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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by the United Nations Watch, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[24 August 2018]

* Issued as received, in the language(s) of submission only.



Jailing Eduardo Cardet: Does Cuba Upholds Its Duties as a Council Member?

The criteria for membership in the UN Human Rights Council is set out in General Assembly resolution 60/251, which requires members to “uphold the highest standards in the promotion and protection of human rights” and to “fully cooperate with the Council.” Sadly, however, more than 50% of the current members of the Human Rights Council fail to meet basic democracy standards. One such example is Cuba, which is rated “Not Free” by Freedom House, and “Very bad” by Reporters Without Borders, which describes Cuba as “Latin America’s worst media freedom violator year after year.”¹

Cuba routinely violates the human rights of its citizens in numerous ways, including through the use of arbitrary detention as a tool to silence government critics and human rights activists.² United Nations Watch is gravely concerned about the situation of Dr. Eduardo Cardet Concepción, who has been arbitrarily detained by Cuba since November 30, 2016. A petition by United Nations Watch to the UNHRC’s Working Group on Arbitrary Detention, asking for a legal opinion that Dr. Cardet is being arbitrarily detained, is currently pending.

Dr. Cardet is a democracy activist in Cuba and head of The Christian Liberation Movement (MCL), a Cuban NGO that advocates for peaceful democratic change in Cuba. The Cuban authority does not recognize MCL as a legal organization and subjects its activists to harassment, intimidation, and abuse. On a trip overseas shortly after the death of Fidel Castro, Dr. Cardet spoke critically about Fidel Castro to international media. Before Dr. Cardet returned to Cuba, Cuban security forces threatened Dr. Cardet’s wife that they would imprison him because of his political activism.

The day after Dr. Cardet returned, at least four plainclothes security officers violently arrested him in front of his wife, children and neighbors, severely beating him.³ Cuban authorities told the family that Dr. Cardet had been arrested because “he is counter-revolutionary.” These admissions establish that the detention is arbitrary under Category II of the Working Group’s methods,⁴ as it is related to Dr. Cardet’s exercise of his rights to freedom of expression and freedom of association under Articles 19 and 20 of the Universal Declaration of Human Rights. However, to justify the arrest, Cuba prosecuted Dr. Cardet on trumped-up charges of attacking a state official during the course of his arrest under Article 142 of the Cuban Penal Code.

The detention of Dr. Cardet is also arbitrary under Category III of the Working Group’s methods because Dr. Cardet has been denied the right to humane treatment and to a fair and impartial trial. Since his arrest, Dr. Cardet has suffered cruel, inhuman and degrading treatment at the hands of the Cuban authorities and their agents, including *inter alia*: beatings; verbal harassment; incommunicado detention; being placed in a punishment cell; deprivation of visits from, and communications with, his family; denial of medical attention; refusal of visits from a priest; and denial of bail.

On December 19, 2017, Dr. Cardet was transferred to the maximum security Cuba Sí prison. The day of the transfer, three prisoners at the Cuba Sí prison physically attacked him.⁵ Dr. Cardet’s wife was not permitted to visit him until almost one month later, on January 15, 2018, when she observed two circular scars on his abdomen. During the visit, Dr. Cardet informed her that he had not received medical attention since the attack and was suffering from headaches and dizziness.⁶

In a ruling issued on February 24, 2018, the IACHR found that Dr. Cardet faces risk of irreparable harm to his life and personal integrity due to Cuba’s failure to protect him in prison and provide him with necessary medical care.⁷ Since being transferred to Cuba Sí, the Dr. Cardet’s health has deteriorated. He has suffered a number of intense asthma attacks and other health problems, including the flu. On May 18, 2018, he underwent a biopsy, but has not yet been

¹ <https://rsf.org/en/cuba>.

² U.S. Dep’t of State, Bureau of Democracy, H.R. and Lab., Country Reports on Human Rights Practices Cuba 5 (2017).

