

August 11, 2003

Fidel Castro Ruz
President of the Council of State
Government of Cuba
c/o Cuban Interests Section
2630 16th Street NW
Washington, DC 20009

Dear Mr. President:

I write you on behalf of the American Bar Association (ABA), an independent, non-governmental organization established in 1878. The ABA represents more than 400,000 members of the legal and judicial communities in the United States and throughout the world.

The ABA has a long-standing commitment to support the rule of law. In our judgment the rule of law requires respect for the right of human rights advocates to speak in opposition to policies or practices of their governments. It also requires respect for the rights of all persons charged with criminal offenses to be guaranteed due process of law.

The purpose of my letter is to express the ABA's deep concern over the prosecutions, convictions and lengthy prison sentences recently imposed on more than 70 independent, peaceful activists, including journalists, economists, labor leaders, librarians and human rights advocates, among them Marta Beatriz Roque, Oscar Espinosa Chepe, Raúl Rivero, Héctor Palacios and Dr. Oscar Elias Biscet.

The following examples illustrate their supposed "offenses":

- Marcelo Manuel López Banobre was sentenced to 15 years in prison, in part for serving as "spokesman and secretary" of the illegal Cuban Commission for Human Rights and National Reconciliation, dedicating himself to sending information to international organizations like Amnesty International ..."

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- Eduardo Díaz was sentenced to 21 years in prison by a judgment that states in part “that he directs an opposition group of so-called ‘human rights,’ carrying out activities and meetings, using our national flag and showing posters asking for freedom for political prisoners and prisoners of conscience, in a frank challenge to the judicial, political and social system.”
- Mario Enrique Mayo, a lawyer working as an independent journalist, was sentenced to 20 years in prison by a judgment referring to articles he wrote on prison conditions, families of political prisoners and other topics, with the intention “of creating in this way the conditions necessary for our country to be condemned in the [United Nations] Human Rights Commission, and consequently creating conditions favorable for a ‘humanitarian’ intervention into our territory.”
- Juan Carlos González Leiva, a lawyer and President of the Cuban Foundation for Human Rights, was reportedly arrested for demonstrating outside a hospital where an independent journalist was being treated. He was later charged, among other offenses, with disrespect toward President Fidel Castro.

These prosecutions, convictions and harsh sentences appear to violate basic obligations of Cuba under international law including, among others, the following:

1. Rights of human rights advocates under the United Nations Declaration on the Rights and Responsibilities of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, adopted with broad support by the United Nations General Assembly in 1999, UN Doc. A/Res/53/144, 8 March 1999, articles 2, 5, 6, 12 and 17. Prosecuting individuals for expressing opinions or transmitting information to international human rights organizations violates, in particular, article 5(c).

2. Rights of free expression and peaceful association, guaranteed by the Universal Declaration of Human Rights, articles 19 and 20(1), and by the American Declaration of the Rights and Duties of Man, articles IV and XXII. The relevant provisions of these widely accepted Declarations reflect norms of customary international law binding on all nations. In addition, by virtue of article 56 of the Charter of the United Nations, all UN member states, including Cuba, commit to cooperate with the UN to achieve universal respect for human rights and fundamental freedoms for all.

3. Rights of labor leaders to free association for labor purposes, guaranteed by virtue of Cuba's treaty commitments as a state party to International Labor Organization Convention 87 on Freedom of Association and Protection of the Right to Organize, and ILO Convention 98 Concerning the Application of the Principles of the Right to Organize and Bargain Collectively, as well as by Cuba's obligation as an ILO member to respect the fundamental right of free association for labor purposes, made binding on all ILO members by the Declaration on fundamental principles and rights at work, ILO Doc. CIT/1998/PR20A. As a state party to the UN Charter and ILO treaties, Cuba is of course bound by the international law principle of *pacta sunt servanda* to comply with the requirements of these treaties in good faith.

4. Rights to freedom of the press enshrined in the Declaration of Chapultepec, paragraph 4, prohibiting unjust imprisonment of journalists, and article 10, prohibiting punishment of journalists for criticizing the government, as well as the Declaration of Principles on Freedom of Expression, approved by the Inter-American Commission on Human Rights at its 108th regular session, paragraph 5, prohibiting "pressure" on free expression and also the "imposition of obstacles to the free flow of information." These instruments reflect regional customary law binding on all states in the Americas.

In keeping with its commitment to the rule of law, the ABA calls upon your government as follows:

- A. To take steps within your lawful authority to cause the review and dismissal, as appropriate, of the cases referred to herein and any other similar cases;
- B. To ensure that in future those who undertake to defend human rights and the rule of law are not persecuted for exercising their rights under international law; and
- C. To ensure due process of law for all persons who come before tribunals in Cuba.

The ABA would be pleased to send a delegation to Cuba to meet with appropriate representatives of your government and with judicial authorities to discuss our concerns and other appropriate matters.

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The ABA, through its Center for Human Rights, will continue to press for observance of the rule of law in Cuba. We hope we may report favorably on your consideration of this letter and the actions it requests. We thank you in advance for your consideration of our concerns.

Sincerely,

A handwritten signature in cursive script, appearing to read "Alfred P. Carlton, Jr.", written in dark ink.

Alfred P. Carlton, Jr.
President

cc: Hon. Colin Powell, Secretary of State
Mr. Param Cumaraswamy, Special Rapporteur on the Independence of Judges and
Lawyers, UN Commission on Human Rights
Steven T. Walther, Chair, ABA Center for Human Rights
Dr. Juan Escalona Reguera, Fiscal General de la República,