

Legal framework

Cuba's 2019 constitution sets out specific and basic guarantees regarding FoRB, but these freedoms are limited by provisions in the penal and administrative codes. The constitution also separates freedom of conscience from FoRB and makes it illegal to invoke conscientious objection with the 'intention of evading compliance with the law.' In July 2019 the government adopted Decree Law 320 which curtails freedom of expression on the internet to guard against 'disseminating information contrary to the common good, morals, decency, and integrity through public data transmission networks.'

In August 2021 Legal Decree 35 came into force. This 'cybersecurity' law criminalises any online criticism of the government as well as incitement to 'public disturbances' which is the term the government uses to describe peaceful protest marches that took place across the island on 11 July 2021. Legal Decree 35 gives the government sweeping and subjective powers to crack down on freedom of expression and related rights including FoRB. Despite the 2022 creation of the new government Department for Attention to Religious Institutions and Fraternal Groups, in practice, all business continues to be conducted by the Office of Religious Affairs (ORA) of the Central Committee of the Cuban Communist Party (CCP), which maintains a consistently antagonistic relationship with religious groups. All religious groups must be registered with the Ministry of Justice to operate legally. The ORA receives the request for the registration and the government then makes the decision, with input from CCP officers. While there are some criteria for registration, for example that the association must have more than 30 members, decisions are made on an arbitrary basis in line with political considerations and are only rarely approved.

The situation for registered and unregistered groups deteriorated following the adoption of a new criminal code which came into force on 1 December 2022. The code maintains much of the problematic content of the previous code but increases the minimum sentencing for numerous offences. The criminal code covers the 'abuse of the freedom of worship' in Article 272 and criminalises anyone who, because of their religious beliefs, 'opposes the objectives of education, or the duty to work, defend the Homeland through the armed struggle when no other resources are available, to revere [Cuba's] symbols or anything else established by the Constitution of the Republic of Cuba', stipulating a prison sentence of six months to one year or a heavy fine as punishment. Penalties for leading or belonging to an unauthorised association are increased from a few months' imprisonment to a minimum of six months and a maximum of two years for a leader and one year for a member. The same sentences are applied for leading or participating in an unauthorised meeting. The new criminal code amplifies the government's ability to crack down on religious leaders, especially those associated with unregistered groups, and together with the limits on conscientious objection in

the 2019 constitution,¹ effectively nullifies constitutional guarantees for freedom of conscience.

In addition to the criminal code, a revised family code entered into force in 2023. Article 191 gives the government the right to remove children from their homes if their parents fail to fulfil a list of responsibilities detailed in Article 138 (ñ). These include the duties to instil in their children 'love for the Homeland, respect of its symbols, and respect for the authorities'. In 2023 and 2024 CSW has noted a significant increase in reported FoRB cases which included government threats to remove custodial rights from parents. While neither the criminal code nor the family code have been applied uniformly across the island, religious leaders consistently reported being threatened with enforcement of provisions contained in either or both.

Freedom of religion or belief

The Cuban government continues to routinely and systematically violate freedom of religion or belief (FoRB). All religious groups are targeted to varying degrees, usually tied to levels of perceived lack of support of, or cooperation with, the government. Unregistered groups are particularly vulnerable. A crackdown on independent civil society, including religious groups, which began in early 2021 and intensified after the 11 July 2021 protests is ongoing and is characterised by a return to the hardline tactics on the 1980s and 1990s.

Political prisoners experience systematic violations of the Nelson Mandela Rules in the form of the consistent refusal of religious visits or the right to receive religious materials. Religious leaders are threatened and pressured to expel the family members of political prisoners from their congregations as part of a policy of social isolation. Children are subjected to physical and verbal abuse at school because of their religious belief. Religious leaders of unregistered religious groups are repeatedly harassed, threatened and fined, and they and religious leaders of registered groups are targeted for intrusive surveillance, repeat interrogations and other pressure tactics. Religious groups of all types, including Afro-Cuban groups, Jehovah's Witnesses, Protestants, and Roman Catholics, registered and unregistered associations, including some that belong to the Cuba Council of Churches (CCC), all consistently report FoRB violations.