³ *URGENT ACTION: Demand Release of Human Rights Defender*, AMNESTY INTERNATIONAL (Jan. 31, 2017), <https://www.amnesty.org/download/Documents/AMR2556012017ENGLISH.pdf>.

⁴ See Working with the United Nations Human Rights Programme, a Handbook for Civil Society, 108 (2008), http://www.ohchr.org/EN/AboutUs/CivilSociety/Documents/Handbook_en.pdf.

⁵ See *id.*

⁶ See *id.*

⁷ Eduardo Cardet Concepcion regarding Cuba, Provisional Measures, Order of the Court, ¶¶ 3, 14 (Inter-Am. Ct. H.R. Feb. 24, 2018), <http://www.oas.org/es/cidh/decisiones/pdf/2018/16-18MC39-18-CU.pdf>.

informed of the result.⁸ As of May 26, 2018, all family visits were suspended for a six-month period, as a reprisal for the family's lobbying efforts with international human rights mechanisms and in the international press.⁹

In addition to being subjected to cruel, inhuman and degrading treatment, Dr. Cardet's March 3, 2017 trial was not conducted in a fair and impartial manner. Cuba is an authoritarian state whose courts are subordinate to the executive and legislative branches, which are controlled by the Communist Party. Two treaty bodies have criticized Cuba in recent years for the lack of independence of its judiciary. Furthermore, as WGAD pointed out in its 2012 opinion about Cuba's detention of Alan Gross, several UN human rights experts previously had criticized Cuba's court system. These include the Special Rapporteur on violence against women; the Committee Against Torture; the Special Rapporteur on independence of judges and lawyers; and the Personal Representative of the High Commissioner for Human Rights.¹⁰

Cuba does not observe the minimum international standards of due process guaranteed in Articles 10 and 11 of the UDHR. Freedom House downgraded Cuba's score from one to zero (out of four) for due process in 2017 due to a pattern of due process violations in a number of cases against the authority's opponents.¹¹ Dr. Cardet was denied due process in multiple ways: (1) Dr. Cardet was not presented with an arrest warrant; (2) upon his arrest, he was not informed of the charges against him and was held incommunicado for nine days; (3) during the trial, Dr. Cardet's lawyer did not have the opportunity to present all of the evidence in his client's defense, as several defense witnesses were prevented from testifying; (4) at the same time, the court accepted unreliable testimony from three prosecution witnesses who had not been present at the scene and whose testimony was discredited on cross examination by defense counsel.

Accordingly, we urge the Working Group on Arbitrary Detention to find that Dr. Cardet is being arbitrarily detained. We also call on Cuba to live up to its obligations as a Council member, which include the duty to "uphold the highest standards in the promotion and protection of human rights," and to immediately release Dr. Cardet and cease persecuting Cuban dissidents and human rights activists.

Finally, in light of Cuba's routine human rights violations, and because Cuba fails to "uphold the highest standards in the promotion and protection of human rights," we urge its membership in the Council to be reviewed.

⁸ Eduardo Cardet, awaiting results of diagnostic tests in the hands of authorities, DIARIO DE CUBA (June 23, 2018), http://www.diariodecuba.com/derechos-humanos/1529711061_40219.html; Suspenden visitas a Eduardo Cardet durante 6 meses, CHRISTIAN LIBERATION MOVEMENT (May 27, 2018), <http://www.oswaldopaya.org/es/2018/05/26/suspenden-visitas-a-eduardo-cardet-durante-6-meses/> (last visited July 18, 2018).

⁹ *URGENT ACTION: Family of Prisoner of Conscience Denied Visits*, AMNESTY INTERNATIONAL (June 7, 2018), <https://www.amnesty.org/download/Documents/AMR2585372018ENGLISH.pdf>.

¹⁰ Opinion on detention of Mr. Alan Phillip Gross, No. 69/2012, ¶ 47, Working Grp. On Arbitrary Det. (Nov. 23, 2012).

¹¹ *Freedom in World 2018: Cuba*, FREEDOM HOUSE (2018), <https://freedomhouse.org/report/freedom-world/2018/cuba>.