



## **Cuba**

### **Joint Stakeholder Submission to the 44<sup>th</sup> Session of the Universal Periodic Review**

Submitting organizations:

Outreach Aid to the Americas and Patmos Institute

## Who We Are

### Outreach Aid to the Americas

OAA is a U.S.-based faith-based, non-governmental organization dedicated to helping vulnerable communities in the Americas through humanitarian assistance, development programs, and human rights advocacy. As part of its human rights advocacy, OAA seeks to promote religious freedom or belief and related human rights. OAA does this through projects that support and defend human rights advocacy and build independent civil society, focusing on authoritarian settings with egregious rights violations such as Cuba and Nicaragua. Learn more at: [www.oaausa.org](http://www.oaausa.org)

### Patmos Institute

The Patmos Institute is a Cuban civil society organization founded in the Eben Ezer Baptist Church, Taguayabón, Cuba, on February 2, 2013, and authenticated by the European Citizen Action Service on July 24, 2013. It promotes a culture of dialogue for Cuba through the coordination of fora, workshops, conferences, literature festivals, exhibitions and concerts that seek maximum citizen participation. The Institute awards an annual prize that is presented every 31<sup>st</sup> of October, the Day of the Protestant Reformation, to believers who have demonstrated excellence in advocating for religious freedom in Cuba. Learn more at: <https://institutopatmosonline.org>

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## **Introduction**

1. This submission by Outreach Aid to the Americas (OAA) and Instituto Patmos (IP) seeks to draw attention to concerns regarding the right to freedom of religion or belief (FoRB) in Cuba ahead of the state's fourth Universal Periodic Review (UPR).

## **UPR Commitments to FoRB**

2. During the third UPR cycle in 2018, Cuba supported 226 of 356 recommendations made, and it supported the four recommendations dealing explicitly with FoRB.
3. Cuba agreed to continue guaranteeing the right of everyone to freedom of worship and not to profess any religion, in accordance with its Constitution; to continue to promote the full right to freedom of religion; to strengthen the application of the existing legal framework, which prohibits and punishes discrimination that affects human dignity and values; and to continue to foster good relations with the different religious institutions.
4. With respect to recommendations related or complementary to FoRB, Cuba accepted the recommendation to strengthen the application of the existing legal framework, which prohibits and punishes discrimination that affects human dignity and values.
5. However, Cuba did not accept the recommendations to ensure that civil society members, human rights defenders and journalists can operate free from hindrance and insecurity, including by repealing legislation relating to so-called "pre-criminal social dangerousness"; enable and promote the work of civil society by discontinuing restrictive laws and practices; and to redouble efforts to strengthen the rights to peaceful assembly and association and to guarantee to independent journalists the free exercise of their profession without discrimination on political grounds.

## **Constitutional and International Legal Obligations**

6. The Cuban constitution contains FoRB protections. Article 15 of the 2019 constitution reads, "The State recognizes, respects, and guarantees religious freedom," and Article 57 reads, "Every person has the right to profess or not profess religious beliefs, to change these and to practice his or her religion of preference, with due respect to the others and in conformity with the law."
7. Cuba has signed, but not ratified, the International Covenant on Civil and Political Rights (ICCPR), which guarantees FoRB for all under Article 18.

## **Recommendations**

8. *Implement outstanding recommendations accepted in previous UPR cycles.*

9. *Ratify the ICCPR as a meaningful expression of commitment to ensure respect for human rights.*
10. *Issue a standing invitation to the UN Special Rapporteur on FoRB.*

### **Office of Religious Affairs (ORA)**

11. As the government body responsible for regulating religious activity in Cuba, the Office of Religious Affairs (ORA) is the Cuban government's primary vehicle for repressing FoRB rights.
12. ORA has authority to register religious associations, approve travel, building and construction permits, and for various other administrative matters with respect to religious groups.
13. CSW and IP are concerned that ORA applies rules in an arbitrary manner, showing favoritism to religious groups that are seen as cooperative or supportive of the government, while refusing to register, or routinely denying or delaying the issuing of permits for, those groups whose leaders have expressed criticism of the government.
14. Sometimes ORA officials directly put pressure on religious leaders. For example, in November 2021, Cuban Catholic priest Alberto Reyes reported that his religious superiors received a call from ORA telling them that if he and two other priests participated in a highly anticipated popular protest, they would be detained.<sup>1</sup>