The government continues to particularly target religious leaders and individuals who offered spiritual or material support to families of political prisoners. Religious leaders and their congregations who attempt to respond to humanitarian needs, which have become increasingly acute in many parts of the island, are harassed, fined, and, in many cases, see the aid they are attempting to distribute confiscated. Those considered by the government to be dissidents are repeatedly and systematically blocked from attending religious services, usually through short term arbitrary detention.

¹ Conscientious objection may not be invoked with the intention of evading compliance with the law or impeding another from the exercise of their rights.

A historic wave of emigration has taken place since 2021, with many of those fleeing the island citing threats from government officers of imprisonment and loss of custody of their children to the state. Despite the efforts of the government to silence independent or critical voices, religious leaders from registered and unregistered groups alike continue to speak publicly about FoRB and other human rights violations and to be openly critical of legislation and government positions. It is notable that many Cubans who reported experiencing FoRB violations, in many cases severe, also affirmed their intention to resist government pressure.

The government appears to be depending on a strategy of harsh oppression and repressive laws to bring the population under as much of its control as possible. It has made it clear that there will be no political or social reform. While some Cubans, no doubt, are more cautious and many have seen no other option than to go into exile, there remain many who, even in the face of threats, harassment, and the possibility of imprisonment, continue to speak out against injustice and up for those in their communities who are suffering.

The Office of Religious Affairs

The Office of Religious Affairs (ORA), which operates out of the Ministry of Justice but is part of the Central Committee of the Cuban Communist Party (CCP), is involved to varying degrees in most FoRB violations in Cuba. Despite the official announcement of a government body that was supposed to take over the administration of religious associations, according to religious leaders, in practice the ORA continues to oversee the activities of all religious groups and associations on the island and maintains a hostile approach to those groups viewed as unsupportive of the government.

The ORA regularly calls religious leaders into meetings where State Security officers are present, and in which the leaders are pressured to publicly support government policies and initiatives, interrogated about their positions on various issues of interest to the government, as well as the position of other leaders in their religious group, and belittled and threatened if they decline to cooperate. The ORA habitually denies or simply fails to respond to the requests of religious leaders to, for example, make essential repairs to their buildings of worship or to hold special events. It awards permits, including the right to invite visitors on a required religious visa, according to the inviting religious association's perceived level of support for, or cooperation with, the government.

The ORA also routinely and arbitrarily denies religious groups' applications for registration, which are required for them to operate legally. While all religious groups experience FoRB violations, unregistered groups are most vulnerable and suffer some of the most egregious violations, as their unregistered status means that their very existence, as well as anything they attempt to do as a religious group, is illegal.

Harassment of religious leaders

Violations of FoRB in Cuba most often take the form of threats and harassment against religious leaders, their congregations and families. Leaders are often visited by State Security agents with the intent of intimidating them and making them aware that the government has their activities under close surveillance. In 2023 and 2024 the government also increasingly subjected religious leaders to onerous fines for various 'infractions', most often holding an unauthorised meeting or activity. Numerous religious leaders have also been declared 'regulado', effectively subjecting them to an arbitrary and indefinite international travel ban. Over the past year, government officials have lifted the travel ban on a number of religious leaders and human rights defenders only on the condition that they leave the country and do not return.

The Ladies in White

The Ladies in White are a peaceful protest movement comprising the wives and other female relatives of jailed dissidents in Cuba. Except for a seven-month pause in 2020 due to the COVID-19-pandemic, every Sunday since 2003, members, who dress in white, have attempted to attend Sunday Mass and then march silently in peaceful protest at the unjust incarceration of their loved ones. Each week, members of the movement are arbitrarily detained to prevent them from attending religious services. These detentions are often violent, and the women are frequently threatened, fined and held without charge in poor or dangerous conditions, sometimes for over a day. Many have also been forcibly stopped from attending other religious activities during the week.

11 July 2021 protests

On 11 July 2021 the largest independent protests since 1959 erupted across Cuba. Protestors marched peacefully across the country and openly called for economic and political reform. The CCP responded to the protests with violence, many protestors were beaten and detained. Several religious leaders were among those detained, including Roman Catholic Priest Father Castor José Álvarez Devesa, who was beaten and detained for 24 hours in Camagüey. Reverend Lorenzo Rosales Fajardo, the leader of an unregistered Protestant church in Palma Soriano was also arrested by Cuban State Security and paramilitary officers on 11 July and was given a summary trial in December 2021. In May 2022 his family was informed that he had been sentenced to seven years in prison. Loreto Hernández García and Donaida Perez Paseiro, both members of the Association of Free Yorubas, an Afro-Cuban religious group, also served prison sentences in connection with their participation in the 11 July protests. The group has a long history of being targeted by the government, in part because of their decision to remain independent of Afro-Cuban religious groups with links to the government.

