
**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION 40/2024**

Precautionary Measure No. 379-24

J.M.M.B. regarding Cuba

June 28, 2024

Original: Spanish

I. INTRODUCTION

1. On March 22, 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 Juan Carlos Vargas Valdivia of the denouncing center *Fundación para la Democracia Panamericana* (“the applicant”). He requested the Commission to urge the State of Cuba (“the State” or “Cuba”) to adopt the necessary measures to protect the rights to life and personal integrity of J.M.M.B. (“the proposed beneficiary”). According to the request, J.M.M.B. is a human rights defender, currently deprived of his liberty, and at risk.

2. Pursuant to the provisions of Article 25(5) of its Rules of Procedure, the Commission requested information from the parties on April 12, 2024. The applicant responded on April 16, 2024. However, despite the expiration of the given deadline, the State has not submitted its response to date.

3. Upon analyzing the submissions of fact and law made by the applicant, the Commission considers that the proposed beneficiary is in a serious and urgent situation, given that his rights to life, personal integrity, and health face a risk of irreparable harm. Therefore, 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 and personal integrity of J.M.M.B.; b) implement the necessary measures so that his detention conditions align with applicable international standards. In particular, ensuring that he is not subject to threats, intimidation, harassment or violence; c) consult and agree upon the measures to be adopted with the beneficiary and his representative; and d) report on the actions taken to investigate the alleged events that led to the adoption of this resolution, so as to prevent such events from reoccurring.

II. SUMMARY OF FACTS AND ARGUMENTS

A. Information provided by the applicant

4. J.M.M.B. has been deprived of his liberty in the prison of Guanajay, Artemisa, Cuba, since July 12, 2021. He was sentenced to 5 years in prison for participating in the protests of July 11, 2021. He was reportedly arrested for recording and posting a protest in San Antonio de los Baños. According to the request, he was subjected to a “brutal” beating, interrogations, and a “torture method” known as “the bicycle.”¹ During his initial detention at the Cuatro Caminos Technical Investigation Department, J.M.M.B. began a hunger strike. Throughout this period and his transfer to the Guanajay prison, his family lost communication with him and received no information on his health.

5. On March 22, 2024, an attempted rape and beatings were reported against him. In this regard, it was alleged that, on that day, the proposed beneficiary was attacked by another inmate known as Rigoberto, “el Gago,” who attacked him with an axe, bit him, scratched him and tried to choke him. The assault suffered by J.M.M.B. was reportedly intended by the government to instill fear and punish him for his participation in the protests. The applicant questioned the fact that the proposed beneficiary is being detained with highly dangerous individuals, suggesting a “form of punishment” or “negligence.” In addition, J.M.M.B.’s sister visited

¹ This torture method consists of handcuffing inmates and throwing them down the stairs. Source: Cubalex NGO.

the prison to file a formal complaint with the prison authorities. She was informed that any complaint or corrective action must be processed internally. The applicant considers that this limits the possibility of seeking international protection. Moreover, the proposed beneficiary's sister reportedly confirmed that medical attention was provided to him and that he was promised a transfer. The applicant described the attacks and detention conditions of the proposed beneficiary as torture or cruel, inhuman and degrading acts.

6. According to J.M.M.B.'s family, his sister was told not to post any information about his situation on social media, under the threat that doing so could worsen his prison conditions. The applicant believes that the family is being silenced to avoid international exposure.

7. Finally, the applicant stated that no complaints or requests for protection measures have been filed with State authorities. This is due to the lack of judicial independence, which affects the capacity of the judicial system to act impartially and fairly. In addition, it was noted that there is fear of reprisals against the family if complaints are filed.

B. Response from the State

8. The Commission requested information from Cuba on April 12, 2024. However, despite the expiration of the given deadline, the State has not submitted its response to date.

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

9. The precautionary measures mechanism 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 established in Article 41(b) of the American Convention on Human Rights, as well as in Article 18(b) of the Statute of the IACHR. The precautionary measures mechanism is described in Article 25 of the Rules of Procedure of the Commission. In accordance with that Article, the Commission grants precautionary measures in serious and urgent situations in which these measures are necessary to avoid irreparable harm to persons.

10. The Inter-American Commission and the Inter-American Court of Human Rights (hereinafter "the Inter-American Court" or "I/A Court H.R.") have established repeatedly that precautionary and provisional measures have a dual nature, both protective and precautionary.² Regarding the protective nature, these measures seek to avoid irreparable harm and to protect the exercise of human rights.³ To do this, the IACHR shall assess the problem raised, the effectiveness of State actions to address the situation, and how vulnerable the proposed beneficiaries would be left in case the measures are not adopted.⁴ Regarding their precautionary nature, these measures have the purpose of preserving legal situations while the bodies of the inter-American system analyze a petition or case. Their objective 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 render moot or disprove the *effet utile* of the final decision. In this regard, precautionary or provisional measures enable the State concerned to comply with the final decision and, if necessary, to implement the

² I/A Court H.R., [Matter of Yare I and Yare II Capital Region Prison](#), Provisional Measures regarding Venezuela, Order of March 30, 2006, considerandum 5; [Matter of Carpio Nicolle et al.](#), Provisional Measures regarding Guatemala, Order of July 6, 2009, considerandum 16.

