



## Contribution to the Fourth Cycle of the Universal Periodic Review on Cuba

### Report on the Situation of Freedom of Expression and Artistic Freedom in Cuba

This report is a contribution submitted by a coalition of organizations represented by PEN International. It was written and edited by Artists At Risk Connection (ARC) - PEN America, ARTICLE 19 Office for Mexico and Central America, Centro para la Apertura y el Desarrollo de América Latina - CADAL, Civil Rights Defenders, Instituto de Artivismo Hannah Arendt - INSTAR, Movimiento San Isidro, Cubalex, Justicia 11J, Instituto Cubano por la Libertad de Expresión y Prensa - ICLEP, FREEMUSE, and PEN International.

#### Introduction

In September 2018, Cuba accepted and took note of 90 recommendations, including requests concerning the right to freedom of thought, expression, peaceful assembly, and freedom of religion or belief in accordance with international human rights standards. However, at the national level, the space for the full exercise of freedom of expression has deteriorated mainly due to three trends: (i) the escalation of aggressions and the deepening of state violence against journalists, activists, and artists, (ii) the misuse of criminal law along with the increase of unjustified restrictive frameworks, contrary to freedom of expression, and (iii) the criminalization of freedom of expression, the right to protest, and citizen participation. The Cuban state also criminalizes the right of assembly and association of independent civil society organizations.

It is important to highlight that by accepting 226 recommendations as part of the 2018 review, the Cuban state declared: *"Cuba expresses its acceptance of the vast majority of the recommendations,*

*either because it agrees with their intent and is determined to put them into practice or because they are already being implemented.*"<sup>1</sup> Despite this, the Cuban state has not ratified the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), both of which it signed in 2008. The independent press is monitored and harassed, while exile has become the only way out for many journalists, artists, activists, and human rights defenders in the face of the threat of prolonged imprisonment. They have been victims of police and institutional violence, arbitrary arrests, ill-treatment, and torture. Their rights of access to justice, defense, and due process have also been violated.

This document presents three issues that the undersigned organizations consider to be of key importance: **(i) Regulatory frameworks and legislation restricting freedom of expression, (ii) State violence, aggressions, and human rights violations against the free exercise of freedom of expression, and (iii) Criminalization of social protest and the participatory civic space:**

## **Methodology**

This report was developed based on information provided by the organizations presenting this report, which consists of thematic and general reports on the state of freedom of expression in Cuba, databases, monitoring and records of attacks, and documentation matrices that give accounts of the specific cases of journalists, artists, human rights defenders, and activists who have been subjected to attacks and violations of their fundamental rights and freedoms. These reports can be consulted in the footnotes of this document.

## **Regulatory Frameworks and Legislation Restricting Freedom of Expression**

Following the 2018 UPR of the Cuban state before the Human Rights Council, the civil society organizations submitting this report have documented the construction and application of a regulatory framework that further restricts freedom of expression. This framework is based on normative provisions pertaining to administrative sanctioning law and criminal law, which are contrary to international standards and disregard the recommendations made to the Cuban state.

In 2018, Decree-Law 370<sup>2</sup> "On the Informatization of Society in Cuba" came into force and has been used to punish the exercising of freedom of expression by journalists, human rights defenders, activists, and artists, severely impacting their assets and the guarantee of their rights. This regulation subordinates the development of information and communication technologies (ICTs) to state interests and imposes restrictions on the exercise of fundamental rights involved in their use, such as political participation, freedom of expression, and the right of association. In this sense, it penalizes the dissemination on social media of information contrary to "social interest," "morality," and "good customs"; it authorizes the punishment and prosecution of digital security researchers who publish and warn about the existence of vulnerabilities in computer systems; it grants discretionary powers to the Ministry of Communications (MINCOM) for the licensing of software and applications; and it prevents the manufacturing, installation, and marketing of ICT-related devices without authorization. It is important to add that there is no autonomous, independent, and impartial body to resolve disputes in case of the refusal of licenses by the ministry. The restrictions on freedom of expression established

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<sup>1</sup>"A/HRC/39/16/Add.1," Human Rights Council, September, 18, 2018, [A/HRC/39/16/ADD.1](#).

<sup>2</sup>Decree-Law 370, The Official Gazette of the Republic of Cuba, <https://www.gacetaoficial.gob.cu/sites/default/files/goc-2019-o45.pdf>

by Decree-Law 370 are contrary to the limits regulated by international standards such as Article 19.3 of the ICCPR.

