



# EYE on CUBA

The Right to Public  
Demonstration  
in Cuba during  
**2021**



**EYE on CUBA**

Monitoring Human Rights Abuses in Cuba

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[www.eyeoncuba.org](http://www.eyeoncuba.org)





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Centre for Human Rights and Democracy  
Prague, July, 2022  
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The EYE on CUBA project started taking form in 2012 and published its first case in March, 2013.

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# Introduction

Since the 90's, the Cuban society has been undergoing a deterioration both in terms of food availability and in its economy, and the demonstrations that have taken place are a reflection of the large number of cases of unresolved political and social dissatisfaction. Add to this the existing fear to express oneself freely, so that having to live with scarce food and basic supplies was just one of the many problems this society bears. Another problem is the collapse of the main industries in the country, which results in greater unemployment, in addition to the openness to foreign currencies that causes a devaluation of the local currency, and the package of economic measures enacted by the Executive, all of which triggered a raise in the cost of living and in inflation.

To all of the above must be added a new energy crisis, due mainly to the lack of fuel, in a pandemic context that left thousands of Cuban families unprotected in the face of the scarcity of medicines, vaccines and poor conditions of hospital care. This resulted in a movement in the social networks, calling for humanitarian assistance at the international level through the hashtags #SOSCuba and #SOSMatanzas. Despite these movements, the central Government refused to acknowledge the crisis in the country, and responded by intensifying repression against anyone that tried to voice their discontent, such as urban artists, activists, journalists, and others.

Simultaneously, the 11th of July witnessed a series of civil demonstrations in at least one-third of the country's provinces. This was one of the most notorious social protests since the "Maleconazo" of 1994. A difference from former protests was that the 11-J demonstrations were not focused on a single province, but, thanks to the social networks, they found a way for being articulated and protests took place all throughout the country at the same time.

The right to protest is severely repressed by the Cuban Government<sup>1</sup>. Thus, citizens are highly discouraged out of fear for prison. State repression has increased over time, even reaching the digital milieu, where virtual protest through the social networks is also condemned.<sup>2</sup>

As with every social phenomenon, the causes for protest were multiple. On the one hand, one finds generalised discontent with the economic crisis and with the Executive's ineffectiveness in solving the scarcity of food and basic products. The situation was further compounded by restrictions on dollar deposits in bank accounts, the shortage of medicines, an increase of almost 500% in the price of public services, as well as a drastic increase in inflation.

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<sup>1</sup> Protestar el 11J se castiga como si se hubiera cometido homicidio (Protesting on 11-J is punished as if murder had been committed). Diario de Cuba, 5 October, 2021.

<sup>2</sup> Lima, Lioman. Decreto Ley 35: las nuevas regulaciones en Cuba para condenar a los que hablan mal del gobierno en redes sociales (Decree-Law 35: The new regulations in Cuba for condemning those who criticise the Government on social media). BBC News, 19 August, 2021.



## An account of laws passed in Cuba in the wake of the 11th of July that limit the freedom of speech.

Before examining the new reforms whose purpose is to limit and criminalise the protests that emerged on the 11th of July, it is important to retrieve the Cuban Constitution in order to set the regulatory context within which these reforms are built.

Article 41 of the Cuban Constitution, enacted in 2019, says that “Every person is recognised and guaranteed the unwaiverable, inextinguishable, indivisible, universal and interdependent enjoyment and exercise of human rights, corresponding to the principles of progressiveness, equality and non-discrimination. The respect and guarantee of such rights mandatory for everyone.” This article can be the object of special attention in the case of protests, as it includes the right to the freedom of association, of opinion and of speech. Since the latter is included in Article 54 of the same regulatory corpus, it is established that “The State recognises, respects and guarantees to all people the freedom of thought, conscience and speech.” The foregoing evidences a clear violation, by the Cuban State, of its own Constitution and of the principles of International Law.

In addition to the two aforementioned articles, article 56 mentions the right to meeting, demonstration and association, stating that “the rights to meeting, demonstration and association, with licit and peaceful purposes, are recognised by the State as long as they are exercised with respect for the public order and in compliance with the directions set forth by law”. In view of this, one can observe how the way Cuban laws have been dealt with has not been the best, even though they are set forth in their Constitution. This helps to understand why the reform of the Criminal Code after 11 July was needed.

Yunior García Aguilera, leader of the group Archipiélago, organizer of the protests scheduled for November 15, showed that he could not leave. Credit: STR/AFP via Getty Images



In May, 2022, through the National Assembly, the Cuban State enacted a new Criminal Code, replacing the one from 1987, thus supplementing the Law of Protection of Constitutional Rights and the Code of Penal Procedure. This new Criminal Code has been designed to penalise the abuse of constitutional rights and participation in activities that destabilise the public order, thus placing the right to demonstration on the crossroads.<sup>3</sup>

The above is a reflection of the Government's position towards the right to protest, as the latter may only be allowed if it aims at confirming or upholding State policies, and never in a negative or contradictory way thus violating the right to freedom of conscience and of speech.<sup>4</sup> One worrying issue is the fact that death penalty continues to be a possibility specifically for crimes against State security and terrorism, and it thus remains to the discretion of the judges, whose impartiality is doubtful,<sup>5</sup> whether participating in an anti-Government protest can be classified as terrorism or attempt against the public order and, therefore, against State security.

