



OAA Legal Study Reveals Cuban Government Tactics Used to Repress Religious Freedom

The religious community in Cuba represents a growing and important segment of an emerging civil society. However, despite protections of religious freedom in the former and newly (2019) approved constitutions, and Government of Cuba (GOC) claims that it respects this fundamental human right, the religious community suffers from systematic, well-documented acts of government repression. A 2018 OAA legal study that included interviews with 100 Cuban lawyers, former GOC officials and citizens, documents the tactics that the GOC uses to control, regulate and suppress freedom of religion or belief (FoRB). The study revealed GOC use of bureaucratic tools and a shadowy system of administratively imposed laws, decrees and instructions used to regulate religion and repress FoRB rights.

Key Findings

- Many Cubans consider the constitution, approved in 1976, to be irrelevant to their daily lives. A University of Havana law student said: “We are more concerned with changes in the criminal and civil codes. For our generation, the constitution is just another document of the Communist Party with no direct impact on Cuban society.” In 2019, following the study, Cubans approved a controversial new constitution that removed some religious freedom guarantees, despite a church-sponsored petition objecting to the changes that was signed by 180,000 Cubans. In a further expression of dissent, 13 percent voted “no” or spoiled their ballots and two million chose to not vote at all.
- The GOC regularly violates constitutional guarantees through the Office of Religious Affairs (ORA), which is responsible for regulating religious activity on the island. A part of the Cuban Communist Party’s Central Committee, ORA is not subject to any legal framework, allowing it to repress religious actors through secretive Communist Party instructions that are frequently changed and applied arbitrarily.
- The study identified criminal and civil code laws, administratively issued decrees, and bureaucratic measures used to restrict and punish the faith community while masking the true motive of religious repression. Some examples include:
 - *General Housing Law/Legal Decree 322* – used to expropriate unregistered churches’ buildings and goods. The appeal process can take a year, during which authorities often move forward with demolitions and confiscations.
 - *Compulsory Expropriation* — also used to confiscate religious group assets, for which they are often inadequately compensated, if at all. Compensation is typically about two percent of the actual value.

- *Social dangerousness, disobedience and disrespect charges under the Criminal Code* — used to brand and repress activists. Social dangerousness is often used to charge individuals based on suspicion that they will commit a crime in the future.
 - *Law of Associations* — used to charge religious groups as illicit entities engaged in criminal activities.
 - Bureaucratic measures used to delay registration of churches, and harsh customs and immigration controls restricting religious travelers' entry and exit and their ability to bring church goods into the island.
- The GOC creates and controls organizations that it presents as independent civil society and that are used to divide the religious community. For example, it points to the Cuban Council of Churches and the Yoruba Cultural Organization as proof that it allows religious actors to operate and sends representatives from these state-controlled organizations to participate in meetings of international bodies. These organizations are also exempt from legal registration requirements imposed on independent religious groups, often met with GOC rejection.

Cuba's Disregard for International Human Rights Norms

Cuba has failed to sign or ratify important international human rights agreements, including:

- Statutes of the International Criminal Court (which the GOC has either not signed or ratified)
- International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights (not ratified)
- UN Committees on torture and forced disappearances (not recognized)
- International Convention on the Elimination of all Forms of Racial Discrimination (signed, but does not allow it to be applied in the International Court of Justice)

The GOC also denies access to the country to representatives of the UN Convention on Rights of the Child of 1989 and to human rights advocacy organizations such as Amnesty International, making Cuba the only country in the Americas that restricts access by such organizations. When visitors are able to come on monitoring missions, the GOC denies them access to prisons.

Study Recommendations

- Abolish ORA, which exists solely to regulate, control and repress religious freedom.
- Abandon the opaque extralegal system of governance. Modify or eliminate laws, codes and decrees used to arbitrarily repress FoRB.
- Work to restore the rule of law by promoting an understanding of and appreciation for the constitution and laws. Ensure that government officials act transparently and within the constitution and legal framework.
- Strengthen independent civil society to function as a watchdog that can hold government accountable through monitoring, reporting and advocating for the rule of law and human rights.