This Decree-Law is complemented by Resolution No. 105/2021 of the Ministry of Communication, which imposes a series of rules for the prevention, containment, and response to "incidents" that may originate in the digital sphere.<sup>3</sup> It responds to "cybersecurity incidents" by attributing low, medium, high, and very high levels of danger.<sup>4</sup> In its annexes, it categorizes the dangerousness of various kinds of conduct, for example, "actions through the use of ICTs aimed at subverting the constitutional order" or "seriously disturbing the peace," which are considered to be of very high danger.<sup>5</sup> When analyzing the contents of this provision, it is worth noting that it can be interpreted broadly so that any action carried out in the digital space that is contrary to the interests of the state can be qualified as such. Several Special Procedures have expressed their concern to the Cuban state about the possibility that these norms could undermine the freedoms of expression, peaceful assembly, and association, as well as the activities of human rights defenders and citizens in general.<sup>6</sup>

According to the media outlet Proyecto Inventario, at least 72 fines have been issued to 61 people in 9 provinces and the special municipality of Isla de la Juventud, in relation to the Decree-Law.<sup>7</sup>

On December 7, 2018, Decree-Law 349<sup>8</sup> entered into force, which restricts the exercise of freedom of artistic expression and cultural rights.<sup>9</sup> The decree requires artists to obtain prior authorization from the Ministry of Culture for any public and private presentation or exhibition. Under this decree, authorities are empowered to immediately suspend an exhibition, confiscate artistic materials and works of art, and sanction individuals or companies that hire artists without prior authorization.<sup>10</sup> The authorization requirement constitutes a form of prior censorship, which is prohibited under international human rights law.

On June 12, 2019, five Special Procedures sent a communication to the Cuban government and referred to the decree stating that the norms contained therein *"directly conflict with Cuba's obligations under international human rights law with respect to freedom of expression, artistic freedom, and the right to participate in cultural life."*<sup>11</sup> Faced with this call for concern the Cuban state's response was to refuse to repeal the law.<sup>12</sup>

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<sup>3</sup> Ministry of Communication, Resolution No. 105/2021. Available at: [MINISTRA DE COMUNICACIONES RESOLUCIÓN 105 POR CUANTO: El Decreto 360 "Sobre la Seguridad de las Tecnologías de la Información."](#)

<sup>4</sup> Swissinfo.ch, [¿Regulación o más censura? La nueva y polémica ley de ciberseguridad cubana](#), August 18, 2021.

<sup>5</sup> Gaceta Oficial de la República de Cuba No. 92 Ordinaria, Resolution 105, August 17, 2021. Decreto-Ley 35/2021 ["De las Telecomunicaciones, las Tecnologías de la Información y la Comunicación y el uso del Espectro Radioeléctrico."](#) Translation of quotes provided by authors.

<sup>6</sup> Special Procedures, [Communication](#), October, 20, 2021.

<sup>7</sup> Proyecto Inventario, [Multas por el Decreto-Ley 370](#).

<sup>8</sup> Decree 349. The Official Gazette of the Republic of Cuba No. 35.

<https://www.gacetaoficial.gob.cu/es/decreto-349-de-2018-de-consejo-de-ministros>.

<sup>9</sup> Art Under Pressure: Decree 349 Restricts Creative Freedom in Cuba, Artists at Risk Connection (ARC) and Cubalex, March 4, 2019, [Art Under Pressure: Decree 349 Restricts Creative Freedom in Cuba](#).

<sup>10</sup> Cubalex and ARC analyze the Decree-Law and summarize its implications in: *Art Under Pressure: Decree 349 Restricts Creative Freedom in Cuba*, Artists at Risk Connection (ARC) and Cubalex, March 4, 2019, [Art Under Pressure: Decree 349 Restricts Creative Freedom in Cuba](#).

<sup>11</sup> Mandates of the Special Rapporteur on cultural rights; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; and the Special Rapporteur on the situation of human rights defenders.

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24575>. Translation by authors.

