



# human rights *first*

FORMERLY THE LAWYERS COMMITTEE FOR HUMAN RIGHTS

## TESTIMONY BY HUMAN RIGHTS FIRST

### HUMAN RIGHTS DEFENDERS IN CUBA TWO YEARS AFTER THE CRACKDOWN

Statement of Neil Hicks, Director of International Programs

Washington D.C.

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#### **Introduction**

Thank you for inviting Human Rights First to share our views on the situation of human rights defenders in Cuba. We greatly appreciate the opportunity to speak out in support of the courageous men and women in Cuba who, in the face of oppression and great personal risk, continue to demand the basic rights and freedoms to which they are entitled in international law and by virtue of their humanity.

I direct the Human Rights Defenders program at Human Rights First. Through this program we aim to support the right to promote and protect human rights, to enable people around the world to claim and enjoy the basic freedoms provided for in international human rights treaties.

A particular focus of our work over the past two years has been the situation of some 75 prisoners sentenced to long prison terms after grossly unfair trials in March 2003. These prisoners embody the human rights defender idea. Many of them were supporters and organizers of a petition drive, known as the Varela Project, calling on the Cuban government to permit a referendum, as provided for in the Cuban constitution, on specific demands for human rights reforms.

As Oswaldo Paya, the founder of the Varela Project, has explained:

The rights we demand in the Varela Project are formulated in the Constitution, but we're also entitled to them because we are human beings, the children of God, and that is why we shall continue to claim them for all Cubans, confident that we shall achieve them.

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Human Rights First agrees that the Cuban people are entitled to enjoy basic rights and freedoms, and we are committed to working for the release of all of those suffering long prison terms in harsh conditions simply for demanding these rights.

Human Rights First seeks to protect and promote human rights both within the United States and abroad. This mission is derived from the belief that we must advance justice, human dignity and respect for the rule of law in order to create a secure and humane world. Since our inception in 1978, the Human Rights Defenders Program has worked to protect human rights activists around the world who fight for basic freedoms and for peaceful change.

Since March 2003, Human Rights First has urged the Cuban authorities to order the immediate and unconditional release of all individuals who were arrested and convicted on the basis of their peaceful expression of their opinions and their efforts to promote and protect basic human rights in Cuba.

As an organization, Human Rights First has employed several advocacy strategies to advance the goal of seeing these prisoners released. We have made our demands directly to the Cuban government. We have urged other governments, including that of the United States, to put pressure on the Cuban government to release the prisoners. In that regard we urge members of congress to swiftly pass the concurrent resolution H.Con. Res. 81, which marks the two-year anniversary of the March 2003 crackdown, and reaffirms the demand that Cuba should immediately release the prisoners.

Human Rights First also welcomes the recent passage of a resolution at the U.N. Human Rights Commission, supported by the United States government, which deplored the 2003 crackdown and the continuing incarceration of the human rights defenders.

The government of Cuba has refused to permit access to the island for the Personal Representative of the High Commissioner for Human Rights, Christine Chanet, who was nevertheless able to compile and submit a report to the recently concluded 61<sup>st</sup> session of the Commission on Human Rights. Human Rights First continues to urge the Cuban government to cooperate fully with the Representative in the discharge of her important mandate.

The passage of the resolution on Cuba at the Human Rights Commission was met with a predictable chorus of complaints, led by the Cuban government, that it was politically motivated and unwarranted. Human Rights First does not agree. We believe that the deprivation of basic rights and freedoms, clearly demonstrated by the continuing imprisonment of activists whose only offense was to call publicly for such rights, warrants the special attention of the human rights body.

The Cuban government should cooperate with the special procedures of international human rights mechanisms, which provide ample opportunity for governments to make known their views or objections.

