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**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS  
RESOLUTION 30/2024**

Precautionary Measure No. 442-24

D.M.P.<sup>1</sup> regarding Cuba

May 12, 2024

Original: Spanish

**I. INTRODUCTION**

1. On April 10, 2024, the Inter-American Commission on Human Rights (“the Inter-American Commission”, “the Commission” or “the IACHR”) received a request for precautionary measures filed by Yanira Duque Monteiro and Teresa Ortiz that are part of the organization *Cuba Demanda INC* (“the applicants”) urging the Commission to require that the State of Cuba (“the State” or “Cuba”) adopt the necessary measures to protect the rights to life and personal integrity of D.M.P. (“the proposed beneficiary”). It was alleged that D.M.P., a political opponent, has allegedly received beatings, threats, and ill-treatment after being deprived of his liberty. In these conditions, it was stated that he does not receive adequate medical care for his deteriorating health.

2. Pursuant to the provisions of Article 25 (5) of its Rules of Procedure, the Commission requested information from the parties on April 10, 2024. The applicants submitted a response on April 13 and 15, 2024. To date, the State has not submitted their response, and the granted period has since expired.

3. Upon analyzing the submissions of fact and law furnished by the applicants the Commission considers that the information presented shows *prima facie* that D.M.P is in a serious and urgent situation, given that his rights to life, personal integrity, and health face the risk of irreparable harm. Consequently, based on Article 25 of its Rules of Procedure, the Commission requests that Cuba: a) adopt the necessary measures to protect the rights to life, personal integrity, and health of D.M.P.; b) ensure that the beneficiary’s detention conditions are compatible with the applicable international standards on the matter; c) consult and agree upon the measures to be adopted with the beneficiary and his representatives; and d) report on the actions undertaken to investigate the alleged events that led to this precautionary measure, so as to prevent them from reoccurring.

**II. SUMMARY OF FACTS AND ARGUMENTS**

**A. Information provided by the applicant**

4. The request indicated that the proposed beneficiary is a political opponent. On January 10, 2023, the proposed beneficiary was reportedly violently detained and transferred to the state security detention center known as Versailles in Santiago de Cuba. On January 16, 2023, the Second Criminal Chamber of the Provincial Court of Havana ordered provisional imprisonment against him on charges of “acts against the security of the State.”

5. In February 2023, the proposed beneficiary was transferred to the detention center known as Villa Marista in Havana. During his detention, he was allegedly subjected to beatings and psychological torment. These reportedly included malicious remarks about his partner aimed at leaving him emotionally vulnerable.

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<sup>1</sup> The IACHR has decided to withhold the identity of the proposed beneficiary due to the allegations of sexual violence outlined in the request for precautionary measures. For the same reasons, the identity of the proposed beneficiary’s partner is kept confidential.

He was reportedly threatened with execution and confined in a dark and damp cell. He reported received only small quantities of food. It was also alleged that he was subjected to these conditions in order to incriminate him or others for crimes against the security of the State.

6. On March 15, 2023, the proposed beneficiary was transferred to the Combinado del Este maximum security prison in Havana. Subsequently, he was transferred to the Villa Marista detention center for a brief period, where allegations suggest he endured torture. After his return to the Eastern Combined Center, he was allegedly subjected to “numerous and brutal repressions.” In this regard, it was reported that on July 12, 2023, when the proposed beneficiary protested in the prison yard and shouted, “down with communism”, “down with the dictatorship”, and “freedom for all political prisoners”, he was “savagely” beaten by prison guards. He was then confined to a punishment cell under severe conditions and where he was deprived of any medical attention. As a result, the beneficiary reportedly had an injured arm. Furthermore, during that period, the proposed beneficiary went on a hunger strike on three occasions.