<sup>12</sup> Note 386/2019. <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=34863>

The Inter-American Commission on Human Rights (IACHR) has also referred to Decree 349, stating that it functions as a punishment for "artists who do not share the official ideological discourse or do not agree with the ideology imposed by the Cuban government" and "establishes sanctions for failure to comply with cultural policy, and which is reported to have aggravated the censorship and persecution of artists in Cuba."<sup>13</sup>

With the same objective as Decree-Law No. 370 and less than a month after the protests of July 11, 2021, on August 17 of that year, several administrative regulations came into force to restrict freedom of expression. These included Decree-Law No. 35/2021,<sup>14</sup> "On Telecommunications, Information and Communication Technologies and the Use of the Radio Spectrum," and Decree No. 42/2021, "General Regulations on Telecommunications and Information and Communication Technologies,"<sup>15</sup> in addition to Resolution No. 105/2021, "Regulations on the National Action Model for Responding to Cybersecurity Incidents," and other complementary provisions. This legislative package enables the persecution of individuals who use ICTs for civic and socio-political purposes. Thus, it prohibits, without judicial control, the use of ICTs when they are "used to undermine the security and internal order of the country," to "transmit false reports or news," or in "actions aimed at affecting or damaging third parties and as a means of committing illegal acts." It also warns that the internet cannot be used to generate or transmit information that affects "the general welfare, public morality and respect for public order." In practice, all these legal provisions, which are not compatible with international human rights standards, imply the inability to exercise freedom of expression against the interests of the state.

These regulatory provisions are in addition to the adoption of a new Penal Code in 2022.<sup>16</sup> Its contents include criminal offenses that violate freedom of expression and access to information. For example, it punishes "anyone who disseminates fake news or malicious predictions intending to cause alarm, discontent, or disinformation among the population, or to provoke disturbances of public order" (Article 266). In addition, "anyone who incites against the social order, international solidarity or the socialist state recognized in the *Constitution of the Republic*, by means of oral or written propaganda or in any other form, as well as anyone who makes, distributes or possesses propaganda and anyone who allows another to use a means of social communication and uses it to carry out the planned acts" (Article 124) will be punished. It is important to mention that due to the ambiguity and lack of clarity of the language, the discretionary use of the law is made possible, leading to arbitrariness and discretionality, which has an inhibiting effect on the exercise of freedom of expression.

The new Penal Code also foresees the sanctioning of any person who "supports, encourages, finances, provides, receives, or has in his or her possession funds, material or financial resources, for the purpose of financing activities against the state and its constitutional order" (Article 143). This article can be used to prosecute independent journalists, who will be the most obvious victims, and other dissident voices that the government routinely disqualifies on the grounds of receiving "foreign

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<sup>13</sup> IACHR. Report "Situation of Human Rights in Cuba" OEA/Ser.L/V/II. Doc. 2. February 3, 2020. pp. 91-92.

Available at: [Report on the Situation of Human Rights in Cuba \(2020\)](#)

<sup>14</sup> Decree-Law No. 35/2021. Official Gazette 92. [Decree-Law 35/2021 "De las Telecomunicaciones, las Tecnologías de la Información y la Comunicación y el uso del Espectro Radioeléctrico."](#)

<sup>15</sup> 2021. Official Gazette No. 92. [Decree-Law 35/2021 "On Telecommunications, Information and Communication Technologies and the use of the Radio Spectrum"](#).

<sup>16</sup>Law 151/2022, Official Gazette No. 93. [Law 151/2022 Penal Code](#)

funding." In addition, there is a specific criminal offense that criminalizes publications on social media: the crime of incitement to commit a crime.<sup>17</sup>

Specifically concerning the role played by civil society organizations in the defense of freedom of expression, despite the Cuban government's acceptance of recommendations 24.164 and 24.165 in the past 2018 review regarding the important role of civil society and the need to guarantee the rights to freedom of opinion and expression, the right to peaceful assembly and association, and access to information and culture, in the Penal Code it criminalizes freedom of association and financing and penalizes those who collaborate with "non-governmental organizations, international institutions, or any form of association or any natural or legal person in the country or abroad."<sup>18</sup>

This regulatory framework intends to generate, and in fact has generated, an intimidating effect on civil society. In this way, the state seeks to co-opt the mobilization of citizens to demand their rights. Furthermore, it aims to create a repressive effect concerning the exercising of freedom of expression, association, and human rights in general. The criminalization of these rights has been a main objective of the Cuban state's penal policy and its use of administrative punitive law.

