

Universal Periodic Review – 16th Session

CSW – Stakeholder Submission

CUBA

Introduction

1. Christian Solidarity Worldwide (CSW), a human rights NGO specialising in freedom of religion or belief, wishes to draw attention to Cuba's domestic human rights and religious freedom situation over the period 2007-2011 with respect to its domestic and international obligations.

Scope of International Obligations

2. Cuba is State Party to a number of international human rights treaties including the Convention on the Rights of the Child (CRC), Convention on the Elimination on Racial Discrimination (CERD), Convention against Torture (CAT), and the Convention on the Elimination of Discrimination against Women (CEDAW). Cuba has not ratified either of the treaties comprising the International Bill of Rights.
3. **Recommendation: While Cuba has signed both the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), it has not ratified either and should be encouraged to do so. Cuba should also consider signing and ratifying the Rome Statute of the International Criminal Court.**

Constitutional and Legislative Framework

4. The Cuban Constitution sets out specific and basic guarantees regarding human rights, including the right to freedom of religion or belief. However, these freedoms are qualified and limited by the insistence that the maintenance of socialism and communism takes precedence over all other rights.
5. Article 8 of the Cuban Constitution states that, "The State recognises, respects, and guarantees religious liberty", and Article 55 goes even further, saying that "the State, which recognises, respects, and guarantees freedom of conscience and religion, also recognises, respects, and guarantees the freedom of every citizen to change religious beliefs or not to have any, and to profess, within the confines of the law, the religious worship of his/her preference. The law regulates the relationship of the State with religious institutions." This is largely in accord with international standards on freedom of religion or belief.
6. However, the rights guaranteed in Articles 8 and 55 are later qualified in Article 62, which states that "no recognised liberty may be exercised against the existence and aims of the socialist State and the nation's determination to build socialism and communism..." This places the protection of the existence and aims, as well as the construction, of a socialist and communist state above fundamental human rights, including those related to religious liberty.
7. A clause in the Cuban Penal Code (Chapter IV, Article 206) further limits the rights laid out in Article 55 of the Constitution. The clause, called "Abuse of Liberty of Worship", allows for the imprisonment of anyone from three months to one year, who "having abused the freedom of creed guaranteed to all by the Constitution, places religious beliefs in conflict with the aims of

education, the duties of labour, defending the nation in arms, the reverence of its symbols or any other stipulations whatsoever contained in the Constitution...”

- 8. Recommendation: Cuba should remove authority over religious organisations and activities from the Cuban Communist Party and establish clear and transparent legal parameters for the exercise of religion.**

Interaction with International Human Rights Mechanisms

- 9.** There are outstanding requests for visits to Cuba by two Special Procedures mandates: the Special Rapporteur for freedom of religion or belief (2006) and the Special Rapporteur on the rights to freedom of peaceful assembly and of association (2003 & 2011). Cuba agreed in 2009 to host the mandate for the Special Rapporteur on torture, but as of October 2012, the mandate is yet to be able to confirm concrete details for a mission.
- 10. Recommendation: Cuba should issue a Standing Invitation to the Special Procedures of the Human Rights Council. Furthermore, it should invite both mandates that have outstanding visit requests and look to facilitate a mission from the mandate of the Special Rapporteur on Torture.**

State Response to its Previous Review

- 11.** Cuba has failed to ratify the ICCPR and the ICESCR and has not issued an invitation to the UN Rapporteur on Freedom of Religion or Belief (recommendations 1 and 9).
- 12.** There has been some limited improvement in regard to the specific provisions for the exercise of religion under the Standard Minimum Rules for the Treatment of Prisoners (recommendation 45). Over the past four years prisoners reported more regular religious visits by clergy, religious services within prisons and the ability to keep religious materials with them. This was however, restricted to those of the Christian faith, both Catholic and Protestant. Practitioners of non-Christian religions, including Afro-Cuban groups, did not report any improvement and continue to complain of a lack of visits and services.
- 13.** Cuba did not comply with recommendation 46, as repression of religious groups, and numbers of violations of freedom of religion or belief increased dramatically since the last review.
- 14. Recommendations: Cuba should continue to improve freedom of religion or belief protections for all prisoners, ensuring that prisoners are treated with dignity and in accordance with the Standard Minimum Rules and Cuba’s obligations.**
- 15. Cuba must address its general domestic deterioration in religious freedom by ensuring that officials across the country and at all levels uphold and protect religious freedom. It must ensure that rule of law is maintained in all instances, and that its domestic law corresponds to its international obligations with respect to freedom of religion or belief.**