³ I/A Court H.R., [Matter of El Rodeo I and El Rodeo II Capital Judicial Confinement Center](#), Provisional Measures regarding Venezuela, Order of February 8, 2008, considerandum 8; [Matter 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.

⁴ I/A Court H.R., [Matter of Milagro Sala](#), Provisional Measures regarding Argentina, Order of November 23, 2017, considerandum 5; [Matter of El Rodeo I and El Rodeo II Capital Judicial Confinement Center](#), Provisional Measures regarding Venezuela, Order of February 8, 2008, considerandum 9; [Matter of the Criminal Institute of Plácido de Sá Carvalho](#), Provisional Measures regarding Brazil, Order of February 13, 2017, considerandum 6.

ordered reparations.⁵ In the process of reaching a decision, and according to Article 25(2) of the 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.

11. In analyzing those requirements, the Commission reiterates that the facts supporting a request for precautionary measures need not be proven beyond doubt; rather, the information provided should be assessed from a *prima facie* standard.⁶ Similarly, the Commission recalls that, by its own mandate, it is not called upon to determine any individual liabilities for the alleged facts, nor to determine through this mechanism any violation of the rights enshrined in the American Convention or other applicable instruments,⁷ which is typical of the Petition and Case system. The following analysis is based exclusively on the requirements set forth in Article 25 of the Rules of Procedure, which can be resolved without making any merits assessment.⁸

12. Likewise, when assessing the alleged facts, the Commission takes into account the Cuban context. In its 2023 Annual Report, the IACHR considered that the current human rights situation in Cuba falls within the scope of Article 59, paragraph 6.c of its Rules of Procedure.⁹ In this regard, the Commission stressed that the repression of dissidents in the country had worsened¹⁰ since the July 2021 protests. This particularly affects political dissidents, social leaders, activists, human rights defenders and independent journalists. In addition, the Commission reiterated its concern about the persistence of acts of ill-treatment and torture in Cuba’s prisons. According to civil society sources, these practices include beatings, asphyxiation, handcuffing to bars for hours, excessive tightening of handcuffs during transfers, and the indiscriminate use of handcuffs, as well as the arbitrary use of punishment cells in poor conditions and for long periods of time.¹¹ Moreover, the Commission emphasizes that individuals detained for political reasons are subject to differential treatment, including violations of due process and judicial guarantees, charges for the most serious crimes in the Penal Code, disproportionate sentences, physical abuse, psychological violence, and even torture.¹²

⁵ I/A Court H.R., [Matter of El Rodeo I and El Rodeo II Capital 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 November 25, 2008, considerandum 23; [Matter of Luis Uzcátegui](#), Provisional Measures regarding Venezuela, Order of January 27, 2009, clause No. 19.

⁶ 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; [Children Deprived of Liberty in the “Complexo do Tatuapé” of Fundação CASA](#), Provisional Measures regarding Brazil, Order of July 4, 2006, considerandum 23.

⁷ IACHR, [Resolution 2/2015](#), Precautionary Measures No. 455-13, Matter of Nestora Salgado regarding Mexico, January 28, 2015, para. 14; [Resolution 37/2021](#), Precautionary Measures No. 96/21, Gustavo Adolfo Mendoza Beteta and his family regarding Nicaragua, April 30, 2021, para. 33.

⁸ In this regard, the Court has stated 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 seriousness, urgency and necessity to avoid irreparable harm to individuals.” See: 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 the Barrios family regarding Venezuela](#), Provisional Measures, Order of April 22, 2021, considerandum 2.

⁹ IACHR, 2023 Annual Report, [Ch. IV.B. Cuba](#), OAS/Ser.L/V/II. Doc. 386 rev. 1, approved on December 31, 2023, para. 43.

¹⁰ IACHR, 2023 Annual Report, [Ch. IV.B. Cuba](#), OAS/Ser.L/V/II. Doc. 386 rev. 1, approved on December 31, 2023, para. 59.

¹¹ IACHR, 2023 Annual Report, [Ch. IV.B. Cuba](#), OAS/Ser.L/V/II. Doc. 386 rev. 1, approved on December 31, 2023, para. 64.

¹² IACHR, 2023 Annual Report, [Ch. IV.B. Cuba](#), OAS/Ser.L/V/II. Doc. 386 rev. 1, approved on December 31, 2023, para. 65.