### **State Violence, acts of Aggression, and Human Rights Violations against the Free Exercise of Freedom of Expression**

State violence against artists, independent journalists, and human rights defenders has become a pattern on the island, placing the rights to freedom of expression, association, and assembly under constant siege. This violence that criminalizes freedom of expression is exercised exclusively by the state apparatus, mainly through the Department of State Security (DSE in Spanish). The violence experienced by artists, journalists, and activists has become entrenched as a dynamic of repression and harassment ranging from acts of aggression and threats in physical and digital spaces, house arrests, arbitrary detentions, suppression of internet services, forced expatriation as a strategy to dismantle and extinguish independent journalism on the island, and stigmatizing and intolerant narratives against artistic and journalistic expressions critical of the government.

Since 2019, organizations such as ARTICLE 19 have recorded and documented attacks against freedom of expression in Cuba directed toward journalists and activists. In a period of six months, between October 7, 2019, and April 5, 2020, this organization documented<sup>19</sup> 93 aggressions against journalists belonging to 25 media outlets. By the end of 2020, the repression had increased. In total, during that year, ARTICLE 19 recorded<sup>20</sup> 681 aggressions against 119 journalists, activists, and human rights defenders. Of these aggressions, 65% were committed against independent journalists and 36% against activists, artists, and human rights defenders who participated in the protests in November and December of that year. In this regard, it is important to note that 69% (472) of the total number of attacks were committed in a six-week period (from November 9 to December 31, 2020), during which anti-government protests led by activists and independent journalists took place. In addition, the violence that was unleashed against these actors at the end of 2020 continued during the

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<sup>17</sup> Article 268.4 Law 151/2022, Official Gazette No. 93.

[https://www.gacetaoficial.gob.cu/sites/default/files/goc-2022-o93\\_0.pdf](https://www.gacetaoficial.gob.cu/sites/default/files/goc-2022-o93_0.pdf)

<sup>18</sup> Article 143. Law 151/2022, Official Gazette No. 93.

[https://www.gacetaoficial.gob.cu/sites/default/files/goc-2022-o93\\_0.pdf](https://www.gacetaoficial.gob.cu/sites/default/files/goc-2022-o93_0.pdf). Translation by authors.

<sup>19</sup> 2020. Report Bajo Sentencia.

ARTICLE 19. [Bajo Sentencia: La censura en Cuba, Guatemala y Honduras](#)

<sup>20</sup> 2021. Democracia de papel. ARTICLE 19. [Democracia de papel | Artículo 19](#)

first half of 2021.<sup>21</sup> In this period, 656 acts of aggression were committed against 84 journalists, activists, human rights defenders, and artists. Of these, 49% (321) were perpetrated against journalists. To pinpoint the growing aggression of the Cuban authorities, it should be noted that during 2019, it was documented that a journalist in Cuba was likely to be attacked up to five times in a year. In 2020, the average increased to six times and rose to eight in 2021. In the case of women, this situation worsened, as, on average, a Cuban independent journalist was repressed and/or harassed eight times a year in 2020 and up to 11 times in the first half of 2021.

Meanwhile, during the year 2022, 403 attacks against freedom of expression were registered, suffered by independent journalists and freedom of expression activists in Cuba.<sup>22</sup> The two most common forms of aggression used by the authorities were house arrest on 101 occasions and arbitrary detention on 83 occasions. As in 2019, 2020, and 2021, the body most involved in acts of aggression was the Department of State Security (DSE). Its agents intervened in 230 aggressions on their own and in 100 with the collaboration of officers of the National Revolutionary Police (PNR in Spanish). Of the 403 total attacks on freedom of expression registered in Cuba in 2022, independent journalists suffered a total of 240, corresponding to 75 people, including 35 women and 40 men. In addition to house arrests and arbitrary detentions, the most common forms of aggression against journalists were house arrests (90), threats (39), both in digital and physical spaces, suppression of internet service (27), and arbitrary detention (22).

During the period covered by this report, the Cuban Institute for Freedom of Expression and Press (ICLEP) identified 2,663 incidents of press freedom violations. The largest number of these violations were documented in 2021 (1,129)<sup>23</sup> and 2022 (508).<sup>24</sup> In 2021, the largest number of these violations was reflected in 734 arbitrary arrests and 257 restrictions in the digital space.<sup>25</sup> In that year, 50 independent journalists were attacked for being linked to the peaceful July 11 demonstrations.<sup>26</sup> By 2022, these patterns continued, with 208 arbitrary arrests and 149 restrictions in the digital space.<sup>27</sup> In 2022, ICLEP also documented 90 cases<sup>28</sup> of Cuban communicators who opted for exile, while many others have stopped their work due to self-censorship for fear of reprisals or have publicly resigned from their jobs due to direct and indirect pressure from the political police. This tragic situation is leaving the Cuban people without independent journalists.