Right to Freedom of Religion or Belief

16. Since 2007, state protection of religious freedom has eroded steadily. During 2011-2012 there was a rapid rise in the number of documented religious freedom violations in Cuba. The majority of these violations are linked to government attempts to control the ability of individual Cubans to attend religious services or form part of a religious body. The government does not respect the independence of religious groups and regularly attempts to interfere in internal affairs, in particular relating to membership or participation of certain individuals in religious bodies. Of particular concern is that religious groups in Cuba come under the purview of the Cuban Communist Party and are forced to apply to Party officials for necessary permits and registration.
17. Cuba requires that churches and other religious groups register at their provincial office of the Registry of Associations, which is part of the Ministry of Justice. Church groups and other societies, like the Masons, also fall under the authority of the Central Committee of the CCP which is not a government institution. The registration process is often made extremely difficult, and is at times impossible. Problems are usually encountered when permissions are sought from the Office of Religious Affairs. Even when registered, churches still report encountering legal difficulties. A myriad of restrictive laws and regulations covering everything from housing, movement within the country, building and renovation permits, registration requirements and exit permits, to permissible activities for foreign visitors all have a negative impact on freedom of religion or belief.
18. There are no legal parameters, legislative protections or recourse for religious groups to appeal the decisions of the Cuban Communist Party's Office for Religious Affairs. This has led to regular complaints of abuse and arbitrary decisions taken to manipulate or punish religious groups the government deems to be uncooperative. Over the four year period, the government has engaged in private dialogues with individual religious institutions or groups conceding certain privileges, such as the right to build new facilities or access mass media, on an individual basis rather than seeking to improve the freedom of religion or belief for all Cubans.
19. Cuba regularly prevents some of its citizens from participating in religious activities through the use of temporary arbitrary detention or forced confinement, usually to their home. Religious leaders who reject government interference or demand to expel certain individuals from their groups also become targets of harassment and sometimes face threats of imprisonment or closure of the group's facilities.
20. Cuba continues to deny registration to some Protestant groups, including churches affiliated with the Apostolic Movement, making their activities illegal and their members vulnerable to imprisonment, fines and threats of closure. In addition, over the past four years the authorities have exerted heavy pressure on religious groups to expel specific individuals, numbering in the hundreds, from their congregations. In cases where this pressure proved unsuccessful, officials and state security agents have physically prevented these individuals from participating in religious activities by forcibly confining them in their homes or subjecting them to short term arbitrary detention during the hours of the religious activity.
21. Severe restrictions on the building of new church facilities, renovations to existing facilities and the registration of buildings for religious use continue to impair freedom of religion or belief. Current registered buildings are insufficient in terms of physical capacity to accommodate all worshippers, and the Communist Party has been slow to grant legal permits to religious groups

meeting in non-traditional or historic buildings, forcing many to operate illegally. These groups and their leaders, even when part of a larger legally recognised denomination are vulnerable to harassment, fines, and threats of closure.

- 22. Recommendations: Cuba should ensure that its laws, policies and conduct are in full accordance with international standards and its own obligations with respect to freedom of religion or belief. Cuba should seek to secure the enjoyment of freedom of religion or belief amongst a full complement of rights for all of its citizens.**
- 23. Cuba should establish transparent legal channels for the exercise of freedom of religion or belief. It should remove politicised requirements placed on freedom of assembly and association of religious groups. It should also ensure that any registration requirements of religious groups are carried out transparently, fairly and with due respect to rule of law and Cuba's obligations to the human rights of its citizens. Cuba should cease interfering in the ability of individuals to attend and participate in religious activities and should also allow religious organisations to form their congregations free from government pressure.**
- 24. Finally, Cuba should ensure a fair and transparent appeal process for registration-related decisions that is devoid of politicised or political decision-making.**