

Arbitrary Detentions of Persons and Human Rights Activists for Having Exercised Their Right to Protest; Immediate Access to Legal Representation and an Independent Judge

1 INTRODUCTION

The *Centro de Estudio, Liderazgo y Desarrollo* [Study, Leadership, and Development Center] (CELIDE) and *Plataforma Femenina* [Feminine Platform] (PF) are independent Cuban nonprofit civil society organizations founded on the island. PF was founded in 2012 with the goal of fighting all types of human rights violations, with a special focus on violence against women in all of its manifestations, as well as working to transform structural factors, gender inequality, and empowering women. CELIDE

focuses on social transformation and development from an inclusive perspective, including reaching several of society's vulnerable sectors, including Afro-descendants, women, youth, older adults, and persons with disabilities. CELIDE was founded in 2014 and fosters community leadership and progress by raising awareness, disseminating information, and denouncing human rights violations committed in Cuba.

2 SITUATION

Currently, individuals and civil society groups that promote human rights protection, as well as independent journalists, are intimidated, harassed, repressed, arbitrarily detained, and even jailed in violation of their rights to freedom of expression, assembly, peaceful protest, and association.

The Cuban State daily violates laws and articles in the Cuban Constitution, such as Articles 54 regarding freedom of expression and 56 on the rights of assembly, protest, and association. In addition, through regulations such as the Criminal Code it restricts the latter right and sanctions it through imprisonment (Article 274).

The foregoing demonstrates that not only has the Cuban State not taken measures aimed at ending arbitrary detention but rather, on the contrary, directly legalizes it to enable it to be carried out prior to, during, and after peaceful protests that are organized against the State. Nor has the State taken the necessary measures to immediately free the persons who have been detained in these contexts.

With the arrival of the new Criminal Code, this concern has grown. Under Section Six, "Dissemination of False News against International Peace," of Chapter Three, "CRIMES AGAINST PEACE AND INTERNATIONAL LAW," Article 133 establishes: "Whosoever disseminates false news with the purpose of disrupting international peace or endangering

the prestige or credit of the Cuban State, or its good relations with another State, incurs the sanction of two to five years of imprisonment."¹

The recently-approved Criminal Code has an overwhelmingly repressive nature, in that it sets out conduct whose wording is very ambiguous, thereby making it possible to elevate the level of violence and simultaneously granting the power of justification to the Cuban State and its officials to suppress persons it believes to be provocateurs or who do not respond to its designs.

Therefore, the Cuban State does not uphold the international commitments it has assumed, such as Articles 5, 9, 10, 13, and 19 of the Universal Declaration of Human Rights².

3 RECOMMENDATIONS

- Cease the harassment, persecution, arbitrary detention, and imprisonment of citizens, independent journalists, activists, and human rights groups from independent civil society, so that they may peacefully exercise their rights to freedom of expression, assembly, and association.
- Adopt a legal framework that is compatible with international human rights standards and respect judicial independence when applying it.
- Guarantee that no person or human rights activist is detained or imprisoned for peacefully exercising their rights to freedom of expression, association, and peaceful assembly.



¹ Chapter III: Crimes against Peace and International Law; Section Six: Dissemination of False News against International Peace, Article 133; https://www.fgr.gob.cu/sites/default/files/Normas%20juridicas/2022-09/goc-2022-o93_0.pdf

² Universal Declaration of Human Rights; Articles 5, 9, 10, 13, and 19.