**Questionnaire for International Organizations and Civil Society by the**

**UN Special Rapporteur on the situation of human rights defenders**

**Mary Lawlor, 9 February 2021**

The UN Special Rapporteur on the situation of human rights defenders, Ms. Mary
Lawlor invites you or your organization to respond to the questionnaire below. Submissions received will inform the thematic report of the Special Rapporteur on the issue of long term detention of human rights defenders, which will be presented to the UN General Assembly in October 2021.

The questionnaire on the report is available at OHCHR website in English (original
language) as well as in French, Spanish, Russian and Arabic (unofficial translations): (<https://www.ohchr.org/EN/Issues/SRHRDefenders/Pages/SRHRDefendersIndex.aspx>).

All submissions received will be published in the aforementioned website, unless you/your organization clearly indicated that you did not wish to have your input be made publicly available when submitting your response.

There is a word limit of 2500 words per questionnaire. Please submit the completed questionnaire to defenders@ohchr.org

Deadline for submissions: **19 March 2021**

**Contact Details**

Please provide your contact details in case we need to contact you in connection with this survey. Note that this is optional.

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| --- | --- |
| Type of Stakeholder (please select one) | [ ]  International or Inter-governmental Organisations [x]  Civil Society Groups or Organisations [ ]  Individual human rights defender[ ]  Academic/training or research institution[ ]  Other (please specify) |
| Name of Stakeholder/Organization (if applicable)Name of Survey Respondent | International Institute on Race, Equality and Human Rights  |
| Email | legal@raceandequality.org |
| Can we attribute responses to this questionnaire to you or your organization publicly\*? \*On OHCHR website, under the section of SR on human rights defenders. |  Yes X NoComments (if any): |

**Questions**

Human rights defenders are persons, who individually, or in association with others, work peacefully to promote and protect universally recognized human rights and fundamental
freedoms, in accordance with the UN Declaration on Human Rights Defenders.

Defenders around the world peacefully promoting and defending human rights operate under national legal frameworks not always fully consistent with the United Nations Charter and international human rights law. In some instances, as echoed in multiple Human Rights Council and General Assembly resolutions,[[1]](#footnote-1)[1] national legislation, in particular national
security and counter-terrorism laws, or regulations on civil society and public freedoms have been misused to target defenders in a manner contrary to international law, that might result in long-term arbitrary deprivation of liberty.

1) Do you know of any human rights defender(s) currently detained by States, who have been imprisoned on charges that carry a prison sentences of at least 10 years or more? Please provide a list of cases.

Race and Equality works extensively with independent civil society organizations in Cuba, where long prison sentences are often imposed on human rights defenders who speak out against the government. While we do not currently have a relationship with human rights defenders who have been detained for 10 years or more, we are very concerned about human rights defenders who receive disproportionately long prison sentences.

2) Do you know of any human rights defender(s) currently detained by States, who have been imprisoned on continuous sentences amounting to 10 years or more?  For example, a defender who completes a sentence of four years in detention but instead of being released is given another six year sentence? Please provide a list of cases or examples if possible.

List is provided below.

3) Do you know of any human rights defender(s) whose time in pre-trial detention and/or
administrative detention by States combines with a sentence that amounts, or would amount to 10 years or more? Please provide a list of cases.

No.

4) Do you know of any human rights defender(s) falling under any of the previous categories above, who were released before ending their long-term prison sentences for any reasons (e.g. granted a pardon, as a result of an appeal, or released on humanitarian or other grounds)? Please provide a list of cases.

No.

5) What actions do you suggest the Special Rapporteur can take to:

1. Prevent defenders from being detained for long terms in connection to their human rights work? And

Race and Equality’s partners in Cuba have consistently maintained that publicizing the cases of political prisoners in the international community is the most important way to pressure the Cuban State to cease its harassment of human rights defenders, including their long-term detentions. The Cuban State maintains strict control over Cuban citizens, often preventing them from traveling and/or cutting off their access to internet to impede them from sharing information about political prisoners and other human rights abuses with the United Nations and the international community. At the same time, the Cuban State maintains to the outside world that political prisoners are not human rights defenders, but are common criminals who were properly convicted after a full trial. By not giving civil society the opportunity to dispute these claims, the Cuban State is able to protect its reputation. Therefore, it is extremely important for the Special Rapporteur to make every effort to communicate directly with Cuban independent civil society, as well as continue to push the Cuban State to provide information on human rights defenders who are at risk.

1. Have those human rights defenders arbitrarily detained under long sentences released?

**NOTE**: When providing the list of cases/examples under each question, please include: the name of the human rights defender(s), a summary of their human rights work, history of
detention (date of arrest(s), charges and conviction including articles of the relevant law(s)), a brief explanation of facts relevant to their case).