### **Recommendations**

15. *Abolish the Office of Religious Affairs or significantly reform its policies and practices to ensure respect for FoRB rights.*
16. *Cease the use of administrative codes, non-transparent instructions, and other legal instruments to restrict FoRB rights.*

### **Lack of rights-respecting legal framework**

17. There is no meaningful legal framework to combat discrimination, hostility or violence in the name of religion or belief, or incitement to such acts. This is the case because although the Cuban constitution contains provisions guaranteeing FoRB, in practice these protections are overridden by various opaque administrative instructions and penal codes and decrees that are frequently vaguely worded and arbitrarily applied to violate FoRB.

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<sup>1</sup> 14ymedio, "El sacerdote cubano Alberto Reyes estará en la marcha cívica pese a la prohibición," November 15, 2021. [https://www.14ymedio.com/cuba/Alberto-Reyes-Marcha-Civica-prohibicion\\_0\\_3204879485.html](https://www.14ymedio.com/cuba/Alberto-Reyes-Marcha-Civica-prohibicion_0_3204879485.html)

18. For example, Articles 185 and 189 of the penal code, refer to the crimes of “disrespect” and “disobedience,” respectively. Charges of both crimes have been frequently leveled against religious leaders and members of religious communities to violate FoRB.
19. Articles 274 and 275 of the penal code, which criminalizes membership or association with an unregistered group. This allows the government to target religious leaders and others belonging to unregistered churches and religious groups. This practice also extends to umbrella representative faith organizations, including for Muslims and Santería faiths, which are severely limited by the government at the same time that the government promotes other “proxy” umbrella organizations, which it controls, as being the representatives of those faiths.
20. Legal Decree 322, or the “general housing law,” is used to expropriate unregistered churches’ buildings and goods. The appeal process under this decree can take a year—time during which authorities often move forward with demolitions and confiscations.

### **Recommendations**

21. *Modify or eliminate laws, codes and decrees used to arbitrarily repress FoRB rights.*
22. *Restore the rule of law by promoting citizens’ understanding of and appreciation for the constitution and laws.*

### **Harassment, intimidation and detention**

23. Leaders and members of religious groups are frequently harassed, intimidated, and detained by State Security. A frequent tactic is summoning the person to come to a police station for questioning, typically about activities such as public criticism of the government’s repressive actions or about social problems, made through statements in sermons or homilies, online and in social media.
24. There have been many instances of harassment and arbitrary detention of religious leaders during the reporting period. Following are some examples.
25. The Cuban government detained numerous religious leaders during the island-wide mass protests that took place on July 11, 2021. Father Castor Alvarez Devesa, a Catholic priest, was hit in the head with a bat and detained for one day;<sup>2</sup> evangelical pastors Yeremi Blanco and Yarian Sierra were detained and held incommunicado for almost two

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<sup>2</sup> Catholic News Agency, “Priest beaten, arrested amid Cuba protests,” July 12, 2021.  
<https://www.catholicnewsagency.com/news/248345/priest-beaten-arrested-amid-cuba-protests>

weeks and later fined;<sup>3</sup> evangelical pastor Lorenzo Rosales Fajardo was violently arrested and in May 2022 sentenced to seven years in prison;<sup>4</sup> and Loreto Hernandez García, a Yoruba leader, and his wife Donaida Perez Pasardo, were imprisoned and are serving a seven-year and an eight-year sentence respectively.<sup>5</sup>

