

# Human Rights Watch

## Torture, Former Combatants, Political Prisoners, Terror Suspects, & Terrorists

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World Report 2009 Introduction By Kenneth Roth

Cuba remains the one country in Latin American that represses nearly all forms of political dissent. The government continues to enforce political conformity using criminal prosecutions, long- and short-term detentions, mob harassment, surveillance, police warnings, and travel restrictions.

Since Fidel Castro relinquished direct control of the government to his brother, Raul Castro, in August 2006-and finally stepped down in February 2008-Cuba has at times signaled a willingness to reconsider its long-standing disregard for human rights norms. In 2008 the country signed the two fundamental international human rights treaties and commuted the death sentences of several prisoners. Yet these measures have led to no significant policy changes in Cuba. The repressive machinery built over almost five decades of Fidel Castro's rule remains intact and continues to systematically deny people their basic rights.

Cuba's legal and institutional structures are at the root of rights violations. Although in theory the different branches of government have separate areas of authority, in practice the executive retains clear control over all levers of power. The courts, which lack independence, undermine the right to fair trial by severely restricting the right to a defense.

Cuba's Criminal Code provides the legal basis for repression of dissent. Laws criminalizing enemy propaganda, the spreading of "unauthorized news," and insult to patriotic symbols are used to restrict freedom of speech under the guise of protecting state security. The government also imprisons or orders the surveillance of individuals who have committed no illegal act, relying upon provisions that penalize "dangerousness" (*estado peligroso*) and allow for "official warning" (*advertencia oficial*).

The Cuban Commission for Human Rights and National Reconciliation (CCDHRN), a respected local human rights group, in July 2008 issued a list of 219 prisoners whom it said were incarcerated for political reasons. The list included 11 peaceful dissidents arrested so far in 2008. Of 75 political dissidents, independent journalists, and human rights advocates who were summarily tried and sentenced in 2003, 55 remained imprisoned as of September 2008. Four others were released in February 2008 on health grounds, having been forced to choose between staying in prison, where they were denied medical treatment, and being exiled to Spain.

Family members of political prisoners are frequently harassed and blacklisted from jobs.

The Cuban government forbids the country's citizens from leaving or returning to Cuba without first obtaining official permission, which is often denied. Unauthorized travel can result in criminal prosecution. In May 2008 Cuban blogger Yoani Sanchez was awarded a Spanish journalism prize. The government initially issued an exit visa to Sanchez, but the day before she was scheduled to leave the visa was put on hold without explanation, and she was unable to accept the award in person. On August 15, after repeatedly being denied exit visas, eight dissidents tried to escape Cuba aboard a primitive boat. They have not been heard from since and are presumed dead at sea.

The government frequently bars citizens engaged in authorized travel from taking their children with them overseas, essentially holding the children hostage to guarantee the parents' return. Given the widespread fear of forced family separation, these travel restrictions provide the Cuban government with a powerful tool for punishing defectors and silencing critics.

The government is also clamping down on the movement of citizens within Cuba by more aggressively enforcing a 1997 law known as Decree 217. Designed to limit migration to Havana, the decree requires Cubans to obtain government permission before moving to the country's capital. According to one Cuban official, the police have forcibly removed people from Havana in approximately 20,000 instances since 2006. In a representative case, a migrant from Granma province who had been living in Havana for seven years was stopped in the street by a police officer and told to present her papers. When she could not produce them, the police immediately sent her back to Granma.

The government maintains a media monopoly on the island, ensuring that freedom of expression is virtually nonexistent. Although a small number of independent journalists manage to write articles for foreign websites or publish underground newsletters, the risks associated with these activities are considerable. Access to information via the internet is also highly restricted. The only internet caf in Havana charges US\$5 per hour-one-third of the average Cuban monthly salary; two other cafes may be used only to send emails on a closed Cuban network.

According to the Committee to Protect Journalists, 22 journalists were serving prison terms in Cuba as of October 2008, making the country second only to China for the number of journalists in prison. Independent journalist, Oscar Snchez Madan, was arrested in April 2007 after reporting on local corruption in Matanzas. He is now serving a four-year prison sentence for "social dangerousness."

In 2008 the Cuban government significantly increased the use of arbitrary detention to harass and intimidate dissidents, and restrict freedom of assembly. In all of 2007, the CCDHRN documented 325 arbitrary detentions by security forces; in the first half of 2008 it reported 640 arbitrary detentions. The detentions are often used to prevent dissidents from participating in a scheduled meeting or event. Security officers often offer no charge to justify the detentions-a clear violation of due process rights-but warn detainees of longer arrests if they continue to participate in activities considered critical of the government. In September 2007, for example, police detained more than 40 dissidents in several cities who were traveling to a protest in Havana at the Ministry of Justice. All were released after the protest. In April 2008, wives of political prisoners, known as the Ladies in White, were arrested when they tried to stage a peaceful sit-in in Havana's Revolution Plaza.

Prisoners are generally kept in poor and abusive conditions, often in overcrowded cells. Political prisoners who denounce poor conditions or who otherwise fail to observe prison rules are frequently punished with long periods in punitive isolation cells, restrictions on visits, or denial of medical treatment.

In February 2008 the government commuted the death sentences of all prisoners except three individuals charged with terrorism. The Cuban government does not make public information about how many people are on death row, but it is estimated that between 20 and 30 sentences were commuted. Nevertheless, Cuban law continues to prescribe the death penalty for a broad range of crimes.

Refusing to recognize human rights monitoring as a legitimate activity, the government denies legal status to local human rights groups. Individuals who belong to these groups face systematic harassment, with the government impeding their efforts to document human rights conditions. In one 2008 case, four members of the Cuban Human Rights Foundation were arrested and sentenced to four years in prison in a summary judgment that was hidden from public view, according to the Council of Human Rights Reporters. Cuba remains one of the few countries in the world to deny the International Committee of the Red Cross access to its prisons.

In February 2008 the Cuban government recognized core international human rights principles by signing the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), although as of November it had not ratified them. At the time of signing, the government indicated it was considering making several reservations to the treaties.

In response to this and economic reforms under Raul Castro, in June the European Union lifted sanctions on Cuba, which it had originally imposed after the 2003 crackdown on dissidents. The EU publicly called on Cuba to release all political prisoners and honor the rights protected in the signed treaties. In mid-2009 the EU is due to investigate what progress Cuba has made toward fulfilling ICCPR and ICESCR commitments, and will weigh whether to maintain diplomatic relations.

The US economic embargo on Cuba, in effect for more than four decades, continues to impose indiscriminate hardship on the Cuban people and to block travel to the island. In an effort to deprive the Cuban government of funding, the US government enacted new restrictions on family-related travel to Cuba in June 2004. Under these rules, individuals are allowed to visit relatives in Cuba only once every three years, and only if the relatives fit the US government's narrow definition of family-a definition that excludes aunts, uncles, cousins, and other kin who are often integral members of Cuban families. Justified as a means of promoting freedom in Cuba, these travel policies undermine the freedom of movement of hundreds of thousands of Cubans and Cuban-Americans, and inflict profound harm on Cuban families.

Human Rights Watch defends the rights of people in 90 countries worldwide, spotlighting abuses and bringing perpetrators to justice

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