
**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION 21/2024**

Precautionary Measure No. 280-24
Julio César Góngora Millo regarding Cuba
April 10, 2024
Original: Spanish

I. INTRODUCTION

1. On February 26, 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 *Observatorio Cubano de Derechos Humanos* (“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 Julio César Góngora Millo (“the proposed beneficiary”). According to the request, he is at risk due to threats, intimidation, harassment, and surveillance attributed to state agents, as well as the lack of medical attention in retaliation for his work as a human rights activist in Cuba.

2. Pursuant to Article 25(5) of the Rules of Procedure, the Commission requested information from the applicant on March 7, 2024 and received a response on March 11, 2024. Subsequently, information was requested from the State and the applicant, who submitted a response on April 2, 2024. To date, the State has not forwarded information, and the granted deadlines have since expired.

3. Upon analyzing the submissions of fact and law offered by the applicants, updated to date, the Commission considers that the proposed beneficiary is in a serious and urgent situation, given that his rights to life, health, and personal integrity face a risk of irreparable harm. Consequently, in accordance with 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 the beneficiary; b) adopt the necessary protective measures so that the beneficiary can continue to carry out his work defending human rights, without being subject to threats, intimidation, harassment, and acts of violence. The foregoing implies, among other measures, that the State provide the corresponding medical care so that he can perform his duties; and c) 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 applicants

4. According to the applicants, the proposed beneficiary has a disability, is a human rights activist, holds the position of coordinator at the organization “Cuba Independiente y Democrática” (CID), and is an active collaborator of the Cuban Observatory for Human Rights (*Observatorio Cubano de Derechos Humanos*). Since he was 16 years old, he has been an individual activist and has allegedly denounced human rights violations through social networks. He is reportedly also devoted to educating the community on fundamental rights. Since his activity became notorious and contrary to the interests of the Communist Party, the proposed beneficiary was stigmatized as a “counterrevolutionary.” The request questions the arbitrariness of the actions of various State agents.

5. The proposed beneficiary was allegedly prohibited from holding meetings with other members of the CID through direct surveillance at his home; he was not allowed to participate in civic activities of independent political content outside his home, as he was prevented from transporting himself to other

meeting points upon being detained at his home or being subject to provisional detentions; he has reportedly been unable to carry out actions to influence and educate on human rights in the community; his Internet services were allegedly repeatedly cut; and authorities reportedly refused to provide him with medical attention, among other acts. Recent events included the following:

- On April 30, 2022, the proposed beneficiary's house was guarded by a delegation of State agents who set up a command post;
- On June 30, 2022, the proposed beneficiary was besieged by police attempting to summon and detain him;
- On July 2, 2022, he was interrogated in his own home by State agents, who threatened him with contempt and incitement to commit a crime;
- On September 12, 2022, State Security agents threatened the proposed beneficiary's friends for having helped him obtain the necessary medicines for his health issues;
- On December 18, 2022, State security agents harassed two of his friends outside his home after visiting him. They were arrested and threatened because of their link with the proposed beneficiary who is deemed a "dissident";
- On January 19, 2023, the proposed beneficiary's internet service was disabled;
- On January 20, 2023, the proposed beneficiary was harassed by police agents;
- On July 21, 2023, the proposed beneficiary filed a complaint against the hospital for failing to provide his medical records;
- On December 9, 2023, security agents, in civilian clothes and in a vehicle, prevented him from leaving his home to participate in events related to the worldwide celebration of "Human Rights Day." Photos of the alleged security agents were attached.

6. It was added that the constant surveillance of his residence makes it difficult for him to exercise his individual public freedoms to promote human rights and to denounce violations of rights carried out by Cuban State forces and representatives. In their last communications, the applicants alleged that there had been no more repressive acts given that the proposed beneficiary's current health allegedly prevents him from performing tasks related to activism. In this regard, it was alleged that the proposed beneficiary has a permanent cystostomy and an open wound between the anus and scrotum with a high risk of infection. He reportedly has had this injury for the last 11 years.

