

# CUBA

## REPRESSION, THE EXODUS OF AUGUST 1994, AND THE U.S. RESPONSE



In early August 1994, hundreds of Cubans began leaving their country by boat, heading north toward the United States ninety miles away. Initially, the drama of these perilous journeys was localized, and the influx was treated as just a South Florida news story. More and more rafters continued to push off from Cuban

beaches, however, and within two weeks more than a thousand migrants were being plucked out of the sea by the U.S. Coast Guard each day. The flow of Cubans had rapidly become an exodus, and their story of danger and desperation an international news event. For the U.S. government, the rafters were both a domestic political issue and a crisis that could shape the future of U.S.-Cuban relations.

It was clear from the earliest days of the crisis that the migrants were bargaining chips: the primary concern of the Clinton Administration was to halt their flow, and Castro knew it. Cuba used the pressure of the exodus to bring the U.S. to the negotiating table regarding immigration policy and perhaps, ultimately, other issues as well. The U. S. responded by sending Cubans into U.S. holding camps and telling them they had no chance of entering the U.S. without first returning to the country they had just fled. This decision reversed three decades of U.S. preferential treatment for Cuban migrants, who had always been allowed into the United States, even during the time that Haitian refugees were being stopped at sea and returned to a

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murderous regime. The reduction in discriminatory treatment, however, went the wrong way. Instead of all fleeing migrants being protected as possible refugees, now none were. The policy declaration--no Cubans to the U.S. except via Cuba--thus broadened U.S. violation of international and domestic law on the protection of refugees.

Cubans knew they were racing the clock. They left in ever-larger numbers and on ever-more risky vessels, counting on rescue from the U.S. Coast Guard boats patrolling just outside Cuban territorial waters. It is not known how many missed rescue and died at sea.

Ultimately, the Clinton Administration joined forces with the Castro government in an agreement designed to prevent Cubans from leaving their country through extra-legal channels, ie. rafts, euphemistically referred to in the agreement as "irregular means" and "unsafe departures." The opportunity to escape Cuba had ended. In the meantime, more than 32,000 people had risked death in flimsy boats and homemade rafts, leaving behind parents and children, and taking no possessions with them. This exodus highlighted the desperation of vast numbers of the Cuban people, who are struggling against severe economic deprivation coupled with extreme political repression. It also left 32,000 Cubans in limbo, detained indefinitely as U.S. domestic political forces grappled over their fate.

Based on numerous interviews with Cuban dissidents, recent exiles and human rights monitors both inside and outside of the country, Human Rights Watch offers the following conclusions regarding human rights in Cuba, the Cuban exodus of 1994, and the U.S. response:

- ◆ The Cuban government continues to violate the rights to freedom of expression, freedom of association, freedom against arbitrary detention, and security of the person, among others. Hundreds of political prisoners remain incarcerated under difficult conditions, charged with political offenses that include "clandestine printing," "spreading enemy propaganda," and "disrespect to the head of state." After completing their sentences, some dissidents are kept in prison under the vague and commonly-used provision of "high dangerousness," which can add as much as four years to the original period of incarceration.
- ◆ The threat of lengthy prison sentences is only one danger faced by those promoting human rights in Cuba. Labor organizers, pro-democracy activists, human rights monitors and others are kept under strict surveillance, beaten by anonymous agents on the street, harassed by short-term detentions and interrogation, and deprived of basic entitlements such as employment or the right to emigrate.
- ◆ Cuba's criminalization of "illegal exit from the country" violates international law, which recognizes the right of all people to leave any country, including their own. People attempting to leave Cuba have been shot at sea and beaten, and Cubans apprehended while fleeing face prison terms of one to three years, longer if they are found to have aided or abetted the departure of others or used stolen materials in their escape attempt. Cubans convicted of the crime of "illegal exit" are believed to constitute the largest class of political prisoners in Cuba.
- ◆ United States policy toward Cuba and people fleeing that country violates several human rights precepts. First, U.S. complicity in the ban on illegal exit from Cuba by Cubans violates Article 12 of the ICCPR, which guarantees the right to leave any country, including one's own, as well as several other international legal provisions securing the right of free movement. (These provisions do not include a right to enter any particular country, but rather safeguard the right to flee one's own.) The September 1994 agreement between Cuba and the United States calls on Cuba to halt departures from the country through "mainly persuasive methods," but makes no mention of Cuba's usual methods of discouraging flight, which include beatings, prosecutions and prison terms. By coyly ignoring this history of coercion, the U.S. tacitly invites its renewal while joining Cuba in pretending to the world that this is an immigration agreement like any other, a simple matter of ensuring that migrants have their traveling papers in order.

Second, the detention of Cubans by U.S. authorities in "safe haven" camps violates Article 9 of the ICCPR, which forbids arbitrary detention. As of October 1994, detainees have a "choice" of either returning to Cuba or remaining indefinitely detained. They have been categorically denied the possibility of entering the United States, and no third country has agreed to admit them, nor have they been provided an opportunity to demonstrate the legitimacy of their fear of persecution and thus qualify as legally-recognized refugees. By framing the issue as one of "choice" between returning to Cuba and detention, the United States is ignoring the fact that many of those at Guantánamo and Panama are dissidents or others likely to face persecution if returned to Cuba. For these people, who may number in the hundreds, returning to Cuba is not an option. At a minimum, these detainees should be given a chance to establish their status as refugees, with the correspondingly enhanced prospect of third-country resettlement.

Finally, the embargo-related ban on travel to Cuba by Americans violates Article 19 of the International Covenant on Civil and Political Rights (ICCPR), which guarantees the right of all people "to seek, receive and impart information of all kinds, regardless of frontiers."

### **Recommendations to the United States**

In 1992, the United States finally became a party to the International Covenant on Civil and Political Rights, the most important treaty for the protection of such rights. The United States is legally obligated to comply with the provisions of the ICCPR. As a self-professed champion of human rights and leader of the world community, U.S. compliance is of heightened significance. If the U.S. violates human rights, it is not only the rights of the many affected individuals who are damaged -- it is also the credibility of the U.S. and the potency of the human rights legal regime generally. In making the following recommendations, Human Rights Watch holds the U.S. to neither a higher nor a lower standard of respect for human rights than we do other countries; we merely urge compliance with the law.

◆ The United States should explicitly and publicly oppose the use of prosecution and imprisonment for all crimes related to so-called illegal exit. It should make clear to Cuba that all Cubans have a right to leave their country and that laws forbidding "illegal exit" violate this right impermissibly. In future negotiations with Cuba, the U.S. should insist on the release of all "illegal exit" prisoners and the abolition of Cuba's "illegal exit" laws. Finally, the U.S. should secure assurances from the Cuban government that no Cubans returned to that country will face prosecution for "illegal exit."

◆ In order to avoid a continuing violation of Article 9, which prohibits arbitrary detention, the U.S. should ensure that no Cuban detainee is forced to choose between continuing detention and likely persecution upon repatriation to Cuba. This requires that the U.S. give detainees immediate access to hearings that address on a case-by-case basis claims for refugee status, with appropriate procedural safeguards. While we welcome the Administration's efforts at wholesale resettlement of the detainees, this is not a legally sufficient substitute for individualized hearings on eligibility for third-country resettlement as a refugee.