26. In February 2022, authorities raided the home of Pastor Yordanys Díaz Arteaga (mentioned above), confiscating several items belonging to him and his church, and detaining him for six hours. Pastor Díaz is the president of the Christian Reformed Church of Cuba, which shortly before had left the Cuban Council of Churches, an umbrella ecumenical organization considered by many to be aligned with the Cuban government.<sup>6</sup>
27. Also targeted during the reporting period have been independent journalists who report on violations to FoRB rights. One of these journalists is Yoe Suárez, whom authorities subjected to frequent summons, interrogations and threats. In 2020 alone he was summoned six times. Authorities also summoned or spoke to Suárez's wife and mother in order to put pressure on him to cease his reporting work, and even issued vague threats of harm to his young son.<sup>7 8</sup>
28. Another journalist who has been targeted by the Cuban government is Roberto de Jesus Quiñones, who is also a lawyer and Catholic. In September 2019, Quiñones was sentenced to one year in prison for reporting on the case of a pastor and his wife who were imprisoned for seeking to educate their children at home.<sup>9</sup> Following his release from prison in 2020, Quiñones reported that he was being blocked from accessing the internet by the state telecommunications agency.<sup>10</sup> In October 2020, he reported that

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<sup>3</sup> CSW, "Two pastors fined for participating in nationwide protests," September 2, 2021.

<https://www.csw.org.uk/2021/09/02/press/5388/article.htm>

<sup>4</sup> CSW, "Court upholds sentence against Lorenzo Rosales Fajardo," June 24, 2022.

<https://www.csw.org.uk/2022/06/24/press/5739/article.htm>

<sup>5</sup> Radio TV Marti, "Salud de sacerdote yoruba encarcelado el 11J se deteriora," May 9, 2022.

<https://www.radiotelevisionmarti.com/a/salud-de-sacerdote-yoruba-encarcelado-el-11j-se-deteriora-puede-morirse-all%C3%AD-presos-alerta-su-hermano/322987.html>

<sup>6</sup> 14ymedio, "La policía persigue a un pastor que se retiró del oficialista Consejo de Iglesias de Cuba," February 3, 2022.

<sup>7</sup> Diario de Cuba, "Nosotros controlamos al ciudadano', dice la Policía a Yoe Suárez en un nuevo interrogatorio," March 12, 2021.

[https://diariodecuba.com/derechos-humanos/1615578183\\_29520.html](https://diariodecuba.com/derechos-humanos/1615578183_29520.html)

<sup>8</sup> Diario de Cuba, "La seguridad del Estado presiona a la esposa de Yoe Suarez para que el periodista 'reevalúe' su profesión," March 2, 2021.

<sup>9</sup> CiberCuba, "Liberal al periodista cubano Roberto Quiñones," September 4, 2020.

<https://www.cibercuba.com/noticias/2020-09-04-u186450-e186450-s27061-liberan-al-periodista-cubano-roberto-quinones>

<sup>10</sup> CiberCuba, "Periodista Roberto Quiñones denuncia que el régimen cubano le bloquea Internet," October 29, 2020. <https://www.cibercuba.com/noticias/2020-10-29-u1-e199370-s27061-periodista-roberto-quinones-denuncia-regimen-cubano-le-bloquea>

Cuban State Security prohibited his son from entering Cuba from the U.S. because the latter had shared articles about his father's imprisonment.<sup>11</sup>

### **Recommendations**

29. *Immediately and unconditionally release all prisoners who were exercising their rights as guaranteed by articles 18, 19, 20, 21, and 22 of the UDHR.*
30. *Cease the practice of detaining and arresting persons exercising their FoRB and associated rights including the rights to freedom of expression and freedom of assembly.*
31. *Ensure that all security and law enforcement officials who use violence against persons exercising their FoRB and associated rights are held to account.*

