

Cuba : participation aux manifestations de juillet 2021

Renseignement de l'analyse-pays de l'OSAR

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Ce rapport repose sur des renseignements d'expert-e-s et sur les propres recherches de l'Organisation suisse d'aide aux réfugiés (OSAR). Conformément aux standards COI, l'OSAR fonde ses recherches sur des sources accessibles publiquement. Lorsque les informations obtenues dans le temps imparti sont insuffisantes, elle fait appel à des expert-e-s. L'OSAR documente ses sources de manière transparente et traçable, mais peut toutefois décider de les anonymiser, afin de garantir la protection de ses contacts.

1 Introduction

Les questions suivantes sont tirées d'une demande adressée à l'analyse-pays de l'OSAR :

1. Y a-t-il eu des arrestations massives durant la manifestation qui a eu lieu à la Havane le 12 juillet 2021 ?
2. Quelles sont les sanctions encourues par les personnes ayant pris part aux manifestations ?
3. Est-il commun à Cuba que les manifestant-e-s, après avoir été arrêtés, placés en garde à vue, détenus puis relâchés, continuent d'être surveillés par la police et soient victimes d'arrestations arbitraires ?
4. Est-il commun à Cuba que la police cubaine requiert de la part des manifestant-e-s de collaborer avec elle et de travailler comme « informateur » ?
5. Quelles sont les sanctions encourues pour un Cubain qui quitte le territoire légalement mais qui ne revient pas dans le pays à l'expiration de l'autorisation de sortie ?

L'analyse-pays de l'OSAR observe les développements à Cuba depuis plusieurs années.¹ Sur la base de ses propres recherches ainsi que de renseignements transmis par des expert-e-s externes, elle apporte les réponses suivantes aux questions ci-dessus.

2 Manifestations de juillet 2021

Des dizaines de milliers de Cubain-e-s protestent contre la dégradation des conditions de vie, la gestion de la pandémie Covid-19 par le gouvernement et pour exiger plus de libertés individuelles. Selon *Amnesty International* (AI), le 11 juillet 2021, des manifestations, les plus importantes depuis des décennies, ont eu lieu dans des dizaines de villes cubaines pour protester contre les conditions de vie et exiger des changements. Ces manifestations se sont tenues dans un contexte de pénurie alimentaire et de médicaments, de pannes et de coupures d'électricité, aggravé par les mesures restrictives prises par le gouvernement pour lutter contre la pandémie Covid-19. Les manifestant-e-s exprimaient également leur mécontentement contre la politique historique de répression de l'État et les importantes limitations imposées à la liberté d'expression et de réunion pacifique (AI, 11 juillet 2022). Selon la BBC, les manifestants ont également protesté contre la hausse des prix et la gestion de la pandémie par le gouvernement (BBC, 26 janvier 2022). Selon Lillian Guerra, professeure d'histoire de Cuba et des Caraïbes à l'université de Floride, les manifestations du 11 juillet 2021 ont mobilisé plus de 200 000 personnes qui ont protesté contre le manque de liberté d'expression et de réunion, le monopole du parti communiste et l'absence de droit légal de protester (*Yale Law School*, 18 septembre 2021).

¹ www.osar.ch/publications/rapports-sur-les-pays-dorigine

2.1 Traitement des manifestant-e-s par les autorités

Forces de sécurité et partisan-e-s du gouvernement encouragé-e-s par le président à répondre par la force. Selon *Human Rights Watch* (HRW), le président Miguel Diaz-Canel a encouragé les forces de sécurité, mais également les partisan-e-s du gouvernement à utiliser la force pour répondre aux manifestant-e-s, déclarant que « l'ordre de combattre a été donné. ». Selon des témoignages recueillis par HRW, les services de l'État impliqués dans ces abus incluaient des membres des services de renseignements, de l'armée, de la police nationale et de la brigade nationale du ministère de l'Intérieur. Sont venus s'ajouter également des groupes de civils organisés par le gouvernement (HRW, 11 juillet 2022).

Répression et criminalisation des manifestant-e-s. Au moins 1 400 personnes mises en détention, souvent sans possibilités de contact avec l'extérieur pendant des semaines. D'après AI, les autorités ont répondu aux manifestations par la répression et la criminalisation. Cette répression a eu lieu pendant les manifestations, mais également des semaines plus tard. Des centaines de personnes ont été arbitrairement détenues sans que leurs familles soient informées du lieu de détention (AI, 11 juillet 2022). Selon HRW, la réponse du gouvernement aux manifestations de juillet 2021 a été un mélange de répression et de censure brutale et systématique. Citant des chiffres avancés par des organisations cubaines de défense des droits humains, HRW rapporte que plus de 1 400 personnes ont été mises en détention par les forces de sécurité. Dans de nombreux cas, les personnes détenues ont été mises au secret pendant des semaines ou des mois, sans possibilités de contact avec des proches ou des avocat-e-s. Les conditions de détention étaient très difficiles dans des cellules surpeuplées, avec un accès très limité à l'eau, à la nourriture et aux médicaments (HRW, 12 juillet 2022).

Des tactiques visant à sévèrement punir les manifestant-e-s et décourager toute dissension par la peur, l'intimidation et la surveillance constante. Arrestations arbitraires, mauvais traitements, procès inéquitables et poursuites abusives. Pour AI, les tactiques employées par les autorités cubaines pour réprimer les manifestations de juillet 2021 reflètent des décennies de répression à l'égard de toute personne critique à l'égard du régime et incluent des arrestations arbitraires, de l'intimidation et de la surveillance constante, des violations de la procédure régulière, des mauvais traitements et des procès inéquitables tenus à huis-clos. Des militant-e-s et journalistes indépendant-e-s ont été placé-e-s sous une surveillance qu'AI qualifie « d'extrême » et la population a été privée de l'accès à internet (AI, 11 juillet 2022). HRW suggère que les autorités cubaines ont mis en place un plan visant à empêcher les gens de se joindre aux manifestations, à punir ceux et celles qui l'ont fait et à décourager par la peur et l'intimidation toute nouvelle manifestation. Ce plan a été accompagné d'importantes violations des droits humains à l'encontre d'au moins 155 personnes accusées d'avoir pris part aux manifestations, violations que HRW a documentées. Elles comprennent la détention arbitraire, les poursuites abusives, les passages à tabac et, dans certains cas, la torture (HRW, 11 juillet 2022). AI indique que pour justifier sa répression, le gouvernement cubain a accusé les manifestant-e-s de crimes tels que le « désordre public », « l'outrage » ou encore « l'incitation à commettre un crime » qu'AI juge incompatibles avec le droit international. Pour les autorités cubaines, ces manifestations portaient atteinte à « l'ordre constitutionnel et à la stabilité » (AI, 11 juillet 2022).

Harcèlement et intimidations à l'encontre de membres de la famille de personnes détenues. Selon HRW, les autorités ont harcelé et intimidé des membres de la famille de détenu-e-s et de militant-e-s, forçant certain-e-s à quitter le pays (HRW, 11 juillet 2022).