◆ The United States should lift all curbs on the free flow of people and information between Cuba and the United States, in accordance with Article 19's protection of the right to freedom of expression.

### **Recommendations to Cuba**

The Cuban government has long denied its citizens their basic civil and political rights. As Cuban leaders seek to gain political legitimacy and join the mainstream of the international community, their failure to respect basic human rights becomes all the more glaring. Human Rights Watch urges Cuba to move toward compliance with international human rights norms, beginning with the following recommendations:

◆ Cuba should repeal antiquated laws defining political crimes whose application violates established international legal norms and practices, including "disrespect to the head of state" (*desacato*), "clandestine printing," "spreading enemy propaganda," and "illegal exit." Many other criminal

provisions, while valid on their face, are so ambiguous and broadly defined that they are arbitrarily used to prevent Cubans from exercising basic political and civil rights, a practice we urge Cuba to end. These offenses include "illicit association/conspiracy," "public disorder," and "high dangerousness." Cuba should halt the politically-punitive use of these laws, and should release immediately all people currently imprisoned on such charges.

◆ Cuba should officially recognize Cuban human rights organizations, other non-governmental organizations, and political opposition groups. It should cease its harassment of human rights monitors, political activists and labor organizers. All people currently imprisoned for peaceful political activities or human rights monitoring should be immediately released.

◆ Cuba should immediately repeal its laws against "illegal exit," and should release from prison the hundreds of people believed to be incarcerated for no reason other than their attempts to leave the country.

## II. INTRODUCTION

The long-standing political repression of Castro's Cuba has combined over the past few years with a deepening economic crisis. Brought on by disastrous economic policies, the collapse of the Soviet bloc and the U.S. economic embargo, the deterioration of material conditions in Cuba has reached an alarming pace. Food is in short supply, gasoline is tightly rationed, and daily electricity black-outs are the norm. Complaints of scarcity and hunger are commonplace on the streets of Havana, and many areas of the city are severely dilapidated.

Given these worsening privations and a longstanding lack of any meaningful, peaceful avenue toward political reform, it is not surprising that so many left Cuba when the opportunity finally arose this summer, despite the dangers involved. For decades, Cubans have left Havana by boat and small raft, hoping to slip by Cuban authorities and reach the United States. The numbers leaving in this manner have steadily increased over the past few years, and by mid-1994 included increasingly bold and frequent hijackings and thefts of large boats. In addition to their inherent dangerousness, these crimes carry severe penalties. Nonetheless, word of successful escapes during the summer of 1994 encouraged additional hijackings, along with the more common exits not involving theft. Eventually, rumors spread in Havana that emigration by boat was to be officially permitted, and it was those rumors that led to the unprecedented clash on August 5 between thousands of would-be Cuban migrants and Cuban authorities near the mouth of the harbor in Havana (see section II, below).

The following day Castro announced that the government would no longer detain those who sought to leave on their own rafts. The Cuban government had been increasingly angry with the United States for "encouraging" Cuban hijackers by welcoming them into the U.S., and the August 6 policy change was widely perceived as an attempt to end U.S. support for Cubans fleeing the island.<sup>1</sup> Simultaneous with this policy reversal, Cuban authorities initiated a crack-down on identifiable dissidents and opposition groups. Hundreds of people were rounded up and brought in for questioning; most were released after one or two days. This use of short-term harassment and detention fit the government's emerging pattern of intimidation, which relies less on long-term imprisonment and more on seemingly random acts of violence by anonymous plainclothes assailants, as well as short-term interrogations and detentions in municipal jail cells that are often crowded, airless, and overflowing with excrement.

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<sup>1</sup> In an August 6 news conference, Castro spoke about the U.S. "ploy of preventing legal immigration and encouraging illegal emigration." "If the United States fails to adopt immediate and efficient measures to stop the encouragement of illegal departures from our country, we will be dutybound to instruct our coast guards not to intercept any boat leaving Cuba." FBIS-LAT-94-152, 8 August 1994.

In this report, Human Rights Watch examines these twin developments — exodus and repression — that mark the latest circumstances of Castro's long regime.

### III. THE EXODUS OF AUGUST 1994

#### **Background: The Crime of *Salida Illegal***

In the past three decades, thousands of Cubans have been arrested and imprisoned for attempting to leave their country without government permission, a crime known as "illegal exit from the country" (*salida ilegal del país*). During the 1960s, 1970s, and 1980s, sentences for illegal exit ranged from three to fifteen years imprisonment. Currently, the maximum punishment is three years. Related crimes include the use of violence, intimidation, or force while attempting to leave the country (punishable by three to eight years in prison); organizing, promoting, or inciting illegal exit (two to five years in prison); or lending material aid or information facilitating illegal exit (one to three years in prison).<sup>2</sup>

Exact numbers are unavailable, but illegal exit prisoners are thought to constitute the largest category of political prisoners in Cuba today.<sup>3</sup> In 1990 alone, for example, there were 335 inmates convicted of illegal exit serving time in a single Havana prison, the Combinado del Este. The total number currently incarcerated for this crime is estimated at several hundred prisoners. In addition, there have been numerous incidents in which the Cuban Coast Guard fired at those attempting to escape, leading to dozens of deaths.

Enforcement of the illegal exit law has eased somewhat in recent years, with the trend increasingly to fine first time offenders and incarcerate only repeat offenders. Despite this overall softening of enforcement, cases of shootings or prosecution for illegal exit have not been uncommon. Several incidents of shootings in which the Cuban Coast Guard fired on Cubans attempting to flee the country were reported in 1993. Three Cubans were killed in July 1993, when they attempted to depart from the coastal town of Cojimar, and at least one other was killed in October 1993, when he attempted to leave from the coastal town of Regla. The Regla shooting sparked several days of demonstrations, which were put down by a heavy police presence that continues to this day.

Incidents occurring in 1994 include:

- ◆ In March 1994, two brothers, Walter Leal Díaz and Miguel Angel Leal Díaz, 23 and 22 years of age, were arrested in Cuba and charged with illegal exit. To our knowledge, they have not yet been tried and remain in the Cárcel Provincial de Holguín.
- ◆ In June 1994, coastal authorities from the port of La Fe, in the municipality of Guane, shot dead José Inesio Pedraza Izquierdo when he tried to set to sea for the United States.
- ◆ Early on the morning of July 13, 1994, seventy-two civilians hijacked the state-owned tugboat the *13 de Marzo* and directed it out of Havana harbor into the open sea. Three government tugboats followed the *13 de Marzo*, intercepting it a few miles from shore. The Cuban naval authorities then sprayed the *13 de Marzo* with high-pressure water cannons, reportedly sweeping several passengers off its deck into the ocean. According to several survivors, the boat's path was cut off, and one of the pursuing tugs deliberately rammed the *13 de Marzo*, causing it to sink. At least thirty-seven people died, including many children who had sought refuge from the water cannons in the hold of the vessel. After promising to investigate the authorities' conduct, the Cuban government claimed that the sinking of the *13 de*

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<sup>2</sup> Cuban Penal Code articles 216 and 217.

<sup>3</sup> For the purposes of this newsletter, Human Rights Watch uses "political prisoners" to refer not only to those imprisoned for obviously political crimes, such as "spreading enemy propaganda," but also to those prosecuted for political motivations, whether or not the actual crime charged is on its face a political offense. For example, a particular prosecution for "receipt of stolen goods," may, depending on the circumstances, be a blatant instance of political persecution. We categorically consider "illegal exit" prisoners to be political prisoners, while Cuba classifies them as common criminals and holds them together with common offenders, including those convicted of violent offenses.

