom of association and recognition of independent organisations:

“The government routinely denied citizens freedom of association and did not recognize independent associations. The constitution proscribes any political organization not officially recognized. A number of independent organizations, including opposition political parties and professional associations, operated as NGOs without legal recognition.

Recognized churches (including 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 [Communist Party], and government-organized groups. [...]

Nonreligious groups must register through the Ministry of Justice to receive official recognition. 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." (USDOS, 3 March 2017, section 2b)

"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 [Cuban Commission for Human Rights and National Reconciliation], UNPACU [Patriotic Union of Cuba], the Christian Liberation Movement, the Assembly to Promote Civil Society, and the Lawton Foundation for Human Rights. [...] No officially recognized, independent NGOs monitored human rights. The government refused to recognize or meet with any unauthorized NGOs that monitored human rights. [...] The government continued to deny international human rights organizations, the United Nations and its affiliate organizations, and the International Committee of the Red Cross access to prisoners and detainees." (USDOS, 3 March 2017, section 5)

The German Federal Foreign Office (Auswärtiges Amt, AA) states in its country information profile on Cuba (last update: March 2017) that civil society organisations are only tolerated if they focus on topics that are not politically contentious. (AA, March 2017b)

The Swedish Ministry for Foreign Affairs (Utrikesdepartementet, UD) explains in its report published in April 2017 that a membership in independent and unauthorised organisations and associations, workers' unions and political parties is prohibited. Meetings and gatherings of opponents are sometimes prevented by the security forces. Independent civil society organisations are often forced to act in legal limbo because they are not allowed to register (UD, 26 April 2017, p. 1). The report goes on to say that most of the officially registered civil society organisations are mass organisations or professional organisations financed and controlled by the state. In recent years, thanks to the increased internet access, new civil society actors have emerged, such as journalists and bloggers, think tanks, academics, entrepreneurs and artists seeking greater autonomy and broader debate. The migration reform of 2013 also allows human rights defenders to travel and speak freely outside Cuba, and to return subsequently. According to the report, civil society organisations and political parties that are independent from the state are often forced to act in legal limbo because they are not allowed to register, with the exception of organisations associated with the Catholic Church or some Protestant religious communities. Another restriction for non-registered civil society organisations, including political parties, is that they must seek funding through informal channels and thus risk breaking the law. Independent organisations state that they are not infrequently subjected to infiltration by the security forces. (UD, 26 April 2017, pp. 4-5)

The USCIRF notes in its annual report 2017 (reporting period 2016) that “[t]he Cuban government does not allow human rights organizations to operate legally, and it controls all access to media, printing, and construction materials.” (USCIRF, 26 April 2017, p. 135)

IACHR in its annual report on Cuba of April 2017 refers to a public hearing on the situation of human rights defenders in Cuba held in April 2016 in which some speakers “mentioned curtailment of the right of association by denying legal recognition to organizations such as Cubalex and Mesa de diálogo de la Juventud Cubana, which was reportedly awaiting State recognition of its status as an organization.” (IACHR, 27 April 2017, p. 566)

The Miami Herald in its article of 13 May 2017 mentions problems which independent organisations face as a consequence of denied state recognition:

“Since the government does not recognize the vast majority of independent organizations like Cubalex, their members cannot legally rent office space and wind up operating out of the homes of members or spaces loaned by others — making them more vulnerable to accusations, for example, of ‘illegal economic activity.’” (The Miami Herald, 13 May 2017)

14ymedio in its 4 May 2017 article describes the case of Cubalex, an organisation the government refused to legally recognise:

“The team at the Cubalex Legal Information Center and its director, attorney Laritza Diversent, have obtained political refuge in the United States following the intensification of repression against the nonprofit organization dedicated to legally advising Cubans. [...]

On September 23, 2016, agents of the Interior Ministry raided the Cubalex headquarters in Havana and confiscated their work equipment as well as two hundred files of people who were advised by the organization. [...] ‘It seems it is a new strategy to raid the headquarters of organizations. It already happened with Convivencia and with Somos+,’ recalls the lawyer. [...] The lawyer says that independent organizations such as hers are a direct target of State Security and are exposed to all kinds of harassment by the Government. ‘State Security is aimed directly at us. The international community does not have a strong position with the Government, so we are subject to double discrimination: that of the State that calls us terrorists and mercenaries and that of international organizations and countries that do not support us because they seek to maintain good relations with the Cuban government,’ she said. [...]

The organization, based in the municipality of Arroyo Naranjo in Havana and founded in 2010, provides legal advice but is not legally recognized within the island, despite the numerous reports it has drafted for the United Nations and the Inter-American Commission on Human Rights, among other international organizations. In July of last year the government refused to legalize Cubalex, after ruling that in Cuba no independent legal aid organizations are needed because ‘the State already defends the people.’” (14ymedio, 4 May 2017b)

2.5.2 Treatment of members of NGOs and human rights organisations by the state

Some of the information presented in this section is also featured in section 2.1 on political dissidents, as many sources refer both to the situation of both dissidents and human rights defenders.

The United Nations High Commissioner for Human Rights Zeid Ra'ad in December 2015 expressed concerns about the extremely high number of arbitrary arrests and short-term detention of, inter alia, human rights defenders:

“United Nations High Commissioner for Human Rights Zeid Ra’ad Al Hussein said Tuesday that he is concerned at the extremely high number of arbitrary arrests and short-term detention of individuals, including human rights defenders and dissidents, in Cuba in recent weeks. ‘There have been many hundreds of arbitrary arrests and short-term detentions – which in my view amount to harassment – in the past six weeks alone. These often take place without a warrant and ahead of specific meetings or demonstrations, and seem to be aimed at preventing people from exercising their right to freedom of expression and to peaceful assembly,’ High Commissioner Zeid said. ‘I was particularly shocked that a number of people, including members of the Ladies in White NGO, were arrested on Human Rights Day, on 10 December. This shows an extraordinary disdain for the importance of human rights on the part of the Cuban authorities.’” (OHCHR, 15 December 2015)

In a March 2016 article Amnesty International refers to the case of Laritza Diversent, the head of Cubalex, in order to describe the situation of human rights defenders and their treatment by the authorities:

“The Cold War might be officially over, but for many in Cuba and the USA it is as if the clocks had stopped decades ago. In the USA, attempts to move away from the country’s outdated economic embargo have yielded little result. And in Cuba, it takes little more than typing the name of a dissident human rights defender, such as Laritza Diversent Cambara, on any online search engine to see that Cold War-era censorship and propaganda is as alive as ever. As has been the fate of thousands of other dissidents over the last 50 years, time and time again she is publicly described as a ‘criminal’, an ‘anti-Cuba mercenary’, an ‘anti-revolutionary leader’, a ‘subversive’. Laritza is the head of the Legal Information Centre (Centro de Información Legal, Cubalex), a group that provides independent legal and human rights assistance to all Cubans, including people unfairly imprisoned solely for peacefully expressing opinions that are at odds with those of the Castro brothers’ regime.

Being a human rights defender is not supposed to be a crime in Cuba but it might as well be. Laritza’s legitimate job has made her the target of a defamation campaign so vicious that in 2015 the Inter-American Commission on Human Rights called for precautionary measures to protect her and other members of Cubalex. Pro-government media outlets have smeared her in scores of stories accusing her of leading a counter-revolution, trying to destroy her country and even cheating on her husband. Many others have been even less fortunate - in many cases, speaking publicly about Cuba’s human rights situation has landed activists behind bars.” (AI, 21 March 2016)

Concerning treatment of human rights defenders, Civil Rights Defenders in its December 2016 report states:

“Faced nevertheless with persistent attempts to encourage democratic developments in the island, the Government has used a number of different tactics to prevent human rights work from being conducted. In recent years, human rights defenders have increasingly been the target of so-called acts of repudiation, arbitrary arrests followed by short-term arbitrary detentions and restrictions to travel, both within the country (particularly in conjunction with their participation in human rights events or pacific demonstrations against the Government) and outside it. [...]

While in the past the Government used to arrest defenders and get them tried and sentenced quickly to long-term prison terms, since the early 2000s tactics have switched to repeated short-term detentions that have the advantage of coupling maximum disruption of human rights work with minimum consequences for the Government. Such detentions are usually arbitrary, at least with regard to the legal requirement for detainees to sign the legal act requested by art. 244 of the Criminal Procedure Code to acknowledge the detention. The increase of short-term arbitrary detention of defenders is reported to have quadrupled since 2010. In a further development, defenders are now often subjected to forms of illegal house arrest by which Police and other authorities are stationed outside their homes and detain them if they try to get out to conduct human rights work.” (Civil Rights Defenders, 8 December 2016, pp. 19-21)

In its January 2017 annual report on political rights and civil liberties in 2016, Freedom House provides the following information with regard to short-term detentions and harassment of members of civil and human rights groups:

“Nearly all politically motivated short-term detentions in recent years have targeted members of independent associations, think tanks, human rights groups, political parties, or trade unions. Systematic repression has continued against the peaceful public activities of civil and human rights groups such as the Ladies in White, Estado de Sats, and the Patriotic Union of Cuba (UNPACU).

Two other groups specifically targeted for harassment and repression during 2016 are the Center for Legal Information, a pro-bono, public-interest legal consultancy also known as CubaLex; and the newly inaugurated, independent think tank Centro de Estudios Convivencia, or Center for Coexistence Studies. In September, CubaLex’s office was raided by government authorities, and property - including laptops, mobile phones, and documents - was seized. Officials threatened to charge the organization’s leaders with conducting ‘illicit economic activity.’ Its director has been interrogated at the airport ahead of international flights, and suspects that the organization is under constant surveillance. Separately, in September 2016, nine members of Centro de Estudios Convivencia were interrogated by the police. The same month, a workshop organized by the center was shut down by state security officials, as was a meeting in November.” (Freedom House, January 2017)

In its annual report published in January 2017 HRW states that short-term arbitrary arrests of, inter alia, human rights defenders “have increased dramatically in recent years” and that “[o]ther repressive tactics employed by the government include beatings, public shaming, and termination of employment.” The report goes on to say that the “[g]overnment authorities harass, assault, and imprison human rights defenders who attempt to document abuses.” (HRW, 12 January 2017)

The German Federal Foreign Office (Auswärtiges Amt, AA) mentions in its country information profile on Cuba (last update: March 2017) “actos de repudio”, acts of intimidation carried out especially against human rights activist and dissidents. (AA, March 2017b)

The USDOS in its March 2017 report on human rights practices states that “[t]he government subjected domestic human rights advocates to intimidation, harassment, and periodic short-term detention. In addition, the report notes that “there were reports of explicit government harassment of individuals who met with unauthorized NGOs.” (USDOS, 3 March 2017, section 5). Furthermore, the USDOS notes:

“Arbitrary arrests and short-term detentions continued to be a common government method for controlling independent public expression and political activity. By law police have wide discretion to stop and question citizens, request identification, and carry out arrests and searches. Police used laws against public disorder, contempt, lack of respect, aggression, and failing to pay minimal or arbitrary fines as ways to detain civil society activists.” (USDOS, 3 March 2017, section 1d)

“Lack of governmental transparency and systemic violations of due process rights obfuscated the true nature of criminal charges, investigations, and prosecutions, allowing government authorities to prosecute and sentence peaceful human rights activists for criminal violations or ‘dangerousness.’ [...] On September 23, authorities arrested independent lawyer Julio Alfredo Ferrer Tamayo during a police raid on the legal aid center Cubalex (see section 1.f.). Although police released all other detained employees in less than 24 hours, Ferrer remained in detention through the end of the year. According to Cubalex, Ferrer received a suspended three-year sentence in February for allegedly falsifying documents in relation to the attempted establishment of a civil society organization in 2010, and police cited this earlier arrest as a reason for refusing his release.” (USDOS, 3 March 2017, section 1e)

The Swedish Ministry for Foreign Affairs (UD) explains in its report published in April 2017 that human rights defenders and representatives of political parties who raise questions about civil and political rights state that they are subjected to reprisals in the form of arrests, seizure of belongings and travel restrictions. They also report that they are often denied jobs and placements at institutes of education due to their political activities. (UD, 26 April 2017, p. 5)

Concerning the treatment of human rights defenders, the Inter-American Commission on Human Rights (IACHR) in its April 2017 annual report covering the year 2016 refers to arrests, interrogations, violence, repression and the criminalisation of activities:

“Ever since its 1992-1993 Annual Report, the Commission has been observing with great concern the use of summary arbitrary arrests as a means of harassing human rights defenders, independent journalists, activists, trade union leaders, and anyone else openly voicing criticism of the Cuban Government. That notwithstanding, this Commission is particularly alarmed by the sudden increase in summary arbitrary detentions in the year under review, accompanied by a surge in the violence with which they are carried out. [...]