An a priori point that should be highlighted is that, in the post-11-J context, the new Criminal Code keeps penal responsibility at the age of 16, which matches the high percentage of young people between the ages of 16 and 18 that were penalised with prison for participating in demonstrations.

The penal reform can be analysed as a legal reprisal against the demonstrators of 11 July, since the definition of new penal types such as public disorder, the penalisation of foreign funding of NGOs and of media, and the addition of the crime of espionage are clear examples of the intent to find legal weapons in order to avoid future protests in the context of the deterioration of quality of life of the Cuban population.

In addition to the reform of the Criminal Code, an executive order has been issued (No. 35) concerning the flow of information in social networks, which basically means that any citizen that promotes fake news and incites violence can be prosecuted. This is the clearest example of attempt to establish a gag law, since the 11-J protests were called for through the social networks.

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<sup>3</sup>Sánchez, Yoani. Cuba, un código penal para atarnos a todos. DW Español, 17 May 2022.

<sup>4</sup> Inter-American Human Rights Commission. La CIDH y sus Relatorías Especiales condenan la represión estatal y su uso de la fuerza en el marco de las protestas sociales pacíficas en Cuba llamando al diálogo sobre los reclamos ciudadanos. (The IACHR and its special rapporteurs condemned State repression and use of force in the framework of the peaceful social protests in Cuba: issuing a call to dialogue on civil claims). OAS Press Release, 15 July, 2022.

<sup>5</sup> Alfonso Lucía. "Justicia a la cubana": la confabulación entre el Tribunal Supremo, la fiscalía y el MINIT ("Justice the Cuban style": The collusion between the Supreme Court, the Prosecutor's Office and MINIT). Diario de Cuba. 26 May, 2022.

## The right to protest from the perspective of 11 July

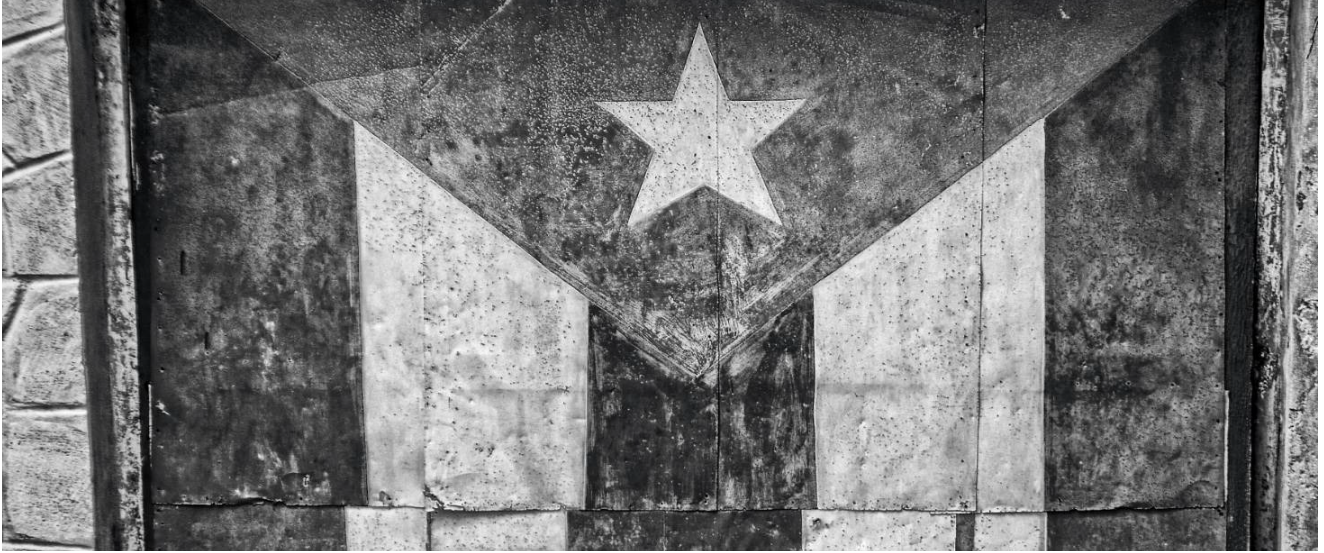
Social protest is an essential element of every democratic society, since it is protected by a series of civil liberties and human rights, both on the Inter-American level and in the general principles of Law and international custom. In our region, the American Declaration on the Rights and Obligations of Man, as well as the American Convention on Human Rights, are clear examples of regulatory corpuses that classify the right to free speech as a human right that cannot be denied or abolished.

In the context of 11 July a series of rights were violated, such as the aforementioned right to free speech, the right to peaceful meeting, and the right to free association and meeting. These rights protect both collective and individual forms of publicly expressing opinion, reasserting the importance of certain damaged groups, as well as demanding the fulfilment of social, cultural, civil and political rights in the framework of a democratic and social State in the rule of law. iv

Given the situation, it is necessary to determine how the actions of the Cuban State concerning the repression and censure of opinions that oppose its State activity constitute evidence of the existing limitation on these protected rights. Considering citizen mobilisation as a form of alteration of the public order and therefore a threat to this order is an authoritarian conception, since social protest has been a key element for attaining personal guarantees and liberties throughout Latin America. Protest per se is based on amplifying claims and aspirations of a population group, as well as of sectors that for different reasons of discrimination, vulnerability and exclusion do not have access to the mass media.