### **Background on the March 2003 Crackdown**

In the last weeks of March 2003, the Cuban government sentenced 75 human rights defenders, independent journalists, economists and librarians to up to 28 years in prison in the harshest crackdown

on civil society seen on the island in years. The government's actions have been widely condemned by human rights organizations, foreign governments, and the United Nations.

According to court sentencing documents and interviews conducted by Human Rights First, the prisoners' offenses included publishing articles in foreign publications, using the Internet access provided to them by the U.S. Interests Section, creating independent libraries containing "counterrevolutionary" books by authors such as George Orwell, Mario Vargas Llosa, Václav Havel, and Martin Luther King, Jr., writing economic analyses that portray Cuba in a negative light, and performing activities as representatives of organizations without official standing such as the Commission for Human Rights and National Reconciliation.

Many of the imprisoned dissidents were organizers of the Varela Project (Proyecto Varela), a constitutionally-based civic initiative that collected signatures on a petition calling for a referendum on democratic reforms and respect for basic freedoms.

The dissidents were arrested, tried, and sentenced on charges of "disrespect" for the Revolution, "treason," and "giving information to the enemy." The real reason for their imprisonment appears to be their non-violent activism for human rights and democracy. The U.N. Working Group of Arbitrary Detention categorized the individuals detained in the March-April 2003 crackdown as "persons detained in contravention of articles 19, 20, and 21 of the Universal Declaration of Human Rights."

The recent report submitted by the Personal Representative of the High Commissioner for Human Rights to the Commission on Human Rights entitled, "Situation of Human Rights in Cuba" further underlined the point that the detainees were tried "in very short order, sometimes within a few days, denying them sufficient time to prepare their defense." The dissidents were given prison sentences that ranged from 6 to 28 years.

## **2004 Release of 18 Dissidents**

In 2004, the Cuban authorities ordered the release of 18 dissidents, including fourteen of the 75 arrested in the March 2003 crackdown. They were reported to have been released on "extrajudicial license," or parole, for medical reasons and could therefore be sent back to prison at any time. The names of the released prisoners who were arrested in the 2003 crackdown include: Oscar Espinosa Chepe, Raúl Rivero, Marcelo Manuel Lopez Bañobre, Osvaldo Alfonso Valdes, Edel Jose Garcia Diaz, Margarito Broche Espinosa, Marta Beatriz Roque Cabello, Miguel Valdés Tamayo, Manuel Vásquez Portal, Carmelo Agustín Díaz Hernández, Juan Roberto de Miranda Hernández, Orlando Fundora Alvarez, Julio Antonio Valdés Guevara, and Jorge Olivera Castillo. The Cuban authorities also released four prisoners who had been detained since 2002, whose names are Carlos Alberto Domínguez Gonzáles, Emilio Leyva Pérez, Lázaro Miguel Rodríguez Capote, and Leonardo Bruzón Avila.

While Human Rights First welcomed the release of these individuals, we continued our advocacy campaign for the release of all of the dissidents, and for complete freedom for those released on parole. Currently, more than two years after the arrests, despite appeals from foreign governments, international human rights organizations, and the United Nations, 61 men arrested in the crackdown remain imprisoned solely for exercising and promoting basic human rights. In her report U.N. Representative Christine Chanet stated, "these releases do not signify the end of the period of repression which began in 2003, nor an improvement in the situation of civil and political rights in Cuba."

## **Deteriorating Health of Imprisoned Dissidents**

Of the 61 dissidents who remain incarcerated, many currently suffer from poor health, exacerbated by inadequate prison conditions. Hector Palacios, Jose Daniel Ferrer, Luis Enrique Ferrer, and Leonel Grave de Peralta Almenares are among the individuals who remain in jail despite their deteriorating health (see Addendum for complete list of the 61 dissidents who remain imprisoned). Adequate medical attention has reportedly been denied to several critically ill dissidents, and family members of some of the dissidents have reported that the prisoners are being held in substandard conditions, in small, dimly lit cells with poor ventilation.