### **Travel bans**

32. During the reporting period, the Cuban government continued to frequently impose arbitrary travel bans on Cuban human rights defenders, activists and dissidents, prohibiting them from leaving Cuba. Religious leaders and FoRB defenders were frequently subjected to this practice.
33. In March 2020, the evangelical pastor Sandy Cancino was prevented from leaving Cuba for the U.S., where he planned to preach in churches in Florida and Texas. Pastor Cancino had previously publicly written against the constitutional referendum of 2019.<sup>12</sup>
34. In October 2022, Abu Duyanah, who leads the Cuban Association for the Dissemination of Islam, was prevented from boarding a flight bound for Mecca. He was told he was a "person of interest" and that he represented a threat to national security.<sup>13</sup>
35. In February 2020, the Cuban independent journalist Yoe Suarez was prohibited from leaving Cuba for two years for his work reporting on violations to FoRB.<sup>14</sup>

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<sup>11</sup> CiberCuba, "Roberto Quiñones: 'Me van a tener que matar porque voy a seguir siendo congruente con mis ideas,'" September 7, 2020. <https://www.cibercuba.com/noticias/2020-09-07-u185759-e185759-s27061-roberto-quinones-me-van-tener-matar-porque-voy-seguir>

<sup>12</sup> CiberCuba, "Gobierno cubano impide salir al activista cristiano Sandy Cancino," March 15, 2020. <https://www.cibercuba.com/noticias/2020-03-15-u1-e43231-s27061-regimen-cubano-impide-salir-pais-al-activista-cristiano-sandy>

<sup>13</sup> CiberCuba, "Autoridades cubanas 'regulan' al escritor Abu Duyanah Tamayo," November 6, 2022. <https://www.cibercuba.com/noticias/2022-11-06-u1-e199482-s27061-autoridades-migratorias-cubanas-regulan-al-escritor-abu>

<sup>14</sup> CiberCuba, "Periodista Cubano Yoe Suarez: Cuando el régimen ponía un obstáculo ante mi, yo encontraba fuerzas para trabajar," September 8, 2022. <https://www.cibercuba.com/noticias/2022-09-08-u1-e208574-s27061-periodista-independiente-yoe-suarez-cuando-regimen-ponia>

## **Recommendation**

36. *Immediately lift travel bans on all human rights defenders, dissidents, and religious leaders and respect Cuban citizens' freedom of movement.*

## **Restrictions on parental rights**

37. According to Article 18 of the International Covenant on Civil and Political Rights, which Cuba signed, "The States Parties...undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions."

38. This right continues to be violated by the Cuban government. For example, in April 2019 the government imprisoned the religious couple Adya Expósito Leyva and Ramón Rigal for refusing to send their children to the government-run school because the couple wanted to educate their children at home in accordance with their Christian beliefs. Pastor Rigal was placed in a maximum security prison in Guantánamo Province to serve a two-year sentence, but both pastors were released in 2020 following significant international pressure.<sup>15</sup>

39. Another example is that of pastor Mily Marrero and her husband, who in 2021 and 2022 were threatened by the government with the removal of their children. In March 2022 the government threatened Marrero with criminal charges and the removal of her children for continuing to meet with a group of women to study the Bible.<sup>16</sup>

40. The government's ability to remove children from their parents' custody was strengthened in September 2022 with the passage of the new Family Code. Under this new code, the government can remove children from parents' custody if the latter fail to, among other duties, teach their children to respect authority and "love of homeland" and its "symbols" and "values."<sup>17</sup>

## **Recommendations**

41. *Respect parents' right to educate their children in accordance with their beliefs and convictions, as protected by Article 13 of the International Covenant on Economic, Social*

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<sup>15</sup> CBN News, "Cuba releases homeschooling pastor from prison," July 5, 2020.

<https://www2.cbn.com/news/news/cuba-releases-homeschooling-pastor-prison-journalist-still-jailed-reporting-religious>

<sup>16</sup> CSW, "Cuba's referendum on September 25 is about far more than gay marriage," September 20, 2022.

<https://forbinfull.org/2022/09/20/cubas-referendum-on-25-september-is-about-far-more-than-gay-marriage/>

<sup>17</sup> Americas Quarterly, "Cuba's family code referendum is sparking deep debates," September 15, 2022.