In the hearing on the situation of human rights defenders in Cuba, held during its 157th regular period of sessions, the Commission was notified of the detention of members of civil society organization on December 10, 2015, during a demonstration convened to celebrate international human rights day and the subsequent confiscation and burning of copies of the Universal Declaration of Human Rights by State security agents. [...]

Before and during the visit of United States President Barack Obama to the island in March 2016, civil society organizations reported an intensification of State actions designed to minimize their impact. They allege that one example had to do with Berta Soler Fernández, leader of the Damas de Blanco movement. Others involved Daniel Ferrer, a former political prisoner and leader of UNPACU [Unión Patriótica de Cuba]; Antonio González Rodiles, director of the Estado de Sats project; Danilo Maldonado Machado -‘El Sexto’-, a graffiti artist, winner of the Oslo Freedom Forum’s Vaclav Havel 2015 international award; and Iván Hernández Carrillo, a journalist and Secretary General of the Confederation of Independent Workers of Cuba, who were all detained prior to Obama’s visit, and independent journalist Lázaro Yuri Valle Roca, who was violently detained on March 20, 2016, when he was covering the Sunday march of the Damas de Blanco in Miramar, Havana. His whereabouts were unknown for several days. According to the CCDHRN, 498 arrests were made just during the visit, many of them accompanied by acts of violence. [...]

The Commission observes that the increase in the number of presumed summary arbitrary detentions has been accompanied by the use of - sometimes excessive and disproportionate force - by State security agents. The above comments are based on information received by the Commission that the detentions are carried out with the detainees being beaten, having their arms and legs twisted, and with very tight-fitting handcuffs and shackles. There are also denunciations of piercings of detainees’ bodies with unknown objects and beatings during detention, as recounted by Antonio González Rodiles and Iván Hernández Carrillo, for both of whom precautionary measures had been granted by this Commission. Their account matches similar reports of similar incidents documented in the past.

Other situations denounced have included the alleged detention of people for up to 72 hours in closed police vehicles, exposed to the high temperatures found on the island, without being allowed access to water, food, or showers. According to information in the public domain, on August 9, 2016, Leticia Ramos, a human rights defender, member of the Damas de Blanco, beneficiary of Precautionary Measures 264/13, and a participant in the hearings held during the Commission’s 157th regular period of sessions, was detained by police for more than three hours in a totally closed vehicle before being taken to her home and threatened with criminal proceedings if she attempted to leave it. There she was kept

under State surveillance until at least August 12, 2016, a situation that, along with other adverse scenarios, prompted a public pronouncement of concern by the Commission. The Commission was also told of the case of two members of Damas de Blanco (Ivoiny Moralobo Melo and María Josefa Acon Sardiña), and of Servilio Villegas Merrero, a member of the Frente de Acción Cívica Orlando Zapata Tamayo (FACOTZ), all of whom had been kept for several hours in police patrol cars out in the sun. [...]

Likewise, the Commission has received complaints of people being subjected to lengthy interrogations, during which they receive serious threats to their or family members' lives or bodily integrity. Such was the case of Juana Mora Cedeño, Director of the Arco Iris Libre de Cuba (ALCU) organization and Coordinator of the Alianza Manos network, and Mario José Delgado González, Director of Fundación Cubana Cristiana LGBTIQ Divina Esperanza, who, on March 25, 2016, after giving a talk on human rights and sexual diversity at the home of a member of the Candidatos por el Cambio roundtable, were allegedly detained, harassed, interrogated, threatened and accused of fostering counterrevolutionary activities. [...]

The Commission has also been informed of use of the criminal system to criminalize the activities of human rights defenders, journalists, and activities. Thus, the Commission was notified that repeatedly detained persons sometimes end up being included in summary criminal proceedings that may lead to prison sentences for 'pre-criminal dangerousness' (peligrosidad predelictiva), as will be illustrated in greater detail below. For instance, a complaint was received that, on January 13, 2016, María Cristina Labrada was detained and threatened with being given a longer prison sentence if she continued taking part in the #TodosMarchamos por la libertad de los presos políticos campaign. Likewise, the Observatorio Cubano de Derechos Humanos reported the pre-trial detention imposed in June of this year on 11 human rights activists (working for (Damas de Blanco, Unión Patriótica de Cuba (UNPACU), and Frente de Acción Cívica Orlando Zapata Tamayo (FACOTZ), and other organizations), who are currently awaiting trial. They are: Xiomara de las Mercedes Cruz Miranda, Yaquelin Heredia Morales, Miguel Borroto Vázquez, Mario Alberto Hernández Leyva, Leudis Reyes Cuza, Maykel Mediaceja Ramos, David Fernández Cardoso, Lazaro Mendosa García, Yuneth Cairo Reigada, Marietta Martínez Aguilera, and Aurelio Andrés González Blanco. [...]

Similarly, human rights defenders, journalists, activists, and social leaders complain of stepped up levels of violence in the civilian population's acts of repudiation against them, in which they have their limbs twisted, bones broken, and injuries caused by bites and blows, all with the alleged acquiescence of the State authorities." (IACHR, 27 April 2017, pp. 549-553)

"The situation in Cuba as regards the rights of LGBTI persons is complex judging by the information received by the IACHR, because, although domestically some progress has been made and certain rights are recognized, the information provided by civil society organizations indicates the persistence still in 2016 of surveillance, interrogations, harassment, threats, and detentions of human rights defenders who do their jobs as professionals promoting and defending the human rights of LGTBI persons in Cuba.

According to civil society organizations these acts are part of an overall pattern of State repression of human rights defenders in Cuba. [...]

In Cuba there is a pattern of repression by the State against human rights defenders, which means that defenders of the rights of LGBTI persons find themselves unable to do their job of defending them. What is more, defenders of LGBTI persons' rights are constantly subjected to threats and harassment when they do go about their work of defending and promoting those rights, especially when they participate in events denouncing violations of the human rights of LGBTI persons in Cuba. [...] Likewise, the IACHR calls upon the State to put in place mechanisms for reporting and for effective investigation of acts of harassment and hostility against defenders of the rights of LGBTI persons, thereby preventing such acts from going unpunished." (IACHR, 27 April 2017, pp. 558-559)

The Madrid-based Cuban Human Rights Observatory (Observatorio Cubano de Derechos Humanos, OCDH) which consists mostly of former prisoners of conscience pertaining to the Cuban 'group of 75', reports in May 2017 that 1,809 arbitrary detentions took place in the first four months of 2017. The organisation documented 467 arbitrary detentions in April 2017, ten of the detained human rights activists were "brutally beaten", according to the OCDH. The OCDH stresses that a climate of repression prevails and that it may become worse in the coming months:

"El Observatorio Cubano de Derechos Humanos (OCDH) denuncia que se han producido 1.809 detenciones arbitrarias en los 4 primeros meses de 2017. Durante el mes de abril se han podido documentar 467 detenciones arbitrarias, de las cuales 335 corresponden a mujeres y 132 a hombres (147 a personas de raza negra en total); 10 de estos activistas de los derechos humanos fueron golpeados brutalmente.

El OCDH quiere destacar que este clima represivo prevalece en unos momentos en que el gobierno cubano ha logrado importantes apoyos internacionales como el de la Unión Europea, con quien avanza en la aprobación de un acuerdo carente de mecanismos reales y exigentes en materia de derechos humanos y democracia, y el del Gobierno de España, que por encima de cualquier consideración democrática pareciera estar dispuesto a aprovechar la incertidumbre actual de las relaciones entre Estados Unidos y Cuba. Desde el OCDH alertamos que en los próximos meses el clima represivo puede agravarse producto de cierto nerviosismo del gobierno ante la difícil situación económica y social que atraviesa Cuba, agudizada por la crisis política en Venezuela y por una economía nacional que no funciona sin la ayuda de un mecenas." (OCDH, 4 May 2017)

In its May 2017 article Martí Noticias notes that, according to UNPACU, human rights activists in Cuba face arrests, house searches and travel restrictions both inside Cuba and when travelling abroad:

"La Unión Patriótica de Cuba denunció este martes las acciones arbitrarias del gobierno contra activistas de derechos humanos en la isla, quienes se ven expuestos a los arrestos, allanamientos de sus viviendas y a las restricciones de viaje tanto de un municipio a otro como fuera del país sin justificacióm legal. [...]

Entre las acciones más recientes de este tipo figuran las detenciones arbitrarias contra los activistas de la UNPACU Alexander Verdecia y Jorge Cervantes, encarcelados durante días ‘sin haber cometido ningún delito’, dijo a Martí Noticias José Daniel Ferrer, coordinador de ese grupo opositor. [...]

Pero las detenciones por días sin motivo alguno y las restricciones de movimiento de un municipio a otro no son la única práctica ilegal a la que están expuestos los opositores en Cuba, recordó Ferrer. En los últimos meses, cerca de una decena de activistas no han podido salir del país a cumplir compromisos e invitaciones de organizaciones pro derechos humanos, porque son abordados en el aeropuerto cuando se disponen a viajar y les informan que sobre ellos pesa una restricción temporal de salida del país. A pesar de que los integrantes de la UNPACU tienen los documentos en regla, y son invitados formalmente por otros países, las autoridades no les dan explicación, y les impiden tomar el vuelo.” (Martí Noticias, 23 May 2017)

The following section gives some examples regarding the treatment of activists by the authorities:

A November 2016 Urgent Action released by Amnesty International features details concerning the treatment of Cubalex members by the authorities:

“Progressively since September, Cuban authorities have intimidated members of Cubalex (Legal Information Center), a non-government organization, not recognized by the Cuban authorities, which provides free legal and human rights advice in Havana, the capital.

On 23 September, according to its Director, Laritza Diversent, authorities searched Cubalex’s centre of operation without warrant, confiscated a number of laptops and documents, and forced at least one woman to undress. The provincial prosecutor in Havana provided notice to Cubalex that it was under a tax investigation.