Additionally, family members of the imprisoned dissidents have reported threats and other forms of intimidation in what appear to be reprisal measures for their nonviolent protest and their reporting of prison conditions and rights violations to international human rights organizations. Independent journalists have also reported intimidation and arrest as a result of their reporting on human rights issues.

As poor conditions and inadequate medical attention lead to a real risk of death in custody for some, justice for Cuba's human rights defenders is becoming a growing international priority," Human rights defenders in Cuba have been imprisoned to make a political point "One such defender is human rights activist Hector Palacios, 62, who is currently serving a 25 year sentence for his legitimate activities as a defender of freedom of expression and other basic rights and freedoms. He was an active organizer for the [Varela Project](#), and is an independent librarian. Palacios is currently suffering from serious heart problems, according to reports received from his wife, Gisela Delgado. For over two months, Mr. Palacios has suffered from dangerously high blood pressure and is not responding to the medical treatment. His health problems have been aggravated by harsh prison conditions, and Human Rights First has repeatedly urged the Cuban government to order his immediate and unconditional release.

On October 6, 2004, Human Rights First released a further alert about imprisoned Cuban human rights advocate Luis Enrique Ferrer Garcia, who was stripped and beaten by State Security and prison officials in the Youth Prison of Santa Clara, according to reliable reports. Mr. Ferrer is the youngest of the 75 Cuban human rights who were imprisoned in March 2003, yet is serving the longest sentence, 28 years in prison, for his nonviolent advocacy of basic rights. Mr. Ferrer, whose wife gave birth to their son shortly after his imprisonment, is being held in harsh conditions.

## **Advocacy Strategies**

Human Rights First has employed several advocacy strategies since the crackdown, including pressuring the European Union to demonstrate its support of Cuban human rights advocates through continued visible contact with them, reaching out to Latin American governmental and nongovernmental leaders urging them to pressure the Cuban authorities to order the release of the arrested dissidents, and issuing regular alerts to our expanding human rights defenders constituency on behalf of individual Cuban defenders.

*European Union Support of Cuban Human Rights Defenders*

On January 31, 2005, the European Union (E.U.) made the decision to temporarily suspend diplomatic sanctions against Cuba. In the months preceding the decision, Human Rights First corresponded with E.U. officials urging them to demonstrate the E.U.'s commitment to human rights in Cuba by continuing its visible support of human rights defenders and applying pressure on the Cuban government to release those dissidents that remain imprisoned.

In an October 22, 2004 letter to then-E.U. President and Dutch Prime Minister Balkenende, Human Rights First noted that the 2004 release of several dissidents was reason to be hopeful that international pressure had resulted in some concessions on the part of the Cuban government and should serve to encourage sustained pressure and continuing supportive public contact with dissidents.

In its dialogue with E.U. governments, Human Rights First has been able to draw upon the *European Union Guidelines on Human Rights Defenders*, which clearly outline the objectives of the E.U. with respect to human rights defenders in third countries and in multinational fora. Section 12 of the *Guidelines* states that “the E.U.’s objective is to influence third countries to carry out their obligations to respect the rights of human rights defenders.... The E.U. will make its objectives known as an integral part of its human rights policy and will stress the importance it attaches to the protection of human rights defenders.” Section 12 goes on to specify that “where the Presidency, or the High Representative for the CFSP or E.U. Special Representatives and Envoys, or European Commission are making country visits, they will, where appropriate, include meetings with, and raising individual cases of, human rights defenders as an integral part of their visits to third countries....” In the aforementioned letter to Prime Minister Balkenende, Human Rights First expressed its strong belief that in the case of Cuba, such visits are not only appropriate but essential.

While Human Rights First welcomed the assurances and clarifications provided by a letter sent in response from Bernard Bot, the Dutch Minister of Foreign Affairs, in particular the assurance that “E.U. embassies maintain regular contact with dissidents and will continue to do so in the future,” our organization also expressed concern that the European Union Council for Latin America (COLAT) had recently recommended the discontinuation of the practice of inviting dissidents to national ceremonies at E.U. embassies in Havana.

