



**EYE on CUBA**

Monitoring Human Rights Abuses in Cuba

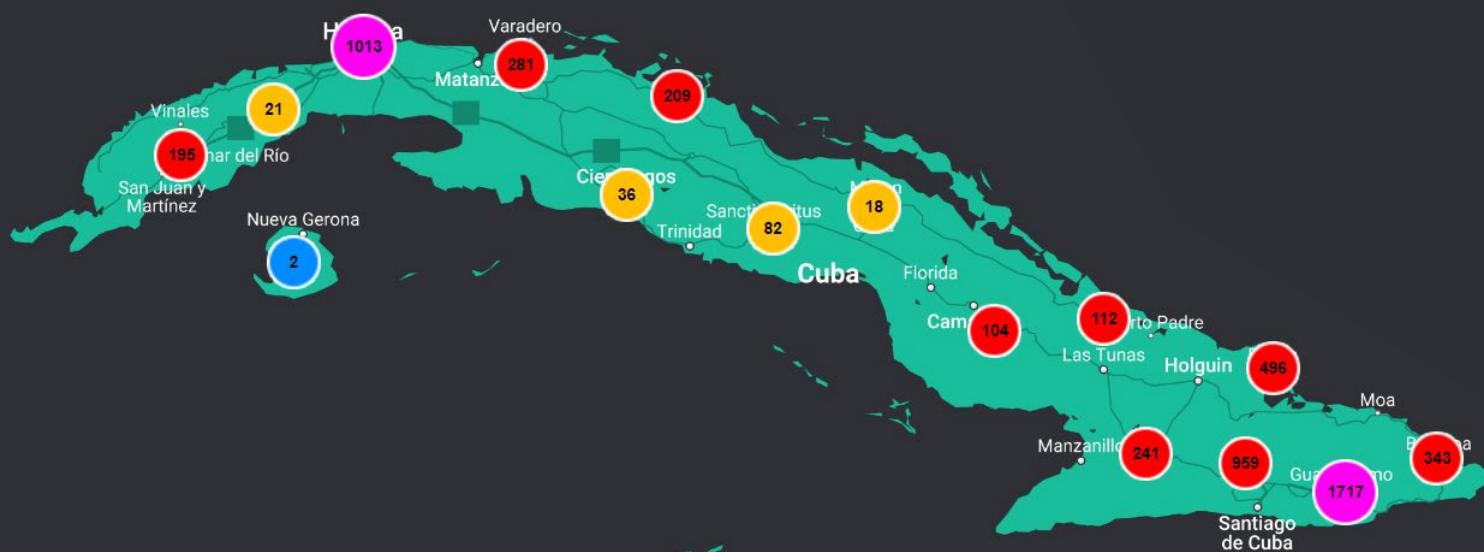


# Torture in Cuba

*Thematic report*

The cases shown allow us to know first-hand the reality of Cuban civil society, which often faces repression from the authorities.

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## Introduction

People in Need (PIN) is a non-governmental, non-for-profit organisation created in the Czech Republic in 1992, currently present in dozens of countries such as Costa Rica, Nicaragua, Honduras, Ukraine, Serbia, Syria, Egypt, Afghanistan and many others. During its 30 years of experience it has based itself on principles of freedom, humanism, equity and solidarity, taking as its centre human dignity and freedom. Likewise, throughout its trajectory, PIN has positioned itself in favour of the full enjoyment of the rights contemplated in the Universal Declaration of Human Rights. This is why it has characterised itself for humanitarian aid, fight against poverty and help under authoritarian regimes in different regions.

As part of its work in search of the guarantee of human rights, and being aware of the critical situation of the same, PIN started operations in Cuba in 1997 through the Eye on Cuba project. The primary goals of this project are the defence of human rights of the inhabitants of the Island, aid to the Cuban population, and the dissemination of information to the international community concerning the human rights situation in this country.

*Eye on Cuba* has taken care of supporting local initiatives in all Cuban provinces, for the sake of seeking the promotion and protection of human rights of Cubans. Likewise, it has set up a network of support and protection in favour of activists and citizens who are victims of abuse perpetrated by the regime currently enthroned. On its part, it has built a documentation platform that gathers current, reliable data supplied by the inhabitants. This platform operates as a key means of visibilisation of the current situation inside the Island. This information is systematised and organised, and is finally posted on Eye on

Cuba's official website. This data base seeks to show the various and serious forms of abuse perpetrated against the civil population, as well as to offer a sufficiently broad and reliable panorama.