According to Cubalex, since then, state prosecutors have summoned at least two members of the organization for questioning. Cubalex stated that the interviews, which reportedly lasted up to one hour and 45 minutes, were filmed, leading members to believe that the authorities were seeking information to criminalize activities of the organization. According to Cubalex, authorities have also questioned people who received advice and information from their centre. Cubalex’s Director reported that she has been stopped and questioned a number of times at the airport during her recent trips. She believes her home, which provides a base for Cubalex’s activities, is under surveillance. One of Cubalex’s members, Julio Ferrer Tamayo, reported being strip searched and detained during the search of Cubalex on 23 September and remains in custody.” (AI, 18 November 2016, p. 1)

In a December 2016 article, Cubanet reports on the case of an LGBT activist who was interrogated by State Security officials and threatened with consequences for himself and his family in case he continues with his activism. According to the activists the officials asked him about his many trips abroad, his contacts and whether he had received any financing from nongovernmental organisations, assuming that he had ties to Czech and Colombian NGOs:

“El doctor Nelson Gandulla Díaz, delegado nacional de la Fundación Cubana por los Derechos LGBTI, con sede en la ciudad de Cienfuegos, luego de recibir una citación oficial debió personarse en las oficinas de Emigración y Extranjería el pasado 10 de diciembre para ser interrogado por oficiales de la Seguridad del Estado. [...] Según el activista, los agentes quisieron indagar sobre los múltiples viajes de trabajo que ha efectuado fuera del país, si alguna ONG [Organización No Gubernamental] financia sus actividades y con cuáles personas se reúne. Especial énfasis pusieron al preguntar sobre presuntos vínculos suyos con la organización colombiana Caribe Afirmativo y la checa People in Need. Recordó el galeno que uno de los presentes le aseguró que las organizaciones para las que según su interlocutor trabaja, se valen de su discurso para atacar al oficialista Centro Nacional de Educación Sexual y a su directora Mariela Castro, hija del actual gobernante de Cuba. Tras comprobar que Gandulla no resultaba ‘colaborativo’ con los propósitos de los comisarios políticos la conversación cambió de tono. ‘Me amenazaron, me dijeron que de continuar con las actividades a favor de la comunidad LGBTI cubana no respondían por lo que pudiera pasar conmigo o mi familia’. De acuerdo al líder de la Fundación, las amenazas incluyeron las prohibiciones a celebrar actividades en su casa, so pena de ir a prisión.” (Cubonet, 12 December 2016)

A May 2017 article by 14ymedio contains information about Belkis Cantillo, the leader of the Dignity Movement, who was prevented from travelling abroad. The article further mentions “persecution” by State Security officials:

“State Security prevented Belkis Cantillo, the leader of the Dignity Movement, from boarding a flight to the United States on Wednesday afternoon. The activist explained to 14ymedio via telephone that State Security agents and immigration officials notified her that she was ‘restricted.’ [...]

Although the activist did not receive any official documents that supported a travel restriction, the agents indicated that she should leave the airport at the end of the interrogation. On her way home, she noticed that the car in which she was returning to Santiago de Cuba was being ‘escorted’ by the political police. Cantillo, who lives in Palmarito de Cauto, in Santiago de Cuba province, denounced that since the emergence of the Dignity Movement, she and the other activists have had to resist the constant persecution of State Security. Earlier this year, Cantillo was detained for four days and on January 14, the founding day of the Dignity Movement, she was expelled, along with a group of women, from the Shrine of the Virgin of the Charity of Cobre. Since then, says the opponent, the ‘threats’ have not stopped and several homes have been ‘raided’ by State Security and police. The Dignity Movement is demanding an immediate unconditional amnesty for all those currently imprisoned for ‘pre-criminal dangerousness’ and the elimination of this ‘arbitrary’ concept from the Penal Code.” (14ymedio, 4 May 2017a)

Martí Noticias writes in an article published in June 2017 that Yisabel Marrero Burunate, a Cuban human rights activist, was accused of terrorism in an interrogation by State Security due to her participation in a meeting in Miami and her activism:

“Yisabel Marrero Burunate asistió en abril a un evento organizado por la Fundación Rescate Jurídico, y regresó a la isla a finales de mayo. La activista Yisabel Marrero Burunate fue

amenazada por la Seguridad del estado de Colón, en Matanzas, por haber participado en un encuentro en la Universidad de Miami, y por su activismo en la isla a favor de los derechos humanos. Durante la citación, los agentes le dijeron que se había ido a reunir con un ‘terrorista en Miami, y que a partir de ese momento me iban a catalogar como tal.’” (Martí Noticias, 8 June 2017)

2.6 Individuals of diverse sexual orientations and gender identities (SOGI)

2.6.1 *Treatment of individuals of diverse SOGI by state actors*

2.6.1.1 General state attitude towards SOGI and role of Mariela Castro and the National Center for Sexual Education (CENESEX)

BBC News in a May 2015 article reports on a symbolic mass gay wedding supported by Mariela Castro, the daughter of President Raúl Castro:

“Gay rights activists in Cuba will hold a mass wedding this weekend, in a country where gay marriage is still not legal. The activists will be led by the daughter of President Raul Castro, Mariela, who is a leading gay and transgender rights campaigner. The symbolic wedding will be part of Cuba’s annual gay pride parade. Ms Castro said she hoped the event could lead to further change in future.” (BBC News, 5 May 2015)

The Qatar-based news network Al Jazeera in an August 2015 article describes the activities of Mariela Castro and CENESEX as follows:

“Many credit the more sweeping changes, such as the free provision of gender reassignment surgery, to Mariela Castro, the daughter of President Raúl Castro and the director of the National Center for Sexual Education (CENESEX).

Founded in 1989, the CENESEX website says it approaches issues of LGBT rights from a health and educational standpoint. The group organises four annual conferences concerning homophobia, sexual health, AIDS, and women’s rights. Mariela Castro often attends seminars on LGBT rights throughout the Americas and organises government-sanctioned Pride marches throughout the country. She has also trained Cuban police on relations with the LGBT community, and has been campaigning for the Cuban government to legalise same-sex marriages.” (Al Jazeera, 2 August 2015)

The Inter-American Commission on Human Rights (IACHR) in its March 2016 annual report covering the year 2015 provides the following information on initiatives of CENESEX:

“For several years, the IACHR has taken stock of the initiatives pursued by the CENESEX [Centro Nacional de Educación Sexual], assigned to the Ministry of Public Health and directed by Mariela Castro, in favor of promoting and protecting the rights of LGBT persons. The IACHR takes note that in recent years there have been legislative gains, such as prohibiting labor discrimination based on sexual orientation, in 2013, and policy gains in relation to the measures adopted by CENESEX. These measures have also lifted up the visibility of LGBT persons in Cuban society. Nonetheless, worrisome challenges persist in relation to protecting and guaranteeing the rights of LGBT persons in Cuba, and with

respect to LGBT defenders who are critics of the government.” (IACHR, 17 March 2016, p. 602)

Medill News Service, which publishes stories written by Northwestern University graduate journalism students, notes in a February 2017 article the following with regard to the protection of rights of LGBT individuals in Cuba:

“Cuba, where gay men were once punished, harassed and sent to labor camps, has become a leader in LGBT rights in the Caribbean. The government’s change in policy and acceptance of the community is due in large part to the work of Mariela Castro, Raúl Castro’s daughter, and the late Fidel Castro’s niece. [...]

In 2000 Mariela Castro, whose mother was Vilma Espín, a women’s rights activist, became the head of the government-funded National Center for Sexual Education, commonly known by the Spanish acronym CENESEX. Under her guidance, the center, founded to promote reproductive health for women, expanded its focus to include gender and sexual minorities, and became a leader in the fight for LGBT rights. In 2005, the center successfully promoted a bill that would grant free gender-reassignment surgery and hormone replacement therapy. [...]

CENESEX has been crucial in securing labor protections for LGBT workers. Most recently, the center has been supporting a non-profit that works with students with the goal of changing the way the next generation thinks. Mariela Castro’s fight for LGBT rights has been influential within internal communist party politics, thanks to her family connections. Fidel Castro apologized for the regime’s role in the persecution of gay men in 2010, and there are annual government-supported Gay Pride Marches in Havana with a strong focus on the role of Communist Party members in the newfound political rights of the LGBT community.” (Medill News Service, 20 February 2017)

The German Federal Foreign Office states in its country information profile on Cuba (last update: March 2017) that the situation of homosexuals, bisexuals and transgender people in Cuba has improved considerably in the last few years and that Raúl Castro’s daughter, Mariela, has for many years led the National Center for Sexual Education (CENESEX) which is strongly committed to the LGBT community. (AA, March 2017b)

The USDOS in its March 2017 report on human rights practices describes the situation as follows:

“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, transgender, and intersex (LGBTI) persons. Throughout the year the government promoted the rights of LGBTI persons, including nonviolence and nondiscrimination in regional and international fora. In May the government sponsored a march and an extensive program of events to commemorate the International Day Against Homophobia and Transphobia.” (USDOS, 3 March 2017, section 6)

El País in a March 2017 article refers to a film “Transit Havana”, directed by the Dutch documentary filmmaker and human rights activist Daniel Abma which documents the lives of three transsexuals in Cuba. According to Abma, “[t]he regime has gone from persecuting homosexuality to using all its propaganda machinery to promote integration”, but “Cuban homosexuals still have to deal with religious intolerance, poverty, discrimination and often prostitution”. Abma further states that each of the three protagonists of the film “highlights the challenges that still face transsexuals: religious prejudice, the lack of job opportunities and social stigma”. He explains that “Cubans are aware discrimination is wrong and that, in the spirit of the revolution, they accept in theory that all people are equal. But in practice traditional attitudes, combined with Catholic convictions, mean that prejudice is widespread”. (El País, 20 March 2017)

The German Gesellschaft für Internationale Zusammenarbeit (GIZ) notes in May 2017 that, like all other social groups, LGBT individuals are not allowed to organise independently, but with Raúl Castro’s daughter Mariela they have found an active advocate. As head of the National Center for Sexual Education (CENESEX) she promotes the rights of LGBT individuals and their acceptance in society. (GIZ, May 2017b)

The news agency Reuters in a May 2017 article reports on a transgender mass held in Cuba:

“For decades belonging to a religion and being anything but heterosexual was stigmatized in Communist-ruled, macho Cuba, making the Mass held by three transgender pastors in the western Cuban city of Matanzas all the more groundbreaking. [...] Friday was the first time a trans pastor held a Holy Communion in Cuba, highlighting how much the island nation has changed since both religious believers and homosexuals went to ‘correctional’ labor camps in the early years after the 1959 revolution. [...] The Mass on Friday was the highlight of a three-day conference on transsexuality and theology organized by the Matanzas-based Cuban branch of the international Metropolitan Community Church.” (Reuters, 5 May 2017)

2.6.1.2 Criticism of CENESEX and Mariela Castro

Foreign Policy (FP), a US news publication focusing on global affairs, in a July 2014 article refers to the relationship between Mariela Castro and CENESEX on the one hand and independent gay activists on the other hand:

“LGBT rights have undeniably improved in Cuba over the past 50-odd years. But while there have been some gains, many problems remain. The social stigma attached to being gay in predominantly Catholic Cuba is present in the same ways it is everywhere else in the world. Though the Castro family is no longer sending LGBT people to labor camps as they did in the 1960s and 1970s, the only permitted LGBT movement in Cuba is the official, state-run one that Mariela Castro has created. To that end, while the rest of the world was celebrating Pride Week over the past several days, Cubans weren’t. The government in Havana refuses to recognize the international week of LGBT rights celebrations, allowing only an officially sanctioned gathering on May 17 — under Mariela’s patronage — to mark the World Health Organization’s ‘International Day Against Homophobia.’ [...]”