In relation to violations against artists critical of the Cuban government, the IACHR has established in annual reports that artists have suffered various types of attacks. According to the report on the situation of human rights from February 6, 2020, the authorities have maintained a tight control of the various artistic expressions, "which shows an intense intolerance towards works of art that might question the virtues of the political system and its rulers."<sup>29</sup>

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<sup>21</sup> 2021. Democracia de papel. ARTICLE 19. [Democracia de papel | Artículo 19](#)

<sup>22</sup> 2022. Barómetro sobre la libertad de expresión.

[https://articulo19.org/wp-content/uploads/2023/02/Barometro-de-la-libertad-de-expresion-en-CA-y-el-caribe-oct\\_dic-2022.pdf](https://articulo19.org/wp-content/uploads/2023/02/Barometro-de-la-libertad-de-expresion-en-CA-y-el-caribe-oct_dic-2022.pdf)

<sup>23</sup> 2021. ICLEP. Balance Parcial 2021. [Balance parcial 2021. Hechos violatorios a la libertad de prensa en Cuba.](#)

<sup>24</sup> 2022. ICLEP. Balance Parcial 2022. [Balance Parcial 2022. Hechos violatorios a la libertad de prensa en Cuba.](#)

<sup>25</sup> 2021. ICLEP. Narrative Report. [Balance Parcial 2021. Hechos violatorios a la libertad de prensa en Cuba.](#)

<sup>26</sup> 2021. ICLEP. [ICLEP lanza mapa interactivo con información de periodistas agredidos el 11 de julio.](#)

<sup>27</sup> 2022. ICLEP. Informe Narrativo. [Balance Parcial 2022. Hechos violatorios a la libertad de prensa en Cuba.](#)

<sup>28</sup> 2022. ICLEP. Database. [Comunicadores exiliados 2022](#)

<sup>29</sup> Inter-American Commission on Human Rights, "Situation of Human Rights in Cuba, OEA/Ser.L/V/I. Doc. 2 (Feb. 3, 2020)." Available at:

[Situation of Human Rights in Cuba \(2020\)](#)

The official culture continues to be framed by the aims of the Revolution. However, over the last decade, Cuba has seen the growth of a form of activism that seeks to generate political mobilization through the language of art.<sup>30</sup> Thus, groups of dissident artists have organized themselves, at the same time that their artistic expressions critical of the government and the political system have gained greater visibility and popularity. Among them are the San Isidro Movement (hereafter referred to as "MSI") and the 27N Movement. The popularity of their work, and that of other independent artists working individually or in association with them, has shown the worsening of a deliberate policy of repression against them.

Since November 2020, harassment and repression against artists who organize themselves to demonstrate publicly through public activities and events has intensified, to the point of preventing any public activity by artists that seeks to make visible an agenda that the government considers to be dissident.<sup>31</sup> On February 11, 2021, the IACHR granted precautionary measures to members of the San Isidro movement due to "the harassment of members of the San Isidro Movement (MSI), who have been targeted by the Political Police and the Department of State Security." According to the body, it documented "numerous arrests of individuals who were part of the MSI and its allies were documented. These individuals are being subjected to continual police surveillance outside their homes, which could amount to house arrest."<sup>32</sup>

In 2021, CADAL documented 206 attacks on freedom of artistic expression in Cuba by state organizations and security forces, including acts of censorship, confiscation, destruction of works, as well as attacks on artists. The most common repressive practices used against artists have included arbitrary arrests, the abusive use of pre-trial detention, house surveillance, and the prevention of free movement.<sup>33</sup> From July to September 2021, PEN International and ARC reported at least 39 documented arrests of artists related to the protests, four of whom were put on trial without a jury. At least 55 artists and writers were placed under house arrest, imprisoned, or under investigation.<sup>34</sup>

In 2022, the UN Working Group on Arbitrary Detention (UNWGAD), in opinion number 52/2022, considered that the deprivation of liberty of the visual artists Luis Manuel Otero Alcántara and Hamlet Lavastida in 2021 is arbitrary as it contravenes articles 3, 8, 9, 10, and 11 of the Universal Declaration of Human Rights. This is in addition to the request for the release of rapper Maykel Castillo Perez in February 2022.<sup>35</sup>