Among the different forms of abuse shown in the data platform one can find violation of civil and political rights, as well as of economic, social and cultural rights. Along this line, a growing concern has been expressed about the increasing instances of repression of human rights in the form of torture, cruel, inhuman and degrading treatments, especially manifested in the context of detainments and prison centres in the Island. In this sense, Eye on Cuba finds the need to release the present topic report as part of the annual reports that reflect on particular situations in the Cuban context.

Therefore, the present report has as its goal to situate itself in the context offered by the cases documented in 2022 that allow to expose the violations faced by people in the Island in the form of cruel, inhuman or degrading treatments in different scenarios. This report has been developed on the basis of the data provided by the collaborators of the Network, as well as a bibliographic review of what is currently protected in the international sphere against this type of violations of human rights. As a result, the report sketches a general overview of the current status of rights of protection against torture and other cruel, inhuman and degrading treatments in the Island.

## Cuba and the Convention against Torture

The United Nations (UN) currently has 18 juridical instruments dealing with human rights, of which Cuba has signed 10 but ratified only 8. Its main purpose is to establish international standards to protect and promote certain themes in human rights.

Thus, one of the instruments signed and ratified by Cuba is the *Convention on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (hereinafter, the Convention Against Torture). Cuba ratified this convention in 1995, and starting on that date it was legally and internationally obligated to adopt administrative, legislative and judicial measures and other governmental actions so that all the rights contained therein might be recognised and guaranteed. On the other hand, on 17 May, 1995 Cuba manifested its acceptance concerning the investigation procedure related to said Convention. In so doing, Cuba committed itself to cooperation and openness to an assessment of the situation on the Island.

Among the different juridical instruments that regulate this matter and that are currently in force and applicable in Cuba, the following can be highlighted:



## **Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment**

*Art. 1: ...the term "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain and suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.*

*Art. 2: No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture.*

*Art. 11: Each State Party shall keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture.*

### **Political Constitution of the Republic of Cuba**

*Art. 51: Persons may not be subjected to forced disappearance, torture or cruel, inhuman or degrading treatment or punishment.*

### **ILO Abolition of Forced Labour Convention (No. 105)**

*Art. 1: Each Member of the International Labour Organisation which ratifies this Convention undertakes to suppress and not make use of any form of forced or compulsory labour— (a) as a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system; (...) (d) as a punishment for having participated in strikes; (e) as a means of racial, social, national or religious discrimination.*

### **Law No. 5 on Penal Procedures of Cuba**

*Art. 467: Every person that is deprived of freedom, except for the cases or without the formalities and guarantees provided by the Constitution and the laws, must be released at his own request or at the request of any other person, through a most abbreviated process of habeas corpus with the competent Courts.*

*The habeas corpus will not be in order in the event that the deprivation of freedom is the result of a sentence or provisional prison warrant issued in a record or cause for a crime.*



## Penal Code of Cuba

*Art. 368.1: Any public officer, authority, agent or auxiliary to said or to any other person in the exercise of public office, that intentionally inflicts on a person serious pains or suffering, whether physical or mental, or intimidates or coerces that person or subjects him to any other procedure or condition that, by its nature, duration or circumstances involves a cruel, inhuman or degrading treatment or punishment, in order to obtain from that person or from any third party a confession or information, in order to punish that person for an act he has committed or is suspected of having committed, or who executes that action for any reason of discrimination, incurs the sanction of deprivation of freedom from seven to fifteen years.*

*2. The same sanction is incurred by any authority, public officer, his agents or aides, if the action takes place at his instigation or with his knowledge.*

For its part, the Convention against Torture has mechanisms of follow-up, observation and direction inside the United Nations to support the countries in the fulfilment of the obligations acquired. One of the bodies is the Committee Against Torture, which reviews the follow-up reports of the States Parties in order to assess progress in the application of the Convention. These reports must be submitted in rounds every four years, and Cuba's turn to present the results and commitments last April, 2022.

Between the 21st and the 29th of April, 2022, the Cuban Government appeared in Geneva in order to present its periodical report before said body, in virtue of the commitments that it has followed in the Island as a State Party to the Convention. In their presentation, the Cuban delegation presented the system of laws, norms, regulations and policies that Cuba currently has to ensure the integral protection of every person, as well as the actions the Government has taken in recent years to prevent actions of torture, cruel, inhuman and degrading treatment from occurring in its territory.