'Brokeback Mountain' may have aired on Cuban state television in 2008, but the control Mariela and CENESEX wield over the LGBT agenda doesn't give many Cubans a sense of ownership in their own cause. On paper, Mariela is perfectly qualified to run CENESEX, where she has been since 1990. She has degrees in psychology and human sexuality from two of Cuba's premier universities. However, the LGBT Cubans I spoke to almost universally described Mariela as a creation of the state propaganda machine, a benevolent face the world can see calling for tolerance while the regime's usual brand of everyday totalitarianism continues. After all, Cuba's biggest industry is tourism, with more than 2 million visitors last year. Western tourists prefer a 'friendly Cuba' to a notorious human rights violator.

The state announced in 2008 that, per Mariela's direction, the national health-care system would begin providing free gender-reassignment surgeries to those who qualified. In May 2013, Mariela traveled to Philadelphia to receive the Equality Forum's International Ally for LGBT Equality Award, followed by a trip in October to Montreal, where she was honored by the Conseil Québécois LGBT. This past December, the Cuban parliament passed a new labor code that included a clause outlawing employment discrimination based on sexual orientation. (It can't hurt Cuban Communist Party legislators to keep the boss's daughter happy.) On its face, it would seem that Mariela has tried — and continues to try — valiantly to move the LGBT agenda forward.

But not everyone's buying it. 'The reality for the LGBT community in Cuba is very different from that described by the international media,' Ignacio Estrada, a 33-year-old gay man from Santa Clara, tells me. 'We live under constant government surveillance and harassment, while at the same time being manipulated for their political purposes.' Ignacio is married to Wendy Iriepa, 40, a transgender Havana native who once worked very closely with Mariela Castro at CENESEX. Under a 2007 pilot project, after pledging loyalty to the Revolution, she became the first Cuban to receive government-sponsored sex-reassignment surgery and underwent a full male-to-female transition. Wendy may have been in Mariela's good graces, but as the founder of the independent, and thus illegal, Cuban League Against AIDS, Ignacio was considered a dissident. When Wendy marched with Ignacio and about 20 others in a small, unauthorized Pride Day parade in Havana in June 2011, Mariela confronted Wendy, asking how she 'could live, in bed and in a home, with an enemy of the revolution.' Wendy resigned from her position at CENESEX immediately. Two months later, she and Ignacio were married in Havana. The nuptials took place on August 13, 2011 — Fidel Castro's 85th birthday. The guest list also sent a powerful message. Opposition bloggers Yoani Sánchez and her husband, Reinaldo Escobar, were there. Mariela wasn't invited. 'Mariela is a chameleon; she can change her character very easily,' says Ignacio. 'She is very sociable with the people who work for her, but never does anything for anyone without expecting something back in return.'

Mario Jose Delgado is a gay activist and independent journalist in Havana who also believes the outside world is being duped by Mariela. He and other LGBT Cubans are 'very unhappy about the awards and recognition' she has received abroad, insisting, 'It does not reflect the feelings of the gay community on the island.' Delgado says the realities of LGBT life in Cuba are much uglier.

Last November, Delgado was headed home to the Alamar section of Havana when three men in civilian clothes threw him into the backseat of a car. They drove him to the outskirts of town, where he was beaten in the face with a rock. Delgado says the men, who have never been identified, were interested only in the information he was carrying, which included names of members of a Christian LGBT group Delgado belonged to called Divine Hope. The attackers took his cellphone and USB drive, as well as his notes and calendar, where the details of a demonstration Divine Hope was planning to hold the next month were stored. They also took his baseball cap for good measure. Delgado is certain his attackers were state security agents, though it is impossible to know for sure what exactly prompted the beating. He's gay, he's Christian, and he's a blogger who is outspokenly anti-regime. It's a volatile combination in Cuba, where activists of all stripes who dare to organize independently are regularly targeted by the security services.

Delgado doesn't have much to lose by speaking to reporters. But there are plenty of LGBT Cubans who have settled into relatively comfortable lives by not calling too much attention to themselves." (FP, 3 July 2014)

The IACHR in its March 2016 annual report covering the year 2015 also addresses criticism voiced regarding the activities of CENESEX:

"Nonetheless, the activities of the CENESEX have been criticized by LGBT organizations and activists who are not aligned with the government's position. Accordingly, while the IACHR has been informed that since 2008 trans persons have received surgery free of charge, under the national health system, activists critical of the government allege that fewer than 30 persons have benefited from such procedures. The Commission has received information indicating that trans people wishing to access this benefit must first sign a document indicating their affiliation and commitment to the ideology of the government. In addition, some LGBT activists criticize the government, for even though Mariela Castro has publicly supported marriage equality, they do not consider there to be a genuine intent to protect it." (IACHR, 17 March 2016, p. 602)

The Madrid-based Cuban Human Rights Observatory (Observatorio Cubano de Derechos Humanos, OCDH) which consists mostly of former prisoners of conscience pertaining to the Cuban 'group of 75', in November 2016 organised a round table discussion debating the Cuban reality from a civil society perspective. 20 Cuban human rights activists participated in the event, including members of several LGBT organisations. One of the topics discussed was the relationship between Mariela Castro and the civil society organisations. Juana Mora of the Cuban LGBT organisation Arco Iris Libre de Cuba admitted that the LGBT community in Cuba gained visibility due to Mariela Castro's advocacy. Problems arise when independent civil society organisations that defend the rights of LGBT individuals are created. Those are not recognised by the government and therefore cannot count on its support. According to Kineria Yalit of the Mesa de Diálogo de la Juventud Cubana, the Cuban government prevents the registration of civil society organisations. In addition, Juana Mora explained that according to the Law on Associations no new organisation can be legalised when another organisation is already registered with identical or similar objectives or name. As CENESEX already exists, no other organisation with similar objectives can gain a legal status:

“El OCDH reúne en Madrid a distintas organizaciones de la sociedad civil cubana en la mesa de diálogo ‘La actualidad cubana desde la perspectiva de la sociedad civil’. 20 cubanos que trabajan por los derechos humanos en Cuba pudieron reunirse libremente y compartir experiencias, líneas de trabajo, objetivos y visiones de futuro. Algo que en Cuba hubiese sido imposible.

Nos acompañaron en esta mesa de diálogo Carlos Quesada y Pedro Cortés, del Institute on Race, Equality and Human Rights en Washington; Alberto Díaz Arcones, Responsable del área LGTBI de la Comunidad de Madrid; Rafael Salazar y Samir Garbachi, miembros de la Confederación COLEGAS España; los representantes de organizaciones cubanas: Kirenía Yalit, de la Mesa de Diálogo de la Juventud Cubana; Juana Mora, de Arco Iris Libre de Cuba; Lidia Romero, del Grupo Manos; Mario Jose Delgado del Movimiento Cristiano LGBTI Divina Esperanza; Nelson Gandulla, de la Fundación Cubana por los Derechos LGBTI y Juan Antonio Madrazo, coordinador del Comité Ciudadanos por la Integración Racial (CIR); además contamos con la enriquecedora participación del grupo de becarios del OCDH que se encuentran en estos momentos realizando el ‘Programa de Especialización en Procesos de Transición, Democracia y Gobernanza’ en Madrid, que se enmarca en nuestro Programa ‘Iniciativas para el fortalecimiento de las organizaciones de la sociedad civil cubanas’

Mariela Castro y las organizaciones de la sociedad civil

Juana Mora reconoció que si se habla de la comunidad LGBTI en Cuba es gracias a Mariela Castro -la hija del presidente de Cuba lidera el movimiento en pro de los derechos de la comunidad LGBTI en la isla-, destacando, eso sí, el carácter dinástico (‘Mariela heredó el cargo’) de su nombramiento como directora del Centro Nacional de Educación Sexual (Cenesex). El problema surge cuando desde la sociedad civil independiente se generan organizaciones que luchan por los derechos de la comunidad LGBTI, como Arco Iris Libre Cuba que, al no ser reconocidas por el gobierno, no cuentan con su respaldo. Para Kinería Yalit el gobierno cubano impide que estas organizaciones sean registradas con procedimientos burocráticos infinitos que finalmente deniegan otorgarles la personalidad jurídica. Juana Mora analiza, además, la limitación de legalizar su organización, ya que, según la Ley de Asociaciones, ninguna asociación podrá ser legalizada cuando aparezca inscrita otra con idénticos o similares objetivos o denominación a la que se pretende constituir, y como ya existe la de Mariela Castro, ninguna otra asociación con los mismos fines puede legalizarse en Cuba.” (OCDH, 23 November 2016)

The abovesited Medill News Service article of 20 February 2017 refers to the case of Eduardo Digen who wanted to open an LGBT café without going through CENESEX:

“Eduardo Digen, a Havana resident who works in the tourism industry, says it is easier to fight for LGBT rights if you are a faithful Communist Party member. He and a few friends attempted to open a gay café without going through CENESEX, and it was not long before they met resistance. ‘[CENESEX] wrote to us emails saying ‘you have to go through the center, you have to work with us,’ said Digen. ‘If you are not pro-government... you are garbage for CENESEX.’” (Medill News Service, 20 February 2017)

The Washington Blade, an LGBT newspaper in Washington, D.C., notes in a March 2017 article:

“Mariela Castro, who is former Cuban President Fidel Castro’s niece, in recent years has publicly spoken in support of marriage rights for same-sex couples. [...]

LGBT rights advocates who work independently of Mariela Castro and CENESEX in 2015 launched a campaign that urged Cubans to sign a petition in support of the issue. They hoped it would spur lawmakers to publicly debate the issue. The activists have criticized Mariela Castro for not publicly supporting their campaign that appears to have stalled. They have also told the Washington Blade that Cuban authorities routinely harass and even detain them for publicly criticizing Mariela Castro and her father’s government.” (The Washington Blade, 30 March 2017)

Diario de Cuba, an online news outlet with funding from the US agency National Endowment for Democracy, which aims to engage Cuban independent journalists, artists, intellectuals and academics to promote analysis on social, political, economic and cultural developments on the island, in May 2017 published an article containing the following information:

“When the first police raids of homosexuals were carried out in revolutionary Cuba, Vilma Espín was already the wife of the head of the armed forces, the sister-in-law of the regime’s top leader, the woman with the highest political position among the elite, and president of the Federation of Cuban Women (FMC), the only gender-based organization allowed in the new society. [...]

Fidel and Raúl Castro and Vilma Espín are three of the figures most responsible for repression against homosexuals in Cuba. Mariela Castro Espín, too young to have actually participated in these events, is currently in charge of whitewashing her elders’ crimes. After recognizing that the UMAP [Unidad Militar de Ayuda a la Producción, a form of agricultural labour camp, remark by ACCORD] existed, and after promising an investigation to clarify this phenomenon, she must also explain why this investigation has never been carried out, and never will be.