In general, it can be stated that every peaceful demonstrator has the power to determine both the mode, form, place and message they want to convey, and that therefore the re-sponsibility of the State is to manage the conflict at hand through dialogue, instead of resort-ing to violence and to mass incarceration of people or to the enactment of new repressive legislation.

The right to protest is a legitimate, democratic civil mechanism for demanding actions from the Government, and can thus be conceived of as a right that is necessary for the fulfilment of those fundamental guarantees that are not being ensured by the State. In this context, in the case of 11-J, one can determine that State repression consisted of authoritarian actions to repress the right of freedom of speech. A lack of dialogue is identified between the State leaders and the levels of society that took to the streets to express their discontent and de-mand better living conditions.

State actions showed a direct detachment from the international standards on human rights, since these standards state that the use of force must be governed fundamentally by the principles of legality, exceptionality, absolute necessity and proportionality.



Peaceful demonstrations in Havana on 11J. JORGE LUIS BATHROOMS IPS

# EYE on CUBA DATABASE

## The Right to Public Demonstration in Cuba.

DATABASE

**T**he EYE on CUBA network works in documenting violations of human rights against civilians and activists in the Island. The advocates that make up this network offer psychosocial and/or material support to the victims of the cases reported. The intention of this database is not to include all violations committed in the Island, but to gather a sample of well-documented and verified data that involve a sufficiently broad representation of the human rights violations that take place in Cuba. This sample allows to study the cases, their characteristics, evolution and similarities. It also collects the identities of perpetrators, which might be useful in the event of future accountability. The data gathered and analysed are reflected in the page [www.eyeoncuba.org](http://www.eyeoncuba.org) which publicly shows the cases, seeking to raise awareness on the human rights situation in the Island and to reduce the pressure exerted. The instances of violation of the right to protest presented herein include the cases documented up to now by a limited number of collaborators, who have reported depending on the sociocultural context they belong to.

# 702

**Cases of violation  
of the right to public  
demonstrations**

## METHODOLOGY

**T**his report is based on denunciations raised by collaborators through the EYE on CUBA net-work which reported the violation of the right to freedom of speech and of opinion, in which there was a repression of the right to protest both of activists and members of civil society. In the context of this report, a total 553 cases were examined, comprised in the timeframe of this study, i.e. from 1/1/2016 to 31/12/2020.

As a concept, protest is understood as a form of individual or collective action geared to-wards expressing ideas, views or values of dissent, opposition, denunciation or claim.<sup>6</sup> Since Cuba has a highly repressive regime, one challenge in the report was to identify as protest acts that in other contexts could be considered as daily occurrences, as could be the case of wearing a shirt with the US flag on it.

Concerning the cases analysed, a quantitative and statistical analysis was carried out on the case database of Eye on Cuba, and a qualitative analysis that would make it possible to identify violations of these rights. Other factors were examined in order to obtain a greater understanding of the phenomenon. These factors included whether the person involved was an activist, if they were fined, if they were threatened, as well as which other rights were violated (for example the right of meeting, personal freedom, political involvement, etc.). In addition to the cases, four Cubans were interviewed in order for them to further comment on their experiences and what it means to be restricted in their freedom of speech and their right to protest.