List of cases submitted to the SR on HRDs

Country: Cuba

1. Name:

**Melkis Faure Hechavarria**

1. Summary of human rights work:

Melkis first joined the renowned **Ladies in White** movementin 2013, which organizes peaceful demonstrations in favor of releasing political prisoners and promoting human rights. As a homemaker and mother of five, she knew first-hand the struggles of Cuban women facing poverty. Melkis requested State assistance to obtain secure housing several times with no reply. This experience later led her to join the **Patriotic Union of Cuba (UNPACU)** in order to raise her voice against injustices being perpetrated by the State. As a member of UNPACU, Melkis participated in a number of peaceful, public demonstrations across Havana, including a protest on August 6, 2016 that led to her arrest, detention, and eventual conviction.

1. History of detention (dates of arrest(s), charges and conviction including articles of the relevant law(s)):

Melkis was detained on **August 6, 2016** in Old Havana while she was participating in a protest organized by UNPACU. When she saw police officers approaching her, she threw herself to the ground as a symbol of her nonviolent participation in the protest. Despite this, she was detained and taken first to a police station and then later to the Vivac Detention Center, where she was held for 46 days without being able to communicate with her family. Melkis was accused of crimes under Penal Code Articles 200.1 (“**disrupting public order**”), 144.1 (“**contempt**”), and 143.1 (“**resistance**”), and was held for a year before being declared guilty of all three charges. These are all crimes that are commonly used to convict political prisoners. In the charging document, the Prosecutor described Melkis’ crimes as "having the intention of calling public attention and support of people in the surrounding area, beginning to shout out loud ‘Down with Fidel and down with Raul, down with the dictatorship, we want liberty’ while holding a sign with red and blue colored letters that stated ‘Down with Raul Castro and the thieving customs agents, enough with the robbing, Cubans are tired of seizures [of our property], enough with Fidel and his laws’, before this situation, people began to gather, numbering at approximately 500 spectators...Public order agents Juan Carlos Barrera Hernández, Mario Alvarado Feliu, Enrique Carralero Gutiérrez came to the scene and tried to reduce those holding signs to obedience. Those holding signs tried to avoid this and with the intent of avoiding being detained, threw themselves on the pavement.” Despite the description of a clearly peaceful protest, Melkis was convicted of all three crimes.

Melkis was then later tried again for crimes under Penal Code Articles 228.1 (“**illicit economic activity**”), 142.1 (“**assault**”),144.1(“**contempt**”) that allegedly occurred before her arrest. Altogether, she was given a **combined sentence of 5 years, 4 months** in prison, beginning from **October 23, 2017**. When comparing her sentence to others with similar crimes, we see that Melkis was given a sentence length on the higher end of what the Cuban Penal Code allows. This is particularly striking and concerning, given her clear peaceful character.

1. Brief explanation of facts relevant to the case:

Melkis and her family have suffered greatly as a result of her prolonged and unjustified imprisonment. On the day of her detention, Melkis **did not resist arrest**, instead falling to the ground and refusing to fight back against police aggression. During the 46 days she was held in El Vivac Detention Center, she suffered a miscarriage. It is not known what, if any, medical care she received during this time. Melkis was later transferred to El Guatao prison in Havana, where she had conjugal visits once a month with her husband. When it became clear that she was pregnant again, Melkis requested to see a doctor, but this request was denied. Her husband then went to the National Directorate of Jails and Prisons to present a complaint about the lack of medical care. Melkis was later brought to have an ultrasound, but informed her husband that the medical personnel did not complete the ultrasound and instead told her that she had a fibroid. She was later prescribed Enalapril, a medication for high blood pressure that is contraindicated for pregnant women because it is associated with adverse pregnancy outcomes. Melkis was given the pills to take in a glass, without being informed what the pills were. After three and a half months of pregnancy, Melkis began to have strong pains, started bleeding, and suffered another miscarriage alone. In 2019, Melkis was transferred to Ceiba Work Camp #4 in the province of Artemisa, taking her further away from her husband and children.

Melkis did not receive a fair trial or have access to her own impartial defense attorney in either of the two proceedings. The charges levied against her sought to specifically punish her for associating with the opposition and for expressing her disagreement with the State, as made clear in the charging document.

While in prison, Melkis has reported a lack of adequate nutrition, including being served rotten food. Throughout this, she has continued to be vocal about her political beliefs, and this has led her to continuously receive threats of loss of privileges. During the COVID-19 outbreak, Melkis has had to deal with worsening sanitary conditions as well as reduced access to family visits amid travel restrictions.

