

**SUPPORT FOR THE PETITION
TO DECLARE DECREE-LAW 370
UNCONSTITUTIONAL IN CUBA**

**JOINT STATEMENT FROM
ORGANIZATIONS AND THE
MEDIA INTERNATIONAL**

The undersigned organizations and media outlets support the petition presented on June 8 in Cuba before the National Assembly, the State Council, the Supreme Court, the Office of the Attorney General, and the President of the Republic declaring 2019's Decree-Law 370 unconstitutional.¹ The 64 people who signed the petition did so on behalf of the more than 500 Cuban residents and 3,100 Cuban expats and nationals of 83 other countries who signed the "Declaracion contra el Decreto Ley 370: Ley Azote," published on the Avaaz platform.²

Decree-Law 370 was described as an effective means of consolidating cybersecurity, technological sovereignty, security, and national defense. However, it also subordinates the development of information and communication technologies (ICT) to the needs of the State and imposes restrictions on the exercise of fundamental rights involved in the use of ICT, such as political participation, freedom of expression, privacy, and association. Among the restrictions dictated by the decree-law, the following stand out:

- It penalizes the dissemination of information contrary to "social interest," "morals," and "good customs" on social media, classifications which do not imply unlawful conduct and inhibit debate in the public and political sphere.
- It authorizes the punishment and persecution of computer security researchers who publish and raise warnings about the existence of vulnerabilities in computer systems.
- It grants discretionary powers to the Ministry of Communications (MINCOM) to issue licenses for computer programs and applications and does not guarantee an explanation of denial which would facilitate authorities' arbitrary decisions.
- It impermissibly restricts the manufacture, installation, and marketing of ICT-related devices without authorization, which impacts the development of community networks that guarantee access to the internet and reduce the digital divide.
- It prevents the hosting of websites located on foreign servers if they are not replications of a primary site located on the national server, outlawing personal blogs and independent media outlets that are denied access to the ".cu" domain. This allows the Government to control and access users' personal information.

These restrictions violate the provisions of Articles 8, 40, 41, 47, 54, and 228 of the Cuban Constitution and the international treaties ratified by the State, which are part of the national legal system and explicitly protect freedom of expression. These international treaties include the International Convention on the Elimination of All Forms of Racial Discrimination,³ the Convention on the Elimination of All Forms of Discrimination against Women,⁴ the Convention on the Rights of the Child,⁵ and the Convention on the Rights of Persons with Disabilities.⁶

¹ Official Gazette of the Republic of Cuba (July 4, 2019): Official Gazette No. 45. Ordinary of 2019. Decree-Law 370 of 2018, "On the Computerization of Cuban Society." Available at: <https://www.gacetaoficial.gob.cu/es/gaceta-oficial-no-45-ordinaria-de-2019>. Retrieved on June 4, 2020.

² Avaaz.Org (May 2020): Petición para la Asamblea Nacional del Poder Popular de Cuba. Declaración contra el Decreto-Ley 370: Ley Azote. Available at: https://secure.avaaz.org/es/community_petitions/asamblea_nacional_del_poder_popular_de_cuba_declaracion_contra_el_decretoley_370_ley_azote/. Retrieved May 30, 2020.

³ Paragraph 8 of subsection d) of Article 5. Ratified by Cuba on February 15, 1972.

⁴ Subsection h) of Article 10. Ratified by the Cuban State on July 17, 1980.

⁵ Article 13. Ratified by the Cuban State on August 21, 1991.

⁶ First paragraph of Article 4, paragraphs c, g, h and Article 21. Ratified by the Cuban State on September 6, 2007.

By signing the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, the Cuban State is compelled to protect freedom of expression. This commitment is reaffirmed in Article 47 of the Cuban Constitution, which recognizes the right of individuals to the free development of their personality, and in Article 54, which imposes an obligation on the State to guarantee freedom of expression. Freedom of expression is essential for the enjoyment of others human rights and its illegitimate restriction violates the indivisibility, interdependence, and interrelatedness of the human rights recognized in Article 41.