7. In August 2023, the proposed beneficiary was transferred to the maximum security prison of Boniato in Santiago de Cuba, where he allegedly continued to be subjected to torture and beatings at the hands of prison guards and officers. On December 2, 2023, the proposed beneficiary was allegedly beaten by prison guards in retaliation for shouting “down with the dictatorship” and refusing to wear the prison uniform. The proposed beneficiary later began a hunger strike for which he had to be hospitalized in the prison hospital for about a month. The physician reportedly diagnosed him with grade III malnutrition. On December 25, 2023, E.S., his romantic partner, expressed her shock at the extent of her partner’s malnutrition. A month later, a family member visited the proposed beneficiary and was also alarmed by his deteriorating physical condition. The officer of the penitentiary reportedly stated that they were unaware of the situation following complaints filed by the proposed beneficiary’s partner.

8. On February 25, 2024, E.S. was arrested at the Boniato prison while attempting to visit the proposed beneficiary. She was transferred to the 3rd Police Unit of Santiago de Cuba where she was held for the following six hours. The prison authorities declared her persona non grata within the prison, thus denying her partner access to her right to receive monthly food packages (*jaba*, as it is known in Cuba) from his family. Moreover, the Cuban authorities reportedly did not allow the proposed beneficiary to marry E.S., given that it has not been possible to locate his birth registration, which is a required document for marriage procedures. The applicants believe that the Cuban authorities seek to prevent the proposed beneficiary’s partner from being his legal representative.

9. The request claimed that the proposed beneficiary did not have the opportunity to receive legal counsel since he has been unable to afford a lawyer. It was specified that in January 2023, a hired lawyer was denied access to the criminal investigation file against D.M.P. Subsequently, while the proposed beneficiary was held at Villa Marista in Havana, another lawyer was hired. This second lawyer reportedly cooperated with the so-called “political police.” Following the proposed beneficiary’s transfer to Santiago de Cuba, no lawyer has been willing to take on the case as they all alleged “excessive workload”. The applicants denounced that all the lawyers are allegedly subordinate to the government and that there is reported complicity with the regime. The lawyers who attempt to represent those identified as “political prisoners” are pressured and threatened. It was indicated that the proposed beneficiary was unaware of the tax accusation against him until April 2024. Despite having submitted several requests and complaints regarding his situation, these have been declared inadmissible or rejected.<sup>2</sup> Regarding the criminal proceedings, there is no information available about any tax accusation, nor is there any indication of when the trial will be held.

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<sup>2</sup> They referred, for example, to: request for Judicial Control of Precautionary Measure before the Provincial Prosecutor’s Office of Havana, dismissed on May 25, 2023 by the Third Criminal Chamber of the Provincial Court; request for Habeas Corpus before the Provincial Prosecutor’s Office of Havana, dismissed on May 25, 2023 by the Second Criminal Chamber of the Provincial Court; and on June 20, 2023, the Provincial Prosecutor’s Office of Havana verbally rejected the complaint presented by the situation of the proposed beneficiary.

10. At the beginning of April 2024, the proposed beneficiary reported that common prisoners, allegedly acting under the orders of the so-called “political police,” cornered him and attempted to rape him. D.M.P. was subjected to brutal beatings by common prisoners who forced him onto all fours on the floor and violently removed the shorts he was wearing. He was then allegedly beaten by prison guards. The representation suggested that it is uncertain whether he was raped, as he may be concealing it out of shame. The authorities have not taken measures to guarantee the proposed beneficiary’s integrity. On April 15, 2024, the applicants added that D.M.P. is currently facing death threats from ordinary prisoners who are favored by the prison authorities.