Just as her mother took advantage of the struggle for women’s rights, she exploits the struggle for the rights of the LGBTI community in a ploy to wield power and suppress dangerous freedoms. In the history of her family’s homophobia, her role has been to hide the horrors of the past and to misrepresent that history to favor her family’s interests. It is not surprising, then, that the first postcard envelope ‘dedicated to the lesbian, gay, bi, trans, and intersex (LGBTI) community in Cuba’ actually features a stamp graced by an image of her mother, Vilma Espín.

A postage stamp has not been issued acknowledging the LGBTI community, but rather one honoring Vilma Espín, issued in 2008, and a great opportunity for social activism and awareness raising has been squandered. The family that has been Cuban homosexuals’ worst enemy dares to exploit this opportunity to burnish its image, at the expense of those whom they denied and persecuted. Like her elders, Mariela Castro Espín mocks the wishes and dreams of those she claims to represent, this time by promising them a postage stamp for their cause, and then circulating an image of her own mother.” (Diario de Cuba, 16 May 2017)

14ymedio in a June 2017 article writes about Macroproyecto Manos, an LGBT group that was created in 2014. At that time, some of the independent Cuban LGBT organisations that were not under the official umbrella of CENESEX decided to form a group to support each other. According to three activist of the group, you have to mention Mariela Castro and CENESEX if you talk about the LGBT community in Cuba, as their work has brought the LGBT topic to the attention of the public. Nevertheless, some activists have decided to emancipate themselves from CENESEX, because they want to reclaim the societal nature of their project in contrast to the “political agenda” which, according to them, characterises the official institution. Sisi Montiel, one of the activists and a trans woman, noted that it is difficult to talk about human rights in Cuba because the people think that it is a question of overthrowing the government. Montiel claims that she is suffering twofold due to her sexual non-conformity: she is discriminated against by society and is perceived as an “opponent” to CENESEX. According to her, LGBT persons who deviate from the rules of CENESEX are persecuted. Macroproyecto Manos it not officially recognised. Montiel explains that in Cuba only organisations approved by the government are allowed to exist and groups that have the same agenda as that of Mariela Castro will not be permitted. All LGBT projects have to pass through CENESEX. All groups that work for the LGBT community and are not officially recognised are discriminated against and are forced to work in a semi-clandestine environment without legal instruments to support themselves financially or to channel aid:

“Para hablar de la comunidad de lesbianas, gays, bisexuales, transexuales e intersexuales (LGBTI) en Cuba se tiene que mencionar a Mariela Castro y al Cenesex, que ella preside, dicen tres tres activistas independientes del Macroproyecto Manos, de visita en Miami para asistir a OutGames, los juegos olímpicos de la comunidad LGBTI.

Pero si bien es cierto que la labor de la la hija de Raúl Castro ha puesto sobre el tapete el tema de esta comunidad, algunos activistas han decidido emanciparse del Centro Nacional de Educación Sexual (Cenesex) porque quieren reivindicar la naturaleza social de su proyecto, frente a la ‘agenda política’ que, dicen, maneja la institución oficial. [...]

El Macroproyecto Manos surgió como una necesidad, según dicen los activistas. En 2014, algunas de las organizaciones independientes que representaban a la comunidad LGBTI y que no estaban bajo el paraguas oficial del Cenesex se agruparon para apoyarse mutuamente. [...]

Sisi Montiel, (Michele Hernández Sánchez) es una mujer trans, presidente de la red Trans Fantasía, que se dedica a apoyar y asesorar a las personas transgénero en Cuba. También integra el Macroproyecto Manos. ‘Es un poco difícil hablar en Cuba de derechos humanos porque la gente piensa que se trata de tumbar al Gobierno. Tenemos que hacer diariamente un trabajo que requiere mucha paciencia para ir eliminando tabúes’, dice. Montiel dice haber sufrido su disidencia en materia sexual por partida doble: al ser discriminada por la sociedad y luego convertirse en una ‘opositora’ al Cenesex. ‘Me llaman opositora las mismas transexuales que asisten al Cenesex. Es algo que me molesta, porque yo no me considero opositora a nada, simplemente soy una activista por los derechos LGBTI pero que no quiere hacer parte del Cenesex’, explica. Según Montiel existe una

verdadera persecución contra los gays, transexuales, bisexuales y lesbianas que se apartan de la organización oficialista.

‘Nuestra organización [Macroproyecto Manos] no está autorizada legalmente. En Cuba solo existen las organizaciones que permite el Gobierno y no quieren aprobar otro grupo que haga lo mismo que Mariela Castro’, explica. Todos los proyectos LGBTI tienen que pasar por las manos del Cenesex y aquellas organizaciones que trabajan por esa comunidad y que no son reconocidas por el Estado se convierten en grupos discriminados, obligados a trabajar en la semiclandestinidad y sin mecanismos legales para sostenerse económicamente o canalizar ayudas.” (14ymedio, 3 June 2017b)

2.6.1.3 Legislation, government services

General legal framework

The GIZ mentions in May 2017 that since 1979 homosexuality is no longer a crime in Cuba (GIZ, May 2017b). The International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), the world federation of national and local organisations advocating equal rights for lesbian, gay, bisexual, trans and intersex (LGBTI) people, states in its June 2016 *State Sponsored Homophobia* report that same-sex sexual acts in Cuba are legal and that the age of consent is equal for same and different sex sexual acts (ILGA, June 2016, p. 35; p. 38).

Several sources (Spartacus, 2017; FP, 3 July 2014; USA Today, 10 July 2017) presumably refer to outdated versions of the Penal Code stating that “publicly manifested homosexuality” as well as “persistently bothering others with homosexual amorous advances” is punishable. However, the USDOS in its February 1989 Country Report on Human Rights Practices for 1988 mentions that “[t]he Government approved a revision of the Penal Code” (USDOS, February 1989, Executive Summary). A 1997 article by IPS elaborates on the 1988 revision of the Penal Code with regard to homosexual acts as follows:

“In 1988, article 359 of the 1979 penal code was repealed. That article provided for fines and detention for those charged with the ‘public display of their homosexual condition or importuning or soliciting others with requests,’ and defined ‘homosexual acts in public locations, or in private sites but exposed to involuntary viewing by other people,’ as ‘crimes against the normal development of sexual relations.’” (IPS, 27 August 1997)

Lawyers Without Borders UK Limited in 2009 published an English translation of the (meanwhile also outdated) Penal Code as of 1988. In this version, Article 303a read as follows:

„ARTICLE 303. A punishment of deprivation of freedom for a period of from three months to one year or a fine of one hundred to three hundred quotas shall be imposed on whosoever: a) provokes another individual with homosexual requirements; [...]” (Lawyers Without Borders UK Limited, 2009, S. 115)

The extraordinary edition No. 6 of the Official Gazette of Cuba of 26 June 1997 contains the law 175 of 1997 which modified Article 303a of the Penal Code and substituted the word

“homosexual” by “sexual”. (Decreto-Ley No. 175 de 17 de junio de 1997, 26 June 1997, Article 28)

The extraordinary edition No. 6 of the Official Gazette of Cuba of 26 June 1997 can be accessed via the following link:

- Decreto-Ley No. 175 de 17 de junio de 1997, published in the Gaceta Oficial de la República de Cuba No. 6 Extraordinaria of 26 June 1997
https://www.gacetaoficial.gob.cu/pdf/GO_X_006_1997.rar (Save RAR archive locally and extract file)

Tanya L. Saunders, Associate Professor at the Center for Latin American Studies of the University of Florida in her book *Cuban Underground Hip Hop: Black Thoughts, Black Revolution, Black Modernity* published in 2015 provides the following information:

“According to the 1999 penal code, someone who violates article 303 must pay a fine of 100-300 pesos or \$4-\$13 U.S. This article is divided into three parts: section (a) states that anyone who sexually harasses another person will be fined; section (b) states that anyone ‘offending good customs through improper exhibitions or obscene acts’ will also be fined; and finally, section (c) states that the circulation of pornographic materials or any other materials that pervert or degrade good customs will also be fined. These laws are still used by police to fine gay, especially lesbian, couples who hold hands or kiss in public.” (Saunders, 30 November 2015)

The text of the Penal Code as cited by Saunders regarding Article 303 corresponds with the version with amendments up to 7 December 2013 which can be accessed via the following link:

- Medina Cuenca, Arnel: Comentarios a las leyes penales cubanas, 15 December 2014
<http://www.lex.uh.cu/sites/default/files/3.Comentarios%20a%20las%20leyes%20penales%20cubanas.PDF>

Hate crime legislation

In an October 2013 query response about the treatment of sexual minorities, the Immigration and Refugee Board of Canada (IRB) quotes a representative of “the research project Transrespect Versus Transphobia Worldwide (TvT) conducted by Transgender Europe (TGEU), an international organisation that promotes the rights of transgender people in Europe” as saying that there exists no legislation concerning hate crimes that protects LGBT people. (IRB, 11 October 2013)

A May 2015 article by IPS provides the following information (compare also Article 263 of the Penal Code (Medina Cuenca, 15 December 2014, pp. 154-155)):

“The 1987 penal code does not specifically recognise hate crimes, or sexual orientation and gender identity as aggravating circumstances in murders. The law provides for sentences of 15 to 30 years in cases of homicide, and the death penalty is still on the books, although it has not been applied since 2003.” (IPS, 16 May 2015)

Discrimination

According to the representative of Transrespect Versus Transphobia Worldwide (TvT) cited in the October 2013 query response, there is no anti-discrimination legislation in Cuba. (IRB, 11 October 2013)

The 5 May 2015 BBC article contains the following information:

“In December 2013, a new labour law was approved, outlawing discrimination based on sexual orientation. But the law did not ban discrimination based on gender identity, and Ms Castro voted against it.” (BBC News, 5 May 2015)

ILGA mentions in the 2016 *State Sponsored Homophobia* report that in Cuba there exists a prohibition of discrimination in employment based on sexual orientation and a constitutional prohibition of discrimination based on sexual orientation. (ILGA, June 2016, p. 43)

The Swedish Ministry for Foreign Affairs (UD) explains in its April 2017 report that the constitution prohibits all forms of discrimination contrary to human dignity. Discrimination on the basis of sexual orientation (but not on the basis of gender identity) is prohibited in the workplace and regarding access to healthcare, education and housing. (UD, 26 April 2017, pp. 15-16)

The USDOS in its March 2017 report on human rights practices notes that “[t]he law prohibits discrimination based on sexual orientation in employment, housing, statelessness, or access to education or health care” (USDOS, 3 March 2017, section 6). Concerning workplace discrimination, the USDOS mentions that no information was available on government enforcement of these provisions during the year (USDOS, 3 March 2017, section 7d).

The Washington Blade in its March 2017 article reports the following with regard to laws concerning LGBT persons:

“The daughter of Cuban President Raúl Castro on Wednesday said there is a ‘legislative package’ that would extend rights to LGBT Cubans. Diario de Cuba, an independent website that is blocked in Cuba, reported Mariela Castro, who is director of the country’s National Center for Sexual Education, did not provide specific details when she spoke to reporters at her organization’s headquarters in Havana’s Vedado neighborhood. Mariela Castro said the Cuban National Assembly could consider the package once they approve proposed constitutional reforms, which Diario de Cuba said could take place in 2018. [...]”

