GENERAL OVERVIEW OF THE COMMUNICATIONS ADDRESSED BY THE UN SPECIAL PROCEDURES TO CUBA BETWEEN 2013 AND 2017

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The Special procedures of the Human Rights Council are independent human rights experts with mandates to report and advise on human rights. The system of Special Procedures covers all human rights: civil, political, economic, social and cultural. There are currently 44 thematic and 12 country mandates. These experts send communications to States in which they bring alleged violations or abuses to their attention.

Since 2011, the Special Procedures have been submitting joint reports during each regular session of the HRC on their communications to States. Unfortunately, these reports only index the number of sent and received answers, without condensing, country-specific, all the communications. Thus they do not represent an actual report with useful and useable information and statistics that would outline clear trends, patterns and key issues emerging from the large number of sent and received communications.

Therefore, this report intends to outline clear trends and provide a country-specific analysis for Cuba since its last Universal Periodic Review in June 2013.

Statistics on the communications sent to and received from Cuba between 2013 and 2016:

Between Cuba’s last Universal Periodic Review in June 2013, and the last communication with Cuba in December 2017, the Special Procedures sent 13 communications to Cuba among which 2 were left without answers.

Within each communication, several matters and topics are addressed.

Almost three quarter of the communications touched upon the issue of freedom of opinion and expression (10 out of 13), human rights defenders (9 out of 13) and freedom of peaceful assembly and of association (9 out of 13).

On a slightly lower scale, 6 communications are related to torture, 4 address issues of violence against women, 3 refer to arbitrary detentions, 2 are linked to executions, 2 refer to independence of judges and lawyers, 2 to health issues, 1 communication address the issue of women in law and in practice, and 1 refer to the violation of cultural rights.
General trends regarding the replies from the State of Cuba

The Cuban government uses constantly the same arguments as an introduction to its replies, which appears very hypocritical. Here is a list of the main arguments that are directed towards the Special Procedures in the replies of the following communications:


  "Resulta inaceptable que se pretenda emplear al mecanismo de los llamamientos urgentes para divulgar acusaciones infundadas que solo persiguen empanar la realidad y la ejecutoria de Cuba en materia de promoción y protección de todos los derechos humanos para todos."


  "Preocupa que, al momento de redactor este tipo de documentos, no se están tomando en cuenta el Artículo 9 del Anexo de la resolución 5/2 del Consejo de Derechos Humanos, sobre las fuentes de la información que reciben los procedimientos especiales."


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Aprovechamos la ocasión para denunciar la manipulación de que son objeto dichos procedimientos especiales de la maquinaria de derechos humanos por parte de elementos inescrupulosos, con propósitos ajenos a la defensa de los derechos humanos, que los utilizan como instrumento de su campaña contra Cuba.

- **Cuba accuses the United States of America** to support and finance some of the organisations or use the theme of human rights as an instrument to underpin and try to justify its hostility policy against Cuba, including an economic blockade, using terrorism and political subversion and aiming to eliminate the economic, political and social system freely chosen by the Cuban people (CUB4/2013) (CUB5/2013) (CUB1/2014) (CUB2/2016) (CUB3/2016)

*El tema de los derechos humanos ha sido históricamente utilizado como instrumento para sustentar y tratar de justificar la política de hostilidad de los Estados Unidos contra Cuba, que incluye el bloqueo económico y ha utilizado el terrorismo y la subversión política y que tiene como objetivo la destrucción del sistema económico, político y social libremente escogido por el pueblo cubano en el ejercicio de su derecho a la libre determinación.*

- **Cuba denies all the allegations** against the government or any government, security, or police officials (Concern all the communications)

*Resultan falsas, tergiversadas y malintencionadas las acusaciones que se realizan contra el Gobierno de Cuba en la comunicación de los mencionados procedimientos especiales.*