11. Regarding the proposed beneficiary’s health, it was indicated that he has hypertension, grade III malnutrition, and diabetes. These last two health issues were reportedly developed during his confinement. The applicants warn that the prison conditions are allegedly inhumane and have caused him repeated infections due to scabies, skin fungi, diarrhea, and infected boils. They inmates reportedly do not receive any medication for these issues, aside from that which their partner can send them. They specified that the proposed beneficiary has been held in the section which is exclusive for “dystrophic grade III” inmates since March 2024. In this cell, reportedly more than 80 detainees are reportedly detained, some of which are suffering from tuberculosis. On March 28, 2024, the proposed beneficiary allegedly reported that he had lost weight and does not have the medication he needs to take to control his diabetes. It was indicated that he feels as if he is dying or being killed.<sup>3</sup>

12. On April 8, 2024, a relative of D.M.P. purportedly visited him. This family member reportedly observed that D.M.P. was extremely thin, hunched over, and that his body had seemed to age abnormally. They also stated he was having difficulty walking, had sunken eyes, and that his body was covered with sores that were oozing with pus due to a staphylococcal infection in the blood. Lastly, the proposed beneficiary also had numerous bruises, as well as a severe cold and cough. The proposed beneficiary reportedly complained of experiencing cramps on the left side of his body, dry mouth, and drowsiness. He also allegedly experienced depression, deep despair, and fear. To date, the proposed beneficiary does not receive any type of medical care. The few medications he has access to are provided by his family, or he acquires them by exchanging them with other inmates for cigarettes.

13. Lastly, the food he received was allegedly limited to rice water and spicy yam water. The rest of the dish is allegedly soil, grass, and stones. They also sometimes receive hard peas with weevil, and rarely unflavored corn flour. It is stated that the food is often flavorless. Due to his malnutrition, he reportedly receives a small piece of bread at breakfast, another piece at lunch, and a piece of bread along with a cup of infusion at 8:00 p.m.

#### **B. Response from the State**

14. The Commission requested information from the State on April 10, 2024. To date, and with the granted period having expired, no response has been received.

### **III. ANALYSIS OF THE ELEMENTS OF SERIOUSNESS, URGENCY, AND IRREPARABLE HARM**

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<sup>3</sup> The transcript of the telephone conversation between the proposed beneficiary and a human rights lawyer is as follows: “(...) I feel horrible, believe me, this here... look at my weight, right now I weigh 43 kg (...) my normal weight is seventy-odd kilos (...) that’s why I have been diagnosed with grade III malnutrition, imagine. So diabetes has me on the verge of... diabetes and hypertension have me on the verge of... believe me, I’m already vanishing into thin air, I don’t even have veins. (...) I got diabetes after the time I was held in Villa Marista, from there on, I got diabetes when leaving Villa Marista for the Combinado del Este, I got diabetes. I lost a lot of weight, you know, in a short time, that made me get diabetes. (...) I have no medication (...). (...) I’m dying but, I’m not dying, they’re killing me, man.”

15. The mechanism of precautionary measures is part of the Commission's function of overseeing compliance with the human rights obligations set forth in Article 106 of the Charter of the Organization of American States. These general oversight functions are provided for in Article 41(b) of the American Convention on Human Rights, as well as in Article 18(b) of the IACHR Statute. The mechanism of precautionary measures is set forth in Article 25 of the Commission's Rules of Procedure. In accordance with that Article, the Commission grants precautionary measures in serious and urgent situations in which these measures are necessary to avoid an irreparable harm to persons.

16. The Inter-American Commission and the Inter-American Court of Human Rights ("the Inter-American Court" or "I/A Court H.R.") have repeatedly stated that precautionary and provisional measures have a dual nature, one protective and the other precautionary.<sup>4</sup> Regarding the protective nature, these measures seek to avoid irreparable harm and preserve the exercise of human rights.<sup>5</sup> To do this, the IACHR shall assess the problem raised, the effectiveness of state actions to address the situation described, and how vulnerable the persons proposed as beneficiaries would be left in case the measures are not adopted.<sup>6</sup> Regarding their precautionary nature, these measures have the purpose of preserving legal situations while under the study of the IACHR. They aim to safeguard the rights at risk until the petition pending before the inter-American system is resolved. Their object and purpose are to ensure the integrity and effectiveness of an eventual decision on the merits and, thus, avoid any further infringement of the rights at issue, a situation that may adversely affect the useful effect (*effet utile*) of the final decision. In this regard, precautionary or provisional measures allow the State concerned to comply with the final decision and, if necessary, implement the ordered reparations.<sup>7</sup> In the process of reaching a decision, according to Article 25(2) of its Rules of Procedure, the Commission considers that:

- a. "serious situation" refers to a grave impact that an action or omission can have on a protected right or on the eventual effect of a pending decision in a case or petition before the organs of the inter-American system;
- b. "urgent situation" refers to risk or threat that is imminent and can materialize, thus requiring immediate preventive or protective action; and
- c. "irreparable harm" refers to injury to rights which, due to their nature, would not be susceptible to reparation, restoration or adequate compensation.

17. In analyzing those requirements, the Commission reiterates that the facts supporting a request for precautionary measures need not be proven beyond doubt. The information provided should be assessed

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<sup>4</sup> Inter-American Court of Human Rights (I/A Court H.R.), [Matter of the Yare I and Yare II Capital Region Penitentiary Center \(Yare Prison\)](#). Provisional Measures regarding the Bolivarian Republic of Venezuela. Order of March 30, 2006, considerandum 5; [Matter of Carpio Nicolle et al. v. Guatemala](#), Provisional Measures. Order of July 6, 2009, considerandum 16.

<sup>5</sup> I/A Court H.R., [Matter of the Capital El Rodeo I and El Rodeo II Judicial Confinement Center](#), Provisional Measures regarding Venezuela. Order of February 8, 2008, considerandum 8; [Case of Bámaca Velásquez](#), Provisional measures regarding Guatemala. Order of January 27, 2009, considerandum 45; [Matter of Fernández Ortega et al.](#), Provisional measures regarding Mexico. Order of April 30, 2009, considerandum 5; [Matter of Milagro Sala](#), Provisional measures regarding Argentina. Order of November 23, 2017, considerandum 5.

<sup>6</sup> I/A Court H.R., [Matter of Milagro Sala](#), Provisional Measures regarding Argentina. Order of November 23, 2017, considerandum 5; [Matter of the Capital El Rodeo I and El Rodeo II Judicial Confinement Center](#), Provisional Measures regarding Venezuela. Order of February 8, 2008, considerandum 9; [Matter of the Plácido de Sá Carva Penal Institute](#), Provisional Measures regarding Brazil. Order of February 13, 2017, considerandum 6.

<sup>7</sup> I/A Court H.R., [Matter of the Capital El Rodeo I and El Rodeo II Judicial Confinement Center](#), Provisional Measures regarding Venezuela. Order of February 8, 2008, considerandum 7; [Matter of "El Nacional" and "Así es la Noticia" newspapers](#), Provisional Measures regarding Venezuela. Order of the Court of November 25, 2008, considerandum 23; [Matter of Luis Uzcátegui](#), Provisional Measures regarding Venezuela. Order of January 27, 2009, considerandum 19.

from a *prima facie* standard of review to determine whether a serious and urgent situation exists.<sup>8</sup> Similarly, the Commission recalls that, by its own mandate, it is not called upon to determine any individual liabilities for the facts alleged. Moreover, in this proceeding, it is not appropriate to rule on violations of rights enshrined in the American Convention or other applicable instruments. This<sup>9</sup> is better suited to be addressed by the Petition and Case system. The analysis performed herein relates exclusively to the requirements set forth in Article 25 of the Rules of Procedure, which can be resolved without making any determinations on the merits.<sup>10</sup>

18. The Commission also considers the current context of Cuba when assessing the alleged facts. In its 2023 Annual Report, the IACHR once again categorized Cuba under Chapter IV.B.<sup>11</sup> In this context, the Commission highlighted the continued violations of rights such as freedom, security, and integrity of the person, protection against arbitrary detention, inviolability of the home, minimum judicial guarantees, and judicial protection. This context particularly affects political dissidents, social leaders, activists, human rights defenders, and independent journalists.<sup>12</sup>