2.2 Sanctions pénales contre les manifestant-e-s

Un an après, près de la moitié des 1 400 personnes arrêtées sont toujours en détention. 790 personnes inculpées. Plus de 380 personnes condamnées, la plupart à des peines allant de cinq à 25 ans de prison. Selon HRW, un an après les manifestations de juillet 2021, près de la moitié des 1 400 personnes mises en détention l'étaient toujours. Plus de 380 manifestant-e-s, mais aussi parfois de simples passant-e-s, ont été condamné-e-s par les tribunaux cubains (HRW, 11 juillet 2022). D'après *Reuters*, en juin 2022, soit un peu moins d'un an après les manifestations, les autorités cubaines ont déclaré avoir sanctionné un total de 381 personnes pour avoir participé aux manifestations de juillet 2021. Sur ce total, 297 personnes ont été condamnées à des peines allant de cinq à 25 ans de prison pour des délits de sédition, de sabotage, de vol avec violence et de trouble à l'ordre public. 84 personnes, dont 15 jeunes, n'ont pas écopé de peines de prison. Au total, ce sont 790 personnes qui ont été inculpées pour participation à des manifestations. Certaines d'entre elles étaient toujours en attente de jugement ou ont fait appel de leur peine (*Reuters*, 13 juin 2022). Selon la BBC, en janvier 2022, les autorités cubaines ont annoncé que plus de 700 personnes, qui avaient pris part aux protestations, avaient été inculpées de crimes tels que sédition, vandalisme, vol et troubles à l'ordre public. La plupart ont été maintenus en détention dans l'attente de leur procès. Au total, 172 personnes avaient déjà été jugées et condamnées. Les procès ont été jugés injustes et les peines infligées disproportionnées par les proches des condamné-e-s et des militant-e-s. Selon *Justicia 11J*, un groupe de défense des droits humains cité par la BBC, les peines infligées à des dizaines de personnes allaient de quatre à 30 ans de prison (BBC, 26 janvier 2022).

Procureurs et juges non indépendants. Chefs d'accusation vagues. Procédures pénales abusives. Selon le bureau du procureur, cité par la BBC, les procès des manifestant-e-s ont été tenus dans « le respect des droits et des garanties constitutionnelles d'une procédure régulière » et le « droit à la défense été garanti » (BBC, 26 janvier 2022). De son côté, HRW estime qu'à Cuba, les procureurs et les juges ne sont pas indépendants du gouvernement et ont permis et participé à des procédures pénales abusives. Un grand nombre de manifestant-e-s ont été poursuivi-e-s et jugé-e-s lors d'audience à huis-clos, sans accès à une représentation légale, et sur la base de chefs d'accusation vagues, tels que « troubles à l'ordre public » ou « outrage ». Les preuves consistaient souvent en des déclarations d'agent-e-s de sécurité. D'autres manifestant-e-s ont été poursuivi-e-s devant des tribunaux militaires, ce qui constitue, selon HRW, une violation du droit international. Les personnes reconnues coupables de « sédition » et de participation violente aux manifestations ont été condamnées à de lourdes peines de prison, que HRW juge totalement disproportionnées, pouvant atteindre 25 ans. Le fait de manifester pacifiquement ou de scander des slogans hostiles aux autorités a été jugé comme un comportement criminel (HRW, 11 juillet 2022). Selon Lillian Guerra, professeure d'histoire de Cuba et des Caraïbes à l'université de Floride, à Cuba, la responsabilité première d'un-e avocat-e est de défendre la révolution. Avec un taux de condamnation dans le système judiciaire de 92 pourcents, la plupart des procès ont une issue prédéterminée (*Yale Law School*, 18 septembre 2021).

3 Répression accrue et adoption de nouvelles lois dans le sillage des manifestations de juillet 2021

Renforcement de l'arsenal juridique visant à réprimer la dissension politique. Criminalisation de l'utilisation « subversive » d'Internet et des réseaux sociaux. Criminalisation de tout soutien à des activités « contre l'État et son ordre constitutionnel ». Selon HRW, dans le sillage des manifestations de juillet 2021, les autorités ont encore davantage restreint l'espace déjà limité de la société civile et ceci notamment pour éviter que de nouvelles manifestations se produisent. Le décret-loi 35 et d'autres normes connexes publiés en août 2021 ont limité la liberté d'expression en ligne (HRW, 11 juillet 2022). Lillian Guerra précise qu'avec ce décret l'utilisation de l'Internet et de tout autre service de communication est criminalisée sous prétexte qu'elle sape la sécurité nationale en servant à transmettre « de fausses nouvelles, des informations offensantes ou des contenus qui affectent la sécurité collective, le bien-être général, la moralité publique et le respect de l'ordre ». Pour Lillian Guerra, ce décret s'inscrit dans la volonté des autorités de renforcer l'arsenal juridique à leur disposition pour réprimer la dissension politique. En août 2021, les autorités, via le ministère des Communications, ont également publié la résolution 125 selon laquelle « tout signe, signal, écrit, image, son ou toute information » qui soutient une tentative individuelle ou collective de subversion de l'ordre constitutionnel est assimilable à une forme de terrorisme. Les personnes qui utilisent les réseaux sociaux pour « modifier l'ordre public ou promouvoir l'indiscipline sociale » se rendent alors coupables de « subversion politique sociale » (*Yale Law School*, 18 septembre 2021).

Adoption en mai 2022 d'un nouveau Code pénal qui limite davantage les droits des Cubain-e-s de protester contre les abus du gouvernement. Tout financement étranger est interdit et ceux et celles qui « incitent » contre l'ordre socialiste encourent entre cinq et dix ans de prison. HRW rapporte qu'en mai 2022, l'Assemblée nationale a adopté un nouveau Code pénal, dont une disposition permet de punir de dix ans de prison toute personne qui fournit, reçoit ou dispose de fonds « dans le but de payer des activités contre l'État et son ordre constitutionnel ». Pour HRW, une disposition formulée de manière aussi vague menace gravement le droit des Cubain-e-s de se mobiliser et de protester pacifiquement contre les abus du gouvernement (HRW, 11 juillet 2022). Selon Saily González, un militant des droits humains cité par le *Guardian*, ce nouveau Code pénal est un moyen plus direct pour les autorités de se protéger contre la société civile et d'empêcher la dissidence. La nouvelle loi stipule que les personnes qui fournissent des informations à des organisations internationales, des associations ou des personnes non autorisées peuvent se voir infliger des peines de dix à 30 ans, et même dans certains cas extrêmes, être condamnées à mort. La loi interdit également tout financement étranger ou domestique si ce financement contribue à la commission d'un crime. Par ailleurs, les personnes qui insultent ou attaquent des fonctionnaires ou même d'autres civils, si ceux-ci font leur « devoir de citoyen », peuvent être emprisonnées jusqu'à cinq ans. Ceux et celles qui « incitent » contre l'ordre socialiste encourent une peine similaire. Toute personne qui le fait en utilisant les médias de communication encoure une peine de dix ans de prison (*The Guardian*, 17 mai 2022).