Mariela Castro’s comments come less than two months before her organization, which is known by the Spanish acronym CENESEX, will hold a series of events in Havana and the city of Santa Clara that will commemorate the International Day Against Homophobia and Transphobia.

Cuban lawmakers in 2013 approved an amendment to the country’s labor law that banned employment discrimination based on sexual orientation. Mariela Castro, who is a member

of the Cuban National Assembly, voted against the proposal because it did not include gender identity.” (The Washington Blade, 30 March 2017)

In a July 2016 article, the daily newspaper USA Today quotes a journalist at Granma International, the mouthpiece of the Communist Party, who mentions a “ban on gays working for public institutions”. (USA Today, 10 July 2016)

The US-based non-governmental organisation Freedom House in its January 2017 annual report on political rights and civil liberties in 2016 points out that “a bill proposing the legalization of same-sex marriage has been stalled in the National Assembly since 2008, even with the support of Castro Espín” (Freedom House, January 2017). The February 2017 Medill News Service article mentions that “[t]he Cuban constitution currently defines marriage as the union between a man and a woman”. The article further points out that “CENESEX officials expect that gay marriage will be up for consideration at the 8th Congress of the Communist Party of Cuba in 2021, although Mariela Castro has advocated a shorter timeline for the change” (Medill News Service, 20 February 2017).

Government services

The IACHR in its March 2016 annual report covering the year 2015 mentions that trans women “do not receive support from the government so as to access education, formal employment, and other services”. (IACHR, 17 March 2016, p. 604)

In the October 2013 query response IRB states:

“In correspondence with the Research Directorate, a representative of the TvT [Transrespect Versus Transphobia Worldwide] indicated that 25 reassignment surgeries were performed in Cuba; not all persons received legal recognition of their identity (TvT 9 Oct. 2013).” (IRB, 11 October 2013)

The GIZ mentions in May 2017 that in some cases gender-reassignment surgeries have been carried out for free by the state health services. (GIZ, May 2017b)

Inter Press Service (IPS), a global news agency with a focus on issues such as development, environment, human rights and civil society, in a May 2013 article refers to name changes of pre-operative transgender persons:

“The lesbian, gay, bisexual, and transgender community in Cuba has won advances on issues like the change of name of pre-operative transgender persons, while they continue to fight for the right to same-sex civil unions.

For the first time since 1997, a transsexual woman who had not undergone sex-change surgery was issued a photo ID card this year reflecting her chosen name and gender identity, Manuel Vázquez, a lawyer with the National Centre for Sex Education (CENESEX), a government-funded body, told IPS.” (IPS, 20 May 2013)

The 5 May 2015 BBC article contains the following information:

“In 2012, Adela Hernandez, who is biologically male but has lived as a woman since childhood, became the first LGBT person in Cuba to win a seat in office, after winning in municipal elections in central Cuba. And in 2008, Cuba approved free sex-change operations to those who qualified.” (BBC News, 5 May 2015)

On Cuba, an independent digital outlet with offices in Havana and Miami, which features articles on social and cultural issues in Cuba and is funded by Cuban emigrants, in a January 2016 article notes the following on services offered for transgender and gay people:

“The Cuban government offers free health care, but that generally doesn’t include cosmetic surgery. The government does provide free sex-reassignment surgery for eligible patients. Belgian doctors travel to Cuba to assist with the operations once per year. More than 200 people are on the waiting list for surgery, but doctors only operate on five patients each year.” (On Cuba, 15 January 2016)

The Washington Blade in its March 2017 article also mentions the following:

“Cuba’s national health care system has offered free sex-reassignment surgeries since 2008. Independent LGBT rights advocates and critics of the Cuban government maintain only a few dozen people have been able to undergo the procedure.” (The Washington Blade, 30 March 2017)

2.6.1.4 Treatment by law enforcement authorities

In its October 2013 query response about the treatment of sexual minorities, the IRB quotes information provided by a professor who specialises in Cuban political history and contemporary Cuban politics and by the abovesited representative of Transrespect Versus Transphobia Worldwide (TvT):

“In correspondence with the Research Directorate, a professor, who specializes in Cuban political history and contemporary Cuban politics, expressed his opinion stating that ‘while the police no longer harass sexual minorities ..., their willingness to investigate and follow up cases of harassment is likely to be less active’ (Professor 3 Oct. 2013). In contrast, the representative of the TvT indicated that there were incidents when police officers harassed transgender people in public (TvT 9 Oct. 2013).” (IRB, 11 October 2013)

The South Florida based WLRN Public Radio and Television in January 2016 published an article which mentions Mariette Pathy Allen, an American photographer who has been photographing transgender women in Cuba since 2013. According to the article, “many of the trans women Pathy photographs say they’re still harassed and detained by police”. (WLRN Public Radio and Television, 4 January 2016)

The 15 January 2016 article by On Cuba mentions that in 2015 some rights activists “filed a complaint with the sex education center, accusing police of arbitrarily arresting gays”. The article further features the story of a transgender who explains that she does not go to the police in cases of assaults, because “if I go to the police, it’s possible they’ll throw the blame on me because here there are big problems with the police and us”. (On Cuba, 15 January 2016)

The IACHR in its March 2016 annual report covering the year 2015 notes that “[i]ndependent civil society organizations also recognize the efforts of the CENESEX on training government officials on the rights of LGBT people, despite indicating continuing police abuses towards LGBT people” (IACHR, 17 March 2016, p. 602). The report further contains the following information on police abuse:

“Regarding police abuse, according to the information received, members of the police in Havana fine and process gay men and lesbian women to keep them out of certain zones and ‘sitios de encuentro’ (‘meeting places’) (places of ‘homo-socialization’). It was also reported that trans women are constantly suffering police abuse. The IACHR has also received information on the high levels of extortion to which gay men and trans women engaged in sex work are subjected; they must give money or sexual favors to avoid arrest. [...]

On October 19, 2015, the IACHR held a hearing about Human Rights situation of LGBTI persons in Cuba, during which the Commission regretted the absence of States representatives. At that hearing, the petitioners presented a research based on 150 interviews administrated to LGBTI people (26 lesbians, 91 gays, 19 bisexuals, 22 trans women, 1 trans man and 1 intersex person) during 2014 and 2015 in different provinces of Cuba. According to the report, 87 people reported having suffered physical or verbal violence by the police [...]” (IACHR, 17 March 2016, pp. 602-603)

Diario de Cuba in an October 2015 article which presumably refers to the same abovementioned study featuring interviews with 150 LGBTI people further details that police extort LGBT individuals and deport them from the capital to their places of origin. Transsexuals are more likely to be discriminated against by the police, and individuals who are transsexual and of African descent are even more likely to be discriminated against:

“Las personas del interior del país padecen, según el estudio, un mayor grado de discriminación por parte de la policía, que los extorsiona y deporta desde la capital a sus lugares de origen. El nivel de discriminación es superior si se trata de personas transexuales y más si al mismo tiempo son afrodescendientes.” (Diario de Cuba, 21 October 2015)

During the round table discussion organised by the Cuban Human Rights Observatory (OCDH) in November 2016, the representatives of the Cuban LGBT organisations pointed out that public employees and in particular members of the political police in Cuba persecute, attack and denigrate members of the LGBT community:

“Los representantes de organizaciones cubanas LGTBI señalaron que precisamente los empleados públicos en Cuba y concretamente la policía política son quienes persiguen, atacan y denigran al colectivo LGBTI. ‘En Cuba un homosexual no tiene prácticamente apoyos’, dijo Rafael Salazar de COLEGAS España, quien conoce muy bien la realidad de esta comunidad en Cuba.” (OCDH, 23 November 2016)

A March 2017 article by Martí Noticias mentions a survey carried out in 2016 by the independent LGBT organisation Shui Tuix, according to which the National Revolutionary Police and the Revolutionary Armed Forces are among the most homophobic state bodies:

“El pasado año, un sondeo realizado por la Fundación Independiente Defensora de los Derechos LGBTI, Shui Tuix, que dirige Navid Fernández, arrojó que la Policía Nacional Revolucionaria (PNR), las Fuerzas Armadas Revolucionarias (MINFAR) y el Centro Promotor del Humor figuran entre las entidades estatales del régimen del general Raúl Castro más homofóbicas de la capital cubana.” (Martí Noticias, 6 March 2017)

The 3 June 2017 article by 14ymedio quotes the independent LGBT activist Sisi Montiel as saying that the police arrests transsexual sex workers, accuses them of possession, trafficking and consumption of drugs (although they only have lubricants with them), and fines them:

“‘¿Para qué quieres ir a la marcha del Cenesex si después, en la noche, te apresan?, les digo a las trans, porque muchas de ellas son trabajadoras sexuales y terminan detenidas por la policía y acusadas de trata, posesión y consumo de drogas (cuando lo que llevan son lubricantes)’, explica Montiel. ‘Para la policía es fácil. Te multan y después dicen: para que te la quite tu madrina Mariela, porque para ellos, Mariela Castro es la madrina de todos los gays.’” (14ymedio, 3 June 2017b)

2.6.2 Treatment of individuals of diverse SOGI by members of society

2.6.2.1 General attitude

Reporting on 2014, the UK Foreign and Commonwealth Office (FCO) notes the following concerning societal attitudes:

“Overall, societal tolerance towards LGB&T issues in Cuba slowly increased, and the law provided for some protection against discrimination. In comparison to the region, Cuba was among the most tolerant. However, LGB&T people complained that they suffer harassment and discrimination, and that authorities were not doing enough to protect against this.” (FCO, 12 March 2015)

The 16 May 2015 article by IPS contains information about harassment and violence against LGBT individuals in Cuba:

“While efforts to combat discrimination against lesbians, gays, bisexuals and transsexuals (LGBT) are stepped up in Cuba, this segment of the population remains vulnerable to harassment and violence – and even death. [...]

Oneida Paz, a 59-year-old manager, has not heard of murders or rapes of lesbians, a population group she belongs to. ‘Violence among women can exist, but it’s not common,’ she said. ‘I do have friends who have been injured, because they were married to men who beat them when they got into a relationship with another woman.’” (IPS, 16 May 2015)

Al Jazeera in its article of 2 August 2015 refers to homophobia in Cuba:

“‘Things have definitely changed over the past two decades,’ said Yasmin Portales, the 36-year-old founder of Proyecto Arcoiris (PA), Spanish for the ‘Rainbow Project’ -an independent, anti-capitalist collective of LGBT activists founded in 2011. [...]