# Cases of violation of the right to public demonstrations between 2016-2021





# The right to public Demonstration in figures

**702**

Cases documented by  
the EYE on CUBA  
network of  
collaborators

**15**

Provinces where cases  
were documented

Violations of human rights of

**46.66%**  
Activists



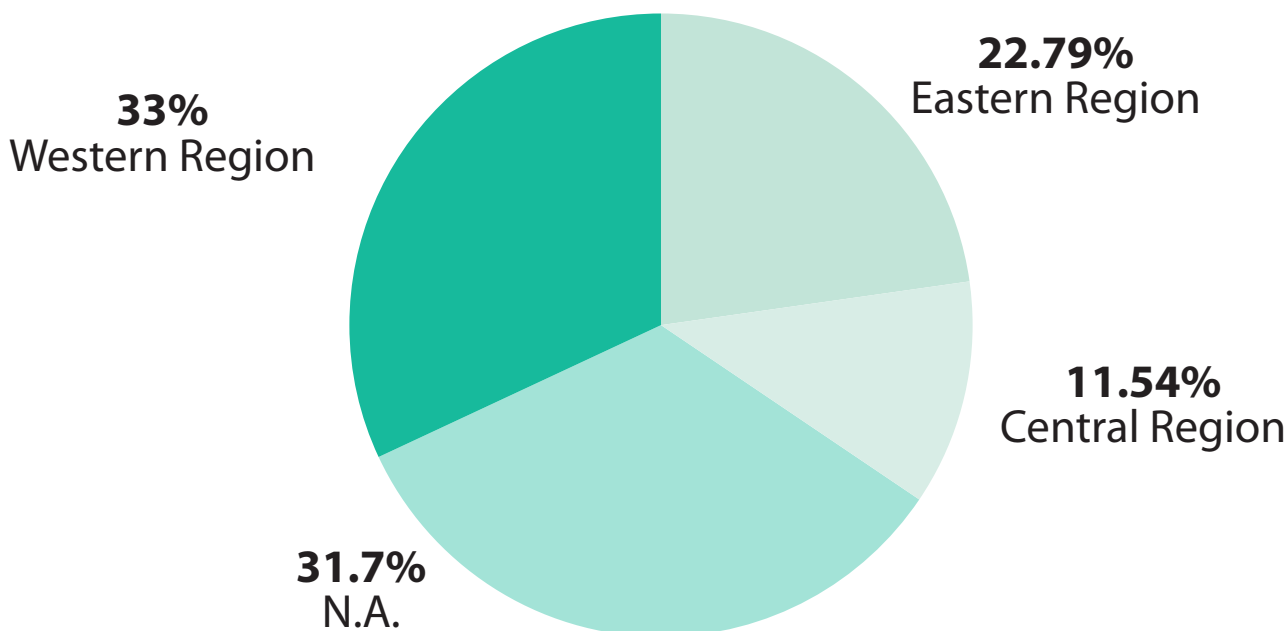
**55.34%**  
Non-activists



# Geographic and Time-related distribution

## Distribution by regions

Cases reported in the three great regions of the Island:



DISTRIBUTION BY REGIONS

## Distribution by province

• Ciego de Ávila:	3	• Matanzas:	26
• Cienfuegos:	12	• Pinar del Río:	81
• La Habana:	107	• Sancti Spíritus:	15
• Granma:	7	• Santiago de Cuba:	18
• Guantánamo:	91	• Villa Clara:	29
• Holguín:	44	• Artemisa:	12
• Mayabeque:	9	• Camagüey:	24
• Las Tunas:	1	• Not identified:	223