4 Pratiques des autorités concernant la surveillance et les informateurs

Surveillance très étendue de la population depuis des décennies. Depuis 2019, le gouvernement a publiquement défini les règles régissant la surveillance et les enquêtes secrètes. Écoutes et surveillance autorisées sans décisions judiciaires. Selon *Voice of America* (VOA), les agences de renseignements et de sécurité du pays surveillent la population de manière étendue depuis des décennies. La loi autorise l'interception des appels téléphoniques, l'enregistrement direct des voix, la filature et l'enregistrement vidéo des suspects et l'accès secret aux systèmes informatiques. En 2019, le gouvernement cubain a publiquement défini les règles régissant la surveillance et les enquêtes secrètes dans le pays. Selon un décret approuvé et rendu public par le président Miguel Diaz-Canel en octobre 2019, les procureurs peuvent approuver l'écoute et la surveillance de toute forme de communication, et cela sans consulter un juge. Les informateurs et les enquêteurs sous couverture bénéficient également de rôles juridiques officiels (VOA, 22 novembre 2019).

Opposant-e-s et dissident-e-s surveillé-e-s de près par le gouvernement. Le Département d'État américain (USDOS), rapporte que les opposant-e-s au gouvernement sont surveillé-e-s de près par le ministère de l'Intérieur. Celui-ci a mis en place un système d'informateurs et d'informatrices ainsi que de groupes de voisinage, appelés les comités de défense de la révolution, qui surveillent ces opposant-e-s et qui rendent compte de leurs activités. Sont également fréquemment surveillés les journalistes étrangers, les fonctionnaires étrangers en visite, les diplomates, les universitaires et les hommes d'affaire (USDOS, 12 avril 2022). Le *Center for Strategic and International Studies* (CSIS) indique que les autorités cubaines contrôlent étroitement la population, notamment via la police secrète et un grand nombre d'informateurs et d'informatrices. Pour CSIS, le ratio entre le nombre de policiers secrets et la population est encore plus élevé qu'il ne l'était en Allemagne de l'Est avec la Stasi (CSIS, 21 juillet 2021). Pour *Freedom House*, les opposant-e-s, mais aussi les journalistes et les acteurs indépendants, font l'objet d'une surveillance systématique de la part des agences de renseignement qui sont très influentes à Cuba (*Freedom House*, 28 février 2022).

Dissident-e-s et opposant-e-s, mais également membres d'organisations religieuses, approché-e-s par le gouvernement pour les transformer en informateurs-trices, parfois sous la menace et l'intimidation. Pour *Freedom House*, les journalistes ou opposant-e-s placé-e-s sous surveillance du gouvernement sont régulièrement interrogé-e-s par le gouvernement dans le but de les intimider, mais également de les transformer en informateurs et informatrices (*Freedom House*, 28 février 2022). Selon *Christian Solidarity Worldwide* (CSW), une organisation de défense des droits humains spécialisée dans la liberté de religion et de croyance, il est courant pour le gouvernement, par l'intermédiaire du ministère de l'intérieur, de placer des informateurs et informatrices dans toutes les organisations religieuses. Il n'est donc pas rare que des membres et des dirigeant-e-s des organisations religieuses soient approché-e-s par les services de sécurité pour jouer ce rôle, souvent sous la menace et l'intimidation. CSW cite le cas d'un dénommé Yoel Ruiz Solis, qui en 2019 a été accusé par un officier, se présentant comme un lieutenant, d'abriter une église illégale du Mouvement apostolique à son domicile. Le lieutenant a demandé à Yoel Ruiz Solis d'accepter de travailler comme informateur pour l'État. Suite à son refus, il a été menacé de perdre son emploi (CSW, 16 janvier 2022). Selon le *Département d'Etat américain* (USDOS), qui se base sur des informations de CSW, le ministère de l'intérieur continuait en 2021 à implanter systématiquement

des informateurs et informatrices dans toutes les organisations religieuses, parfois en persuadant ou en intimidant des membres et des dirigeant-e-s pour qu'ils servent d'informateurs-trices, ou en envoyant des informateurs-trices infiltrer une église (USDOS, 2 juin 2022).

5 Risques au retour

Forte probabilité qu'un-e requérant-e d'asile débouté-e de retour à Cuba soit arrêté-e si il ou elle est recherché-e pour un délit. Des Cubain-e-s jugé-e-s « indésirables » peuvent être interdit-e-s de retour sur le territoire cubain. Selon la *Commission de l'immigration et du statut de réfugié du Canada (CISR)*, qui se base sur une expertise du président de l'Institut international pour l'étude de Cuba (IISC), les risques auxquels s'exposent un-e requérant-e d'asile débouté-e à son retour à Cuba dépendent de ce que cet individu a fait avant de quitter le pays. S'il était recherché pour un délit commis avant son départ, alors « il est certain qu'il sera arrêté et traité en conséquence » (CISR, 4 mai 2016). Selon HRW, la loi sur l'immigration interdit l'entrée des personnes déclarées « indésirables » ou qui ont « organisé, stimulé, mené ou participé à des actions hostiles contre les bases politiques, économiques et sociales de l'État cubain. ». Cette disposition, qui viole le droit d'entrer dans son propre pays, s'applique à toute personne, y compris les ressortissant-e-s cubain-e-s (HRW, 23 juillet 2020). Selon USDOS, il existe une tendance croissante de la part du gouvernement à pousser certain-e-s militant-e-s à s'exiler pour éviter des peines de prison ou en raison de menaces à l'encontre de leur famille. Par ailleurs, des militante-e-s des droits humains ont signalé une augmentation significative des interrogatoires et des confiscations à l'aéroport lorsqu'ils ou elles revenaient de l'étranger (USDOS, 12 avril 2022).

Depuis 2013, la durée de sortie du territoire a été étendue à 24 mois et il n'est plus nécessaire d'obtenir un permis de sortie. Le journal *Le Monde* rapporte qu'en octobre 2012, le gouvernement a annoncé une réforme de la législation migratoire qui a aboli le permis de sortie et la lettre d'invitation jusque-là requis pour quitter le pays. La durée de sortie a également été portée de onze à 24 mois. Selon *Le Monde*, avant cette réforme, une personne qui dépassait cette limite de onze mois, risquait de voir ses biens confisqués et de ne pas pouvoir rentrer au pays. La nouvelle loi, qui est entrée en vigueur en janvier 2013, stipule que seules les personnes « qui répondent aux dispositions établies dans la loi actualisée » pourront prétendre à un passeport. Les personnes qui disposaient d'un passeport avant l'entrée en vigueur de la loi doivent solliciter leur renouvellement (*Le Monde*, 16 octobre 2012). Selon IRB, avant la réforme de 2013 de la loi sur l'immigration, un-e ressortissant-e cubain-e qui restait à l'étranger plus de onze mois sans se faire enregistrer auprès du consulat du pays où il ou elle résidait et sans obtenir l'autorisation de rester à l'étranger, commettait une infraction. Au retour, il s'exposait à une amende et à un casier judiciaire. Certaines personnes ont même perdu leur citoyenneté en leur absence et ont vu leurs biens être confisqués par l'Etat. Ces pratiques ont maintenant cessé (IRB, 4 mai 2016). Selon PBS news, depuis l'entrée en vigueur de la loi, les Cubains souhaitant quitter le pays ont seulement besoin d'un passeport et d'une carte d'identité. S'ils restent à l'étranger moins de deux ans, ils ne risquent plus de perdre leur citoyenneté (PBS news, 14 janvier 2013).