Although she recognises the work of CENESEX, Portales believes that ‘the issues of [her] community must be addressed as human rights issues, by the people’. Norge Espinosa Mendoza, an award-winning Cuban author and LGBT activist, agreed. ‘People are afraid to speak openly about discrimination,’ Mendoza told Al Jazeera. ‘Not only is marriage equality a distant dream, but there are still public places that don’t want us there.’ Public discrimination has prompted members of PA to organise ‘public kissings’ in communal spaces across Cuba. These demonstrations involve members of the LGBT community arriving, engaging in tame, public displays of affection, and distributing leaflets about homophobia to passers-by. Espinosa hopes that groups like PA can increase a feeling of solidarity in Cuba through events such as the public kissings.” (Al Jazeera, 2 August 2015)

In a November 2015 article IPS quotes Avelino Matos, the coordinator of community work with the MSM [men who have sex with men]-Cuba Project:

“Matos said it is difficult to reach bisexual men with HIV/AIDS prevention messages, because they face more prejudice than homosexuals. ‘That’s why they are less likely to admit to their sexual orientation; many hide their meetings with men and maintain relationships with women,’ he said. Homophobia is a major factor contributing to the spread of HIV and others STDs [sexually transmitted diseases] in the cruising sites.” (IPS, 13 November 2015)

The WLRN Public Radio and Television article of 4 January 2016 quotes Mariela Castro who told a Canadian website that covers the gay community, Daily Xtra, that “homophobia and transphobia are still widespread”. (WLRN Public Radio and Television, 4 January 2016)

The aforementioned 15 January 2016 article by On Cuba features the stories of several Cuban transgender persons who experience homophobia:

“Yessi Castro, 28, had hoped to find a boyfriend willing to spend some time and money with her that night, but had no luck. [...] She says she’s also tired of the homophobia she faces in traditionally macho Cuba. ‘People always make fun of you. They yell, they throw rocks, bottles, anything.’ Castro acknowledges that things have improved for transgender and gay people on the island. She credits Mariela Castro, daughter of Cuban President Raul Castro and head of Cuba’s National Center for Sex Education. ‘Thank God she’s helped us so much and has pushed forward gays, transsexuals, lesbians,’ says Castro, who is not related to the president’s daughter. [...]

Daniela Martinez, 25, of Havana, jokes that she will find herself ‘one or two husbands’ if same-sex unions are made legal. [...] Martinez agrees that discrimination against gay and transgender people has lessened over the years. ‘Now there isn’t as much homophobia,’ she says. ‘We can walk freely...without people attacking us. People are a little more open-minded.’ [...]

Even today, some gay and transgender people say life can be difficult in Cuba. Castro says she endures bullying and ‘psychological violence’ when going out in public. [...]

Naomi, 28, who is also transgender, says she realized when she was a small child that she was different. [...]

She says some Cubans see transgender people as ‘disgusting,’ but says she didn’t choose her sexual orientation.” (On Cuba, 15 January 2016)

The July 2016 article by USA Today provides the following information:

“Yuri Herrera, 24, a gay hairdresser in Santa Clara, brushes his eyelashes with his finger before entering the club. ‘Although Cuba is a macho society, people don’t bother me because most of them accept us,’ he said. ‘Things have changed quite a lot here in Cuba and there’s just a minority of machos, but we don’t mix up.’ [...]

The LGBT minority on the Caribbean island has increased its visibility by participating in international events, such as Gay Pride and the International Day Against Homophobia.

Another sign that Cuba is tolerant of gay lifestyles as it resumes diplomatic relations with the United States: The island nation’s first gay choir, Mano a Mano, is currently on a cross-country U.S. tour.

The existence of an LGBT-friendly nightclub in rural Cuba shows how far the country has come since the early days of Fidel Castro’s revolution. [...]

Although Cuba has granted more gay rights, there is still discrimination and intolerance. [...]

‘Cuba’s revolution removed the institutional base of homophobia but mentalities have not always followed,’ said Diego Romero, 54, a heterosexual resident of Havana. ‘When I walk in the street, men sometimes bother me and call me ‘pajaro’ and ‘maricon’ (derogatory Spanish words for gay),’ said Hendrika Posper, 17, an unemployed transsexual.” (USA Today, 10 July 2016)

Freedom House in its January 2017 annual report on political rights and civil liberties in 2016 indicates that “Cuba has made important strides in redressing discrimination against the LGBT community, thanks in part to the advocacy work of Mariela Castro Espín, President Castro’s daughter and director of the National Center for Sexual Education (CENESEX)”. (Freedom House, January 2017)

The IACHR in its March 2016 annual report refers to an LGBT research based on 150 interviews which was carried out in 2014 and 2015 in different provinces of Cuba, according to which 67 out of 150 individuals “said having experienced violence and discrimination within the family”. (IACHR, 17 March 2016, p. 603)

The USDOS in its March 2017 report on human rights practices mentions that “societal discrimination based on sexual orientation or gender identity persisted”. (USDOS, 3 March 2017, section 6)

The Swedish Ministry for Foreign Affairs (UD) mentions in its April 2017 report that the situation for LGBT persons has improved even though prejudices remain. (UD, 26 April 2017, p. 2)

The April 2017 annual report by the IACHR mentions a workshop with members of the LGBT community which was held in Havana in April 2016. During the workshop a statement was made “that transgender persons would receive medical care, despite ‘expressions of discrimination and prejudice.’” Additionally, it was indicated that, “once they completed secondary education, trans adolescents allegedly do not go on to do higher studies because of harassment and discrimination”. (IACHR, 27 April 2017, pp. 558-559)

Cubanet notes in May 2017 that the magazine Espacio Laical at the beginning of 2017 published an article claiming that same-sex marriages have not been legalised in Cuba due to missing public support. As the article did not clarify what this conclusion was based upon, the Cubanet team decided to ask persons of different ages, social backgrounds and diverse sexual orientations for their opinion on this issue. Cubanet, however, does not specify how many people took part in the survey. According to the article only six of the surveyed persons answered they are against the legalisation of same-sex marriages in Cuba. The majority said they support the legalisation, others don’t care, but are not against it:

“A principios de 2017, en la revista Espacio Laical fue publicado un artículo en el cual se aseguraba que el matrimonio homosexual en Cuba no ha sido legalizado porque la iniciativa no cuenta con el respaldo popular. El texto no aclaró si se habían realizado entrevistas, encuestas, o aplicado cuestionarios para llegar a esta conclusión; por ello el equipo de CubaNet preguntó directamente a ciudadanos de distinta edad, extracción social y orientación sexual, su criterio acerca de esta cuestión.

Solo seis de los entrevistados dijeron no estar de acuerdo con la aprobación del matrimonio homosexual en Cuba; la mayoría dijo que sí y a otros les tiene sin cuidado, pero no se declaran en contra. Las entrevistas realizadas, así como la forma en que los cubanos han asumido ‘lo moderno’, revelan que este momento sería tan bueno como cualquier otro en el futuro para legalizar el matrimonio gay.” (Cubanet, 17 May 2017)

2.6.2.2 Discrimination (employment, health, education), harassment

The 20 May 2013 article by IPS states, that, according to the legal services unit in CENESEX, “family and the workplace are the spheres where the rights of LGBT persons are violated the most. The article further quotes Raquel Fernández of the Red de Lesbianas Atenea as saying that “[d]omestic violence and limited access to housing or jobs due to homophobia are among the limitations that lesbians suffer the most”. (IPS, 20 May 2013)

IPS in an April 2015 article reports on the unequal treatment lesbians are receiving from Cuban public health services:

“In addition to other forms of discrimination, lesbian and bisexual women in Cuba face unequal treatment from public health services. Their specific sexual and reproductive health needs are ignored, and they are invisible in prevention and treatment campaigns for women. [...] Dayanis Tamayo, a 36-year-old education specialist who lives in Santiago

de Cuba, 862 kilometres from Havana, feels that health professionals are judgmental when they discover that her partner is a woman. They make lesbophobic comments and give her disapproving looks. [...] Recent studies back up Tamayo's statement, pointing to prejudice against lesbian and bisexual women among the country's health personnel, and ignorance about their particular sexual health needs.

Cuban psychiatrist Ada Alfonso presented a report on 'Salud, malestares y derechos sexuales de las lesbianas' (Lesbians' sexual health, illnesses and rights) at the 2014 Cuban Day Against Homophobia. She said that when they go to see the doctor, these women are asked more about their sexual experiences than about their reason for seeking treatment. [...]

In her view, social pressure on women who are not heterosexual, amounting to homophobia, causes various forms of psychological and sexual malaise.

Alfonso interviewed women in several of the island's provinces. She found that ethical deficiencies in the system are leading women to postpone clinical tests until they can see a doctor who has been recommended, or a health professional sharing their own sexual orientation. [...]

All treatment in the Cuban health system is free of charge and is delivered without institutionalised discrimination. But prejudice against non heterosexual people continues to grow. 'Health personnel are part of society, and society rejects lesbians,' José Martínez, a medical doctor in the eastern province of Granma, told IPS. According to Martínez, medical training in Cuba is too narrowly focused on a biological approach and makes hardly any reference to psychosocial determinants of health." (IPS, 1 April 2015)

In the 16 May 2015 article by IPS the Veterinarian Manuel Hernández is quoted as saying: "I haven't heard of murders of gays. But verbal attacks are definitely common in small towns, and in the workplace there's a lot of discrimination". (IPS, 16 May 2015)

The 4 January 2016 article by WLRN Public Radio and Television reveals that many of the trans women the American photographer Mariette Pathy Allen had photographed for her project said they cannot find work. According to Allen, many are forced to become prostitutes. (WLRN Public Radio and Television, 4 January 2016)

IACHR writes in its March 2016 annual report covering the year 2015 that "[a]ccording to information received, many Cuban trans women are forced to engage in sexual work because they cannot find any other employment" (IACHR, 17 March 2016, p. 604). The report further notes:

"According to the information received, discrimination against trans persons is even greater in the provinces than in Havana. The IACHR observes that the fact that Cuba's internal migratory regulations do not allow Cubans who live in the provinces outside Havana to establish residence in Havana means that many LGBT persons who migrate from the interior in search of job opportunities or to engage in sexual work survive, or fleeing from the prejudice and discrimination that tend to be more rooted in the areas away from

the capital, are detained and deported to their places of origin in the interior.” (IACHR, 17 March 2016, p. 604)

According to the aforementioned LGBT research which was carried out in 2014 and 2015 in different provinces of Cuba and which is quoted by the IACHR in its March 2016 annual report “13, out of 22 trans women surveyed, reported having been discriminated against in the health system”. (IACHR, 17 March 2016, p. 603)

Diario de Cuba in its October 2015 article which presumably refers to the same research mentions that of the 150 surveyed individuals 45 stated that they were dismissed from or harassed at work. (Diario de Cuba, 21 October 2015)

The July 2016 article by USA Today quotes a journalist of Granma International, the mouthpiece of the Communist Party, who mentions employment-related discriminatory policies concerning LGBT persons in Cuba. The article further features the following story of a transsexual prostitute:

“The reality is that many transgender people work as prostitutes. ‘This is what most transsexual women do as a job in this country ... because of homophobia,’ said Natalie Obregon, 25, a prostitute standing on the thronged Malecón esplanade on a Sunday night. She dropped out of school when she was 14. Obregon used to be a hospital nurse but could not stand wearing men’s clothes. She got fired the day she showed up in female clothes. Obregon praises Mariela Castro’s work to help realize her own identity. ‘I was sure I was a homosexual for many years and then found out I was transsexual, thanks to the information provided by the CENESEX,’ she said.” (USA Today, 10 July 2016)

According to the 6 March 2017 article by Martí Noticias, Cuban teachers insist that more attention should be paid to the bullying of homosexuals at schools. Dora Mesa, director of the independent Cuban Child Development Association, told the newspaper that the Cuban society is homophobic. According to her, many defy the acceptance of homosexuality. Yanelis Jiménez who taught for 13 years in Ciego de Ávila added that homophobia occurs not only in classrooms and among students, but in all parts of society. Jiménez warned that not all psychologists and experts in that field guide and help parents but instead they themselves display homophobic attitudes:

“Mientras las instituciones del gobierno organizan la décima Jornada Cubana Contra la Homofobia y la Transfobia, a celebrarse entre el 3 y el 20 de mayo, para promover una sociedad sin discriminación de ningún tipo, pedagogos cubanos insisten en que se debe prestar más atención al tema del acoso escolar a los homosexuales.