*Marzo* was an accident attributable to the unseaworthiness of the boat. The government has tried to shift the blame for the disaster to those who stole the vessel for their escape. Notably, however, the two defendants facing charges in connection with the event are accused only of piracy and theft; according to some observers, the government is declining to charge them with murder or reckless endangerment because it fears that the true circumstances of the sinking would be the focus of the defense at trial. Meanwhile, Cuba continues to refuse Human Rights Watch/Americas request to see the results of the government's official investigation.

These assaults and the criminalization of "illegal exit" violate the American Convention on Human Rights (ACHR), the International Covenant on Civil and Political Rights (ICCPR), and the principles of the Universal Declaration of Human Rights (UDHR), all of which guarantee freedom of movement, including the freedom to leave one's own country.<sup>4</sup> Although Cuba is not a party to the ACHR or ICCPR, it is subject to the provisions of the UDHR, which is widely recognized as binding customary law.<sup>5</sup> Ironically, a top-ranking Cuban official indirectly recognized this right during the recent negotiations with the United States (see below). Noting that the U.S. was asking Cuba to resume its policy of preventing extra-legal departures, diplomat Ricardo Alarcón said, "[they are asking us to] take measures to stop our people from exercising a right."<sup>6</sup>

### **Legal Emigration from Cuba: Internal and External Obstacles**

A primary reason Cubans have turned to so-called illegal exit is the difficulties faced in securing exit visas to leave Cuba and entrance visas into other countries, particularly the United States. For many Cubans, the principal difficulty lies not in securing permission to leave Cuba, but in securing a visa to enter the United States, which, because of its proximity and the presence of hundreds of thousands of Cuban-Americans, is by far the preferred destination.

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<sup>4</sup> Article 12 of the International Covenant on Civil and Political Rights states that "[e]veryone shall be free to leave any country, including his own." See also article 13 of the Universal Declaration of Human Rights and article 22 of the American Convention on Human Rights. While no one has a right to enter a particular country other than their own, the right to leave one's country is clearly guaranteed by international law.

<sup>5</sup> See, e.g., Humphrey, "The International Bill of Rights: Scope and Implementation," 17 *William & Mary Law Review* 527, 529 (1976) (The Universal Declaration is "part of the customary law of nations and therefore is binding on all states"). In addition, the Declaration is considered by many to be incorporated through the UN Charter, rendering all UN member states, including Cuba, subject to its provisions. See Brownlie, *Principles of Public International Law*, 4th ed. For a history and explanation of the right to freedom of movement, see Jagerskiold, "The Freedom of Movement," in *The International Bill of Rights*, Henkin ed.

<sup>6</sup> Daniel Williams, "Cuban Envoy Distrusts U.S. on Refugees," *Washington Post*, Sept. 2, 1994.

After a U.S.-Cuba immigration agreement reached in 1984, the maximum number of U.S. visas available to Cubans was 20,000 per year; immigration laws that went into effect in 1990 increased this ceiling to 27,845.<sup>7</sup> Due to competing demands from would-be immigrants worldwide, the United States generally has granted far fewer visas than those available — in 1993, for example, only about 2,700 visas for permanent residency were granted to Cubans. The primary category eligible for these visas are immediate family members of U.S. legal permanent residents, with parents, children, and spouses receiving preference over siblings. For siblings of U.S. residents, there is currently a ten-year wait for visas.<sup>8</sup>

The immigration agreement reached by Cuba and the United States on September 9, 1994 (see below), guarantees that the U.S. will grant visas to a minimum of 20,000 Cubans per year. It remains to be seen whether this will have a significant impact on the recent trend toward increasing "illegal exit."

For dissidents, the obstacles to legal emigration are reversed. Their difficulty is not in securing U.S. visas — most dissidents and activists would qualify for refugee status — but in gaining permission to exit Cuba. This is true both for temporary exit visas and permanent exit visas.

Dissident Elizardo Sánchez Santa Cruz (see section III, below), for example, has frequently been denied permission to travel abroad, most recently in connection with a planned visit to Spain to attend a Socialist Party conference; his exit had previously been cleared with Cuban authorities. Other dissidents seeking to attend meetings or conferences abroad similarly have been denied permission to leave the country on travel visas.

Applications to leave the country permanently are often met with interminable delay and administrative obstacles. A person seeking to leave permanently is required to demonstrate that all of her debts to the state have been paid. In Cuba, this can be a daunting exercise, involving myriad items such as rent, utility bills, and car payments. If the person who wants to leave resides in the house of another family member, as is often the case, the government may require the non-exiting family member to show that she, too, has satisfied all of her financial obligations. Other ill-defined "bureaucratic delays" may prolong the process indefinitely.

## **The August Exodus**

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<sup>7</sup> This does not include visas for refugees or immediate relatives of U.S. citizens — these groups face no numerical limits but are generally fairly small.

<sup>8</sup> This is true for all applicants in this category, not just those from Cuba.

Cuba's economic crisis continued to worsen over the past year, due in part to the United States ongoing economic embargo against the country.<sup>9</sup> The intensifying poverty of the island has exacerbated political turmoil and uncertainty and has contributed to a steady increase in the number of Cubans attempting to leave the country by extra-legal means. Every year since 1990 has seen more than 2,000 Cuban "rafters" (*balseros*) reach the U.S., and in 1993 the number of Cubans arriving by boat or raft reached a record of over 3,500.<sup>10</sup>

The rise in numbers seeking to leave the country corresponded to an unofficial Cuban policy change loosening enforcement of the illegal exit laws. Beginning in 1990 or 1991, fewer people were prosecuted for illegal exit, and those who were tended to be "repeat offenders;" others were detained for brief periods of time and then released. Harsher treatment continued to be reserved for those who attempted to hijack or steal state-owned vessels, a phenomenon that increased as economic conditions deteriorated. Within three weeks of the theft of the *13 de Marzo* in July 1994, for example, at least three passenger ferries were hijacked and diverted to the United States.<sup>11</sup> Even after the exodus began, hijackings of vessels continued to be reported. On August 8, Cuban Naval officer Roberto Aguilar Reyes was killed while attempting to halt a hijacking.

Tensions within Cuba came to a head in Havana on August 5, 1994, when police officers attempted to prevent a group of Cubans from launching a raft. Hostile crowds turned on the police and seized their weapons. Two officers were killed and a third was seriously injured. Thousands of people joined in the fracas, and a spontaneous riot ensued in the downtown commercial area of Havana.

The following day Fidel Castro indicated a change in Cuban policy regarding extra-legal emigration, saying "[w]e are not opposed . . . to letting those who want to leave, leave."<sup>12</sup> Thus began the largest exodus of Cubans since the Mariel boatlift of 1980 brought 125,000 Cubans to U.S. shores. In the weeks that followed, over 35,000 Cubans took to the sea, often in dangerously unseaworthy homemade vessels. Most were apprehended by the U.S. Coast Guard and taken to the United States Guantánamo Bay naval base on the southernmost side of Cuba.