13. The aforementioned is relevant since the proposed beneficiary is deprived of liberty for his participation in the July 2021 protests in Cuba. This context provides great seriousness to the proposed beneficiary's situation and consistency to his allegations, which are not addressed by the State.

14. When analyzing the requirement of *seriousness*, the Commission notes that the proposed beneficiary is in the Guanajal prison. Regarding his deprivation of liberty, the Commission was informed that, at various times, he was subjected to violent acts following his arrest in 2021. It was also alleged that he was subjected to a "torture method," which, according to the information available, consisted of being thrown down the stairs while handcuffed. During this initial detention period, he had no communication with his family, who were unable to initiate any domestic proceeding to protect him.

15. The Commission was recently informed that the proposed beneficiary had been subjected to a physical assault that included an attempted rape by a highly dangerous detainee. This detainee allegedly used an axe, attempted to choke him, and caused him various injuries. The Commission considers that this situation reflects the unprotected state in which the proposed beneficiary currently finds himself. He is reportedly with detainees who are free to carry sharp objects and use them against others, without any kind of supervision by the prison authorities. Based on the allegations made by the applicant, the Commission also believes that this could be the State's attempt to continue to punish the proposed beneficiary in the context of the country, as well as an act of acquiescence on his part regarding the violence against him.

16. In addition, the Commission recognizes the difficulties that the proposed beneficiary's family has in reporting the situation. Threats and warnings have been reportedly received by J.M.M.B.'s sister to not make social media posts or requests for protection, as this could aggravate his detention conditions. In this regard, the Commission considers that the constraint to denounce or request protection measures aggravates the vulnerability of the proposed beneficiary, who is deprived of his liberty.

17. Furthermore, the Commission notes that the alleged risk to the proposed beneficiary has been attributed to the guards or under their acquiescence. In this regard, although it is not for the Commission to determine the authorship of the acts, nor whether they are attributable to State agents, when analyzing the allegations, the Commission considers the seriousness of the possible acts or omissions of the authorities in charge of the custody of the proposed beneficiary. This suggests that the proposed beneficiary is continuously exposed to aggression, with no immediate possibility of protection, during his detention.

18. The applicant reported that the proposed beneficiary received medical attention and that he had been promised a transfer. However, the Commission has no information as to whether such a transfer actually took place. Therefore, it assumes that he continues in the same situation as described in the request.

19. Based on the previously analyzed information, the Commission regrets the lack of information from the State, after having requested its observations on this request. This prevents the Commission from having information from the State on the current conditions of the proposed beneficiary. Therefore, not having received a response, the Commission has no information to refute the applicant's allegations or to determine the measures that the State has adopted to mitigate the alleged risk of the proposed beneficiary.

20. 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 J.M.M.B. are at serious risk.

21. Regarding the *urgency* requirement, the Commission considers that it has been met since the nature of the facts described suggest that the risk is likely to persist and exacerbate over time, in the context in which they are inserted. Therefore, it is necessary to immediately adopt measures to safeguard his rights to life, personal integrity and health. In this regard, the Commission does not have specific information provided

by the State that would allow an assessment of the actions taken to address the alleged risk situation, or that it has disappeared or been duly mitigated.

22. Regarding the *irreparable harm* requirement, the Commission considers that it has been met since the potential impact on the rights to life and personal integrity constitutes the maximum situation of irreparability.

IV. BENEFICIARY

23. The Commission declares J.M.M.B. beneficiary of the precautionary measures, who is duly identified in this proceeding.

V. DECISION

24. In view of the aforementioned background, the IACHR 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 IACHR requests that Cuba:

- a) adopt the necessary measures to protect the rights to life and personal integrity of J.M.M.B.;
- b) implement the necessary measures so that his detention conditions align with applicable international standards. In particular, ensuring that he is not subject to threats, intimidation, harassment or violence;
- c) consult and agree upon the measures to be adopted with the beneficiary and his representative; and
- d) report on the actions taken to investigate the alleged events that led to the adoption of this resolution, so as to prevent such events from reoccurring.

25. The Commission also 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.

26. The Commission emphasizes that, pursuant to Article 25(8) of the Commission's Rules of Procedure, the granting of precautionary measures and their adoption by the State do not constitute a prejudgment regarding the possible violation of the rights protected in the American Convention and other applicable instruments.

27. The Commission requests that the Executive Secretariat of the IACHR notify this resolution to the State of Cuba and the applicant.

28. Approved on June 28, 2024, by Roberta Clarke, President; Carlos Bernal Pulido, First Vice-President; José Luis Caballero Ochoa, Second Vice-President; Edgar Stuardo Ralón Orellana; Arif Bulkan; and Andrea Pochak, members of the IACHR.

María Claudia Pulido
Assistant Executive Secretary