19. In its 2023 Annual Report, the Commission warned that persons who are arbitrarily detained for political reasons receive differentiated treatment, marked by violations of due process and judicial guarantees, accusations for the most serious crimes of the Criminal Code, disproportionate penalties, physical abuse and psychological violence, and even torture during their detention.<sup>13</sup> Moreover, harassment and repression against persons deprived of their liberty were documented, both by the authorities and by other detainees who allegedly acted in complicity with the authorities of the penal centers and State Security.<sup>14</sup>

20. When analyzing the requirement of *seriousness*, the Commission considers that it has been met. In addition to observing the aforementioned context, the Commission takes into account the current detention conditions under which D.M.P. is held. This context is reportedly brought upon due to the fact that he is a political opponent and that he had protested against the actions taken by the current government. In this regard, the Commission observes that he has been in provisional detention for the crime of “acts against the security of the State” since 2023 and is allegedly subject to the following acts that place him at risk:

- Constant transfers to various penitentiary centers in Cuba. In all the centers where he has been detained, available information indicates that he was subjected to threats and aggressions, described by the applicants as ill-treatment and torture.
- As a consequence of the acts of aggression, it was reported that one of his arms was injured on one occasion.
- The proposed beneficiary was sometimes placed in a confinement cell, visits with his partner have been limited, and he was also limited access to food.

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<sup>8</sup> I/A Court H.R., [Matter of Members of the Miskitu Indigenous Peoples of the North Caribbean Coast regarding Nicaragua](#), Extension of Provisional Measures, Order of August 23, 2018, considerandum 13; [Matter of children and adolescents deprived of liberty in the “Complexo do Tatuapé” of the Fundação CASA](#), Provisional Measures regarding Brazil. Order of July 4, 2006, considerandum 23.

<sup>9</sup> IACHR, [Resolution 2/2015](#), Precautionary Measure No. 455-13, Matter of Nestora Salgado regarding Mexico, January 28, 2015, para. 14; [Resolution 37/2021](#), Precautionary Measure No. 96/21, Gustavo Adolfo Mendoza Beteta and family regarding Nicaragua, April 30, 2021, para. 33.

<sup>10</sup> In this regard, the I/A Court H.R. has indicated that “[it] cannot, in a provisional measure, consider the merits of any arguments pertaining to issues other than those which relate strictly to the extreme gravity and urgency and the necessity to avoid irreparable damage to persons.” See in this regard: I/A Court H.R., [Matter of James et al. regarding Trinidad and Tobago](#), Provisional Measures. Order of August 29, 1998, considerandum 6; [Matter of Barrios Family Vs. Venezuela](#), Provisional Measures. Order of April 22, 2021, considerandum 2.

<sup>11</sup> IACHR, [2023 Annual Report, Ch. IV.B. Cuba](#), December 31, 2023, para. 43.

<sup>12</sup> *Ibidem*, para. 59.

<sup>13</sup> *Ibidem*, para. 65.

<sup>14</sup> *Ibidem*, para. 64.

- In April 2024, the proposed beneficiary was the reported victim of an attempted rape and assault by ordinary prisoners under the acquiescence of the prison authorities;
- Regarding the proposed beneficiary's health, he was reportedly diagnosed with grade III malnutrition. His family members described seeing him extremely thin with a hunched and aged body. It was also reported that he has diabetes and experiences difficulty walking. Relatives also reported seeing him with sunken eyes, body sores, and infections including scabies, skin fungi, and diarrhea.
- It was alleged that he does not receive adequate medical care and the provision of medicines depend on being able to obtain them from third parties;

21. On the basis of the available information, the Commission understands that the prison authorities are aware of the proposed beneficiary's situation. It has been alleged that the risk factors are attributable to the State agents who have him in their custody. Moreover, his relatives and partner have reportedly filed complaints to call attention to his situation on various occasions. The Commission understands that, at this time, the proposed beneficiary does not have legal defense as he cannot hire an independent lawyer to take his case, given the current context in Cuba. This situation leaves the proposed beneficiary without adequate protection against the risks he has been facing and limits his ability to seek timely protection.