Meanwhile, hundreds of people were arrested in connection with the August 5 riot, many of whom remain incarcerated as of October 1994, including 162 people who were transferred on September 17 to the

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<sup>9</sup> While Human Rights Watch takes no position on trade issues per se, we do oppose those aspects of the embargo that effectively impede the free flow of information between citizens of the United States and Cuba. These restrictions are determined by the Department of State and applied in the form of Department of Treasury regulations. Prior to August 1994, they included a broad ban on travel to Cuba by U.S. citizens and residents who are neither journalists, professional researchers (narrowly defined), or visiting relatives. These restrictive regulations were further tightened by President Clinton on August 26, 1994, when he reduced travel to Cuba by about ninety percent, including a new prohibition on travel by free-lance journalists.

Other trade aspects of the embargo are beyond our organizational mandate. We note, however, that the United Nations Special Rapporteur on Human Rights to Cuba, Ambassador Carl-Johan Groth, recently recommended that the embargo be lifted, describing it as "totally counterproductive" to improving human rights.

<sup>10</sup> According to Fidel Castro, "approximately 50,000 Cubans tried to leave illegally from the island between 1990 and June 1994." FBIS-LAT-94-187, Sept. 27, 1994. This number is significantly higher than our estimate of approximately 15,000.

<sup>11</sup> A Regla-Havana ferry was hijacked on July 26. Half of the thirty people on board were taken by the U.S. Coast Guard to the United States, while the other half opted to return to Cuba. On August 3 a Casablanca-Havana ferry was hijacked with approximately eighty passengers on board, several of whom jumped overboard. On August 4 yet another Regla ferry was hijacked. None of the vessels were apprehended by the Cuban Coast Guard, in order "to avoid greater consequences," according to Cuban authorities (apparently a reference to the sinking of the *13 de Marzo*).

<sup>12</sup> On August 24, Castro confirmed that the Cuban Coast Guard had been formally ordered on August 12 not to apprehend anyone leaving the country unless they attempted to do so on a stolen boat.



maximum security prison Kilo-7 in Camagüey.<sup>13</sup> According to Cuban human rights monitors, the original charges of "rebellion" (*rebeldía*) were later changed to "public disorder," in order to avoid treating these cases as involving overtly political crimes.<sup>14</sup>

The Cuban government took the opportunity to crack down on the dissident movement as well, despite the fact that there was no indication that the August 5 riot was an organized or premeditated event. According to independent journalists, Cuban human rights monitors and the United States Interest Section in Havana, dozens of human rights or pro-democracy activists were detained in the days immediately following the August 5 disturbances. Some were released after a few days of interrogation and detention in crowded and dilapidated jails. A few others were held for periods of about two weeks. At least two of those held for longer periods of time—Gloria Bravo of the Association of Mothers for Dignity (*Asociación de Madres por la Dignidad/AMAD*) and Carlos Ríos of Cambio 2000—were severely beaten while in detention. Others detained included, but were not limited to:

**CCDHRN:** Cuban Commission for Human Rights and National Reconciliation  
(*Comisión Cubana de Derechos Humanos y Reconciliación Nacional*)

René del Pozo Pozo

**CCC - Cuban Civic Current** (*Corriente Cívica Cubana*)

Félix Bonne Carcasés

**MUNC - Cuban National Unity Movement** (**Movimiento Unidad Nacional Cubano**)

Oscar Castillo Veliz  
Carlos Enrique Prades

**CNDCC - National Council for Civil Rights**  
(*Consejo Nacional para los Derechos Civiles en Cuba*)

Alberto Rodríguez García  
Jorge Omar Lorenzo Pimienta  
Jesús Faisel Iglesias  
René Gómez Manzano

**AMAD - Association of Mothers for Dignity** (*Asociación de Madres por la Dignidad*)

Nerdia Vera Pérez  
Sarah Franco Lemon

**CA - Alternative Criteria** (*Criterio Alternativo*)

Pastor Herrera

**MMD - Maceista Dignity Movement** (*Movimiento Maceista por la Dignidad*)

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<sup>13</sup> Cuban human rights workers believe that this and other transfers of political prisoners to outlying prisons is occurring in preparation for the upcoming visit of the UN High Commissioner for Human Rights, Ambassador José Ayala Lasso. The Commissioner is scheduled to visit Cuba in late November, 1994.

<sup>14</sup> Human Rights Watch has been unable to ascertain whether any of the August 5 prisoners continue to face charges of rebellion. We note our extreme concern that this grave criminal charge was levied against the alleged rioters, who, regardless of their involvement in acts of looting or vandalism, cannot possibly have intended to depose the Cuban government by the use of force, which is what the charge of *rebeldía* alleges.

Victoria Cruz Fernández  
Ramón Varela Sánchez

**SLDC** - Free Democratic Unions of Cuba (*Sindicatos Libres Democráticos de Cuba*)

José Ramón Paz López  
Guillermo Bareto Montero

**PSD** - Democratic Solidarity Party (*Partido Solidaridad Democrática*)

Aida Rosa Jiménez  
Elizardo San Pedro Martín  
Fernando Sánchez López  
Rubén Montano  
Susan Ramos

**ACD** - Civic Democratic Association (*Asociación Cívica Democrática*)

Domingo Lescano  
María Valdés Rosado

Most of the dissidents released after one or two days of detention reported ongoing harassment after their release, including random assaults and beatings on the street. In some cases activists were picked up for yet another period of detention without charge.

In addition, the Cuban government used the chaos of the August exodus to attempt to force many dissidents and activists out of the country. At least twenty people are reported to have been forced to leave because of their political activities. In these cases, government agents approached the dissidents, either directly or via an intermediary or family member, and told them that the government had information regarding their "illegal activities" and that, consequently, it would be in their "best interests" to take advantage of the opportunity to leave the country. These implied threats of impending persecution and imprisonment succeeded in removing numerous dissidents from Cuba. Some of those who were driven to leave by such intimidation are currently being held by U.S. authorities at the Guantánamo naval base and in Panama. As of October 1994, the U.S. Department of Justice continued to insist that no one will be permitted to apply for political asylum without first returning to Cuba.<sup>15</sup> Accordingly, the eventual fate of these dissidents is uncertain.

**U.S. Policy and the U.S.-Cuban Agreement Ending the Exodus**

*United States Policy on Cuban Migrants and Travel Restrictions on Cuban-Americans*

The response of the U.S. government to the Cuban exodus was two-fold: alarm at the prospect of high numbers of refugees, and anger with Castro for permitting them to leave. Hoping to discourage would-be rafters, on August 19 the Clinton Administration announced that it was reversing U.S. policy on Cubans picked up at sea. From that day forward, Cubans rescued or apprehended in international or U.S. territorial waters would not gain automatic entry into the United States, but would instead be detained at the Guantánamo naval base, together with the 14,000 Haitian boat people already being held there. This marked a radical change from previous policy, which not only welcomed fleeing Cubans into the U.S. but virtually ensured that they would be granted political asylum or special parolee status once they arrived. In addition, the new policy declared that Cubans picked up at sea would not be eligible to enter the United States without

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<sup>15</sup> This position violates international and domestic law, prohibiting the return of refugees to countries where they have a well-founded fear of persecution on account of their race, religion, nationality, social group membership or political opinion. See section II.D.3., below.

first returning to Cuba, where they could apply for immigration visas or refugee status at the U.S. Interests Section in Havana.