In January 2025 Reverend Rosales Fajardo and Ms Perez Paseiro were released as part of an agreement negotiated by US President Joseph Biden's administration, the Vatican,

and the Cuban government. Mr Hernández García, who has a serious health condition remains imprisoned. He has been blocked from receiving critical medical treatment and has been repeatedly humiliated and ridiculed by prison officials because of his religious beliefs.

Recommendations

To the government of Cuba:

- Amend provisions for freedom of religion or belief and freedom of conscience in the constitution, and bring civil, administrative and penal law and regulations into line with both international law and the San José Pact.
- Eliminate the Office of Religious Affairs as it currently exists, or reform it to operate transparently within defined legal parameters and with recourse to appeal and eliminate registration requirement for religious groups or put in place clear and transparent procedures for registration that are in line with international laws protecting FoRB.
- Guarantee freedom for religious leaders to carry out their work without harassment, threats or government pressure targeting them or their families and allow all religious groups to engage in social work and to hold peaceful public events free from interference and intimidation.
- End the targeting of human rights defenders, including FoRB defenders, and their families by harassment, threats and imprisonment.
- Issue a standing invitation to all UN Special Procedures, ensuring they have unhindered access to all areas of the country and ensure that members of civil society, including religion or belief communities, can freely meet with these independent experts without reprisal.

To the European Union and Member States:

- Under the 'agreed actions on cooperation in the field of human rights' announced in the EU's press release following the EU-Cuba human rights dialogue on 24 November 2023, ensure that FoRB and related freedom of assembly violations are addressed therein. Now that a precedent has been set on concluding 'agreed actions', ensure that this practice continues in subsequent human rights dialogues.
- Demand an urgent meeting with the Cuban government under Article 85(3) of the EU-Cuba Political Dialogue and Cooperation Agreement (PDCA), to formally investigate and review its compliance with PDCA human rights obligations as called for by multiple recent European Parliament resolutions.
- Introduce Magnitsky sanctions on individuals responsible for human rights violations, as called for

by numerous European Parliament resolutions. This should include State Security officers and senior Office of Religious Affairs officials responsible for serious FoRB violations.

- As part of the EEAS' consultations ahead of any EU-Cuba Human Rights Dialogue, the EU should also ensure and facilitate input from Cuban independent civil society organisations.
- The EU Delegation to Cuba and embassies of member states should maintain a close dialogue with religious leaders from all denominations and religious groups, while taking into consideration the political sensitivities under which many religious leaders must work.
- Urge the government of Cuba, at every appropriate opportunity, to make the reforms highlighted in the recommendation section above 'To the government of Cuba'.

To the United Nations and Member States:

- Urge Cuba to issue a standing invitation to UN Special Procedures to visit Cuba with unhindered access to all parts of the country and ensure that members of civil society can freely meet with them without reprisal.
- Urge the OHCHR and all relevant UN mechanisms, including the UN Special Procedures and Treaty Bodies, to include the right to freedom of religion or belief in their reporting on Cuba, addressing the specific vulnerabilities and violations faced by religion or belief communities and those seeking to defend them.
- Urge Cuba, as an elected member of the Human Rights Council, to ratify and fully implement the treaties it has signed, including the ICCPR and ICESCR, and to amend constitutional provisions for freedom of religion or belief and freedom of conscience in line with international human rights law, and bring civil, administrative, and penal law and regulations into line with both international law and the San José Pact.
- Continue to seek ways of engaging with members of Cuban independent civil society, offering support when appropriate, and swiftly condemn all acts of intimidation or reprisal against members of civil society for cooperating with the UN.
- Monitor reports of arbitrary detention and follow court proceedings and call on Cuba to protect all persons from arbitrary detention, and to guarantee the right to a fair trial and legal counsel of their own choosing, in accordance with Article 9 and 14 of the ICCPR.
- Urge the government of Cuba, at every appropriate opportunity, to make the reforms highlighted in the recommendation section above 'To the government of Cuba'.

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