In a letter responding to Minister Bot on January 27, 2005, Human Rights First registered this concern about COLAT’s recommendation to discontinue the practice of inviting Cuban dissidents to such events and urged the EU Council of Foreign Ministers to reject the recommendation. The letter stated that while other forms of contact with Cuban dissidents had been proposed and were to be encouraged, they should not replace the highly symbolic inclusion of dissidents in embassy ceremonies. Regardless of the simultaneous exclusion of government ministers, it noted that the discontinuation of the practice sends the troubling message to Cuban dissidents, as well as to the Cuban authorities, that the E.U. is prepared to compromise its support of human rights defenders in an effort to ease diplomatic tensions, or perhaps out of concern that such contacts may place defenders at risk of reprisals.

With respect to this latter concern, Human Rights First communicated that it believed that local activists were in the best situation to decide whether or not they take the risk of meeting with international officials at an embassy reception or elsewhere, and that denying them such opportunity sends precisely

the wrong message. Human Rights First therefore welcomed the E.U.'s subsequent decision to continue visible contact with Cuban dissidents despite these COLAT recommendations.

### *Latin America*

The situation of human rights defenders in Cuba is of increasing concern to their regional counterparts. At the August 2004 Third Latin American Consultation on Human Rights Defenders in São Paulo, Brazil, Human Rights First met with human rights activists from throughout the region to exchange information and experiences and to devise common strategies to respond to the human rights challenges facing the region today.

Human Rights First representatives at the Consultation encouraged regional human rights defenders to support Cuban human rights defenders and to encourage their respective governments to do the same. In documents prepared for the Consultation, Human Rights First wrote that “it is important that this pressure [on Cuba] should be sustained, especially within the Latin America and Caribbean region at both a governmental and nongovernmental level.”

Additionally, Human Rights First has urged Latin American government officials visiting Cuba to use those opportunities to encourage the Cuban authorities to release the 75 imprisoned human rights defenders and dissidents. Specifically, we have pressed Argentine President Néstor Kirchner to use his government's influence to secure the releases of dissidents and press for human rights reforms.

### *Human Rights First Public Advocacy on Cuban Defenders*

As part of our effort to enhance public advocacy and outreach concerning human rights defenders in Cuba, Human Rights First has worked to develop strong relationships with a broad range of Cuban-American organizations across the political spectrum. We continue to identify means of working cooperatively with such organizations on behalf of defenders and on other issues of mutual interest and concern.

Since the March 2003 crackdown, Human Rights First has issued a total of nine “Defender Alerts” – advocacy messages posted on our Website and disseminated to interested persons via e-mail communications – on behalf of individual imprisoned Cuban human rights defenders, with a particular emphasis on those whose health had deteriorated since their imprisonment. These nine Defender Alerts, which have highlighted the cases of Cuban defenders such as Roberto De Miranda, Oscar Espinosa Chepe, Jose Daniel Ferrer Garcia, and Luis Enrique Ferrer Garcia, have generated over 1,500 letters to the Cuban Interests Section to date.

### **International Law and the Cuban Detainees**

Those detained and sentenced during the March 2003 crackdown fall within the ambit of the **UN Declaration on Human Rights Defenders**, which Cuba actively participated in drafting and voted for in the U.N. General Assembly in 1998. According to the terms of the Declaration, all persons have the right to effective access to participation in the government of their country and in the conduct of public affairs. The Declaration also provides that everyone has the right to the lawful

exercise of their profession and to participate in peaceful activities against violations of human rights.

It is particularly important at this time when much global attention is focused on events in Iraq and other troubled parts of the globe, that governments which maintain relations with Cuba and which are engaged in dialogue on human rights issues, such as Canada, Europe and parts of Latin America should continue to make known their objections to these arrests, which are completely indefensible according to the principles set forth in the Declaration, and other instruments of international law.

