

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.

Legal framework

Changes made to Cuba's constitution were adopted following a referendum in February 2019. While the constitution sets out specific and basic guarantees regarding FoRB, these freedoms are limited by other 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 February 2022 the government published a draft for a new penal code which contains a clause stating that "Whoever, abusing the freedom of worship guaranteed by the Constitution, puts religious belief in opposition to education, or the responsibility to work, the defence of the Homeland with weapons, the reverence of its symbols or any others established by the Constitution will be punished with deprivation of liberty for six months to one year or [a 3000 peso fine] or both."¹ Religious leaders have raised their concerns about the clause and its implications for FoRB with the government.

In 2008 Cuba signed both the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR), both of which afford protections to FoRB. Over a decade later however, Cuba has yet to make any move to ratify either.

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. The ORA oversees the activities of all religious groups and associations on the island and maintains a consistently antagonistic relationship with those groups viewed as unsupportive of the government.

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.

Pastor Alain Toledano Valiente is a leader of the unregistered Apostolic Movement in Santiago de Cuba who, along with his family and congregation, has faced two decades of harassment, including repeated police summons and threats of imprisonment. In October 2021, Pastor Toledano was threatened with a pending criminal investigation after he was falsely accused of the crime of "spreading disease."

In recent years, numerous religious leaders have also been declared 'regulado' (regulated), effectively subjecting them to an indefinite international travel ban. Last year, Father Castor José Álvarez Devesa, a Catholic priest who was beaten and detained incommunicado following the 11 July protests, was invited to officiate mass and attend a spiritual retreat in the United States on September 16 but was prevented from leaving Cuba. The travel ban on Father Álvarez Devesa was reportedly lifted in January 2022. Many human rights defenders and independent journalists reporting on FoRB issues have also been barred from leaving the island.

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 dressed all in white have attempted to attend Sunday Mass and then march silently in peaceful protest at the continued unjust incarceration of their loved ones.

Each week, members of the movement are arbitrarily detained to prevent them from attending Mass. 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 services during the week.

11 July 2021 protests

On 11 July 2021 spontaneous nationwide protests erupted across Cuba, thought to be in response to Cuba's ongoing and severe economic crisis and a record surge in coronavirus cases, expanding to criticisms of the Cuban Communist Party (CCP)'s decades-long hold on power, crackdown on independent civil society including human rights and pro-democracy movements, and the government's poor management of the COVID-19 pandemic.

The CCP responded forcefully to the protests, with reports emerging of protesters being violently beaten and detained. Several religious leaders were among those detained,

¹ The text specifies that the fine should be paid in 10 instalments of 300 pesos.

including Protestant pastors Yéremi Blanco Ràmiriz and Yarian Sierra Madrigal, who were held incommunicado in Matanzas for two weeks, and Roman Catholic Priest Father Castor José Álvarez Devesa, who was beaten and detained incommunicado during the 11 July protests in Camagüey.

Harassment of those who participated in the protests has continued. Reverend Lorenzo Rosales Fajardo, who was arrested by Cuban State Security and paramilitary officers in Palma Soriano on 11 July, remains imprisoned and his teenage son, who was detained at the same time and returned home after being disappeared for one week, is required to report to the local police station ever two weeks.² Reverend Rosales Fajardo was tried on 20 and 21 December and is still awaiting the news of his sentencing. The government has requested ten years imprisonment.

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 United Nations and Member States:

- Urge Cuba to ratify the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) and ensure that local authorities, including

Cuban Communist Party leaders, are aware of – and implement – the provisions at a local level.

- Urge all relevant UN mechanisms, including the Special Procedures and Treaty Bodies, to include the right to freedom of religion or belief in their reporting on Cuba, addressing the vulnerabilities and violations faced by religion or belief communities and those seeking to defend them.
- Urge Cuba to amend constitutional provisions for freedom of religion or belief and freedom of conscience in line with international standards, 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, including urging Cuba to hold transparent national consultations in 2022 ahead of Cuba's fourth Universal Periodic Review, and publicly condemn reprisals against members of Cuban independent civil society seeking to engage with the UN and other international forums.
- Monitor reports of arbitrary detention and call on Cuba to protect all persons from arbitrary detention and guarantee the right to a fair trial.

To the European Union and Member States:

- 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 the European Parliament in its resolutions of 16 September and 16 December 2021.
- Introduce Magnitsky sanctions on individuals responsible for human rights violations, as called for by the European Parliament in its resolutions of 16 September and 16 December 2021.
- The EEAS should continue to hold a pre-dialogue consultation with European organisations with expertise on human rights in Cuba and should also incorporate formal consultations with Cuban independent civil society organisations ahead of the EU-Cuba Human Rights Dialogues. In the longer term, the EU should push for a Human Rights Civil Society Forum to be held alongside the official human rights dialogue.
- The EU Delegation to Cuba and the embassies of member states should maintain an open dialogue with religious leaders from all denominations and religious groups, while taking into consideration the political sensitivities under which many religious leaders must work.

² See CSW's Case Briefing on Pastor Lorenzo Rosales Fajardo for more info. <https://www.csw.org.uk/2021/10/27/report/5462/article.htm>

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