Further policy changes were implemented on August 26. These changes, which significantly tightened the terms of the already-stringent economic embargo against Cuba, were designed not to halt the outward flow of Cubans but to punish Castro for permitting the exodus to occur. The Clinton Administration revoked the general license for family visits to Cuba by Cuban Americans, revoked the general license for professional research in Cuba, and revoked the general license for newsgathering in Cuba.<sup>16</sup> This cut the number of U.S. travelers to Cuba by approximately 90%. In addition, the Administration prohibited Cuban Americans from giving money to any Cuban national, regardless of the reason. This reversed existing policy, which had permitted Cuban Americans to make cash gifts of up to \$1,200 per year to their families in Cuba. This new policy has been heavily criticized on humanitarian grounds.

#### *The U.S. - Cuba Agreement*

Despite the new U.S. policy of sending Cubans to Guantánamo Bay, the exodus from Cuba continued, with thousands of rafters being picked up at sea on a daily basis. By September 9, 1994, when the United States and Cuba reached an agreement effectively ending the exodus, an additional 27,500 Cubans had been picked up at sea since the policy took effect on August 19. In negotiating an end to the exodus, the United States sought and obtained assurances from Castro that he would prevent people from leaving the country outside of official channels. The text of the agreement states that "Cuba will take effective measures in every way it can to prevent unsafe departures, using mainly persuasive methods." This reference to "mainly persuasive methods" clearly implies that if "persuasion" is an insufficient deterrent, force will be used. This feeble acknowledgment is the closest either country came during the exodus crisis to a public acknowledgement of Cuba's practice of forcible deterrence of flight and the central role this coercion has played in preventing large numbers of people from leaving the country. The timidity of the U.S. in this instance contrasts significantly with prior statements. The most recent U.S. State Department Country Report on Cuba, for example, criticized the government for "continu[ing] to use aggressive, often violent, means to prevent citizens from emigrating without its permission."<sup>17</sup> In exchange for Cuba's clamp-down on the border, the United States agreed to admit a minimum of 20,000 Cubans per year, excluding the children, spouse and parents of U.S. citizens, who continue to face no numerical restrictions.

#### *Status of Cubans in Detention*

As of late October 1994, approximately 25,000 Cubans are being held under U.S. authority at the Guantánamo Bay naval base in Cuba. Another 7,000 are held in Panama, also under U.S. control. In addition, nearly 1,200 Cubans are on the British protectorate island of Grand Cayman, and pockets of one or two hundred are scattered elsewhere throughout the Caribbean.

These Cubans, called "migrants in detention" by the United States, are being detained indefinitely.<sup>18</sup> The United States has declared unequivocally that none of the Cubans detained in Guantánamo, Panama, or

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<sup>16</sup> People seeking to travel under one of these three categories will now be required to apply for a specific license from the Treasury Department. Cuban Americans wishing to visit family members in Cuba will have to claim compelling humanitarian need, i.e. grave illness of a family member. The class of journalists now permitted to travel on a general license is limited to professional, full-time journalists; free-lance journalists will not be permitted entry into Cuba.

<sup>17</sup> The report goes on to describe several specific violent assaults by Cuban authorities against people attempting to escape. In addition, the report notes "five incidents witnessed by U. S. military personnel in late June, [in which] border guards used hand grenades and rifle fire against unarmed swimmers trying to escape to the U.S. Naval Base at Guantanamo. . ." and states that over thirty Cubans are known to have died while attempting to seek asylum at the base.

<sup>18</sup> Panama has agreed to keep the Cubans there for as long as six months, and there is no maximum length of detention at Guantánamo. The authorities in Grand Cayman, on the other hand, are extremely anxious to be rid of the Cubans under their care, largely because of the financial and political strain of a population of 30,000 coping with a sudden influx of nearly 1,200 migrants. While British authorities consider involuntary repatriation "a last resort," they have not ruled it out entirely. (Conversation with British Embassy official, September 30, 1994.)

elsewhere will be permitted to enter the United States without first returning to Cuba, where they will be able to pursue in-country processing as asylum applicants or immigrants. To date, the United States has not declared an intention to screen detained Cubans for possible refugee status prior to their return to Cuba.

Human Rights Watch is concerned that, facing the prospect of indefinite detention, Cubans who are at risk of political persecution and other human rights violations may nonetheless feel obliged to repatriate to their country in the hope of securing a permanent exit. The danger of persecution should known activists or dissidents return cannot be underestimated. One of the many obvious risks is that these persons will not be granted another opportunity to leave Cuba. These concerns for the fate of Cuban detainees are sharpened by the existence of credible evidence that a substantial number of those in Guantánamo have been politically persecuted in the past and are likely to face additional harassment and abuse if they return to Cuba.<sup>19</sup> In addition to the two dozen or so known dissidents who were forced into leaving Cuba through intimidation by government agents (see above), a recent mission by Amnesty International to Guantánamo discovered that a minimum of 250 Cubans detained there were former political prisoners or activists who had suffered from other forms of government harassment, including "short-term detention, close police surveillance, regular questioning, and loss of jobs because of their so-called 'counter-revolutionary' activities."<sup>20</sup> Accordingly, the U.S. bears a legal burden to screen all detainees for possible refugee status prior to repatriation (see section D.3., below).

## **Human Rights Implications of U.S. Policy**

### *Freedom of Expression*

The United States policy toward Cuba and Cuban refugees outlined above raises serious human rights concerns. First, curbs on the flow of people and information between Cuba and the U.S. violate Article 19 of the International Covenant on Civil and Political Rights (ICCPR). Article 19 of the ICCPR protects the right to freedom of expression, defined as including "freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers . . ." One of the key methods by which information is shared is through travel and the free exchange of ideas. In the context of Cuba-U.S. relations, the right of Americans to travel abroad is critical to their ability to participate fully in public debate on foreign policy and international security matters, to share information with Cubans who are largely isolated from American viewpoints and opinions, and to return to the United States capable of informing their fellow citizens of conditions abroad.

The United States ratified the ICCPR in September 1992 and is obligated to comply with its provisions. Curtailing the flow of people and ideas between Cuba and the United States is one significant example of U.S. noncompliance. The violation is particularly acute in regard to restrictions on journalists.

### *Freedom of Movement*

Second, United States insistence that the Castro regime prevent people from exiting Cuba renders the U.S. complicitous in the ongoing violation of Article 12 of the ICCPR, which protects the right of everyone "to be free to leave any country, including his own." Although Cuba has not ratified the Covenant, the United States has, and thus has a duty to promote the rights it secures. Article 13 of the Universal Declaration of Human Rights also guarantees the right to leave one's country, as does Article 22 of the American Convention on Human Rights. While no one has a right to enter a particular country, the right to leave one's country is clearly guaranteed by international law.

Restricting travel abroad has long been a hallmark of repressive and undemocratic regimes, including not only Cuba but also China and the former Soviet bloc countries. The easing of travel restrictions for Soviet Jews, for example, was a long-sought goal of human rights and humanitarian organizations as well as the United States and other Western governments. The principle at issue — the right to freely leave one's country — is identical in the case of Cuba. This right must be recognized universally, rather than acknowledged on a case-by-case basis according to political expediency.

### *Indefinite Detention; Right of Non-refoulement*

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<sup>19</sup> For example, one of the many confirmed dissidents being held in Guantánamo as of October, 1994 is Gloria Bravo of the group AMAD (Association of Mothers for Dignity). Bravo was detained for eleven days following the August 5 riot, during which time she was severely beaten.