- **Cuba affirms that there is no climate of repression** or climate of violence and insecurity and that human rights defenders are protected on the basis of equality in conformity with the postulates of the Declaration on human rights defenders (CUB5/2013) (CUB1/2014) (CUB1/2017)

*Cuba reitera enfáticamente y categóricamente que no existe un clima de represión en Cuba ... en Cuba, los defensores de derechos humanos son protegidos, en condiciones de igualdad, de conformidad con los postulados de la Declaración sobre los defensores de derechos humanos.*


*Las personas mencionadas en el llamamiento urgente no son defensores de derechos humanos, según la definición establecida en la Declaración sobre los defensores de derechos humanos.*

**Analysis of each communication**

1. **Case of torture of Alberto Lairo Castro, 7th June 2013** (CUB3/2013)

On August 26th 2007, **Alberto Lairo Castro** was arrested by officials of the Policía Nacional Revolucionaria (PNR) in Holguín. During the arrest, he was the victim of mistreatment, torture, and insults by the police officers. Allegedly, during Mr Lairo’s detention, no lawyer, friend or relative visited him. Unfortunately, after her mother Carmen Luisa Castro denounced the facts to the Cuban authorities, the behaviour of the official was not recognised as disproportionate. The sentence was quite low and did not have to be served in prison.

2. **Intimidation acts against CubaLex members, 23rd July 2013** (CUB4/2013)

Ms **Laritza Diversent** and Ms **Yaremis Flores**, both lawyers working for **CubaLex** were allegedly victims of intimidation acts for their cooperation with the CEDAW during its 55th session. Members of Cuba’s permanent Mission to the UN in Geneva and linked-NGO intimidated them several times since their arrival in Geneva on July 7th 2013, taking pictures of them, harassing, insulting and delegitimising them before and during the session, accusing them of working for ‘the Empire’.

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These acts are preoccupying as they can be considered as intimidation and reprisals from representatives of the government and non-state agents against individuals trying to cooperate or having cooperated with the UN, its representatives and mechanisms in the field of human rights.

**Reply to CUB4/2013, 19th August 2013**

The Cuban government denied the fact that members of the delegation could have attended the CEDAW morning session and asked why, if they felt threatened and harassed by members of the delegation, have they not directly gone to see these persons. Cuba accused them of working for the USA, trying to immigrate to the USA and acting against Cuba. The government also regretted that they did not use any of the legal ways to complain or asked for reclamation. The Cuban government assumed that no special protection was needed for these women.

3. **Increased acts of harassment and repudiation aiming to intimidate human rights defenders**

On 2 May 2012, following her participation in an event asking for the liberation of all the political detainees of Cuba, Ms. Damaris Moya Portieles, member of the Movimiento Femenino por los Derechos Civiles Rosa Parks and vice-president of the Coalición Central Opositora was arrested and subject to intimidation acts and mistreatments from police officers and security forces. In June 2012 the Interamerican Commission of Human Rights granted her and her daughter precautionary measures. On 25 January 2013 she was allegedly arrested another time and sexually abused by the police.

Between August 4th and October 4th 2013, Ms Yris Pérez Aguilera, President of the Movimiento Femenino por los Derechos Civiles Rosa Parks was attacked 9 times and was victim of death threats on several occasions. Her house was damaged several times, her sons and husband were victims of mistreatment from law enforcement forces, and after asking for precautionary measures, she was attacked again by the police and the Special Brigade, accused of public disorder and threatened to be sent to prison if she was to continue her activities.

On October 12th 2013 Mr Juan Carlos González Leiva, president of the Consejo de Relatores de Derechos Humanos de Cuba (CRDHC) was prohibited from travelling to commemorate the anniversary of Laura Pollán’s death, leader of the Dama de Blanco. On that same day, he and 5 other members of his organisation were surrounded by a multitude in his house and were detained there during two days. In addition, was the object of another urgent appeal dated from February 3rd 2010.