Les restrictions de voyage persistent pour certaines catégories de personnes, y compris des militant-e-s des droits humains, des journalistes et des anciens prisonniers et

prisonnières politiques. Selon USDOS, certains groupes de personnes, y compris des fonctionnaires, des militant-e-s des droits humains ou encore des anciens prisonniers et prisonnières politiques, doivent obtenir une autorisation spéciale pour sortir du pays. Certain-e-s militant-e-s des droits humains ou journalistes indépendant-e-s se sont vu-e-s interdit-e-s de quitter Cuba, le gouvernement invoquant, selon USDOS, des arguments fallacieux et arbitraires. Certaines de ces personnes ont été désignées comme des « regulados », c'est-à-dire des personnes « réglementés » qui ne peuvent pas recevoir de passeports et quitter le pays. Ces personnes n'ont aucune possibilité de recours contre cette interdiction (USDOS, 12 avril 2022). *Freedom House* indique qu'en 2020, ce sont plus de 200 personnes, principalement des dissident-e-s et des journalistes, qui ont été interdit-e-s de voyage hors de Cuba (*Freedom House*, 28 février 2022).

6 Sources:

AI, 11 juillet 2022:

« 1 July marks the first anniversary of massive and emblematic protests in Cuba. A year on, here are five things you should know about what has happened since and why we must pay attention.

1. The protests were a desperate cry for change in the country.

On July 11, 2021, thousands of Cubans spontaneously took to the streets in dozens of cities to protest, in numbers not seen in decades. People participated in the protests to demand a change in living conditions in Cuba. The protests responded not only to the shortages of food, personal hygiene items and medicine, the constant blackouts and lack of electricity, but also to the restrictive measures taken by the government to “control” Covid-19 transmission, and to the state’s historic policy of repression, which has violated freedom of expression and peaceful assembly for years.

2. Despite the demonstrations being peaceful, the authorities responded with repression and criminalization, in varying degrees, against almost everyone they encountered protesting.

During the protests, and in the weeks following them, the authorities arbitrarily detained hundreds of people without informing their families of their whereabouts, kept activists and independent journalists under extreme surveillance, and cut off the population’s internet access.

3. Cuban authorities repressed the protests using well-worn tactics of control.

One of the main tactics the authorities employed to repress the protests, and silence people who think differently, was the use of arbitrary detentions. The situation of artist and human rights defender Luis Manuel Otero Alcántara, one of six people named prisoner of conscience last year, is emblematic of how these tactics are employed, as he was detained

after announcing that he would join the protests and, almost a year later, was sentenced to five years in prison just for exercising his right to freedom of expression.

These tactics to silence criticism of the government are not new, but rather reflect decades of repressive policies implemented by Cuban authorities. In addition to arbitrary detentions, other tactics include the interruption of internet service, violations of due process, ill-treatment, and unfair trials held behind closed doors. The Cuban authorities also resort to constant intimidation and surveillance using security agents for these purposes, as we documented in November 2021, in the context of the November 27 protests. Their attempts to silence diverse voices go so far as to exchange freedom for exile, as happened to Esteban Rodriguez and Hamlet Lavastida, who Amnesty International also named prisoners of conscience.

4. The Cuban government erroneously maintains that its actions are legitimate.

Despite using crimes inconsistent with international law (such as “public disorder”, “contempt”, and “instigation to commit a crime”) to criminalize those who protested, Cuban authorities insist that the manner in which they repressed the protests was appropriate. President Miguel Díaz-Canel himself called on the “defenders of the regime” to violently combat the people who had joined the demonstrations in the streets, because, according to the official version of events, the protests undermined “the constitutional order and the stability” of the socialist state. However, the facts speak for themselves: currently at least 701 people are known to remain deprived of their freedom, just for expressing their dissatisfaction with the situation in the country.

5. The international community continues to denounce the worrying lack of freedom of expression in Cuba.

However, despite vigorous efforts by governments and international organizations, **the Cuban government refuses to allow international and independent human rights organizations into the country to document the state of human rights, and especially the situation faced by those arbitrarily detained.** [...] » Source: Amnesty International (AI), Five things you should know a year on from Cuba's 11 July protests, 11 juillet 2022: www.ecoi.net/en/document/2075254.html.

BBC, 26 janvier 2022:

« Cuban officials say more than 700 people who took part in anti-government protests last year have been charged with crimes including sedition, vandalism, theft and public disorder.

The public prosecutor's office said 172 people had already been tried and convicted, without giving details.

Families and activists have criticised the trials as unfair, and say the sentences are disproportionate.

Hundreds of people were arrested after the protests, the largest in decades.

Thousands demonstrated across the Communist-run island last July to voice anger over food and medicine shortages, price increases and the government's handling of the pandemic.

The statement by the public prosecutor's office is the first official confirmation of the trials. In total, 710 people faced charges, it said, with most of them being held in detention as they await the trials.

The accused include 55 people aged 16-18, as people in Cuba can be prosecuted as adults from the age of 16.

The update came after a number of complaints by families and activists in recent weeks about the lack of transparency of the mass trials and the lengthy prison terms being given.

Justicia 11J, a human rights group, says penalties for dozens already sentenced have ranged from four to 30 years in jail, including for those accused of sedition, or the act of supporting rebellion against the authorities.

Luis Aguilar said his 21-year-old son, Walnier Luis, had been sentenced to 23 years in jail accused of sedition. "We're devastated," he told BBC News Mundo last month. "It's a disproportionate sentence. And our hands and feet are tied because there is no-one we can turn to".

The prosecutor's office said those accusations were "manipulations of public opinion", and that it had "verified compliance with the rights and constitutional guarantees of due process" under Cuban law.

"The right to defence was guaranteed, lawyers presented evidence and had access to the case files," the statement said, adding that sedition charges related "to the level of violence demonstrated".

Unauthorised public gatherings are illegal in Cuba and protests are rare. The demonstrations were largely peaceful although some people targeted police vehicles and looted some state-owned shops.

Cuba blames US sanctions for the problems that sparked the protests, and previously alleged that the demonstrations had been financed and instigated by US-based groups.

On Twitter, the US embassy in Havana criticised the "disproportionate sentences against peaceful and innocent youth", saying: "They [Cuban authorities] cannot crush the people's demands for a better future." » Source: BBC, Cuba says more than 700 charged over anti-government protests, 26 janvier 2022: www.bbc.com/news/world-latin-america-60124600.

CISR, 4 mai 2016:

« 1. Treatment of Returned Failed Asylum Seekers

Information on the treatment by Cuban authorities of failed asylum seekers that have returned to Cuba was scarce among the sources consulted by the Research Directorate within the time constraints of this Response.