<sup>20</sup> See Amnesty International press release, AI Index: AMR 51/WU 14/94, September 28, 1994.

A third set of human rights concerns is raised by the U.S. insistence that Cubans be detained in "safe haven" camps indefinitely, until they either return voluntarily to Cuba or are accepted for entry by a third country. Although the camps at Guantánamo and Panama are referred to as "safe havens" rather than "detention camps," they are in fact tantamount to detention. They allow for no freedom of movement, no freedom to work, extremely limited autonomy, and limited amenities. This indefinite detention of Cubans by U.S. authorities violates Article 9 of the ICCPR, which forbids arbitrary detention and provides that "[n]o one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law."<sup>21</sup> United States law authorizes detention of undocumented people only pending inspection, exclusion or deportation, none of which apply to the Cuban detainees. Furthermore, any legitimate detention must be predicated on an individualized basis. There is no legal authority for the detention of a group of people as such; rather, a decision to detain must be based on a case-by-case determination in accordance with the applicable law. The U.S. violation of this precept is particularly acute where, as here, the decision to detain a group of people is politically motivated rather than responsive to the merits of each individual's circumstances. (The history of U.S.-Cuba relations, the sharp reversal of longstanding immigration and asylum policies, and the numerous Clinton Administration statements to the effect that Cubans were being sent to Guantánamo to discourage further exits, leave no doubt that the establishment of the camps was politically-motivated. This is further confirmed by the inclusion in the U.S.-Cuba September agreement itself a provision requiring that all Cuban detainees be processed for admission to the U.S. *in Cuba itself*, a highly unusual arrangement and one that, as we note immediately below, itself violates international and domestic law.)

In addition to Article 9 violations, repatriation to Cuba despite the dangers involved will violate international and domestic laws prohibiting the *refoulement* of refugees. Article 33 of the Refugee Convention states that "[n]o contracting state shall expel or return (*refouler*) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership in a particular social group or political opinion." An equivalent provision was incorporated into U.S. law by the 1980 Refugee Act (amending the Immigration and Naturalization Act, §243(h)). Without adequate prior screening for refugee status, even voluntary repatriation of the Cuban detainees will violate these laws against *non-refoulement*, given the reduced meaningfulness of "choosing" to return when the only alternative is indefinite incarceration.

If the U.S. wishes to comply with its legal obligations, it must not return Cubans, even "voluntarily," to a situation of danger. Instead, it must offer every migrant intercepted prompt access to individualized screening for refugee status *prior* to being returned to Cuba. The need for refugee screening is paramount, especially given the fact that many of those currently detained are known dissidents or have previously been incarcerated in Cuba on politically-related charges. Until their safety is firmly established, every Cuban detainee should be treated as a presumptive refugee with a corresponding right against *refoulement*.

#### IV. REPRESSION OF DISSIDENTS AND ACTIVISTS

Human rights monitoring is illegal in Cuba and the government refuses to grant legal status to opposition or pro-democracy groups. Free expression and association are severely restricted, and state security forces maintain close surveillance of activists and dissidents. Persecution takes a variety of forms, including frequent harassment, intimidation, and arrests. Pro-democracy and human rights workers are imprisoned on vague and malleable political charges that violate basic political and civil rights. Typical charges include "illicit association," "clandestine printing," and "disrespect to the head of state." After completing their sentences, dissidents may be kept in prison under the commonly-used provision of "high dangerousness," which can add as much as four years to the original period of incarceration. "Spreading enemy propaganda," one of the most common political charges, carries prison sentences that frequently reach ten years; more when combined with other political crimes.

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<sup>21</sup> "Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law." Article 9, International Covenant on Civil and Political Rights.

In addition to lengthy prison terms, the government is relying increasingly on other patterns of intimidation, including seemingly random acts of violence by anonymous assailants and short-term interrogations and detentions in municipal jail cells that are often crowded, airless and overflowing with excrement.

Human Rights Watch has been tracking Cuba's treatment of political activists and dissidents since 1986. The following information updates our February 1994 report.

### **Cuban Committee for Human Rights (CCPDH)**

The Cuban Committee for Human Rights is one of Cuba's two leading human rights groups. In January 1992, CCPDH leader **Sebastián Arcos Bergnes** was arrested and detained without charge until October, when he was prosecuted, convicted, and sentenced to nearly five years for "spreading enemy propaganda." He remains incarcerated in the Ariza prison, far from his family in Havana. His conditions of detention are difficult. Arcos is sixty-three years old and in ill and deteriorating health. Food allowances in Ariza, as in all Cuban prisons, are meager. The average daily food allotment consists of two small meals, one of bread and the other of a thin vegetable broth containing no vegetables. Visits are limited to his immediate family, who may see him only once every two months. His brother, **Gustavo Arcos Bergnes**, also a member of CCPDH, remains free but subject to constant vigilance.

Leading member **Rodolfo González González** was arrested on December 10, 1992, the anniversary of the Universal Declaration of Human Rights. He was convicted of spreading enemy propaganda and sentenced to seven years in prison. González is currently being held at the Combinado del Este prison in Havana. He was the primary reporter of human rights violations for the CCPDH.

### **Cuban Commission for Human Rights and National Reconciliation (CCDHRN)**

The Cuban Commission for Human Rights and National Reconciliation is the other leading human rights organization in Cuba. Its leaders and members have continued to face harassment and persecution by state security forces, as demonstrated by the following examples.

**René del Pozo Pozo**, a prominent member of CCDHRN, was detained on August 6, 1994, following the August 5th riot in Havana. At 5:30 on the morning of the 6th, five uniformed and two plainclothes police officers came to his house with a search warrant authorizing seizure of "illicit materials." The house was searched and personal items removed, including all of del Pozo's working papers and materials. His telephones were ripped from the walls and he and his family were insulted and verbally assaulted. This continued until 11:30 a.m., at which point he, his aunt (Zodilini Valdez del Pozo) and his cousin (Gerardo Martínez Valdez) were arrested and taken to a local police station. Del Pozo's aunt and cousin were released later that night.

Del Pozo was kept under detention and charged with "receipt of stolen goods" (*receptación*), for having in his possession three cases of beer left over from his May 1994 wedding party. The following day he was transferred to another police station, where he was charged with spreading enemy propaganda. He was placed in a small cell together with about ten common criminals. The conditions of the jail were horrific: the cell was tiny, with no air flow and no natural light, and was covered with human excrement. The adjoining cell was even more crowded, with approximately thirty detainees.<sup>22</sup>

Del Pozo was released three days later. His beer was returned to him, but his papers and other working materials were not.

Del Pozo was picked up and detained again on August 23, together with CCDHRN member Vladimiro Roca. Taken to a local police station, Del Pozo was threatened with a lengthy imprisonment if he refused to

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<sup>22</sup> According to Cuban human rights monitors, these conditions are commonly found in the local police station jails.

sign a statement denouncing the Democratic Socialist Current (see below) and his own prior statements, critical of the Cuban government, that had been broadcast on Radio Martí. He signed the statement under duress. Both he and Roca were subsequently released.