### **U.N. Keeps Pressure on Cuba**

Human Rights First called on the United Nations Commission on Human Rights to condemn these arrests and harsh jail sentences at its 2005 session in Geneva. Under the mandate of Commission Resolutions 2002/18, 2003/13, and 2004/13, the Personal Representative, Christine Chanet, was to report to the Commission on the state of human rights in Cuba. Although the Cuban Government has refused to engage in dialogue with the Commissioner and gave no reply to her requests for meetings, the Personal Representative of the High Commissioner drew up 10 recommendations that if implemented would improve human rights conditions in Cuba.

Among the recommendations are those which relate directly to the situation of the prisoners from the clampdown, including: a) “halt the prosecution of citizens who are exercising the rights guaranteed under articles 18, 19, 20, 21, and 22 of the Universal Declaration of Human Rights, and b) release detained persons who have not committed acts of violence against individuals and property.”

On April 14, 2005, the United Nations Commission on Human Rights backed a resolution by the United States and the European Union to keep pressure on Cuba by renewing the mandate of a special investigator into alleged abuse there. The public vote, which according to Reuters was one of the most politically charged at the annual session of the 53-state U.N. Commission on Human Rights, was 21 in favor to 17 against, with 15 abstentions.

U.S. delegation member Lino Piedra said, “the Cuban government has failed to take the steps that would guarantee its own people the most basic human rights.” He observed that Cuba “deprives the people of the right of expressing dissent without incurring a decades-long prison sentence.”

## ADDENDUM

List of dissidents detained during March and April 2003 who remain incarcerated

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



15. José Daniel Ferrer García: Activist supporter of the Varela Project and coordinator of the Christian Liberation Movement, sentenced to 25 years.
16. Luis Enrique Ferrer García: Member of the Christian Liberation Movement, coordinator of the Varela Project in Las Tunas, sentenced to 28 years imprisonment.
17. Próspero Gainza Agüero: Member of the Pedro Luis Boitel National Civic Resistance Movement, sentenced to 25 years.
18. Miguel Galbán Gutiérrez: Journalist in the unofficial Havana Press agency, coordinator of the Varela Project, sentenced to 26 years.
19. Julio César Gálvez Rodríguez: Member of the unofficial organization Cuba Free Press, sentenced to 15 years imprisonment.
20. José Luis García Paneque: Surgeon, Director of the unofficial press agency, Libertad, sentenced to 24 years imprisonment.
21. Ricardo Severino González Alfonso: Journalist with his own private bookshop, sentenced to 20 years imprisonment.
22. Diosdado González Marrero: Political activist, sentenced to 20 years imprisonment.
23. Léster González Penton: Independent journalist, sentenced to 20 years imprisonment
24. Alejandro González Raga: Journalist, sentenced to 14 years imprisonment.
25. Jorge Luis González Tanquero: Member of the Carlos Manuel de Céspedes independent movement, activist supporter of the Varela Project, sentenced to 20 years imprisonment.
26. Leonel Grave de Peralta Almenares: Activist supporter of the Varela Project, owner of an independent bookshop, sentenced to 20 years imprisonment.
27. Iván Hernández Carrillo: Journalist in the independent agency Patria, sentenced to 25 years imprisonment.
28. Normando Hernández González: Director of the College of Independent Journalists, sentenced to 25 years imprisonment.
29. Juan Carlos Herrera Acosta: Independent journalist in the province of Guantánamo, sentenced to 20 years imprisonment.
30. Regis Iglesias Ramírez: Spokesperson of the Christian Liberation Movement and activist supporter of the Varela Project, sentenced to 18 years imprisonment.
31. José Ubaldo Izquierdo Hernández: Bookseller and activist in Havana, sentenced to 16 years imprisonment.