The following information was provided to the Research Directorate in 2013 by the chairman of the International Institute for the Study of Cuba (IISC) [1], who presented his own views; he asserted on 5 April 2016 that, to his knowledge, it continues to be accurate:

What happens to failed asylum seekers in Cuba after they return depends upon what they did before they left [Cuba]. If they were good citizens before they left, very little if anything is done to them. However, if for example the asylum seeker was wanted for a felony in Cuba before they left[,] it is certain that they will be arrested and dealt with accordingly.

Until the change in the migration law recently, it became an offence if a Cuban remained outside the country for longer than 11 months without registering with the Consulate in the country they were residing in and obtaining permission to remain abroad. That in itself would result in a fine and a criminal record if they returned. Such people in effect lost their citizenship and their property was taken by the state in their absence. They would not get it back automatically if they did not return voluntarily and faced the music so to speak. That has now stopped following the recent reforms. (Chairman 5 Apr. 2016)

Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response. » Source: Commission de l'immigration et du statut de réfugié du Canada (CISR), Cuba: Treatment by authorities of failed asylum seekers that have returned to Cuba, including treatment of family members that remained in Cuba (2014-April 2016), 4 mai 2016: <https://www.refworld.org/docid/575530544.html>.

CSW, 16 janvier 2020:

« In March, government officials threatened to confiscate a church belonging to a registered denomination in the province of Artemisa. The same month, in Pinar del Rio, an officer who identified himself as Lieutenant Relova informed Yoel Ruiz Solís that he was harbouring an illegal church in his home. Lieutenant Relova threatened to confiscate Ruiz Solís's house and open criminal proceedings against him. The officer told him, however, that if Ruiz Solís stopped allowing the Apostolic Movement church to meet in his home, all of his 'crimes' would be forgotten. Lieutenant Relova also asked Ruiz Solís to agree to work for them serving as an informant within the church for state security. Ruiz Solís categorically refused and since then has been threatened with the loss of his job. In a statement to a CSW partner, Ruiz Solís said, 'The church does not leave my house until we have a place to meet.' [...]

The government, through the Ministry of the Interior, continues to systematically plant informants in all religious organisations. In some cases state security approaches members and leaders of religious organisations to attempt to persuade or intimidate them into acting as informants, as can be seen in the case of Yoel Ruiz Solís. The objective is to monitor and intimidate religious leaders, report on the content of sermons and other religious events, and observe and report on who attends the religious services. In some cases religious leaders have told CSW that government agents also attempt to foment division within the religious group and undermine leadership. As a result many leaders practise a form of self-censorship, being careful not to say anything that might possibly be construed as anti-Castro or counter-revolutionary in their sermons and teaching. It has been pointed out repeatedly that religious leaders, as the only non-CCP members officially permitted to speak more or less

publicly to large groups of people, are automatically viewed as a potential danger. » Source: Christian Solidarity Worldwide (CSW), Cuba; Freedom of religion or belief, janvier 2020 p.13, 16: <https://docs-eu.livesiteadmin.com/dc3e323f-351c-4172-800e-4e02848abf80/2020-01-cuba-report.pdf>.

CSIS, 21 juillet 2021:

« Cuba's tightly controlled state security apparatus is likely to keep the Communist Party in power for the foreseeable future. Its model of social control, the number of informants, and the ratio of secret police to the population—estimated to be higher than that of the Stasi in East Germany—is likely to insulate the regime from any sort of imminent collapse. Beyond regime security, however, the Cuban government may engage in some short-term loosening of economic restrictions. U.S. sanctions are exerting pressure on the island's economy, and along with projections of skyrocketing inflation following the monetary reform program that devalued the peso in January 2021, the state may be forced to loosen its grip on the island's economy—at least temporarily.» Source: Center for Strategic and International Studies (CSIS, Uprisings in Cuba Shake the Island's Regime, 21 juillet 2021: www.csis.org/analysis/uprisings-cuba-shake-islands-regime.

Freedom House, 28 février 2022:

« Intelligence agencies play an important role in suppressing dissent and wield deep influence over virtually every aspect of the state. Members of dissident groups and even independent actors in the arts, journalism, and other fields are systematically surveilled and periodically interrogated in order to silence them or turn them into informants. [...]

Some dissidents and journalists are barred from foreign travel, despite a 2013 migration law that rescinded the exit-visa requirement. The number of these individuals, known as regulados, rose sharply during 2020, with estimates exceeding 200 that year» Source: Freedom Hous, Freedom in the World 2022 - Cuba, 28 février 2022 : www.ecoi.net/de/dokument/2068727.html.

HRW, 11 juillet 2022:

« On July 11, 2021, thousands of Cubans took to the streets in the largest nationwide demonstrations against the government since the 1959 Cuban revolution. These peaceful protests were a response to longstanding restrictions on rights, food and medicine scarcity, and the government's response to the Covid-19 pandemic. Many protesters chanted "liberty!" or "motherland and life," referencing a Cuban song that repurposes the government's old slogan, "motherland or death" (patria o muerte), and criticizes repression in the country.

The government replied to Cubans' exercise of their rights to expression and assembly with brutal, systematic repression and censorship.

Shortly after the protests began, President Miguel Díaz-Canel urged government supporters and security forces to respond to the protests with force. "We call on all revolutionaries to go to the streets to defend the revolution," he said. "The order to fight has been given."

One protester, Diubis Laurencio Tejada, a 36-year-old singer, died, seemingly at the hands of the police. Cuban rights groups report that over 1,400 people were detained, more than 700 of whom remained behind bars as of July 2022. Cuban courts have confirmed the convictions against more than 380 protesters and bystanders, including several children. Several organizations reported countrywide internet outages on July 11, followed by erratic connectivity, including restrictions on social media and messaging platforms.

This report documents a wide range of human rights violations against well-known government critics and ordinary citizens, including harassment, arbitrary detention, abuse-ridden prosecutions, beatings, and other cases of ill-treatment that in some cases constitute torture.

Human Rights Watch found that rights violations committed in the context of the protests followed patterns that strongly suggest the existence of a plan to prevent people from protesting, punish those who did, and instill fear to prevent massive anti-government demonstrations from taking place again. We found a pattern of abuse in over 155 cases documented during our year-long reporting on the repression against July 2021 protesters in Cuba, including the 14 cases described in detail in this report. [...]

Witnesses identified officials involved in the abuses as being members of the intelligence services, known in Cuba as “state security;” the military; the National Police; and the special national brigade of the Interior Ministry, known as “black berets.” Government-organized groups of civilians known as “rapid response brigades” also carried out several beatings. Prosecutors and judges, who lack independence from the government, enabled and took part in abusive criminal proceedings.

We found that officers repeatedly detained people who were protesting peacefully, arrested critics as they headed to demonstrations, or prohibited them from leaving their homes for days or even weeks.

In most cases documented by Human Rights Watch, detainees were held incommunicado for days, weeks, and sometimes months, without being able to make a phone call or receive visits from their relatives or lawyers.