**Reply to CUB5/2013, 6th January 2014**

Cuba accused the aforementioned person to work for the USA against Cuba and denied all the accusations. The government accused Ms Moya Portieles of instigating a wrong image of Cuba in order to create public and social disorder and declared that she was detained on May 2nd due to her activities provoking the disorder of public life.

4. ** Allegations of physical and psychological abuse against an independent journalist and human rights defender, Mr Yoeni Jesús Guerra García, 4th December 2013**

Mr Yoeni Jesús Guerra García is an independent journalist from the press agency Yayabo Press, as well as one of the local leaders of the Círculos Democráticos Municipalistas. He is also a member of the Fundación Cubana de los Derechos Humanos y del Consejo de Relatores.

Mr García was violently arrested in his house in mid-October 2013 and accused by State Security of rustling and killing livestock. He was physically and psychologically abused and administered medicine without his consent by agents of the Policía Política and militaries while being in prison. His family is not allowed to see him ever since the date of the incident, neither has he been presented in front of any judiciary authority.

It is alarming that the facts could be related to his activity to promote and protect human rights, and especially his activity as an independent journalist. The involvement of State agent in physical and psychological abuse in jail is very concerning as well.

**Reply to CUB6/2013, 11th February 2014**

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The government of Cuba said he was arrested for his illegal activities, that proofs were found in his house and that everything had been done according to the law. In October 2013, the same day he was arrested, the government said that Guerra García declared himself in voluntary starvation in disagreement with the crime he was accused of and kept the voluntary starvation for 20 days even though he was secretly eating. The government also said he received 5 family visits and took calls periodically. According to a commission from the Ministry of Interior and the Legal Medicinal Institute, the facts were false, which was recognised by Guerra García and his family.

5. Harassment and detention of human rights defenders during the second summit of the CELAC, 28th February 201415 (CUB1/2014)

The communication refers to harassment and arbitrary detention of several human rights defenders and activists regarding the rights of peaceful assembly and freedom of opinion and expression within the context of the second summit of the CELAC (Comunidad de Estados Latinoamericanos y Caribeño) that were celebrated in January 28th and 29th 2013 in the fairground of PABEXCO in La Habana.

Mr José Daniel Ferrer García, Executive Secretary of the Unión Patriótica de Cuba (UNPACU) and Mrs Yusmila Reina Ferrera, member of the UNPACU, were both arrested on their way to the CCDHRN (Comisión Cubana de Derechos Humanos y Reconciliación Nacional) for 48 hours. According to the information, in the weeks preceding the Second Summit of the CELAC, the State Security’s bodies and forces realised 1’123 arbitrary detentions of political activists and human rights defenders.

Mr Jorge Luis García Pérez ‘Antúnez’, State Secretary of the Frente Nacional de Resistencia Cívica Orlando Zapata Tamayo (Frente OZT) and Mrs Donaida Pérez Paseiro, member of the Movimiento de los Derechos Civiles Rosa Parks were both arbitrarily arrested by police officers and the house of Mr García Pérez, national headquarters of the Frente OZT, was raided. Mr García Pérez ‘Antúnez’ initiated a hunger strike during a few days asking to get back his articles confiscated during the break-in of his house. Mr García Pérez was beaten during another break-in in his house a few days later.

Mr Geobanis Izaguirre Hernández, member of the Frente OZT and Mrs Ernesto Ortiz Betancourt, member of the UNPACU1 were brutally beaten during a pacifist march on February 7th 2014 from State Security and National Police forces.

The arbitrary detention and mistreatment are concerning as they could be related to the exercise of their freedom of expression and reunion’s rights and their human rights’ promotion and protection activities especially within the context of the second CELAC. And within a context of increasing violence and insecurity for the activity of human rights defenders in Cuba

Reply to CUB1/2014, 12th June 201416

The Cuban government limited itself to deny all the facts and declared entirely wrong that 1’123 arbitrary detentions happened in the weeks preceding the second CELAC.