1. Name:

**Manuel de Jesús Rodríguez García**

1. Summary of human rights work:

Manuel de Jesús Rodriguez Garcia advocated for independent activists’ rights at the **Alianza Democratica Pinareña** based in Pinar del Rio, Cuba. He has also participated with the Patriotic Union of Cuba (**UNPACU)** on community events and demonstrations.

1. History of detention (dates of arrest(s), charges and conviction including articles of the relevant law(s)):

Manuel de Jesús was arrested on August 3, 2016 at a local park while he joined another activists in protesting against the Cuban State’s treatment of human rights defenders, in particular members of the **Ladies in White.** His protests included chanting words and phrases against Fidel and Raul Castro and also denouncing police officers as “Chivatos,” or those who cooperate with the government. The police officers accused him of being intoxicated, but according to the judgement issued by the court in the case, he did not reach the level of “drunken behavior.”

Manuel de Jesús was forcefully arrested without offering any resistance and was taken to the Entroque Police Station, where he was beaten and stripped down to his underwear. He was released shortly after without his clothes and came across a public statue of José Marti, where he proceeded to resume protesting and was subsequently detained by police again.

In detention once more, Manuel de Jesús was accused of crimes under the Penal Code Article 144.1 (“**contempt**”), Article 142.2 (“**assault**”), Article 200.1 (“**public disorder**”), Article 303 (“**sexual insult**”) and Article 204 (“**defamation of the Cuban heroes**”). On December 2, 2016, he was tried and sentenced to a **combined** **eight (8) years of prison** for these charges (3 years, each for “assault” and “contempt”; and 1 year, each, for “public disorder” and “sexual insult”).

1. Brief explanation of facts relevant to the case:

Manuel de Jesús was given one of the longest sentences for crimes imposed against human rights defenders expressing their opposition against the government of Cuba. Despite being charged with “assault” and “contempt”, Manuel de Jesus did not resist arrest, nor did he physically confront the police officer who detained him – his only “punishable” action was to verbally express his political stance, all while remaining peaceful.

While at the police station, Manuel de Jesús was beaten up and threatened because of his political beliefs. He was also stripped down to his underwear and released from the prison without his clothes, where he came across the Statue of José Martí and resumed his protest. The charges of “**sexual insult**” and “**defamation of the Cuban heroes**” stemmed from this event.

After receiving his sentence, Manuel de Jesus was ordered to be taken to Kilo 5 Prison in Pinar del Rio, where he has undergone various hunger strikes protesting his unfair treatment. In 2019, he was transferred to the Kilo 8 Prison and into a higher security setting where he was mistreated and coerced many times to publicly reject his political beliefs. During this time, Race and Equality spoke to Nilda Garcia (Manuel de Jesus’ mother) at length, receiving updates about the type of treatment he was protesting. These included constant beatings, physical exertion, lack of adequate sleeping accommodations, and denial of family visits.[[2]](#footnote-2) Despite being offered freedom many times if he publicly denounced his opposition to the government, Manuel de Jesús has remained firm and has not given into these demands. Sadly, Manuel de Jesús has also resorted to the drastic measure of sewing his mouth shut in order to demonstrate his refusal to cooperate with State security “re-education” protocols.

In the context of the COVID-19 pandemic, Manuel de Jesús has served five of his eight years in prison and is now back in the Kilo 5 Prison. He has not seen his mother in a year, since restrictions in Cuba have limited the number of visitors allowed in prisons. Adequate medical access has become a great concern for his family, with reports of overcrowded prisons and joint cells possibly harboring a larger spread of the virus within the inmate population. Medical access continues to be poor, as Nilda reports that routine pain medicine is unavailable and any medicine/vitamins brought from the outside is swiftly discarded by prison security.

1. [1] See [A/HRC/RES 22/6](https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/22/6) (2013) and [A/RES/68/181(2014)](https://undocs.org/A/RES/68/181). See also: [A/HRC/RES/25/18 (2014),](https://undocs.org/A/HRC/RES/25/18) [A/HRC/RES/27/31 (2014),](https://undocs.org/A/HRC/RES/27/31) [A/HRC/RES/32/31](https://undocs.org/en/A/HRC/RES/32/31) (2016) and [A/HRC/RES/34/5 (2017)](https://undocs.org/en/A/HRC/RES/32/31)  [↑](#footnote-ref-1)
2. Race and Equality, *Ocho días en huelga de hambre de activista cubano alertan a la comunidad internacional sobre deplorable situación en centro penitenciario de Cuba*. *Available at:* <https://raceandequality.org/es/espanol/ocho-dias-en-huelga-de-hambre-de-activista-cubano-alertan-a-la-comunidad-internacional-sobre-deplorable-situacion-en-centro-penitenciario-de-cuba/> [↑](#footnote-ref-2)