### **Criminalization of Social Protest and Participatory Civic Space:**

In light of the protests on July 11, 2021, the Cuban government has used various mechanisms to neutralize peaceful street protests and curtail freedom of expression and dissident acts. In the first

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<sup>30</sup> Alternative Report to the United Nations Committee against Torture for the review of Cuba - 73rd session (April-May 2022) [Informe CAT Cuba sobre Represión Comunidad Artística](#)

<sup>31</sup> Alternative Report to the United Nations Committee against Torture for the review of Cuba - 73rd session (April-May 2022) [Informe CAT Cuba sobre Represión Comunidad Artística](#)

<sup>32</sup> Press Release from the Inter-American Commission on Human Rights on May, 13, 2021. [IACHR and Offices of Special Rapporteurs Condemn Harassment of Artists, Journalists, and Activists in Cuba and Call on State to Cease Acts of Persecution Against Those Exercising the Right to Freedom of Expression and Artistic Creation.](#)

<sup>33</sup> Alternative Report to the United Nations Committee against Torture for the review of Cuba - 73rd session (April-May 2022) [Informe CAT Cuba sobre Represión Comunidad Artística](#)

<sup>34</sup> "Cuba: Writers and artists remain threatened and imprisoned two months after protests." Available at [Cuba: Writers and artists remain threatened and imprisoned two months after protests](#)

<sup>35</sup> "Naciones Unidas exige la liberación de Maykel Osorbo, ganador de dos Grammy Latinos, y determina que ha sido encarcelado sólo por su activismo prodemocrático." Available at: [prodemocráticas Naciones Unidas exige la liberación de Maykel Osorbo](#)

days after the protests, demonstrators were repressed with the use of the Revolutionary Armed Forces (FAR in Spanish), known as the "black wasps," who remained on the streets to deter any attempt at peaceful demonstration.

In the "Report on the situation of persecution of artists" presented to the IACHR on July 22, 2021, CADAL and Freemuse reported that in the days following the protests, authorities imprisoned en masse those who participated in the protests or were suspected of having instigated them. Less than two weeks after the protests began, hundreds of Cubans were subjected to summary and collective trials, the vast majority without the possibility of having a defense lawyer because the government did not provide adequate notice of the judicial proceedings underway. In addition to convictions in summary trials, there has been excessive use of the precautionary measures of house arrest and pre-trial detention, through which the government has managed to disrupt, at least temporarily, dissident actions and activism by artists.<sup>36</sup> Civil society organizations have documented at least 39 arrests of artists during the protests, of which at least four were subjected to summary trial.<sup>37</sup>

The repression unleashed by the Cuban state against the demonstrators on July 11, 2021, is also evidence of the criminalization of social protest. Justicia 11J and Cubalex record that at least 1540 people were arrested, of whom 675 remain in detention, 730 have been tried, and 687 have been sentenced. Many of those tried for participating in peaceful protests have been tried for the crimes of sedition and public disorder, which remain in the Penal Code, approved in 2022. As far as is known, 204 have been prosecuted for the crime of sedition, which represents 13.2% of those arrested. The sentences for this crime extend, in two cases, to up to 22 years in prison. In this context, according to the same organizations, at least 59 minors were arrested, and 7 of them will have to serve sentences of between 4 and 8 years of imprisonment, while 4 will be sentenced to correctional labor with internment for up to 5 years.

One disturbing pattern documented by CADAL, PEN International, and ARC was the use of torture and inhuman and degrading treatment and practices against artists during their detention. In an alternative report submitted to the Committee against Torture on March 24, 2022, CADAL reported the cases of 6 artists who suffered physical and psychological torture, two of them while they were detained, following their participation in the July 11 protests.<sup>38</sup> Practices included lack of access to water, the absence of hygienic conditions, and lack of access to medicine, including those necessary for the treatment of COVID, days in solitary confinement, beatings, and humiliating actions such as parading detainees naked in front of officials and other prisoners.

Another pattern implemented by the Cuban state, which has become particularly evident after July 11, 2021, is to force freedom of expression activists and independent journalists into exile. During the second half of 2021 and the first half of 2022, ARTICLE 19 documented the exile of seven journalists and activists under direct pressure from State Security. Nevertheless, this figure is in addition to the departures of activists and journalists prior to the demonstrations, particularly in the second half of 2020 and the first half of 2021, and many others that were made public but occurred as a result of systematic harassment by state agents.