7. It was reported that he requires daily dressing treatment with appropriate supplies (sufficient dressings and antiseptic solutions), and potential assessment to consider surgery to close the wound. He was allegedly denied specialized medical care and effective surgical intervention because he was considered a "dissident" and "opposition" to the government. It was alleged that the management of the "Abel Santamaría" Hospital in the city of Pinar del Río denied the proposed beneficiary access to his medical records. He has also reportedly been denied an MRI, as he was told that the service was unavailable for "people opposed to the political system." The request reported that the proposed beneficiary has been carrying out unstable moist wound healing. Recurrent episodes of infection were allegedly resolved with antibiotics supplied outside the Cuban health system. It was alleged that he will eventually be denied medication or medicinal supplies sent from abroad. The applicants believe that the State seeks to keep him "incapacitated" and in a permanent state of vulnerability.

8. The applicants indicated that the proposed beneficiary has issued oral complaints and claims in and before the top management of the "Abel Santamaría" Hospital of Pinar del Río, which have not been answered in writing. At his personal insistence, several specialists of the same Provincial Hospital examined him, but none of them decided to proceed with the treatment or refer him to other physicians in order to treat his health issues. It was alleged that there were orders from the Ministry of the Interior to not address his situation. The proposed beneficiary reported increased fatigue and exhaustion, as well as joint and bone pain. He is also said to have depression and anxiety. Since December 2023, the proposed beneficiary indicated that he had a new purulent drainage but was not able to define the origin of the new septic focus. Due to the location of infection, he spends most of his time bedridden while half-naked, or in a wheelchair.

B. Response from the State

9. The Commission requested information from the State on March 19, 2024. To date, no response has been received, and the deadlines granted have expired.

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

10. 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 established 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.

11. The Inter-American Commission and the Inter-American Court of Human Rights ("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.¹ Regarding the protective nature, these measures seek to avoid irreparable harm and preserve the exercise of human rights.² 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.³ Regarding their precautionary nature, these measures have the purpose of preserving legal situations while under the consideration 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 enable the State concerned to comply with the final decision and, if necessary, to guarantee the ordered reparations.⁴ 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 of threat that is imminent and can materialize, thus requiring immediate preventive or protective action; and

¹ Inter-American Court of Human Rights (IACHR). Matter of the Yare I and Yare II Capital Region Penitentiary Center. Request for Provisional Measures submitted by the IACHR regarding the Bolivarian Republic of Venezuela. Order of the Inter-American Court of Human Rights of March 30, 2006, considerandum 5; I/A Court H.R. Case of Carpio Nicolle et al. v. Guatemala. Provisional Measures. Order of July 6, 2009, considerandum 16 [only in Spanish].

² I/A Court H.R. Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center. Provisional Measures regarding Venezuela. Order of the Court of February 8, 2008, considerandum 8; I/A Court H.R. Case of Bámaca Velásquez. Provisional Measures regarding Guatemala. Order of the Court of January 27, 2009, considerandum 45; I/A Court H.R. Matter of Fernández Ortega et al. Provisional Measures regarding Mexico. Order of the Court of April 30, 2009, considerandum 5; I/A Court H.R. Matter of Milagro Sala. Request for Provisional Measures regarding Argentina. Order of the Inter-American Court of Human Rights of November 23, 2017, considerandum 5 [only in Spanish].

³ I/A Court H.R. Matter of Milagro Sala. Request for Provisional Measures regarding Argentina. Order of Court of November 23, 2017, considerandum 5; I/A Court H.R. Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center. Provisional Measures regarding Venezuela. Order of the Court of February 8, 2008, considerandum 9; I/A Court H.R. Matter of the Criminal Institute of Plácido de Sá Carvalho. Provisional Measures regarding Brazil. Order of the Inter-American Court of Human Rights of February 13, 2017, considerandum 6 [only in Spanish].