Most detainees said they were held in crowded and unsanitary prison cells, with little to no access to food, medicines, clean water, or protective equipment to prevent the spread of Covid-19. Many said they were subject to abusive and repeat interrogations in which they were often questioned about issues unrelated to their alleged crimes, such as their family or work. They said they were at times threatened with criminal prosecution if they refused to answer questions about the organization of protests. Some were beaten, forced to squat naked, or subjected to ill-treatment, including sleep deprivation and other abuses that in some cases amount to torture.

Dozens of detainees have been prosecuted in “summary trials” pursuant to Cuban law. Our research shows that protesters were tried jointly, often without legal representation, in largely closed hearings, on vaguely defined charges, such as “public disorder” or “contempt,” with evidence consisting largely of security officers’ statements.

Dozens of others were prosecuted through “ordinary trials” and sentenced to long prison sentences. Many trials took place before military courts, which contravenes international law. Many were prosecuted for “sedition” and sentenced to disproportionate prison terms of up to 25 years for allegedly participating in violent incidents, such as throwing rocks during the protests.

The prosecutions framed actions such as protesting peacefully, insulting the president or the police, or chanting “motherland and life,” legitimate and lawful exercises of freedom of expression and association, as criminal behavior. The prosecution presented, and courts convicted, individuals on unreliable or uncorroborated evidence, such as statements solely from security officers, or alleged “odor traces” of the defendants.

Relatives of detainees, protesters, and activists said that Cuban police officers and state security agents repeatedly harassed them, and in some cases the intimidation forced them to leave the country.

As Cuban authorities take drastic measures to punish people who participated in the demonstrations, they have also taken steps to dismantle the limited space for civil society that allowed these protests to occur in the first place.

In August 2021, the government published Decree Law 35 and several accompanying norms, which severely restrict freedom of expression online. In May 2022, the National Assembly passed a criminal code that, among many other broadly defined norms, includes a provision that would punish with up to 10 years in prison whoever provides, receives, or has funds “with the purpose of paying for activities against the State and its constitutional order.” Such broad language opens the door for sanctions that seriously undermine Cubans’ right to mobilize and peacefully question government abuse.

The government’s repression, as well as its apparent unwillingness to address the underlying causes that took many Cubans to the streets, have forced thousands to leave the country, often through Nicaragua, which waived visa requirements for Cubans in late-2021. The US Border Patrol apprehended over 118,000 Cubans between January and May 2022—a dramatic increase from the over 17,000 in same period in 2021. The US Coast Guard has interdicted over 2,900 Cubans on the sea since October 2021, by far the highest figure in five years.

Many Cubans have fled to countries other than the United States, including in Latin America and Europe. Human Rights Watch research in the Darien Gap, a jungle on the border between Colombia and Panama, and in Mexico’s southern border shows that Cubans undertaking the dangerous journey north through Latin America face abuse by gangs and difficulty accessing legal status in the region. [...] » Source: Human Rights Watch (HRW), Prison or Exile - Cuba’s Systematic Repression of July 2021 Demonstrators, 11 juillet 2022: www.hrw.org/report/2022/07/11/prison-or-exile/cubas-systematic-repression-july-2021-demonstrators.

HRW, 23 juillet 2020:

« Cuban health workers have also reported that those who “abandon” the missions are subject to a de facto entry ban to Cuba of eight years. The ban is not clearly established in Cuban

legislation. However, **the immigration law bars the entry of people who have been declared “undesirable” or who have “organized, stimulated, carried out or participated in hostile actions against the political, economic, and social basis of the Cuban state.” The provision, which violates the right to enter one’s own country, is applicable to “anyone,” including Cuban nationals.** » Source: Human Rights Watch (HRW), Cuba: Repressive Rules for Doctors Working Abroad, 23 juillet 2020: www.ecoi.net/en/document/2034561.html.

Le Monde, 16 octobre 2012:

« Les Cubains n'auront plus besoin, à partir du 14 janvier, que d'un simple passeport pour voyager à l'étranger. Une réforme de la législation migratoire, annoncée mardi 16 octobre par le gouvernement cubain, a en effet aboli le permis de sortie et la lettre d'invitation, jusqu'ici obligatoires pour sortir de l'île. La durée de séjour à l'étranger se voit également portée de onze à vingt-quatre mois, selon la nouvelle loi migratoire qui entrera en vigueur trois mois après sa publication, mardi, au Journal officiel de Cuba.

Depuis plus d'un demi-siècle, les Cubains désirant quitter l'île devaient solliciter une "carta blanca" (carte blanche) aux autorités, qui les délivraient à discrétion, sans nécessairement justifier un refus. Ils devaient également présenter une lettre d'invitation de l'étranger et ne pouvaient y rester que onze mois, sous peine de voir leurs biens confisqués et être considérés comme des expatriés définitifs, généralement sans possibilité de retour.

Une réforme attendue

Toutes ces formalités – passeport, permis de sortie, certifications de documents, visa du pays de destination – se font à un coût de l'ordre de 500 dollars qui, ajoutés au billet d'avion, rendent souvent les voyages hors d'atteinte pour les Cubains, dont le salaire mensuel officiel est de 19 dollars.

Cette réforme des lois du voyage à l'étranger était la plus attendue à Cuba depuis l'adoption d'une série de réformes économiques qui ont introduit, en 2011, une dose d'économie de marché dans le système centralisé communiste. Pour autant, **des restrictions demeurent.**

"Seront titulaires d'un passeport les citoyens cubains qui répondent aux dispositions établies dans la loi migratoire actualisée", précise le ministère des affaires étrangères. Les détenteurs actuels d'un passeport "devront solliciter leur renouvellement auprès des services compétents du ministère de l'intérieur", ajoute le texte. En outre, même étendu à vingt-quatre mois au lieu de onze, le séjour à l'étranger reste limité et, en cas de besoin, une prorogation doit être obtenue auprès d'un consulat cubain. [...] » Source: Le Monde, Cuba supprime le permis de sortie pour les voyages à l'étranger, 16 octobre 2012: www.lemonde.fr/ameriques/article/2012/10/16/cuba-elimine-le-permis-de-sortie-pour-les-voyages-a-l-etranger_1775938_3222.html.

PBS news, 14 janvier 2013:

« Reversing what had been Cuba's policy since 1959, most Cuban citizens can now travel abroad without a special exit permit and letter of invitation. Some see the policy reversal as an

important step for reform, while others view it as a cynical move to purge the country of dissident voices. Ray Suarez reports. [...]

Today marks the end of more than a half-century of an extremely unpopular Cuban government policy put in place shortly after Fidel Castro took power in 1959 to stem a post-revolution exodus.

For decades, Cubans who wanted to travel overseas needed exit permits and letters of invitation from destination countries, leading hundreds of thousands to flee the island nation on boats and rafts for nearby Miami and the Florida Keys.

Once overseas, even legally, Cubans faced the prospect of losing their citizenship and property if they remained outside the country too long.[...]