Dora Mesa, directora de la independiente Asociación Cubana de Desarrollo Infantil, dijo a Martí Noticias que la sociedad cubana es homofóbica, y enfatizó que aunque se ha trabajado para eliminar esa actitud ‘las cosas no cambian de un día para otro’. A su juicio, mucha gente ‘se resiste’ a aceptar la homosexualidad, y por eso ‘hay que seguir trabajando en ese sentido’.

Yanelis Jiménez, que ejerció la docencia por 13 años en Ciego de Ávila, agregó que ‘la homofobia no se manifiesta solo en las aulas y entre los grupos estudiantiles’, sino en el resto de la sociedad. Advirtió que no todos los psicólogos y expertos en el tema orientan a los padres como deber ser, y ‘en lugar de ayudar, lo que hacen es mostrarse homofóbicos’.” (Martí Noticias, 6 March 2017)

Agencia EFE refers in a May 2017 article to a campaign against homophobic and transphobic harassment or bullying in schools:

“The Cuban National Center for Sexual Education (Cenesex) this year will launch a campaign against homophobic and transphobic harassment or bullying in schools in an alliance with organizations from civil society and the island’s Education Ministry. [...]

Although there are no figures available and Cuba asserts that it has a ‘relatively low’ incidence of the phenomenon compared with other countries, that does not mean that this kind of violence does not exist, said Castro, who has headed Cenesex since 2000. [...]

The program includes photograph exhibits, audiovisual events, teaching conferences, panel discussions and two galas. ” (Agencia EFE, 3 May 2017)

ILGA states in its May 2017 *State Sponsored Homophobia* report that “Article 2(b) of the Labour Code establishes the right of every person to have a job according to the needs of the economy and their personal choice without discrimination based on sexual orientation (among other grounds)”. (ILGA, May 2017, p. 49)

2.6.2.3 Killings, attacks

Transgender Europe (TGEU) a network of organisations that works for the equality of all trans people in Europe, in a March 2013 article lists the killings of trans and gender-diverse persons around the world. For the monitoring period of 1 January 2008 until 31 December 2012, a total of two killings are reported for Cuba:

“The March 2013 update reveals a total of 1,123 reported killings of trans people in 57 countries worldwide from January 1st 2008 to December 31st 2012. [...]

Most reported cases were from Central and South America, which amount to 864 reports in 22 countries and account for 77 % of the globally reported murders of trans people since January 2008. [...]

Killings of trans people in the region have also been reported from Argentina (19), Bolivia (9), Chile (4), Costa Rica (4), Cuba (2), Dominican Republic (14), Ecuador (11), Guatemala (36), Honduras (41), El Salvador (7), Jamaica (1), Nicaragua (4), Panama (2), Paraguay (5), Peru (11), Puerto Rico (9), and Uruguay (8), and Venezuela (54).” (TGEU, 15 March 2013)

The 16 May 2015 article by IPS contains the following information concerning killings of men who have sex with men (MSM):

“IPS asked experts and members of the LGBT community about the causes of killings of ‘men who have sex with men’ (MSM), of which no official statistics have been published,

but which have been reported periodically since 2013 by word of mouth, or in blogs or alternative media outlets. [...] 'We are fighting hate crimes together with the Interior Ministry (which the police answers to),' CENESEX director Mariela Castro said in exclusive comments to IPS. [...]

Castro said 'theft and common crime are more frequent aspects in murders of homosexuals, according to the data presented to us by the DGICO (criminal investigation bureau),' which receives advice from and collaborates with CENESEX. 'There might be a hate crime murder once in a while, but they are very few,' she said. The sexologist added, however, that 'the number of hate crimes is not completely clear because of the lack of a specialised institution dedicated to classifying them....and this classification is important because the old term 'crime of passion' hides gender violence, violence between men, and violence between couples.'

Violent crime is generally surrounded by silence in this island nation of 11.2 million people, and killings of LGBT individuals are no exception. [...]

'MSM are at greater risk of being killed than women,' Castro said, citing the results of DGICO investigations regarding a category of men that includes gays, bisexuals and transsexuals. [...]

CENESEX said the number of murders of MSM in 2013 and 2014 was high. At that time the issue came to the forefront because of the deaths of two high-profile openly gay cultural figures, who died in strange circumstances, according to activists. The local media, which is entirely state-owned, gave ample coverage to the violent deaths of choreographer Alfredo Velázquez, 44, in September 2013 in the eastern city of Guantánamo, and theatre director Tony Díaz, 69, found dead in his Havana home in January 2014. But they only mentioned their careers in the arts. 'I haven't seen statistics and I'm no expert, but the murders I know about were ruthless. We're killed for some reason, like theft or vengeance, but also because we're gay,' said Leonel Bárzaga, a 33-year-old chemical engineer who told IPS about the murder of his friend Marcel Rodríguez. Rodríguez, a 28-year-old gay professional, was stabbed 12 times on Jan. 6 in his central Havana home. 'The police haven't shared the results of their investigation yet,' said Bárzaga, who preferred not to discuss the specific motives for the murder. [...]

'It wouldn't be crazy to talk about 'hate crimes' against LGBT persons in Cuba,' said Jorge Carrasco, a journalist who investigated gay gathering places in the capital in 2013. 'That's a term used by the Cuban police, in fact, and it's not a product of paranoia. But I know as little about them as any other Cuban.' Based on his interviews conducted in lonely outlying parts of the city, like the Playa del Chivo, a beach frequented by MSM to talk, arrange meetings and have sex with strangers, Carrasco explained by email that 'many criminals go to those places to steal, and there have been murders. That's why the police patrol them.'" (IPS, 16 May 2015)

The aforementioned 15 January 2016 article by On Cuba features the stories of several Cuban transgender persons who broach the issue of assaults. The article further refers to a case of a trans woman who was killed in Pinar del Río in April 2015:

“Yessi Castro, 28, had hoped to find a boyfriend willing to spend some time and money with her that night, but had no luck. [...] She says she’s also tired of the homophobia she faces in traditionally macho Cuba. ‘People always make fun of you. They yell, they throw rocks, bottles, anything.’ [...]

Naomi, 28, who is also transgender, says she realized when she was a small child that she was different. [...] Even so, she says some Cubans harass cross-dressers when they go out at night. ‘The streets are dangerous because you have to face society, people. There are people who don’t accept you, who see you in the street dressed as a woman and they assault you. They throw rocks at you. Well, that has happened to me on occasion and I, because I have very high self-esteem, what I do is to keep walking because if I, if I go to the police, it’s possible they’ll throw the blame on me because here there are big problems with the police and us.’

In April, Cuban authorities arrested two people in connection with the stoning death of Diosvany Muñoz Robaina, 41, in the western city of Pinar del Río. Some activists described the killing as a hate crime. *Diario de Cuba*, a news website, later reported that the authorities jailed two gay men in connection with the crime.” (On Cuba, 15 January 2016)

The IACHR in its March 2016 annual report covering the year 2015 provides the following information concerning killings of LGBT individuals. The report also mentions the case of the trans woman who was killed in Pinar del Río in April 2015:

“As regards killings, the IACHR was informed of the killing of Marcel Rodríguez, who was killed outside his residence in Vedado in early 2015, and on August 23, 2015, it was that there had been no progress in the investigation. The IACHR was informed of the killing of Muñoz Robaina, a 24-year-old trans woman known as ‘La Eterna,’ in a park in the city of Pinar del [Río on] April 26, 2015. According to the information reported, she died as the result of ‘the barrage of stones by a group of adolescents, while she, the victim, was at the Roberto Amarán park.’ According to information received in July 2015, two persons were arrested who were alleged to be guilty of this. Civil society organizations denounce a pattern of impunity in relation to LGBTI murders, and also only one case has been brought to justice in 2015.” (IACHR, 17 March 2016, p. 603)

Martí Noticias states in a June 2017 article that at least seven gays were beaten and kicked in an incident in Cárdenas that was apparently motivated by homophobia. According to Martí Noticias, this is not an isolated incident in an openly sexist country and shows how vulnerable the LGBT community is in Cuba. In recent years, a campaign led by Mariela Castro has tried shed light on and give homosexuals a voice, but according to an LGBT activist, incidents such as the one in Cárdenas occur and the police only responds half-heartedly. The activist told Radio Martí that the incident was not an isolated case. The attacker had already on other occasions physically assaulted homosexuals after having sex with them. Two of the victims filed a complaint to the police, but have not received a response. The attacker was arrested the same

night for stealing a ham sandwich in a café and was fined 30 Cuban pesos. According to the victims, he was released the next day. The victims told Radio Martí that during the assault they ran until they reached out to the police that was patrolling in two cars, but they were treated with disrespect by them. The LGBT activist also referred to the homophobic behaviour and attitude of state institutions in Cuba:

“Un activista de la comunidad LGTB indicó a Radio Martí que el agresor de siete gays golpeados en Cárdenas, Matanzas, continúa libre. Fue arrestado y liberado el mismo día del incidente, pero por robar un pan con jamón en una cafetería estatal. Al menos siete homosexuales fueron agredidos a mordidas y pedradas durante un ataque con aparentes motivaciones homofóbicas en Cárdenas, Matanzas, en un nuevo incidente que muestra cuán vulnerable es aún la comunidad LGTB en Cuba...más allá de las campañas. [...]

El incidente no es el único en un país abiertamente machista. Pese a que en los últimos años una campaña liderada por Mariela Castro ha intentado visibilizar y dar voz a los homosexuales, hechos como el de Cárdenas ocurren sin que apenas sean del interés de las autoridades policiales. Así lo constató el activista LGTB residente en Santa Clara, Víctor Manuel Dueñas, del proyecto Babel, quien ofreció detalles del caso ocurrido el pasado 31 de mayo al programa Cuba Al Día, de Radio Martí.

‘No es un caso aislado. El atacante ha actuado en otras ocasiones (...) ha agredido físicamente. Parece que esto para él es un hobby, un juego. Tiene relaciones sexuales con los homosexuales y luego los agrede físicamente’, explicó el activista. [...]

Dos de las siete víctimas hicieron la denuncia a la policía, pero no han tenido respuesta. El agresor fue detenido esa noche por haber robado un pan con jamón y queso en una cafetería estatal y fue multado con 30 pesos en moneda nacional. Las víctimas dijeron que al día siguiente fue liberado.

Los agredidos explicaron en el comunicado enviado a Radio Martí que corrieron hasta comunicarse con la policía, que llegó en dos carros de patrullas. No obstante, explicaron, ‘fueron tratados sin respeto’. ‘Ustedes los m..... siempre están en lo mismo’, explicó en el comunicado una de las víctimas que no se identifica por temor a represalias. González, también víctima, dijo que uno de los policías que lo trasladó al hospital para que le atendieran las heridas comentó ‘que si fuese por él no montaba a ningún m..... en la patrulla’. Dueñas aludió a la conducta homofóbica de las instituciones: ‘Muy mala la actitud de los agentes del orden público, homofóbica, que denota la actitud homofóbica que tienen las instituciones del Estado’.” (Martí Noticias, 6 June 2017)

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