# Cases of violation of the right to public demonstration: 11-J

**149**

Documented cases of violation of the right to public demonstration in 2021

**66**

Cases were recorded related to the demonstrations of 11 July, 2021

**13.64%** Activists

**77.78%** Men

**22.22%** Women

## The right to public demonstration in figures, 11-j

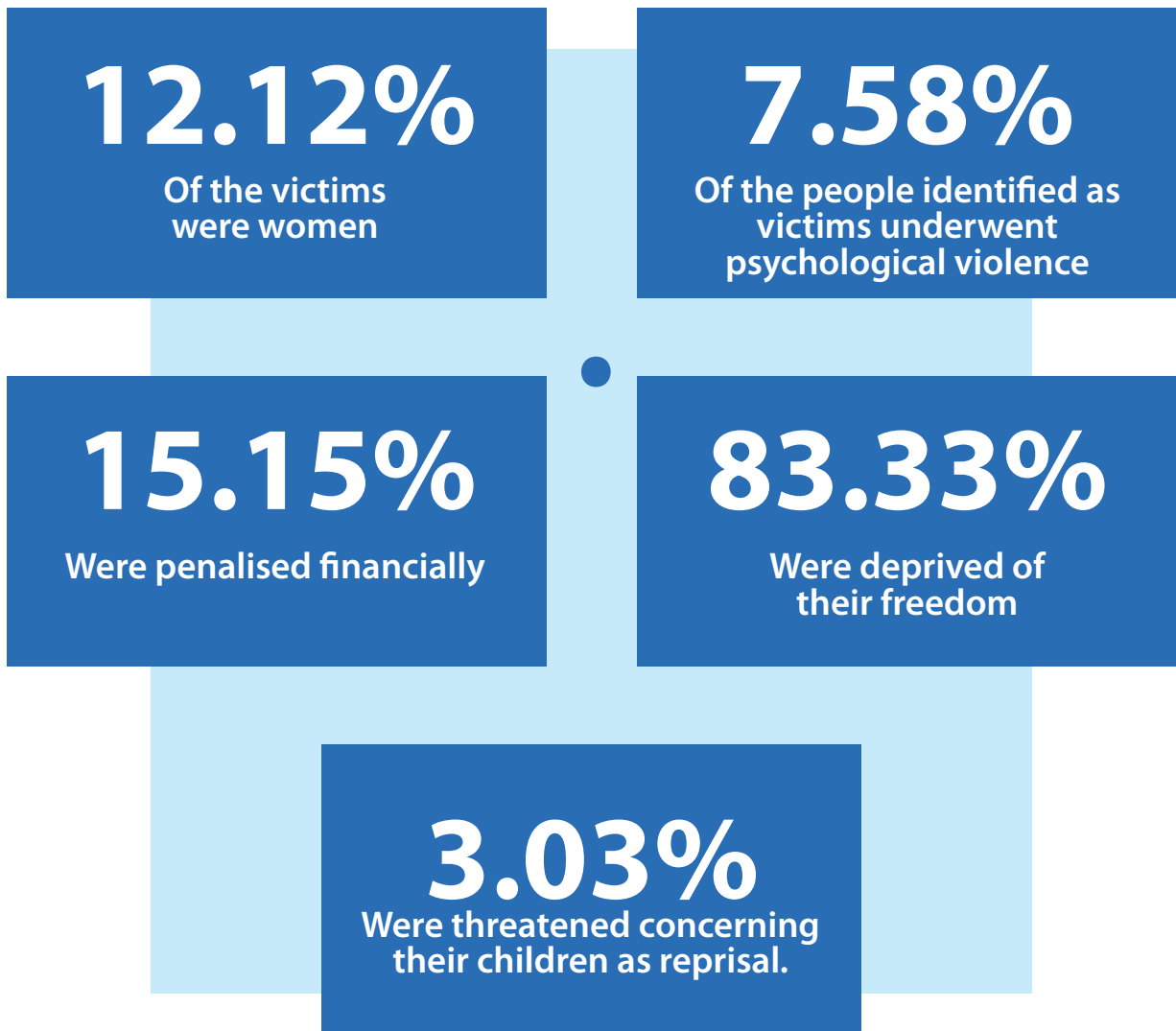
**66**

Cases were documented by the EYE on CUBA network of collaborators as related to 11-J

**10**

Cases were documented in provinces

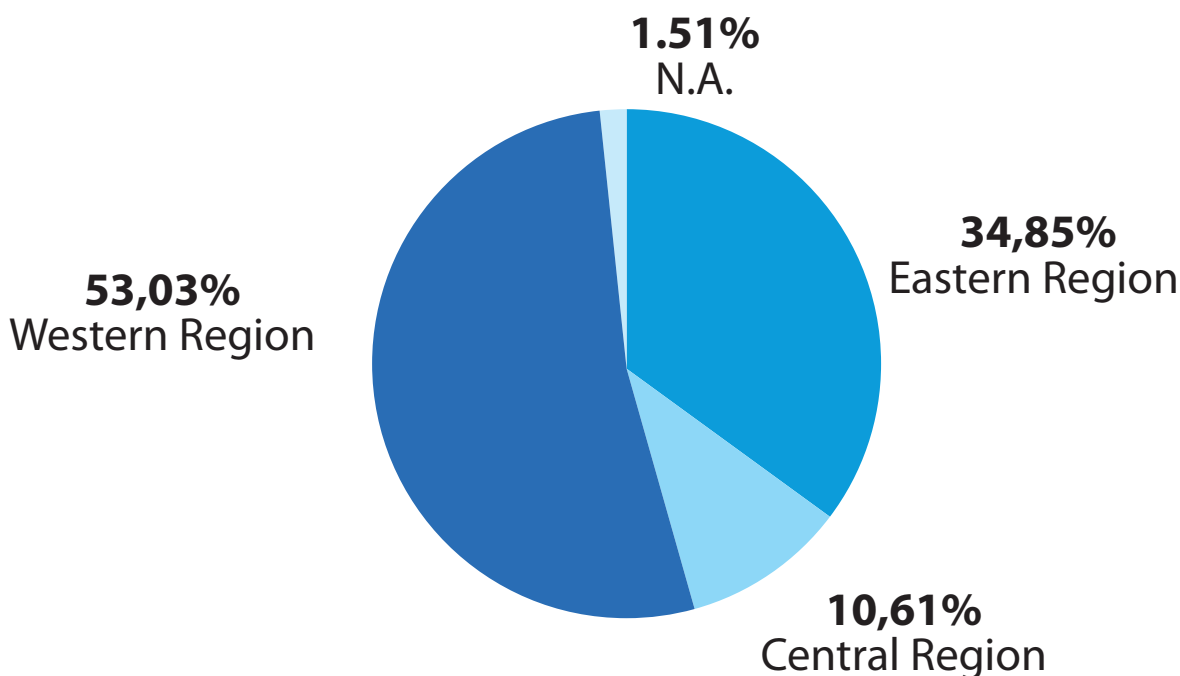
# Violations of human rights of



# Geographic and Time-related Distribution: 11-j

## Distribution by region: 11-J

Cases recorded in the three great regions of the Island



DISTRIBUTION BY REGION: 11-J

## Distribution by province: 11-J

• La Habana:	25	• Santiago de Cuba:	3
• Granma:	2	• Villa Clara:	3
• Guantánamo:	17	• Artemisa:	4
• Holguín:	1	• Camagüey:	4
• Mayabeque:	6	• Not identified:	1

During 2021, Eye on Cuba recorded a total 149 cases reported by the network of collaborators, in which there were violations of the right to protest and/or the right to freedom of speech and of opinion. This reflects 64.78% of the total cases received for the year 2021, which shows that this right was violated in more than half of the events for this year.

**It is worth noting that on the 11th of July, 2021, a series of demonstrations took place throughout Cuba, in which both activists and non-activists participated. Of the 149 cases of violation of the rights to public demonstration, 66 were identified as corresponding to the 11th of July, which amounts to 44.3%. On that date, violations were recorded in 10 different provinces. The province of Havana was the one with a highest percentage with 37.88%, followed by Guantánamo with 25.76%. As to the three great regions of Cuba, the Western Region showed the highest number of cases, amounting to 53.03%.**

Similarly, it was determined that 13.64% of the victims were activists, most of them men with 77.78%. It is worth noting that in terms of the general population, including activists and non-activists, 12.12% of the people affected by the events of 11 July, 2021 were women. As to the reprisals experienced by those who decided to exercise their right to public demonstration and/or freedom of speech and of opinion on that date, 7.58% of them experienced psychological violence, while 15.15% were financially penalised and 3.03% were threatened concerning their children. Finally, it was possible to determine that the most frequent consequence was the victims' deprivation of freedom, which took place in 83.33% of the cases reported.