On August 26, del Pozo was picked up a third time and taken in for a "chat." He was told not to talk to foreigners or to go to the U.S. Interest Section (the only U.S. diplomatic presence in Cuba). He was told that if he wished to leave Cuba by boat the government would not stand in the way. Although del Pozo did not choose to depart the country, his wife and daughter did, and are now believed to be in U.S. custody at the Guantánamo Naval Base.

Del Pozo received a threatening telephone call on August 30, and was assaulted on the street by a lone assailant, who beat him with brass knuckles. The blows were strategically placed and caused ongoing neurological damage.

Del Pozo was arrested yet again on October 12, 1994. At the time this report was finalized, he remained incarcerated in a Havana station of the National Police and had not been formally charged with any crime.

**Elizardo Sánchez** is one of Cuba's most well-known dissidents and a member of CCDHRN. He has suffered numerous arrests, detentions, and beatings over the past two decades, including a combined total of nearly ten years in prison for charges such as "counterrevolutionary activities" and "disseminating false information."<sup>23</sup> In March 1994, the Cuban government blocked Sánchez's exit for Spain, where he was to attend a Socialist Party conference; his exit had previously been cleared with Cuban authorities. In April, he was charged with receipt of stolen goods because he was found to be in possession of a key to a house where gasoline in a quantity beyond the approved amount was stored. He was told not to attempt to leave the country. In July, Sánchez was tried, convicted, and sentenced to six months of virtual house arrest (*limitación de libertad*), during which period any offense, including contact with foreigners or "illegal assembly" (unauthorized gathering of three or more persons) could lead to his imprisonment. As a consequence, he has been forced to limit his human rights monitoring and other activities.

Significantly, at the time he was charged with this offense Sánchez had recently applied for a temporary exit visa to travel to Mexico and observe the August presidential elections. Cuban authorities did not deny him permission to exit, but the levying of minor charges against him and subsequent conviction effectively prevented Sánchez from leaving the country.

### **José Martí National Commission of Human Rights**

**Amador Blanco Hernández** and **Joel Mesa Morales** were arrested by state security forces in December 1992 and January 1993, respectively. They were charged and convicted in September 1993 on charges of spreading enemy propaganda. Blanco was sentenced to eight years, Mesa to seven. They remain in prison.

### **Association of Defenders of Political Rights (ADEPO)**

After spending several months in detention, ADEPO member **Luis Alberto Pita Santos** was sentenced in March 1992 to five years in prison on charges of illegal association, insult to the head of state (*desacato*), and clandestine printing. These charges resulted from Pita's participation in a press conference organized by several dissident groups. He is being held in the high security Kilo-8 prison in Camagüey province. In February 1994, Human Rights Watch reported that he was being beaten, chained to his bed, confined in a punishment cell and permitted no visitors. As of this writing Pita remains in solitary confinement and is reported to be in very poor physical condition.

Three other ADEPO members arrested and imprisoned in connection with the same press conference—**Reinaldo Betancourt Alvarez**, **Julián Jorge Reyes** and **Aníbal Cruz Martínez**—have been released after serving more than two years in prison.

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<sup>23</sup> In tribute to his dedication and suffering in defense of human rights, in 1990 Human Rights Watch invited Elizardo Sánchez to be a Human Rights Watch Monitor at the annual New York ceremony honoring a handful of distinguished human rights workers from around the world. Sánchez was in prison at the time, and Cuban authorities did not permit him to attend.



### **Harmony Movement (Movimiento Armonía)**

Two members of the social-democratic pro-democracy Harmony Movement, **María Elena Aparicio Rodríguez** and **Yndamiro Restano Díaz**, were convicted of rebellion in 1992 and sentenced to seven and ten years, respectively. Restano remains in the Combinado del Sur de Matanzas prison, where he is permitted family visits only once every two months. Aparicio is in the Santa Clara women's prison. Several other Harmony members have been detained for periods of a few days.

### **National Commission of Independent Unions (CONSI)**

The National Commission of Independent Unions (CONSI) is an umbrella organization for five independent Cuban unions.<sup>24</sup> Formed in February 1993, the purpose of the organization is to secure recognition of workers' rights to organize, a right guaranteed by Cuban law but disregarded by Cuban authorities.<sup>25</sup> Members of CONSI have faced frequent harassment, including beatings and short-term detentions.

Following visits to the Belgium and German embassies, CONSI president **Lázaro Corp** was detained on June 22, 1994, and interrogated regarding his relationship with their diplomatic staffs. He was arrested at 3:30 p.m. and released the following day at 10 a.m. During this period, he was interrogated four times. According to Corp, he has been detained by state security forces eight times since 1991.

On August 2, 1994, Corp and his son were attacked by three unknown assailants near their home and beaten with fists and sticks on their heads and shoulders. Two months later, Corp still suffers from severe pain in his mouth, back, and shoulder. At 10 p.m. on August 5, 1994, a group of several men attacked Corp's house with rocks and bottles. The assault lasted for five to eight minutes and caused minimal damage. In addition to these incidents, twice this year, in February and again in May, cars have run into Corp while he was on his bicycle, knocking him off and causing bodily injury.

In late August Corp was granted permission to leave Cuba permanently, and on September 21 he joined his wife in Miami. They have three children, all of whom remain in Cuba.

**Lázaro Cuesta**, a member of the Executive Board of CONSI, was assaulted and severely beaten on August 30, 1994. Cuesta was beaten by four unknown assailants and suffered substantial damage to his face and his stomach. (As CONSI President Lázaro Corp explained, these beatings are known to be by government agents because they are pure assaults, with absolutely no attempt at robbery made. "They are warnings," he said, "directed against activists and others the government wishes to control.")

Former CONSI member **Jorge Bonet** has been released from prison and is now in exile, as is **Manuel Manrique**. **Javier Troncoso** was also released from prison, but remains in Cuba.

### **Cuban Democratic Coalition (CDC)**

**Adriano González Marichal** was arrested in January 1992 and charged with spreading enemy propaganda. He was convicted and sentenced to ten years, and remains in prison. **Pablo Reyes Martínez** of the National Civic Union, which was at the time affiliated with the CDC, was arrested in April 1992 and convicted of spreading enemy propaganda. He is currently serving an eight-year sentence for this charge. Both González and Reyes reported on human rights violations for the Voice of the Foundation, the radio station of the exile lobbying group the Cuban-American National Foundation (CANF).

### **Socialist Democratic Current**

**Guillermo Fernández Donate** was arrested by state security police in June 1993 and accused of possessing enemy propaganda. To our knowledge, he has not been tried and convicted of this crime, but nonetheless remains imprisoned at the Ganuza prison in Havana.

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<sup>24</sup> The member unions are: Unión General de Trabajadores de Cuba; Unión Sindical de Trabajadores Cubanos; Unión de Trabajadores de Ciudad Habana; Unión de Trabajadores de Provincia Habana; and Unión de Trabajadores de Comercios.

<sup>25</sup> The right to organize is found in the Cuban Civil Code, Decreto Ley 49, Capítulo 4, Artículo 1314.

### **Cuban Civic Current**

The Cuban Civic Current is a pro-democracy group formed by scientists and academics who were fired from their jobs as a result of pro-democracy or pro-human rights statements. Member **Rolando Roque Malherbe** has been permitted to leave the country and is in exile in Spain. **Félix Bonne Carcasés** was detained in September 1993, at which time all of his work papers and documents were confiscated. He was later released. In the crackdown following the August 5 riot, Bonne was detained again and held for approximately thirty-two hours.