Since the publication of our statement⁷ on May 6 in which we expressed concern about violations against freedom of expression and the press in the implementation of Decree-Law 370 , the situation has continued to worsen. Nine more people have been penalized with fines of 3,000 pesos (\$120), equivalent to three times the current average monthly salary, and at least one person was fined twice in less than 40 days. In all cases, they were sanctioned by MINCOM officials, under direct orders from State Security, based on their critical posts on social media about the management of the Cuban Government. This brings to a total of 27 the violations associated with the implementation of the law.

In its February 2020 country report, the Inter-American Commission on Human Rights (IACHR) indicated that Decree-Law 370 “could give rise to undue restrictions on the exercise of the rights to freedom of expression and assembly on the internet, affecting the free flow of information.”⁸

The IACHR has warned that online surveillance activities violate the right to privacy and protection of personal data. It expressed concern that this type of online monitoring might be used as a means of identifying independent journalists and political dissidents, leading to the use of patterns of harassment against these people.⁹

The Cuban State must guarantee the right of access to information through any medium, particularly through the internet. We stress that penalizing and classifying the exercise of freedom of expression as a legal violation and restricting access to and the publication of online content for supposed reasons of public order or national security, is a violation of the Cuban Constitution and international law and has an intimidating effect on the collective dimension of freedom of expression and assembly.¹⁰

We, the undersigned, support the petition to declare Decree-Law 370 unconstitutional. We reaffirm the statement published on May 6 in all its points. We urge other allies from the international community, governments, civil society, and international human rights protection organizations to demand that the Cuban government put an immediate stop to online surveillance against individuals who express their opinions on social media or other media outlets and cease persecution of journalists and human rights activists.

⁷ Cuba and its Decree-Law 370: annihilating freedom of expression.

⁸ Country report on the situation of human rights in Cuba. IACHR (2020). Page 97. Paragraph 229. Available at: <http://www.oas.org/en/iachr/reports/pdfs/Cuba2020-en.pdf>.

⁹ Idem. Page 98. Paragraph 232.

¹⁰ Access Now (2019): Internet control at its best: Decree 370 of Cuba. Available at: <https://www.accessnow.org/control-de-internet-en-su-maxima-expresion-decreto-370-de-cuba/>.



Access Now

ADN

Alas Tensa

Alianza Regional por la Libre Expresión e Información

Árbol Invertido: Cuba, cultura y libertades

Article 19 Oficina para México y Centroamérica

Asociación Pro Libertad de Prensa

CADAL

Centro PEN de Escritores

Cubanos en el Exilio

CiberCuba

Ciudadanía y Desarrollo

Civics

Civil Rigths Defenders

Club de Escritores y Artistas de Cuba

Convivencia

Cubalex

Cubanet

Cultura Democrática

Demo Amlat

Demóngeles

Derechos Digitales de América Latina

Diario de Cuba

El Estornudo

Freedom House

Freemuse

Fundación Cubana para los Derechos Humanos

Fundación Internet Bolivia

Havana Times

Hiper Derecho

Huaira

Human Rights Foundation

Hypermedia

Instituto Cubano por la Libertad de Expresión y Prensa

IFEX-ALC

Instituto de Artivismo Hannah Arendt

La Hora de Cuba

Mesa de Diálogo de la Juventud Cubana

Movimiento Cubano por la Libertad de Expresión

Movimiento San Isidro

No Somos Desertores

PEN Internacional

People In Need

People in Need Slovakia

Play-Off Magazine

Post Bellum

"Programa Cuba de la Universidad Sergio Arboleda"

Proyecto Inventario

Puente a la Vista

Race and Equality

Red de Cultura Inclusiva

Red Femenina de Cuba

REDLAD

Rialta

Robert F. Kennedy Human Rights

Transparencia Electoral

Tremenda Nota

Usuarios Digitales

Yucabyte