22. In this regard, the Commission considers the allegations of collusion between the proposed beneficiary's aggressors and the prison officers to be of particular seriousness. This suggests that his lack of protection is exacerbated not only by his classification as a political opponent, but also by the actions taken by the security agents which are responsible for his safety, which further endangers him. This situation, in addition to the lack of adequate medical attention, reportedly caused the proposed beneficiary to experience depression, deep despair, and fear. This is reasonable considering that he is unable to access any resource to request timely protection, given that he does not have any legal defense. If his needs are met or ignored depends solely on the prison officers which, in turn, are reportedly responsible for the aggressions he has received. In addition, he shares his cell with common prisoners have the acquiescence of the prison officers to assault him, as well as total freedom to physically subdue him. This had even given rise to an attempted rape.

23. In view of the allegations which have been assessed, the Commission regrets the lack of information from the State. Even though the foregoing is not enough per se to justify the granting of a precautionary measure, it does prevent the Commission from analyzing whether the submissions of the applicants may be disproved, or to learn of any actions that the authorities may be taking, as appropriate, to address the alleged situation of risk. The foregoing is relevant, because the threatening incidents have been attributed to state officers and because of the State's unique position of guarantor of the rights of the proposed beneficiary, who is in its custody.

24. In these circumstances, the Commission considers, based on the applicable *prima facie* standard and in the context of the State of Cuba, that it is sufficiently proven that the rights to life, personal integrity, and health of D.M.P. are at serious risk.

25. Regarding the *urgency* requirement, the Commission considers that it has been met considering that the proposed beneficiary continues in State custody under the conditions described, which are likely to continue and worsen over time. Consequently, it is necessary to adopt measures to safeguard their rights to life, personal integrity, and health immediately. In this regard, the Commission does not have specific information from the State to assess the actions that have been duly mitigated or have since been resolved.

26. Regarding the requirement of *irreparable harm*, the Commission observes that it has been met, insofar as the potential impact on the rights to life, personal integrity and health constitutes the maximum situation of irreparability.

#### **IV. BENEFICIARY**

27. The Commission declares D.M.P. beneficiary of the precautionary measures, who is duly identified in this proceeding.

#### **V. DECISION**

28. The Commission considers that this matter meets *prima facie* the requirements of seriousness, urgency, and irreparable harm set forth in Article 25 of its Rules of Procedure. Consequently, the Commission requests that Cuba:

- a) adopt the necessary measures to protect the rights to life, personal integrity, and health of D.M.P.;
- b) ensure that the beneficiary's detention conditions are compatible with the applicable international standards on the matter;
- c) consult and agree upon the measures to be adopted with the beneficiary and his representatives; and
- d) report on the actions undertaken to investigate the alleged events that led to this precautionary measure, so as to prevent them from reoccurring.

29. The Commission requests that Cuba report, within 15 days from the date of notification of this resolution, on the adoption of the requested precautionary measures and update that information periodically.

30. The Commission emphasizes that, in accordance with Article 25(8) of its Rules of Procedure, the granting of this precautionary measure and its adoption by the State do not constitute a prejudgment of any violation of the rights protected in the American Convention and other applicable instruments.

31. The Commission instructs its Executive Secretariat to notify this resolution to the State of Cuba and the applicant.

32. Approved on May 12, 2024, by Roberta Clarke, President; Carlos Bernal Pulido, First Vice-President; José Luis Caballero Ochoa, Second Vice-President; Edgar Stuardo Ralón Orellana; Arif Bulkan; Andrea Pochak; and Gloria Monique de Mees, members of the IACHR.

Jorge Meza Flores  
Assistant Executive Secretary