Now, under the new law, Cubans will need only a passport and national I.D. card to leave. [...]

Those traveling abroad will be allowed to stay up to two years, up from 11 months, without risking their citizenship. And while the Cuban government's long been concerned about doctors emigrating to other nations, last week, they were told they'd be allowed to travel too. There are signs even Cuban dissidents will be eligible. » Source: PBS news, Cuba Opens Travel Abroad for Most Citizens, Eliminating Exit Visa Requirement, 14 janvier 2013: www.pbs.org/newshour/show/cuba-opens-travel-abroad-for-most-citizens-eliminating-exit-visa-requirement.

Reuters, 13 juin 2022:

« Cuba said on Monday it has sanctioned 381 people, including 16 young people between the ages of 16 and 18, who participated in last summer's protests, the Communist-run island's largest since Fidel Castro's 1959 revolution.

Widespread protests across July 11 and 12, 2021, saw thousands of Cubans took to the streets in towns and cities across the country. Many shouted "freedom" as they marched against food, medicine and power shortages amid a spike in coronavirus cases on the island.

Of the 381 people sanctioned, a total of 297 have been sentenced to between 5 and 25 years in prison for crimes of sedition, sabotage, robbery with force, and public disorder, according to the attorney general's office in a statement released to state media.

The prosecutor's office noted that 84 individuals, including 15 young people, were not given prison sentences. However, it warned that tougher sentences could be imposed for those who breached their sanctions or who engaged in new criminal offences. Cuba's age of criminal responsibility is 16 years.

"The Attorney General's Office continues to inform the public about the legal response to the events of July 11, 2021, which attacked the constitutional order and the stability of our socialist state," the statement said.

The Cuban government said in January that 790 people, including 55 under 18 years of age, had been charged for their participation in the protests, but some are still awaiting sentencing or are appealing the sanctions.

Human rights groups, the U.S. government and the European Union say the trials have lacked transparency and have repeatedly called for the release of those sentenced.

The Cuban government has previously accused the United States of financing and instigating the demonstrations. » Source: Reuters, Cuba sanctions 381 protesters, including jail for 297, 13 juin 2022: www.reuters.com/world/americas/cuba-sanctions-381-protesters-including-jail-297-2022-06-13/.

The Guardian, 17 mai 2022:

« Cuba's parliament has approved a new penal code that officials say modernizes the country's laws but human rights groups warn tightens already strict limits on dissent.

The law approved late on Sunday controls unauthorized contacts with foreign organizations and individuals and explicitly bans foreign financing.

The supreme court president, Rubén Remigio Ferro, called it "a modern, very inclusive code", telling state television that it favors "prevention and education before repression" while imposing "sanctions with sufficient rigor" against crimes that affect "social peace and the stability of our nation".

It will take effect after going to a drafting commission and then being published in the official gazette.

Cuban authorities have never had trouble punishing dissent they see as dangerous. Hundreds of people were arrested for taking part in July 2021 protests across the island and some were sentenced to 20 years in prison on charges such as sedition. Independent journalists have sometimes been jailed on various charges, often choosing eventually to leave the island.

Under the new law, penalties of 10 to 30 years – in extreme cases even death – can be imposed on those who give information to international organizations, associations or even people who have not been authorized by the government.

*It eliminates the vague, widely drawn offense of "precriminal dangerousness" that was sometimes used against dissidents, but **creates new categories of crimes.***

Those who insult or attack officials or civilians who are doing their "citizens' duty" can be imprisoned for up to five years. A similar punishment can be imposed on those who "incite" against socialist order – and 10 years for those who use communications media to do so.

Among the most questioned clauses is the ban on any unauthorized financing from international or domestic sources that contributes to the commission of a crime. That section does not affect remittances from Cubans living abroad.

“With the new penal code, Cuban authorities continue to build an intricate and perverse legal regime of censorship and deal a devastating blow to independent journalists and outlets,” said Ana Cristina Núñez, the senior researcher for Latin American and the Caribbean for the New York-based Committee to Protect Journalists.

The new code reinforces penalties for corruption, speculation and hoarding.

Despite some complaints, it maintains a potential death penalty for 23 crimes – though that has not been applied since 2003 – and adds to sentences when crimes involve gender violence or crimes against minors and disabled people.

The age of criminal responsibility remains at 16.

This law “is a more direct way for the government to armor itself against civil society, against political dissidence”, said Saily González, an activist prominent in monitoring response to the 2021 protests.

The lawmakers declined to include a measure backed by Mariela Castro, daughter of former president Raúl Castro, to make femicide an explicit crime. Another deputy, Teresa Amarelle, leader of the Federation of Cuban Woman said that was not needed because of newly toughened punishment against gender violence. » Source: The Guardian, Cuban parliament approves penal code which activists warn curbs dissent, 17 mai 2022: www.theguardian.com/world/2022/may/16/cuba-parliament-penal-code-updated.

USDOS, 2 juin 2022:

« According to CSW, the government, through the Ministry of Interior, continued to systematically plant informants in all religious organizations, sometimes by persuading or intimidating members and leaders to act as informants, or by sending informants to infiltrate a church. The objective was to monitor and intimidate religious leaders and report on the content of sermons and on church attendees. As a result, CSW assessed, many leaders continued to practice self-censorship, avoiding stating anything that might possibly be construed as anti-Castro or counterrevolutionary in their sermons and teaching. Catholic and Protestant Church leaders, both in and outside the government-recognized Council of Cuban Churches (CCC), continued to report frequent visits from state security agents and CCP officials for the purpose of intimidating them and reminding them they were under close surveillance, as well as to influence internal decisions and structures within the groups.[...]

*According to Pastor Andy Nelson Martinez Barrero, on March 17, authorities demolished the III Eden Baptist Church, allegedly for its being an illegal structure. When parishioners approached the site, police said they could not be in the area because they were considered to be a danger to a former member of the congregation who had been expelled for bad behavior. **Members of the church said they believed the person was sent to join their church as an informant, a common government practice.** » Source: US Department of State (USDOS), 2021 Report on International Religious Freedom: Cuba, 2 juin 2022: www.ecoi.net/en/document/2073975.html.*

USDOS, 12 avril 2022:

« **The Ministry of Interior employed a system of informants and neighborhood groups, the Committees for the Defense of the Revolution, to monitor government opponents and report on their activities. Agents from the ministry's General Directorate for State Security frequently subjected foreign journalists, visiting foreign officials, diplomats, academics, and businesspersons to surveillance, including electronic surveillance** [...] »

Foreign Travel: The government continued to require persons from several professional and social categories to obtain permission to emigrate. The affected persons included highly specialized medical personnel; military or security personnel; many government officials, including academics; and many former political prisoners and human rights activists.

The government prohibited human rights activists, religious leaders, independent journalists, and artists from traveling outside the country to attend events related to human rights and democracy. The government used arbitrary or spurious reasons to deny permission for human rights activists and religious leaders to leave the country to participate in workshops, events, or training programs. Activists reported a significant increase in interrogations and confiscations at the airport when arriving from abroad.