Activist is arrested by the security forces of the regime, to prohibit him from protesting this November 15.  
Credit: YAMIL LAGE/AFP via Getty Images



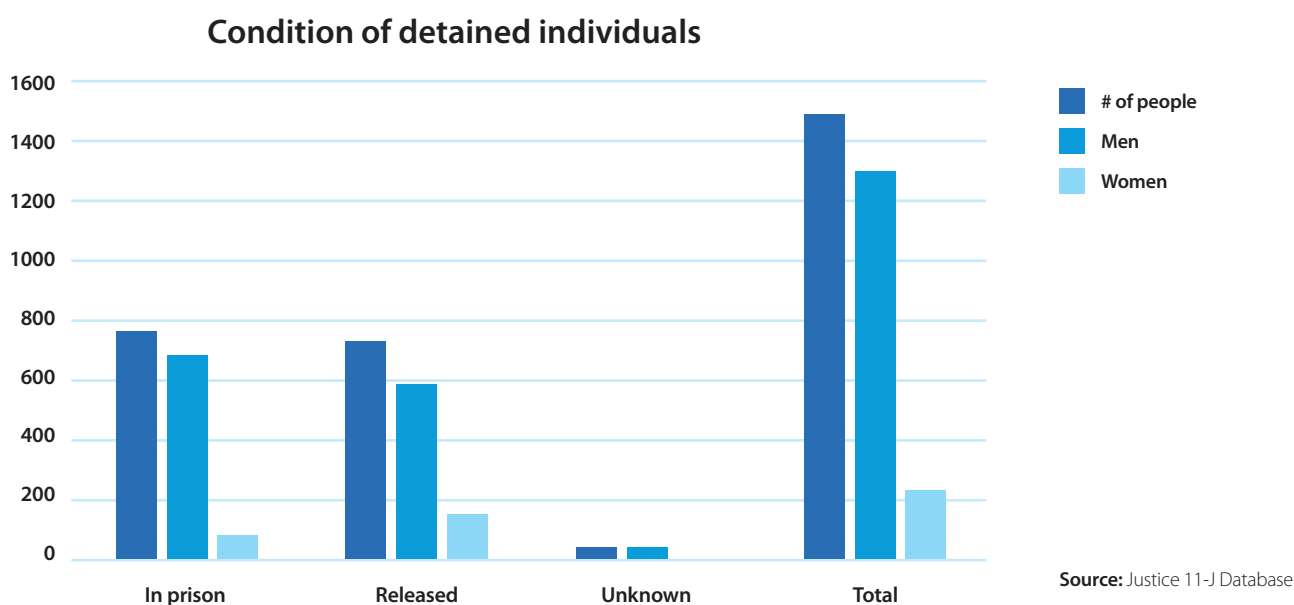
## DATA from Justice 11-J

The organisation “Justice 11-J” was founded in July, 2021, with the purpose of documenting and systematising the data of the people who had been arrested on account of their involvement in the protests of 11 July, 2021. Despite being a recently formed organisation, it has managed to consolidate itself as a benchmark in civil society for keeping record and following up on people who are in prison and the penal processes they are undergoing. This is no small effort, given the opacity with which the Cuban government has acted in terms of arresting demonstrators. This has been shown in the lack of information given to family members concerning the location of those detained, as well as a flagrant violation of the principles of due criminal process: the principle of publicity,<sup>7</sup> the principle of defence,<sup>8</sup> the principle of presumption of innocence and the impartiality of the judge.

The cases listed herein, which are the result of an enormous work carried out by the members of Justice 11-J, are helpful for having an idea of the consequences faced by activists and opponents of the Cuban regime.

According to the database developed by Justice 11-J, a total 1471 individuals detained in all parts of the country on account of their involvement in the 11-J marches have been identified. Of them, 47.9% (705) were later released, but 49.8% (733) remain in prison. No data are available about the remaining 2.2% (33).

Concerning the gender of those detained, 84.8% are men and 14.8% are women.



<sup>7</sup> Juicio cerrado para Otero Aclántara y Osorbo: impiden entrada de la prensa extranjera y diplomáticos. (Closed Trial for Otero Alcántara and Osorbo: Entrance Forbidden to Foreign Press and Diplomats) Univisión. 31 May, 2022