6. Threats and harassment against human rights defenders, 21st July 201417 (CUB2/2014) - no reply

The government did not reply to alleged attacks, threats, acts of harassment, detentions and acts of reprisal of several human rights defenders in Cuba since early 2014 and especially during July 2014.

Roberto de Jésus Guerra Pérez, independent journalist founder of ‘Hablemos Press’ was victim of a brutal attack from supposed Security agents on June 11th 2014. Following the attack, Mr Guerra Pérez denounced the aggression and threats against his person to the local police, which resulted 11 days later to even more death threats against his person.

Mr Jorge Luis García Pérez ‘Antúnez’, National Secretary of the Frente OZT and Mrs Yris Pérez Aguilera human rights defender and wife of Mr García Pérez ‘Antúnez’ were severely assaulted, beaten and arrested by public authority agents, presumably linked with the presentation by Mrs Pérez Aguilera of a communiqué at the UN HRC on the situation of human rights defenders in Cuba. Mr Ciro Alexis Casanova Pérez, human right activist in the Frente OZT was also arrested and assigned at residence. In addition, Mr Jorge Luis García Pérez ‘Antúnez’ was the object of a communication sent on 28th February 2014. An answer was received on June 12th 2014. However recent information indicates that risks are still on-going.

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Mrs Berta Soler, leader of the movement las Damas de Blanco and her husband, Mr Angel Moya, were beaten and detained by law enforcement agents.

It is very concerning to see the threats, aggressions, attacks and harassments suffered by the aforementioned persons working for the defence and promotion of human rights and their fundamental liberties. The harassment and intimidation acts against Mrs Yris Pérez Aguilera after her cooperation with the UN, and especially the retaliation suffered for the presentation of a communiqué at the UN HRC are highly preoccupying.

7. CEDAW’s recommendation regarding discriminating elements of the Cuban Family Code, 21st May 2015\(^\text{18}\) (CUB1/2015)

Articles 3 and 6 of the Cuban Family Code approved in 1975 contains discriminating elements against women. The law establishes that men and women are authorised to formalise the marriage once they are 18 years old, but establishes a difference between the minimum age requirement to get married with exceptional authorisation, provided that the woman is 14 and the man 16.

In this regard, the working group wishes to recall the CEDAW Committee’s recommendations regarding the Universal Periodic Review of Cuba, who recommended that in exceptional cases of child marriage, the State implement the necessary measures to authorise the same age limit for boys and girls and that the authorisation of a tribunal be required. In addition, the working group wishes to emphasise the need to implement gender equality measures and the reduction of gender stereotype affecting women’s role in the family and society.

Reply to CUB1/2015, 23rd July 2015\(^\text{19}\)

The answer to this communication is probably the longest and most complete of all. The government of Cuba claimed that the law guaranteed gender equality and established the prescription of any form of discrimination and that the government had implemented several laws, policies and programs allowing the exercise of this equality and improving women’s empowerment. In addition, Cuba is working on the modification of the Family Code to equalise the minimum age to get married to 16 years old for boys and girls with authorisation of both parents.

Regarding article 6 of the Family Code, Cuba claimed there existed no discrimination of any type. In addition, the government is submitting a process of revision and contextualisation with the country’s reality and international instruments of which Cuba is part.

Regarding the request of information on the government’s measures to implement the recommendations of the working groups, CEDAW and UPR, Cuba replied that they were currently working on it.

8. Arbitrary detention and torture of a detainee, 27th August 2015\(^\text{20}\) (CUB2/2015)

Mr Emmanuel Abreu Sánchez was arrested on February 8th 2014 by police agents in Moa, Holguín with 4 other persons and transferred to the prison Combinado de Guantánamo, accused of trying to leave the country illegally. Following the arrest, he was sentenced to 12 years of prison by the Commission for crimes of human trafficking in a trial where the process was not well respected. He could not have a lawyer of his choice and the witness did not come to the trial. The judicial authority did not allow the defence to access the police report, justified by reasons of state security. He suffered from torture and mistreatment in the prison Combinado de Guantánamo and was to be sent to a hospital. He declared a hunger strike and was then fed against his will.