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<sup>36</sup> "Informe sobre la situación de persecución a artistas." Available at: [INFORME SOBRE SITUACIÓN DE PERSECUCIÓN DE ARTISTAS EN CUBA A PARTIR DE LAS PROTESTAS DEL 11 DE JULIO DE 2021](#).

<sup>37</sup> "Informe sobre situación de persecución de los artistas en Cuba a partir de las protestas del 11 de julio." Available at: [INFORME SOBRE SITUACIÓN DE PERSECUCIÓN DE ARTISTAS EN CUBA A PARTIR DE LAS PROTESTAS DEL 11 DE JULIO DE 2021](#)" Desde el 11

<sup>38</sup> Alternative Report to the United Nations Committee against Torture for the review of Cuba - 73rd session (April-May 2022) [Informe CAT Cuba sobre Represión Comunidad Artística](#)



For their part, PEN International and ARC have documented and investigated the cases of at least 13 artists forced into exile between 2021/2022 under a range of methods of persecution and censorship including threats, harassment, arbitrary arrests, summonses, enforced disappearance, persecution of artists and family members, harassment at work or imprisonment, situations in which the only path to freedom is through exile.

At the time of submission of this document, at least 6 artists are serving sentences and are deprived of their liberty; 4 artists are serving prison sentences and 2 are under house arrest after being convicted of crimes such as resistance, attack, contempt, instigation to commit crimes and public disorder, among others.<sup>39</sup> In the case of journalists, two<sup>40</sup> are deprived of their liberty after being convicted of offenses such as contempt of court, continuous enemy propaganda, and resistance.<sup>41</sup>

## Recommendations

- Immediately eliminate the repressive practices that force journalists, artists, writers, cultural professionals, and human rights defenders into exile and guarantee their safe return.
- Repeal Decree 349/2018, Decree-Law No. 370/2018 and Resolution 105/2021, Decree-Law No. 35/2021, and Decree No. 42/2021, as well as reform the current Penal Code, abrogating the crimes of "propaganda against the constitutional order, resistance, contempt, attack, and public disorder."
- Ratify the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR).
- Release persons imprisoned and arbitrarily detained for exercising their freedom of expression.
- Accept invitations from Special Procedures and extend invitations to UN Special Rapporteurs, in particular in the field of freedom of expression, cultural rights, and judicial independence.

## Organizations signing and submitting this report:

PEN International  
Artists At Risk Connection (ARC) - PEN America  
ARTICLE 19 Office for Mexico and Central America  
Center for the Opening and Development of Latin America - CADAL  
Civil Rights Defenders  
Hannah Arendt Institute of Artivism - INSTAR  
San Isidro Movement  
Cubalex  
Justice 11J

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<sup>39</sup>Artists at Risk Connection, PEN International and Civil Rights Defenders make some of these cases visible in the "Voces Presas" campaign. For more information, please see: [Voces Presas | Una Campaña - ARC](#) ; Maykel Castillo Pérez, Luis Manuel Otero Alcántara, María Cristina Garrido Rodríguez, Richard Zamora Brito and Randy Arteaga Rivera. "Declaración conjunta de condena a los cargos presentados contra Maykel "El Osorbo" Castillo Pérez y Luis Manuel Otero Alcántara" [Joint statement condemning the charges brought against Maykel "El Osorbo" Castillo Pérez and Luis Manuel Otero Alcántara]. Available at: [Declaración conjunta de condena a los cargos presentados contra Maykel "El Osorbo" Castillo Pérez y Luis Manuel Otero : Alcántara : CADAL](#).