⁴ I/A Court H.R. Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center. Provisional Measures regarding Venezuela. Order of the Court of February 8, 2008, considerandum 7; I/A Court H.R. Matter of "El Nacional" and "Así es la Noticia" newspapers. Provisional Measures regarding Venezuela. Order of the Court of November 25, 2008, considerandum 23; I/A Court H.R. Matter of Luis Uzcátegui. Provisional Measures regarding Venezuela. Order of the Court of January 27, 2009, considerandum 19.

- c. “irreparable harm” refers to injury to rights which, due to their nature, would not be susceptible to reparation, restoration or adequate compensation.

12. In analyzing these 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 from a *prima facie* standard of review to determine whether a serious and urgent situation exists.⁵ The Commission also recalls that, by its own mandate, the present proceeding is not suited to rule on violations of rights enshrined in the American Convention or other applicable instruments,⁶ given that this determination is better suited to the Petition and Case System. The following analysis 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.⁷

13. The Commission is also taking the context of Cuba into account when understanding the alleged facts. In 2022, the IACHR decided to include the country in Chapter IV-B of its Annual Report, given that the country’s situation falls within the scope of Article 59, paragraphs 6.a. i.⁸ and 6.c.⁹ of its Rules of Procedure.¹⁰ The Commission has been closely monitoring the human rights situation in Cuba. It has observed that the failure to uphold the basic aspects of representative democracy and the lack of conditions ensuring judicial independence continue to be structural aspects that deeply impact the enjoyment of human rights and basic freedoms in the country.¹¹ In its 2022 Annual Report, the Commission acknowledged various acts that hindered the enjoyment of the rights of persons under the jurisdiction of the Cuban State, such as arbitrary restrictions to the right to assembly and association, and to freedom of expression and dissemination of thought - particularly in the context of the various social protests that have taken place in the country since July 2021.¹² In this regard, the Commission identified that these human rights violations have mainly affected human rights defenders.¹³

14. In analyzing the requirement of *seriousness*, the Commission considers it relevant to take into account the identified context, as well as the particular situation of the proposed beneficiary, Julio César Góngora Millo. The Commission observes that the proposed beneficiary allegedly carries out acts of human rights activism, as a result of which he is reportedly identified as a “counterrevolutionary” or a “dissident” by the State. These allegations are in line with the context faced by those in Cuba for working towards the defense and promotion of human rights.

⁵ 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 the Inter-American Court of Human Rights of August 23, 2018, considerandum 13 [only in Spanish]; I/A Court H.R. Matter of the children and adolescents deprived of their liberty in the “Complexo do Tatuapé” of the Fundação CASA. Request for extension of provisional measures. Provisional Measures regarding Brazil. Order of the Inter-American Court of Human Rights of July 4, 2006, considerandum 23.

⁶ Inter-American Commission on Human Rights (IACHR). Resolution 2/2015. Precautionary Measure No. 455-13. Matter of Nestora Salgado regarding Mexico. January 28, 2015, para. 14; IACHR. Resolution 37/2021. Precautionary Measure No. 96/21. Gustavo Adolfo Mendoza Beteta and family regarding Nicaragua. April 30, 2021, para. 33.

⁷ In this regard, the Court 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 the Inter-American Court of Human Rights of August 29, 1998, considerandum 6; I/A Court H.R. Case of Barrios Family v. Venezuela. Provisional Measures. Order of the Inter-American Court of Human Rights of April 22, 2021, considerandum 2 [only in Spanish].

⁸ A serious violation of the fundamental elements and institutions of representative democracy provided for in the Inter-American Democratic Charter, which are essential means for the fulfillment of human rights, including: (i) if there is discriminatory access to or abusive exercise of power that undermines or contravenes the rule of law, such as the systematic infringement of the independence of the Judiciary or the lack of subordination of State institutions to the legally constituted civilian authority;

⁹ The State has committed or is committing massive, serious and widespread violations of human rights guaranteed in the American Declaration, the American Convention, or the other applicable human rights instruments.

¹⁰ IACHR. 2022 Annual Report. Chap. IV.b. Cuba. April 1, 2023, paras. 7 and 8.

¹¹ Op cit, paras. 2-3.