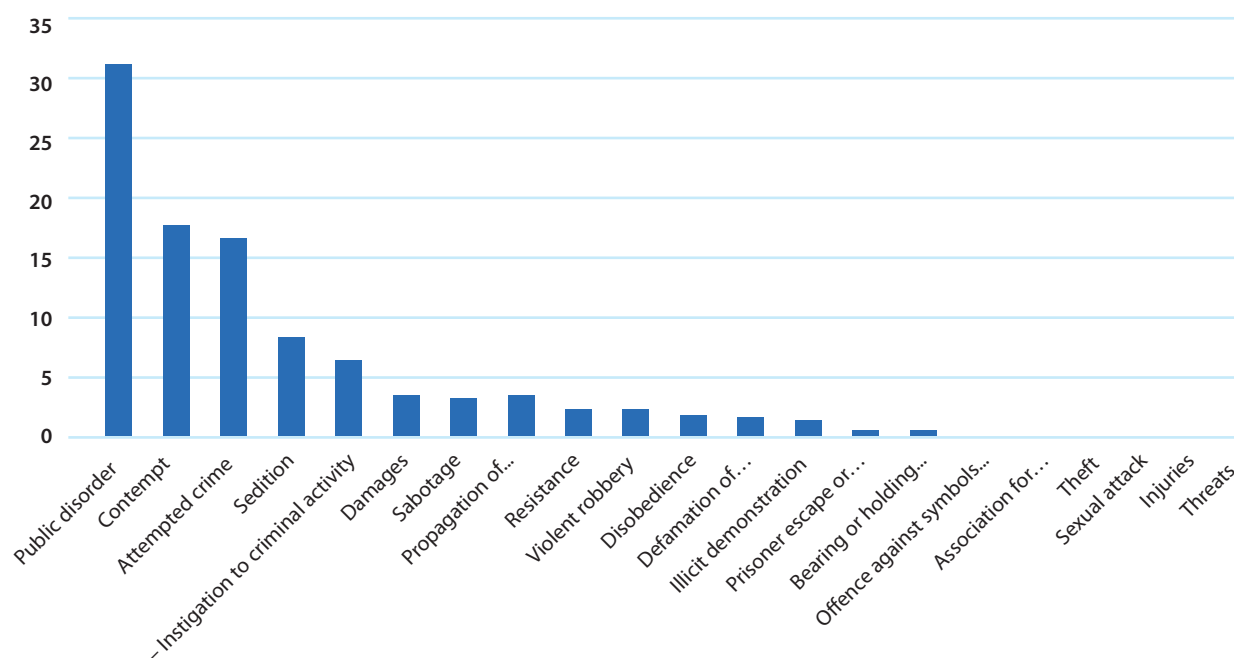
<sup>8</sup> Viera Eloy. 40 manifestantes del 11J condenados sin defensa: otra vulneración a los derechos humanos: (40 Demonstrators from 11-J Condemned without Defence: A New Violation of Human Rights). El Toque. 11 Agust, 2022. El Toque. 11 de agosto, 2022



Concerning the crimes for which those detained are being prosecuted, it has been found that 30.8% are being charged with public disorder, 17.3% with contempt, 16.5% with attempted crime, 7.9% with sedition and 6.2% for instigation to criminal activity. The remaining crimes are being attributed to less than 5% of the total people prosecuted.

### Percentage of crimes for which demonstrators are being prosecuted

Source: Justice 11-J Database



A shared characteristic of these crimes is that they are open criminal types, that is, they are crimes whose description is so broad or ambiguous that a large number of behaviours can be included in it. Thus, for in-stance, for the crime of public disorder, set forth in section 200 of Cuba's Criminal Code, punishment will be imposed on a person who "shouts an alarm, utters threats of a common danger or performs any other act with the intention to cause panic or tumult". Another example is the crime of sedition (Article 100 of the same Code), which among its typical behaviours includes those who, "(...) resorting to violence, disturb the socialist order (...)". Then, questions like these come up: What should one understand by shouting an alarm, or having the intention to cause panic, or even disturbing the socialist order?

These cases demonstrate just how arbitrarily the regime can act in order to criminalise those people whom they consider their opponents, since any act of freedom of speech can fit the behaviours included in the crimes mentioned above.