<sup>40</sup> 2022. ARTICLE 19. [Cuban journalist Lázaro Yuri Valle Roca sentenced to 5 years in prison for covering a street protest - Article 19](#)

<sup>41</sup> 2022. ICLEP. [El Gato de Cuba sentenced to two years in jail](#)

**Information on the organizations submitting and signing the report:**

- **Justicia 11J:** is a working group dedicated to updating and disseminating information related to arrests and administrative and criminal proceedings linked to public protests in Cuba since the social outbreak of July 2021. Since December 2022, it has been operating from exile. [justicia11j.org](http://justicia11j.org).
- **Artists at Risk Connection (ARC)** is a project of PEN America that defends the right to freedom of artistic expression and is committed to enabling artists to live and work without fear. Through our global network of 800 organizations, which provides critical resources to artists and cultural managers at risk, ARC plays a vital liaison role between threatened artists and the organizations that support them. ARC raises visibility and awareness about threats to freedom of artistic expression and the work of persecuted artists while urging arts and cultural institutions to play a greater role in assisting the most vulnerable members of these communities. Since its inception, ARC has helped more than 500 artists in 63 countries receive direct support from partner organizations for grants and residencies, emergency funding, legal assistance, and advocacy, among others. For more information, visit [artistsatriskconnection.org](http://artistsatriskconnection.org).
- **PEN International:** is a 101-year-old global organization that connects writers of all backgrounds and genres, as well as cultural rights advocates, through community networks and 145 PEN Centres in over 100 countries. Respected in the world of literature, media freedoms, and human rights, PEN holds that Freedom of Expression is a cornerstone on which the very existence of a democratic society rests and works tirelessly to give voice to the silenced and provide solidarity and practical help to writers at risk. [www.pen-international.org](http://www.pen-international.org).
- **CADAL (Centro para la Apertura y el Desarrollo de América Latina):** is a private, non-profit, non-partisan foundation established in 2003 and registered in the Republic of Argentina, dedicated to promoting human rights and international democratic solidarity. Its mission is inspired by the memory of the solidarity received by human rights activists, politically persecuted people, relatives of the detained and disappeared, and independent journalists during the last military dictatorship in Argentina (1976-1983). It works for the defense and respect of human rights, focusing on individuals who suffer severe restrictions on their freedoms and promoting international democratic solidarity in collaboration with activists and civil society organizations to generate a fairer and freer society. CADAL is registered as a Civil Society Organisation with the Organization of American States (OAS).
- **ARTICLE 19 Mexico and Central America** is an independent and non-partisan organization that promotes and defends the progressive advancement of the rights of freedom of expression and access to information for all people, in accordance with the highest international human rights standards, thus contributing to the strengthening of democracy. To fulfill its mission, ARTICLE 19 Mexico and Central America's main task is to contribute proactively so that all people can seek, receive, and disseminate information and express themselves in a safe, equal, and inclusive manner.
- **Civil Rights Defenders (CRD)** is a Swedish NGO with an international presence that supports actions and organizations in the defense of civil and political rights on 4 continents.
- **CUBALEX** is a non-governmental organization founded on December 10, 2010, in Havana, Cuba. It currently operates in the United States since its staff was forced into exile in 2017. For 11 years, the organization has offered free legal advice and assistance services inside

Cuba which have benefited more than 5,000 people. Our mission is to work to establish the rule of law, democracy, and guarantees of respect for human rights in Cuba. For more information visit, <https://cubalex.org/>

- **The Hannah Arendt Institute for Artivism (INSTAR)** is a space for civic education through art. We use public spaces, physical and digital, to create new collectivities. We propose an open and plural debate where deliberation prevails over monopolistic arguments. We recover suppressed, censored, and forbidden history through an oral archive and memory recovery actions. We also deconstruct the myths and the totalizing propaganda of the Cuban political regime while supporting just causes anywhere in the world.
- **The Cuban Institute for Freedom of Expression and Press (ICLEP)** is a non-profit NGO founded in 2012 with executive management in Cuba. ICLEP is the first and only NGO that has managed to create a network of community media on the island and to do citizen journalism with and for Cubans. Since 2016, we have been monitoring and documenting violations of press freedom in Cuba. For more information visit, [https://iclep.org/acerca de/](https://iclep.org/acerca_de/).
- **Movimiento San Isidro** is an initiative composed of artists, activists, journalists, intellectuals, and anyone who feels part of the independent phenomenon, united to promote, protect, and defend the full freedom of expression, association, creation, and dissemination of art and culture in Cuba, empowering society towards a future with democratic values.
- **FREEMUSE** is an independent international non-governmental organization that advocates for freedom of artistic expression and cultural diversity. Freemuse has United Nations Special Consultative Status with the Economic and Social Council (ECOSOC) and Consultative Status with UNESCO. Freemuse documents violations of artistic freedom and advocates at international, regional, and national levels for better protection of all people, including those at risk, and to promote safe and enabling environments for artistic creativity.