Reply to CUB2/2015, 22nd October 2015\(^\text{21}\)

The government of Cuba denied all the accusations of the communication and declared that Mr Emmanuel Abreu Sánchez was arrested for crime of human trafficking.

9. Extended arbitrary detention of an artist to exercise his right of freedom of artistic expression, 20th October 2015\(^\text{22}\) (CUB3/2015)

Danilo Maldonado Machado has been detained since December 28th 2014. Artist and human rights activist, known as ‘El Sexto’, he was arrested without being formally accused or prosecuted for a crime. He was arrested

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while carrying two pigs with the names ‘Raúl’ and ‘Fidel’ painted on them intending to be released during an artistic event. He remained 9 months in prison and no formal accusation was formulated against him. On October 7th, 2015, he ended his already one-month hunger strike, learning he would be released within 15 days. However, he was still in jail at the moment of the communication.

**Reply to CUB3/2015, 22nd December 2015**

The government of Cuba did not recognise Danilo Maldonado as an artist and human rights activist. In addition, Cuba declared that he served a penalty of 6 years of deprivation of liberty for robbery with violence, and that in 2014 he could not finish his studies due to his behaviour including the use of drugs. Cuba affirmed that he was arrested for offence of contempt against Fidel and Raúl Castro.

10. **Intimidation and death threats against a political activist, 20th April 2016** (CUB1/2016)

Mrs Rosa María Payá Acevedo, political activist and member of Cuba Decide, and her family, were victims of persecution and harassment from the government for denouncing the death of her father; the dissident Mr Oswaldo Payá Sardiñas, prominent leader of the opposition that died in 2012 in a car accident presumably provoked. In March 2013 Mrs Rosa María Payá Acevedo was victim of death threat after reporting her father’s case publicly in front of the HRC of the UN and in some European countries. The harassment kept going after her return to Cuba, which was why her family exiled in another country. Fear for her security has been voiced, as she lives intermittently in Cuba, as well as for the other members of Cuba Decide, human rights defenders who were victims of threats.

Mr Oswaldo Payá Sardiñas was subject of an allegation letter sent on April 19th, 2013 on the car crash that caused his death. The letter mentioned death threat against him previous to his death as well as against his colleagues and relatives.

**Reply to CUB1/2016, 22 June 2016**

The Cuban government did not recognise Mrs Rosa María Payá Acevedo as a human right activist, arguing that in July 2015 she expressed her position against the restoration of the diplomatic relations with the USA. In addition, they claimed that she was financed by the USA and that she received a large sum from the US government following her father’s death. The Cuban government rejected all the accusation regarding the car crash and the alleged danger for her security.

11. **Excessive use of force during protestation of the Damas de Blanco, 8th July 2016** (CUB2/2016)

The communication refers to allegations of excessive use of force during several marches organised by the Damas de Blanco, as well as violence, arrests and arbitrary detentions against its participants from police forces. Most of them were accused of public disorder. Members of the Damas de Blanco have been subject to several communications since 2006 until 2014. The victims are the following: Mrs Leticia Ramos Herrería, Mrs Xiomara de las Mercedes Cruz Miranda, Mrs Yaquelin Heredia Morales, Mrs Rosa Eiscalona Gómez, Mrs Berta Soler Fernández, Mrs Tamara Rodríguez, Mrs Aliuska Gómez García and other members.

**Reply to CUB2/2016, 12th September 2016**

The government did not recognise them as human rights defenders and claimed they were actually acting on behalf of the USA.


The communication refers to acts of harassment and reprisals against human rights defenders, including lawyers for their work to defend human rights and especially their cooperation with UN mechanisms in the field of human rights.