¹² Op cit, para. 4.

¹³ Op cit, para. 5.

15. Moreover, the Commission has been informed that the proposed beneficiary has been exposed to the following facts: (i) acts of threats attributed to state agents against the proposed beneficiary and persons close to him; (ii) being followed by state agents in order to prevent his participation in the event commemorating the international human rights day; (iii) constant surveillance in his home by Cuban state security agents; (iv) siege and direct harassment by state agents; (v) being prevented from leaving his house by state agent presence; and (vi) having his internet service shut down, among other acts. The events faced by the proposed beneficiary reportedly seek to stop him from holding meetings with the other members of his organization and prevent his participation in civic activities of independent political content.

16. In addition to the above, it has been alleged that the proposed beneficiary is being denied medical attention by the State as part of the retaliatory actions against him. In this regard, the Commission observes that this situation is especially serious because the State is denying medical attention to the proposed beneficiary, despite the available information indicating that he has already received treatment at a State Hospital and reportedly has a serious infection. Although the request indicated that the proposed beneficiary allegedly received medicines or supplies from sources “external to the Cuban health system,” the Commission understands that this does not imply that the State can disregard his medical situation and refuse to provide him with the corresponding care. The Commission does not have sufficient medical elements to analyze the proposed beneficiary’ current health, particularly in the absence of judicial complaints at the internal level. However, it does note that, at present, the proposed beneficiary is reportedly unable to take any action in his favor given that he is in a vulnerable situation as he is bedridden or wheelchair bound. Even though the proposed beneficiary is allegedly receiving non-State aid for his health, the Commission notes that, as new retaliatory actions, the State is allegedly seeking to prevent him from receiving medical supplies, such as medicines or supplies, from abroad. Consequently, the allegations presented in the request reflect the existence of a continuum of acts attributed to the State, with the objective of preventing that the proposed beneficiary engage in human rights activism, even if it means putting his health at risk.

17. In view of the previously analyzed situation, the Commission regrets the lack of response from the State, after having requested its observations on this request. The foregoing situation prevents the Commission from obtaining information on the proposed beneficiary’s situation. Given the State’s lack of response, the Commission does not have elements sufficient to disprove the applicants’ allegations or identify information on measures effectively adopted by the State to mitigate the alleged risk faced by the proposed beneficiary. In addition, although it is not for the Commission to determine the perpetrators of the events of risk, or if they are attributable to state actors, at the time of assessing this request it does take into account the seriousness of the possible participation of State actors according to the allegations presented, as this would place the proposed beneficiary in a situation of greater vulnerability.

18. Under these circumstances, the Commission considers, based on the applicable *prima facie* standard and in the context that the State of Cuba is experiencing, it is sufficiently proven that the rights to life and personal integrity of Julio César Góngora Millo are at serious risk.

19. As for the requirement of *urgency*, the Commission considers that it has been met. The Commission finds that the facts described suggest that the risk that the proposed beneficiary faces is likely to continue and exacerbate over time. Therefore, in view of the nature of the alleged facts in the context in which they are framed, the situation calls for the immediate adoption of measures to safeguard their rights to life and personal integrity. In this regard, as indicated above, the Commission does not have specific information provided by the State which is sufficient to assess the actions that have been taken to address the alleged risk. There is also no information available to indicate whether the alleged situation has been properly mitigated or no longer exists.

20. Regarding the requirement of *irreparable harm*, 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 irreparable harm.

IV. BENEFICIARY

21. The Commission declares Julio César Góngora Millo beneficiary of the precautionary measures, who is duly identified in this proceeding.

V. DECISION

22. 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 and personal integrity of the beneficiary;
- b) adopt the necessary protective measures so that the beneficiary can continue to carry out his work defending human rights, without being subject to threats, intimidation, harassment, and acts of violence. The foregoing implies, among other measures, that the State provide the corresponding medical care so that he can perform his duties; and
- c) 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.

23. 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.

24. 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.

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

26. Approved April 10, 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.

Tania Reneaum Panszi
Executive Secretary