### **Democratic Civic Party**

**Domiciano Torres Roca** was detained in August 1993, not long after the formation of this independent pro-democracy group. He was badly beaten at the time of his arrest. Torres, a former architecture professor who was fired as a result of his dissident activities, was charged with spreading enemy propaganda; in July 1994 he was sentenced to three years in prison. In September, while imprisoned in the 1580 prison in San Miguel del Padrón, Torres was threatened by a group of prisoners who reportedly work in a covert government organization active throughout Cuban jails and prisons.<sup>26</sup> These prisoners threatened to beat Torres, throw excrement on him and cut his face with a razor, and as he walked away they threw a bench against his back. Torres was subsequently transferred to the high security prison Kilo 7, in Camagüey, hundreds of miles from his home. He is reportedly being held in isolation.

**Iosvani Orestes Garcia Quevedo**, nicknamed "The Lawyer" for his work on behalf of prisoners, was transferred in September 1994 from the 1580 prison in San Miguel del Padrón to the Valle Grande prison, where he was reportedly being held in solitary confinement.

### **National Civic Union**

The nongovernmental National Civic Union was at one time affiliated with the Cuban Democratic Coalition. **Pablo Reyes Martínez**, a member of both groups, was arrested in April 1992 and sentenced to eight years in prison for spreading enemy propaganda, a result of his work reporting human rights abuses for an exile radio station. He is believed to be held at the Quivicán prison, where he has frequently been held in isolation. **José Clemente García**, detained in September 1993, was subsequently released, and went into exile in May 1994.

**Omar del Pozo Marrero**, **Carmen Arias Iglesias**, and **Víctor Reynaldo Infante Estrada** were convicted by a military court in August 1992 on a charge of revealing state secrets. Del Pozo was sentenced to fifteen years in prison, Arias to nine years, and Infante to thirteen years. They are currently serving their sentences. Del Pozo is reported to be suffering harsh treatment, including solitary confinement.

### **National Council for Civil Rights (CNDC)**

**Francisco Chaviano Gonzalez** was arrested and imprisoned in 1990 for attempting to leave the country by raft. Upon his release he formed the National Council of Rafters, whose purpose was to organize those accused of illegal exit, defend their rights, and conduct public education campaigns. Over time, this group metamorphosed into a more broad-based human rights group and changed its name to the National Council for Civil Rights.

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<sup>26</sup> The organisation is known as the TOS (*Trabajo Operativo Secreto* — Secret Work Operatives).

Chaviano, who is the president of CNDC and a signatory of a petition seeking amnesty for and official recognition of human rights groups in Cuba,<sup>27</sup> was arrested again on May 7, 1994. Prior to this arrest, Chaviano had been subjected to steadily mounting harassment, including frequent surveillance and acts of vandalism and graffiti against his house. His arrest on May 7 was preceded by an odd early morning visit from a stranger, who gave Chaviano an envelope containing mysterious documents. As Chaviano was looking through these papers, state security agents rushed in, arrested Chaviano and ransacked his house and belongings. The initial charge against him, receipt of stolen goods, was later increased to possession of state secrets, a reference to the documents planted on him shortly before the police raid.<sup>28</sup>

Chaviano remains jailed in Villa Marista, a state security prison outside of Havana. He has not yet been tried, and his lawyer has not been permitted to see him or the indictment sheet listing the charges against him. In addition to Chaviano, four other members of CNDC have been arrested and imprisoned since May 1994.

### **Democratic Civic Association (ACD)**

**Marta María Vega Cabrera**, a member of the Asociación Cívica Democrática, was arrested on June 3, 1994 at her home in Isla de Pinos. She was beaten during her arrest and detained along with her son and sister, who were both released later that day. She is now being held at the Prisión Occidental de Mujeres, accused of "spreading enemy propaganda."

### **Human Rights Monitoring by Prisoners**

**Arturo Suárez Ramos**, imprisoned since 1987 on a thirty-year sentence for attempted piracy, was reportedly beaten on August 17 at the Combinado del Sur de Matanzas prison, where he is being held. The beating appears to have occurred at the hands of common prisoners, who were encouraged to attack Suárez by prison officials. This incident was reported by Combinado Del Sur prisoner **Victor Reynaldo Infante Estrada**, who is serving his second year of a thirteen year sentence for revealing state secrets. Infante, who is not specifically affiliated with any Cuban human rights group, works independently to report human rights violations occurring within the prison. According to Infante, on August 17 a group of common prisoners were themselves beaten by prison officials, who then told the prisoners that the person responsible for their beating was Infante, and that they would continue to take beatings on his behalf. This placed Infante in grave danger. On the same day, the correspondence in his cell was carefully searched. Infante believes these intimidating measures are designed to halt his human rights reports to the outside world.

This report was researched and written by Human Rights Watch staff attorney Lee Tucker and Human Rights Watch/Americas board member David Nachman. It is the eleventh report on Cuba published by Human Rights Watch since 1986. Human Rights Watch/Americas, which has never been allowed formally by the Cuban government to conduct the kind of fact-finding investigation it undertakes elsewhere in the region, is grateful to many individuals and organizations who document human rights violations in Cuba under very difficult circumstances. We are indebted to the Cuba-based Cuban Commission for Human Rights and National Reconciliation, the Cuban Committee for Human Rights, and the U.S.-based Human Rights in Cuba, as well as to many individuals too numerous to mention.



*Human Rights Watch/Americas (formerly Americas Watch)*

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<sup>27</sup> The petition, signed and delivered to Castro on April 19, 1994, requested amnesty for all political prisoners and the legalization of nongovernmental organizations, including human rights groups and others representing a diversity of opinions. In addition to Chaviano, it was signed by: Lázaro Corp of CONSI, Elizardo Sánchez of CCDHRN, Vladimíro Roca of the CSDC, Mario Remedios de los Cuetos of the February 24th Movement, Lázaro Loreto Peres of the National Confederation for Political Rights, María Valdés Rosado of the Cuban Christian Democratic Movement, and Aida Valdés Santana of the International Coordinating Body for Cuban Political Prisoners.

<sup>28</sup> See Charles Lane, "The Long, Long Good-bye," *The New Republic*, October 3, 1994, p. 18.

Human Rights Watch is a nongovernmental organization established in 1978 to monitor and promote the observance of internationally recognized human rights in Africa, the Americas, Asia, the Middle East and among the signatories of the Helsinki accords. It is supported by contributions from private individuals and foundations worldwide. It accepts no government funds, directly or indirectly. Kenneth Roth is the executive director; Cynthia Brown is the program director; Holly J. Burkhalter is the advocacy director; Gara LaMarche is the associate director; Juan E. Méndez is general counsel; Susan Osnos is the communications director; and Derrick Wong is the finance and administration director. Robert L. Bernstein is the chair of the board and Adrian W. DeWind is vice chair. Its Americas division was established in 1981 to monitor human rights in Latin America and the Caribbean. José Miguel Vivanco is executive director; Anne Manuel is associate director; Sebastian Brett, Robin Kirk, and Gretta Tovar Siebentritt are research associates; Stephen Crandall, Vanessa Jiménez and Tuhin Roy are associates. Peter D. Bell is the chair of the advisory committee and Stephen L. Kass and Marina Pinto Kaufman are vice chairs.