This includes members of the Centro de Información Legal Cubalex, including: Mrs Yamara Rodríguez Curbelo, Mrs María de los Ángeles Bonet Hevia, Mr Eliocer Cutiño Rodríguez, Mrs Yureisy Ceballos

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Pendones, Mrs Yaima Pérez Léon, Mr Rolando Antúnez Gómez, Mrs Arianna Romero Bonet, Mrs Julio Alfredo Ferrer Tamayo, Mr Diego R. Ricardo Silva, Mrs María Teresa Perdomo Sánchez, Mr Dayán Alferdo Pérez Noriega, and Mrs Laritza Diversent Cámbara.

Cubalex presented in the past several reports for UPR and CEDAW reviews of Cuba, and members of this organisation were subject to precautionary measures granted by the Interamerican Commission for Human Rights on April 22nd 2015. In this regard, the case of Cubalex has already been the subject of communications from Special Procedures on November 23rd 2012 and July 23rd 2013.

The following issues appeared:
- Revision, retention and confiscation of documents during travels at airports by agents of the customs;
- Harassment, intimidation and confiscation of luggage and information;
- Violation of the right to freedom of association. The members of Cubalex tried several times to obtain the legal registration of the organisation, unsuccessfully, thus facing several limitations in the exercise of their work. For their human rights’ activities and cooperation with the UN, members of Cubalex were victims of a smear campaign. In 2013, following the presentation of a report in front of the UPR of Cuba, Cubalex members were categorised as terrorists and mercenaries by the authorities.

Reply to CUB3/2016, 14th December 2016

The government of Cuba accused Cubalex of being funded by the USA and claimed that the presumed victims did not present any queries or complaints before the legal mechanisms of the country regarding the alleged human rights violations.

13. 19 October 2017 (CUB1/2017)

The communication refers to alleged intimidations acts, physical assaults and judicial procedures against Mrs Leticia Ramos Herrería, member of the Damas de Blanco linked with her critical position towards the Cuban government as well as her activities as a human rights defender. She was already the object of a communication sent on July 8th 2016 (CUB2/2016).

On August 9th 2016, she was victim of a car accident caused by people blocking her way on the road. On August 20th 2017, a similar even happened when a car with security officials blocked her way causing an accident. She was afterwards arrested, accused of disobedience. She was also accused of incitement of offenses for having participated to a peaceful demonstration on April 25th 2016.

The surveillance activities, intimidation acts, physical assaults and judicial proceedings against Mrs Ramos Herrera due to her activities as human rights defender are very concerning, in particular since her participation to the 157th period of ordinary session of the CIDH in Washington D.C.

Reply to CUB1/2017, 15 December 2017

The government rejected categorically the allegations mentioned by Mrs Ramos Herrera considered politically motivated against the Cuban people and denied the implication of security officials in the aforementioned car accidents. The governments declared she had been brought to a police station on April 25th 2016 for having obstructed the car transit and disturbed public order.

Conclusions

Since the last UPR of Cuba in June 2013, the government received 13 communications referring mostly to alleged violations and abuses against human rights defenders, freedom of opinion and expression and freedom of peaceful assembly and of association. Numerous cases of torture were also brought to the State of Cuba.

The Government replied to most of them, only 2 were left without answers. However, its replies appear highly identical, illustrating the lack of interest of the government to analyse case by case the alleged accusations and its bad faith regarding its answers. Consequently, its replies do not bring any additional information and appear purely formal. As a matter of fact, the State of Cuba negates all the accusations, do not recognise the victims as human rights defenders, accuse the United States of being behind most of the events and being directed against

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the wellbeing of Cuba. The government of Cuba always shames the Special Procedures of being manipulated and lacking clear and trustful sources and negates any climate of repression against human rights defenders.

In addition, it is highly concerning to see that almost all the communications refer to alleged violations of human rights by government officials, police officers, state security officials and other public agents hired by the government.