<https://www.americasquarterly.org/article/cubas-family-code-referendum-is-sparking-deep-debates/>

*and Cultural Rights and Article 18 of the International Covenant on Civil and Political Rights, both of which Cuba has signed.*

42. *Reform the Family Code to ensure respect for parental rights of their children's education.*

### **Property and asset confiscation**

43. Another way in which the Cuban government has and continues to violate FoRB rights of religious groups is the compulsory expropriation of their assets, such as church buildings.
44. Targeted groups are rarely adequately compensated for confiscations of assets, even though compensation is typically about two percent of the actual value. For example, according to a 2018 report by Instituto Patmos, no church properties that had been confiscated previously had been returned, and government authorities carried out an estimated 1,400 confiscations of assets belonging to Assemblies of God churches, which make up one of the largest evangelical denominations on the island.
45. In February 2022, authorities raided the home of Pastor Yordanys Díaz Arteaga (mentioned above) and they confiscated several items, including his phone and a computer belonging to his church.

### **Recommendation**

46. *Return or adequately compensate religious associations for property and assets that have been confiscated.*

### **Forced exile**

47. Yet another way in which the Cuban government has continued to violate FoRB rights is by forcibly exiling outspokenly critical religious leaders. Following are a few examples from 2022 alone.
48. In February, Pastor Carlos Sebastián Hernández Armas, a pastor in Havana and secretary general of the Baptist Convention of Western Cuba, fled Cuba with his family after years of being subjected to intense pressure and threats by the Cuban government because of his sermons criticizing the government's failure to respect FoRB rights. While in El Salvador waiting to be able to travel to the U.S., Pastor Hernández said that he feared for his own and his family's physical safety if he were to be returned to Cuba.<sup>18</sup>

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<sup>18</sup> Diario de Cuba, "Un pastor huye junto a su familia de Cuba tras años de hostigamiento," March 1, 2022. [https://diariodecuba.com/derechos-humanos/1646173883\\_37809.html](https://diariodecuba.com/derechos-humanos/1646173883_37809.html)

49. In March, Pastor Enrique de Jesús Fundora, a leader in Cuba's Apostolic Movement, fled Cuba for Serbia after being targeted for harassment and intimidation by authorities because of his and his wife's support for families of political prisoners. Pastor Fundora said that the incident that finally convinced him that he needed to leave was when police showed up at his house at night to warn him that "something might happen to you on the road," and that he could face 30 years in prison.<sup>19</sup>
50. In July, Pastor Alain Toledano, a leader in Cuba's Apostolic Movement, was forced to flee Cuba with his wife and two teenage daughters after being told by Cuban authorities that he had to leave in 30 days or "face the consequences." In recent years Pastor Toledano and his church have been the targets of frequent and intense harassment and hostility by the Cuban government and its supporters, including through arrests, beatings, and destruction of church property.<sup>20</sup>
51. In September, Father David Pantaleón, the then superior of the Jesuits in Cuba and a Dominican national, was expelled from Cuba after the government declined to renew his residency permit. Father Pantaleón had been critical of the government's human rights abuses and frequently expressed support for dissidents and activists.<sup>21</sup>

### ***Recommendation***

52. *Cease the practice of forcing Cubans exercising their FoRB and associated rights into exile through threats of criminal prosecution and harm.*

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<sup>19</sup> Diario de Cuba, "El régimen fuerza la salida de Cuba de un pastor que apoyaba a presos políticos," March 12, 2022.

<sup>20</sup> Translating Cuba, "Pastor Toledano insists that Cuba is 'in collapse'," July 30, 2022. <https://translatingcuba.com/pastor-alain-toledano-insists-that-cuba-is-in-collapse/>

<sup>21</sup> Catholic News Agency, "Cuban dictatorship expels Jesuit superior from the island," September 15, 2022. <https://www.catholicnewsagency.com/news/252303/cuban-dictatorship-expels-superior-of-jesuits-from-the-island>