32. Reynaldo Miguel Labrado Peña: Member of the Christian Liberation Movement and activist supporter of the Varela Project, sentenced to 18 years imprisonment.
33. Librado Ricardo Linares García: Presidente of the Cuban Reflection Movement, sentenced to 20 years imprisonment.
34. Héctor Fernando Maseda Gutiérrez: Independent journalist, sentenced to 20 years imprisonment.
35. José Miguel Martínez Hernández: Activist supporter of the Varela project, owner of a private bookshop, sentenced to 13 years imprisonment.
36. Mario Enrique Mayo Hernández: Legal specialist, director of the unofficial Felix Varela press agency, sentenced to 20 years imprisonment.
37. Luis Milán Fernández: Doctor, member of the Medical College of Cuba, sentenced to 13 years imprisonment.
38. Nelson Moliné Espino: President of the Confederation of Democratic Workers of Cuba (unofficial), sentenced to 20 years imprisonment.
39. Ángel Juan Moya Acosta: Activist, sentenced to 20 years imprisonment.
40. Félix Navarro Rodríguez: Activist supporter of the Varela Project, sentenced to 25 years imprisonment.
41. Pablo Pacheco Ávila: Independent journalist, sentenced to 20 years imprisonment.
42. Héctor Palacios Ruiz: Director of the Center for Social Studies, Secretary of the All Together Committee, sentenced to 25 years imprisonment. Accused of possessing an independent bookshop at his home.
43. Arturo Pérez de Alejo Rodríguez: President of the human rights organization Frente Escambray, activist supporter of the Varela project, sentenced to 20 years imprisonment.
44. Omar Pernet Hernández: Head of the Mario Manuel de la Peña, national human rights movement, sentenced to 25 years imprisonment.
45. Horacio Julio Piña Borrego: Activist supporter of the Varela Project, sentenced to 20 years imprisonment.
46. Fabio Prieto Llorente: Independent journalist, sentenced to 20 years imprisonment.
47. Alfredo Manuel Pulido López: Independent journalist, activist supporter of the Varela Project, and member of the Christian Liberation Movement. Sentenced to 14 years imprisonment.
48. José Gabriel Ramón Castillo: Teacher and activist in Santiago, sentenced to 20 years imprisonment.

49. Arnaldo Ramos Lauzerique: Member of the Cuban Institute of Independent Economists, sentenced to 18 years imprisonment.
50. Blas Giraldo Reyes Rodríguez: Activist supporter of the Varela Project, owner of an independent bookshop in Sancti Spiritu, and coordinator of the Christian Liberation Movement, sentenced to 25 years.
51. Alexis Rodríguez Fernández: Coordinator of the Christian Liberation Movement in Palma Soriano and activist supporter of the Varela project.; sentenced to 15 years imprisonment.
52. Omar Rodríguez Saludes: Director of the independent press agency Nueva Prensa, photographer, sentenced to 27 years imprisonment.
53. Omar Moisés Ruiz Hernández: Independent journalist, sentenced to 18 years imprisonment.
54. Claro Sánchez Altarriba: Activist in Santiago, sentenced to 15 years imprisonment.
- 55 and 56. Ariel y Guido Sigler Amaya: Activists in the unofficial movement Alternative Option in Matanzas, sentenced to 20 years imprisonment.
57. Ricardo Silva Gual: Doctor, member of the Christian Liberation Movement, sentenced to 10 years.
58. Fidel Suárez Cruz: Farmer, opposition activist in Pinas del Río, owner of a private bookshop, sentenced to 20 years imprisonment.
59. Manuel Ubals González: President of the unofficial movement Cuban Liberty Council, sentenced to 20 years imprisonment.
60. Héctor Raúl Valle Hernández: Trade union activist, sentenced to 12 years imprisonment.
61. Antonio Augusto Villarreal Acosta: Activist supporter of Project Varela, sentenced to 15 years imprisonment.