Immediately afterwards, the Cuban delegation expressed their pride in the demonstration of the trajectory and the results of fulfilment with the stipulations of the Convention, as well as their openness to receiving the Committee's recommendations in order to continue with their objectives of fighting the persistent campaigns of defamation and tergiversation that are carried on against Cuba due to the purported reports of violation of Human Rights. In addition, the Cuban governmental officers assert that, in recent years, the deplorable practices outlawed by the Convention have remained exclusively in the fragment of the Cuban territory that is illegally occupied by the Naval Base of the United States of America at Guantanamo Bay<sup>1</sup>

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<sup>1</sup> [Official Communiqué of the Ministry of Foreign Affairs of the Republic of Cuba, 21 April 2022: Cuba presents in Geneva its positive results in the implementation of the Convention against Torture.](#)

In the framework of the presentations of follow-up reports before the Committee Against Torture in Geneva, the Ministry of Foreign Affairs of the Republic of Cuba forcefully asserted, in an official communiqué of 29 April 2022, that

*The participation of Cuba in this periodical examination is one more evidence of its commitment and will to cooperate with the human rights mechanisms of the United Nations, on the basis of respectful and constructive dialogue and of full respect for Cuba's sovereignty, independence and self-determination.*

However, on 9 June 2022, the **Report with Final Observations on Cuba's third periodical report of the Committee against Torture** was made known, which expresses concerns about the current situation of torture in the Island. Some of these concerns include:

- The lack of updated reports on overcrowding, insalubrity, deficient medical attention, malnourishment, insufficient supply of drinking water and medicines, denunciations and hunger strikes, maltreatment and torture of those imprisoned, physical and verbal aggression, and inappropriate use of isolation cells at the prison centres.
- There continues to be an omission in typifying the crime of torture, despite Article 51 of the Political Constitution forbids it. This recommendation has been made many times in past reports of the Committee.
- A national human rights institution has not been established in the country, that would respond to the principles related to the status of national institutions for the promotion and protection of human rights (Principles of Paris, art. 2).
- The prolonged use of provisional prison, especially applied to persons who have been deprived of freedom allegedly for political reasons.
- The subordination of the Office of the Attorney General of the Republic to the President of the Republic, despite the constitutional provision for judicial independence in article 157 of the Constitution.
- The failure to present full statistic information concerning the persons deprived of freedom deceased during the period being examined. Even though Cuba alleged that the more than 100 deaths in custody were due to cardiovascular diseases, the Committee repudiates the failure to update the data and real causes of decease.
- Death penalty continues to be a punishment contemplated in penal legislation for common crimes and for amplified categories of crimes against the security of the State.

On the other hand, the recommendations issued to Cuba by the Committee against Torture include:

- Ensuring that all the cases of death during deprivation of freedom are promptly and impartially investigated by an independent body.
- Investigating any possible responsibility of public officers in the death of persons under custody, and, when relevant, duly punishing those responsible and provide a fair and adequate indemnification to family members.
- Establishing independent national mechanisms for the protection of human rights defenders, journalists and other actors of civil society.
- Establishing protocols for the regulation of the police forces during social protests.
- Investigating, trying and punishing, in a prompt and independent way, those responsible for the excessive use of force and the maltreatments inflicted during the well-known social protests of the 11th of July, 2021.
- Adapting the internal norms and actions in order to respond to the concerns expressed throughout the report.

Afterwards, on 18th September 2023, the **Information received from Cuba concerning the follow-up of the final observations on its third periodical report** was released, which had been received on 11th May 2023. In this document, Cuba refers to the recommendations issued by the Committee concerning the “alleged human rights defenders, journalists and artists” and about the “violent riots of 11th July 2021”. This document says that in Cuba there are no persons deprived of freedom for the exercise of their human rights or political opinions, and that all the denunciations presented internationally against the Island are part of an “intense and well-structured campaign of a political and media type, designed by the Government of the United States in an opportunistic manner in order to exert the greatest possible pressure on [Cuba] and disturb social stability”. As to all the other recommendations regarding torture, Cuba said nothing in this response.

Another mechanism the United Nations relies on for the review of track records in the area of human rights is the Universal Periodical Examination (UPE). This context offers the opportunity for each member State of the Organisation, regardless of the treaties, conventions and other international instruments adopted, to declare what measures it has taken in order to improve the situation of human rights in its country, and to fulfil the obligations acquired. The next UPE concerning Cuba will take place starting on Wednesday, 15th November, 2023, and thus it would be relevant to wait for the presentation of documents by Cuba in order to assess any other reference to all the denunciations, international concerns and pressures to attend to the crisis of violence and torture in detainment centres and against civilians in the Island.



## Political prisoners

Political prisoners are those people who have been jailed due to their political beliefs, activities or affiliations that are considered a threat or a challenge to the government or to the established political system. These people are arrested and taken to prison without a fair trial or due process, and they are often denied their basic human rights.