The government arbitrarily designated some persons as regulados (regulated persons), meaning the government either prohibited them from receiving a passport or from leaving the country. The policy did not appear to be supported by a legal framework, and officials denied such a policy existed, declaring the law allows for freedom of movement. Because the government did not acknowledge that persons were prevented from leaving, those subject to the policy were left without any recourse for an appeal. The tactic served not only to restrict the movement of citizens but also their freedom of expression, because it was routinely applied when individuals attempted to travel to speak at conferences.

Exile: The government continued to pressure activists into exile to avoid extreme prison sentences or threats to their family, which was a growing trend. On June 26, political dissident artist Hamlet Lavastida was arrested after returning from Poland where he had put on an art exhibit that was critical of the government. Authorities threatened him with a 15- to 20-year sentence for "fomenting rebellion" for an idea he had allegedly shared via private chat with an activist group, but never executed, to stamp symbols related to activist movements on Cuban money. As interrogations became more intense after the July 11 protests, and after three months in prison and believing he would not receive a fair trial, Lavastida agreed to go into exile in Poland with his partner, writer and activist Katherine Bisquet. After authorities released him from a state security facility, 20 agents escorted the couple directly to the airport, not allowing either of them to say goodbye to their families. Authorities told Lavastida that he would be arrested and sentenced to a long prison term if he continued to criticize the government and attempted to return. » Source: US Department of State (USDOS), 2021 Country Report on Human Rights Practices: Cuba, 12 avril 2022: www.ecoi.net/de/dokument/2071136.html.

VOA, 22 novembre 2019:

« **Cuba has publicly laid out the rules governing the extensive, longstanding surveillance and undercover investigation of the island's 11 million people.** »

A new decree approved by President Miguel Díaz-Canel on Oct. 8 and made public this week says prosecutors can approve eavesdropping and surveillance of any form of communication, without consulting a judge as required in many other Latin American countries.

The law also creates official legal roles for informants, undercover investigators and sting operations.

The decree is intended to “raise the effectiveness of the prevention of and fight against crime,” according to the declaration in Cuba's register of new laws and regulations.

Cuba has been updating its laws to conform with a new constitution approved in February, which requires legal approval for surveillance.

The country's powerful intelligence and security agencies have for decades maintained widespread surveillance of Cuban society through eavesdropping of all types and networks of informants and undercover agents, but their role has never been so publicly codified.

The decree describes a variety of roles: agents of the Interior Ministry authorized to carry out undercover investigations; cooperating witnesses who provide information in exchange for lenient treatment, and sting operations in which illegal goods are allowed to move under police surveillance.

The law allows interception of telephone calls, direct recording of voices, shadowing and video recording of suspects and covert access to computer systems.

Unlike Cuba, many countries including Mexico, Argentina, Guatemala, Chile and Bolivia require a judge to approve surveillance operations. » Source: Voice of America (VOA), Cuba Lays Out Rules Governing Surveillance, Informants, 22 novembre 2019: www.voanews.com/a/america-cuba-lays-out-rules-governing-surveillance-informants/6179890.html.

Yale Law School. 18 septembre 2021:

« On July 11, more than 200,000 Cubans “of all generations, colors, and backgrounds” protested a lack of freedom of expression and assembly, the Communist Party’s “monopoly on rule,” and the “absence of any legal right to protest it,” Guerra said. The prohibition on freedom of assembly, she noted, has existed since the 1970s. Today, she said, about 5,000 of the July 11 protesters — among them minors — are imprisoned and face trial. “Because, in Cuba, the primary responsibility of a lawyer is to defend the revolution, and because Cuba’s judicial system enjoys a 92 percent conviction rate, the outcome of such trials seems pre-determined,” Guerra added.

The demonstration began in the town of San Antonio and “spread like wildfire,” according to Guerra. Months earlier, rappers Descemer Bueno, Gente De Zona, and Yotuel spurred millions of Cubans to express dissent with the rap song “Patria y Vida,” which went viral on YouTube in February 2021.

"[The song] assaulted communist leaders' claims to power and legitimacy on political, economic, and moral grounds," Guerra explained. The lyrics, Guerra said, inspired quotes such as "your vision is 1959 and mine is 2021." The musicians, according to Guerra, were raised in predominantly Black, disproportionately poor barrios in Havana, and their upbringing inspired some of their lyrics: "No more lies. The people ask for freedom not more indoctrination. We should not shout fatherland or death, but fatherland and life...Stop spilling the blood of those who want to think differently. Who told you Cuba was yours? Because Cuba belongs to all my people."

The rap songs defy recent steps by the Cuban government to crack down on dissent, Guerra explained. In 2019, she said, a new constitution endowed the Communist party with the "unique right to embody the will of citizens." Legal Decree 370, passed shortly after, made sharing information contrary to the public interest on social media a criminal offense. She noted that 2019 was also the first year Cubans were able to access the internet through their cell phones. The government also enforced Legal Decree 349, a "sweeping law" that reversed reforms in place since 1991, including those that allowed artists and intellectuals to publish, disseminate, and sell their work without government intervention. Guerra characterized this move as the creation of a "new category of political crimes" later labeled as "social media terrorism."

Following the July 11 protests, Guerra suggested, the government seemed to decide that "these legal weapons were not enough." The Council of State approved what Guerra described as "the two most draconian laws for the repression of political dissent and independent thought" passed in Cuba since the 1830s. On Aug. 17, the Ministry of Communications issued Resolution 125, which makes "all signs, signals, writings, images, sounds, or any information" aiding an individual or collective attempt to subvert the constitutional order as a form of terrorism. As a result, those who use Twitter, Facebook, or any other social media platform "on the pretense of altering the public order or promoting social indiscipline" commit the crime of "social political subversion."

On the same day, Legal Decree 35 was passed. This decree criminalizes Cubans' use of the internet or any other telecommunications service to "subvert national security by transmitting false news, offensive information, or content that affects the collective security, general welfare, public morality, and respect for order." Strikingly, Guerra noted, this law makes both the user and the service provider equally liable for "politically dangerous or ideologically offensive content." [...] » Source: Yale Law School, Human Rights Workshop: Repression and Resistance in Cuba, 18 septembre 2021: <https://law.yale.edu/yls-today/news/human-rights-workshop-repression-and-resistance-cuba>.

L'Organisation suisse d'aide aux réfugiés OSAR est l'association faîtière nationale des organisations suisses d'aide aux réfugiés. Neutre sur le plan politique et confessionnel, elle s'engage pour que la Suisse respecte ses engagements en matière de protection contre les persécutions conformément à la Convention de Genève relative au statut des réfugiés. Les activités de l'OSAR sont financées par des mandats de la Confédération et par des dons de particuliers, de fondations, de communes et de cantons.

Vous trouverez les publications de l'OSAR sur Cuba ainsi que sur d'autres pays d'origine de requérant-e-s d'asile sous www.osar.ch/publications/rapports-sur-les-pays-dorigine.

La newsletter de l'OSAR vous informe des nouvelles publications. Inscription sous www.osar.ch/sabonner-a-la-newsletter.