# Cases of violation of the right to public demonstration: 15-N

**149**

Documented cases of violation of the right to public demonstration in 2021

**17**

Cases were recorded related to the demonstrations of 15 November, 2021

**52.94%** Activist

**66.67%** Men

**33.33%** Women

## The right to public demonstration in figures, 15-N

**17**

Cases were recorded related to the demonstrations of 15 November, 2021

**3**

Cases were documented in provinces

# Human rights violations of



**25.53%**

Of the victims were women

**33.33%**

Of the persons identified as victims underwent psychological violence

**11.76%**

Were financially penalised

**11.76%**

Were deprived of freedom

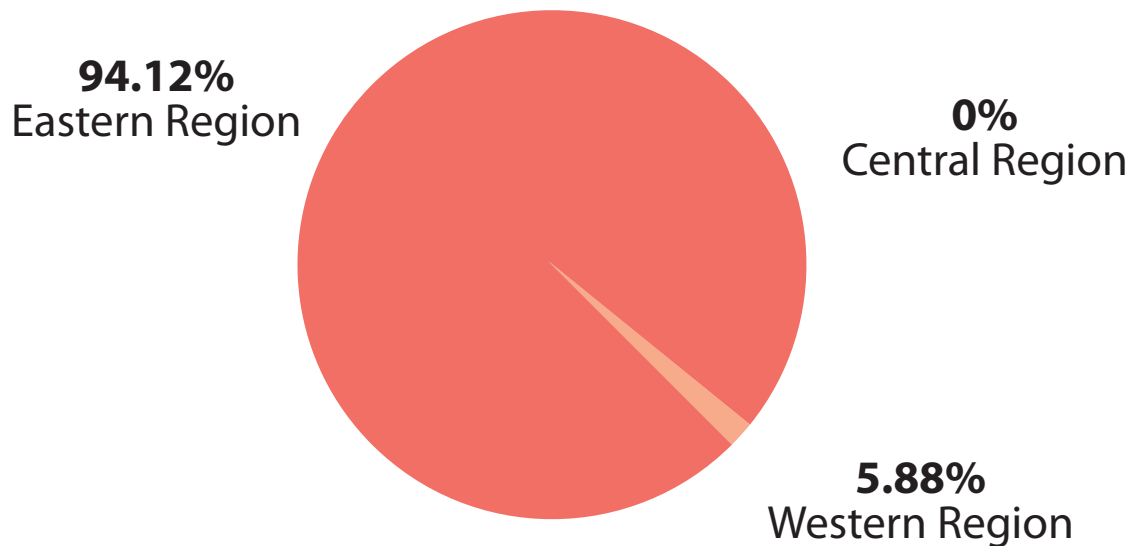
**5.88%**

Of victims underwent reprisals for expressing themselves through posts in social networks

# Geographic and Time-related distribution: 15-N

## Distribution by region: 15-N

Cases recorded in the three large regions of the island:



## Distribution by province

- |               |    |                  |   |
|---------------|----|------------------|---|
| • Guantánamo: | 10 | • Pinar del Rio: | 1 |
| • Holguín:    | 6  |                  |   |



Throughout 2021, Eye on Cuba, thanks to its network of collaborators, was able to record 149 cases related to the violation of the right to protest and/or the right to freedom of speech and of opinion.

On 15 November, 2021, a call was issued to demonstrate for respect to the rights of the Cuban people, and above all to demand the release of political prisoners. It was determined that, of the 149 cases mentioned above, 17 correspond to reports of the events of 15 November, amounting to 11.41%. The reports refer to 3 different provinces, of which Guantánamo is the one showing the highest figure, which results in 58.82%. The Eastern Region was the most affected, as 94.12% of the cases took place there.

Similarly, it was possible to determine that 52.94% of the cases correspond to activists, most of them men that amount to 66.67% of the total, whereas 47.06% of the violations of the right to public demonstration were against non-activists. It is worth mentioning that 23.53% of the victims were women. Additionally, 11.76% received financial penalties, whereas a similar percentage were deprived of their freedom. Finally, it is necessary to highlight the fact that 5.88% of the victims underwent reprisals for expressing their opinions through posts in their social networks, and 33.33% of the people underwent psychological violence.

## SOCIAL NETWORKS



@EYEonCUBA



@EYECUBA

[www.eyeoncuba.org](http://www.eyeoncuba.org)

## DOCUMENTS FOR FURTHER INFORMATION

- Ganon, Manuel. El derecho a la protesta social y la crítica a la violencia (The Right to Social Protest and the Criticism of Violence). Redea, Derechos en Acción, 2017.
- Special Rapporteurship for the Freedom of Speech. Protesta y Derechos Humanos: estándares sobre los derechos involucrados en la protesta social y las obligaciones que deben guiar la respuesta estatal (Protest and Human Rights: Standards on the Rights Involved in Social Protest and the Obligations that Ought to Guide State Response). Inter-American Commission on Human Rights. 2019
- Council for Human Rights, Informe del Relator Especial sobre los derechos a la libertad de reunión pacífica y de asociación (Report from the Special Rapporteur on the Rights to Freedom of Peaceful Meeting and of Association), Maina Kai, 21 May 2012
- Special Rapporteurship for Freedom of Speech, IACHR. Protesta y Derechos Humanos (Protest and Human Rights). 2019
- Rojas, Rafael. Cuba: el estallido social como crimen político (Cuba: Social Uprising as a Political Crime). Revista Nueva Sociedad. 2021

The new international scene and the renewed strengths and initiatives of the Cuban civil society are creating a unique opportunity to carry out a deep change in the island, which can ensure progress, prosperity and respect for all human rights. It is key that women are guaranteed a first-line role in this process. We exhort the Cuban State to carry out the implementation of legislative reform and training of State officers that will seek full respect for the rights of Cuban women and the guarantee of a life free of violence.

We also call the Cuban Government to start taking the necessary steps towards a reform of the country in other areas, always taking into account the participation of the independent civil society and the gender perspective, thus opening the doors to a more equitable, plural and inclusive society in which no one is discriminated against or punished on account of their gender, sexual orientation, race or ideas.

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We at People in Need express our gratitude to all collaborators of the EYE on CUBA network, as well as to all the people who are helping or have helped in different ways, through their dedication, support, courage and determination. Additionally, in this issue of the report we would like to thank Justicia 11-J and the fem-inist collective Alas Tensas for allowing us to access their databases and reports that have contributed to the present document. We are especially grateful to Elizabeth Valdés, Nuris Norberto Rodríguez, Leandro Rodríguez, who through their invaluable experience, observations and knowledge allowed us to build a more complete picture of the reality in terms of the protest. We also thank the interns Melissa Esquivel, Rodrigo Arce and Rosa Hernández, who contributed to the data analysis for this report.





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