This category can include activists, human rights defenders, journalists, opposition leaders, as well as members of minority ethnic or religious groups, among others. These people are usually jailed for expressing opinions against the Government, participating in peaceful protests, spreading critical information or openly defying the Government's policies or actions.

The detainment of political prisoners is considered a violation of human rights and a form of political repression. These people often face inhuman conditions, including torture, maltreatment and isolation. Their families and loved ones may become victims of harassment, intimidation or reprisal by the authorities. These arbitrary arrests and the constant power abuse by the authorities violate fundamental principles such as democracy and freedom of speech.

Numerous cases of political prisoners have been reported throughout the years in Cuba. In the 2022 report on [Torture, Cruel, Inhuman or Degrading Treatment or Punishment against Political Prisoners in Cuba](#), developed by Prisoners Defenders, the cases of 101 political prisoners were studied and examined through a random sample. Of the total cases, 87 were recorded through the use of a questionnaire, while the remaining 14 were researched deliberately.

The report showed as a result that, of the 87 cases of those reporting on the tabulated form, 100% have been victims of mechanisms of torture and maltreatment. Among the patterns of maltreatment and torture, Prisoners Defenders recorded the following:

1. Deprivation of medical care among political prisoners.
2. Forced labour and tasks not proper to their condition of prosecuted persons or of penal conviction.
3. Highly uncomfortable, harmful, degrading and prolonged posture patterns.
4. Confinements in solitude as punishment.
5. Use of temperature as a mechanism of torture.
6. Physical aggression.
7. Abnormal transportation to locations unknown to the prisoners and their families.
8. Deliberate disorientation.
9. Denial of liquid and/or food.
10. Intentional deprivation of sleep.
11. Deprivation of communication with family, defence and friends.
12. Threats to them, to their integrity, to their safety and that of their loved ones.
13. Threatening display or exhibition of weapons and torture items.
14. Intentional subjection to anguish, grief or uncertainty for the situation of a family member.
15. Humiliation, degradation and verbal maltreatment.

On the other hand, in 2021, in the wake of the protests of 11th June that took place throughout the territory, one can identify that Cuba has registered the highest rate of repression through recent decades. The instances of arbitrary detentions and reports of torture against activists, their family members and civilians increased sharply.

On the basis of the random sample, it was possible to determine that 55 of the 101 victims, i.e. 54.46%, were charged with the alleged crime of Public Disorder. This crime was charged on most of those arrested at the 11J demonstrations. Other 48 victims were charged with Contempt, and 39 with Attempted crime.

The crime of Sedition was the made-up charge used to incriminate 19.8% of the victims, including 3 minors. While the report indicated that the majority of the victims were adults, one cannot ignore the fact that there are also a number of minors who have been subjected to torture in the same way.



# Methodology and analysis of the data.

## Eye on Cuba platform

The *Eye on Cuba* network gathers data on the basis of the information provided by collaborators, who narrate their experiences. On that basis, the rights that have been violated are identified according to the Universal Declaration of Human Rights. The present report starts from the analysis of the cases compiled during the year 2022, which includes a total of 280 cases.

## Typology of torture and cruel, inhuman and degrading treatment

In the year 2022, a total 280 cases were recorded, distributed throughout all the Cuban territory, of which 27% (76) were actions that constitute torture. Similarly, 75% of these violations included deprivation of freedom against the victims.

Concerning the gender with which the victims of torture identify, 77.6% (59) of the violations were carried out against men, and 22.4% had women as their victims. Of the total victims, 72.3% are activists, whereas 27.7% of the victims did not consider themselves as such.

## Conclusions

*The Convention against Torture and other Cruel, Inhuman or Degrading Treatment and Punishment* was ratified by Cuba in 1995, and it is one of the few international regulations binding on the Island. In spite of this, torture is a mechanism of coercion against all those people who are against the Government.

One of the most notorious mechanisms has been the deprivation of freedom for political reasons, which has been undergone by thousands of people considered to be opposers of the regime. In addition, these people undergo all kinds of vexations during their imprisonment. These forms of vexation include food in bad conditions, deprivation of sleep, prohibition to communicate with family members, lack of medical attention, and others.

What the documented cases demonstrate is that, far from being an exception, [torture has become institutionalised as the modus operandi of the regime](#). Another peculiarity is the lack of transparency and accountability by the Government, in a country where there is no rule of law or division of powers. Therefore, determining the responsibilities for these abuses, at least at a national level, seems impossible.



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# **Libertad religiosa**

## *Informe Temático*