

## **Cuban 5 NLG resolution 2014**

Five Cubans, Gerardo Hernández Nordelo, Ramón Labañino Salazar, Antonio Guerrero Rodríguez, Fernando González Llort, and René Gonzalez, were convicted in the United States in 2001 of conspiracy offences and being agents of a foreign government. Mr. Hernández was also convicted of a conspiracy to commit murder.

None of the actions of the Cuban Five involved acts of violence or acts against legitimate interests of the United States.

A resolution adopted by the 2007 National Convention of the National Lawyers Guild called for “an International Investigation into the Failure of the United States Government to Address and Remedy the Denial of Justice in the Case of ‘The Cuban Five.’” The resolution pointed out that Cuba had been repeatedly targeted by anti-Castro groups based in the United States, and over 3,000 Cuban citizens had been killed. Cuba repeatedly protested the planning, financing and launching of such attacks from the U.S. The failure of the US government to halt the attacks is what made Cuba decide to send its own agents to the US to monitor the groups and deter and minimize further such attacks.

The Cuban Five were arrested in Florida while they were participating in the Cuban government program to monitor violent anti-Castro groups to prevent further terrorist attacks on Cuba. They were held in solitary confinement for 17 months. Over the objections of the defendants that a fair trial could not be held in Miami, they were nonetheless tried in Miami, convicted, and sentenced to long prison terms ranging from 15 years to more than two life terms.

In August 2005, a unanimous 3-judge panel of the 11th Circuit Court of Appeals ruled that the Miami trial of the Five was unfair and their convictions should be vacated based on a “perfect storm” of intense community hostility against anyone identified with the government of Cuba, combined with prosecutorial misconduct intended to inflame such passions.

However, one year later that decision was vacated by the full 11th Circuit and the panel decision for a new trial was reversed.

In the 2007 resolution, the NLG Convention reaffirmed its commitment to fight for justice in this case, and specifically called upon the United States government to either release these prisoners forthwith or provide them with a new trial.

Rene Gonzalez was released in 2011 after 13 years in prison, and allowed to return to Cuba in 2013. Fernando Gonzalez was released in February 2014. The three others remain in prison.

Although not conducted by an official US or UN body, the international investigation called for by the NLG finally took place this past [March 7 and 8 in London](#). Before hundreds of people attending each of its sessions, a Commission of Inquiry headed by three world renowned judges listened to two days of testimony and unanimously adopted Preliminary Conclusions. The judges were Zakeria Mohammed Yacoob, former Justice of the Constitutional Court of South Africa, Philippe Texier, former Judge French Cour de Cassation, and Yogesh Kumar Sabharwal, former Chief Justice, India.

The Commissioners Preliminary Conclusions stated:

1. There are serious concerns about whether any of these people have had the full benefit of the

fundamental human right to a fair and speedy trial before an independent and impartial tribunal or Court, recognized universally in the International Covenant on Civil and Political Rights as ratified by the United States of America.

The Commission unanimously found the following facts:

- a) all five Cuban Nationals were placed in solitary confinement for about seventeen months before the trial began;
- b) none of them have had sufficient access to documents relevant to the trial and necessary for the adequate preparation of a defense;
- c) the opportunity to consult with their legal representatives was, in all the circumstances, less than sufficient;
- d) the trial was held in a part of Miami, Florida where, according to three respected judges of the Eleventh Circuit of the United States Court of Appeals, a fair trial could not be guaranteed;
- e) Serious allegations have been made that the United States Government paid the media to ensure prejudicial publicity against these persons both before and during the trial;
- f) these five human beings were certain of their fate only eight years after the trial in the District Court had been concluded.

The three Commissioners further observed that:

2. According to all the judgments not one of these persons either committed or intended to commit any act of violence.
3. No conduct of any of these persons was aimed at the United States of America or its Government. The Cuban Five gathered information aimed at preventing privately-inspired violence and other anti-Cuban action emanating from United States soil.
4. The perception of the Cuban Five, indeed their firm belief, was that the United States Government was not doing enough to stem violent anti-Cuban action from United States soil.
5. There is no doubt at all that hundreds of compatriots and countrymen who were ordinary citizens of Cuba have died in unacceptably horrendous circumstances as a result of the actions of Cubans opposed to the Castro government in Cuba from United States soil. The families of the deceased would have suffered immeasurably.
6. Two of the members of this group of persons have already served their full sentences, and there can be no prejudice in pardoning them now.
7. The other three persons have, in any event, already served inordinately long periods of imprisonment in all the relevant circumstances summarised in this statement.
8. The families of these people have undergone tremendous suffering and hardship in consequence of the internment of their loved ones, and it can be said without any fear of contradiction that enough is enough.

9. None of these persons acted out of malice or any kind of ill-will towards the United States or its government, people, or policies: each of them was carrying out the instructions of their government.

10. Private anti-Cuban aggression from American soil is quite impossible to be justified from any viewpoint.

11. It is urged that the normalization of relations between Cuba and the United States is a laudable and achievable goal, in the interests of both the United States of America and the Republic of Cuba, and that the generous grant of pardons by the President of the United States of America to the people who have been described as the Cuban Five will contribute immeasurably to the achievement of this vitally important purpose.

12. The President of the United States is also respectfully informed of the prevailing reasonable view that it is important to signal that the achievement of fairness and justice is not the preserve of the judiciary alone of any country, but, ultimately, a vital political responsibility that must be embraced when the moment comes.

13. It is suggested, with the greatest of respect, that the grant of these pardons will have a significant impact on world justice and world peace.

The three Commission members summarized their findings and conclusions as follows:

In summary, the granting of unconditional Presidential pardons to the members of the Cuban Five has the real potential to achieve effective justice for the five human beings who have been the concern of this enquiry, demonstrate the adherence of the President of the United States of America and its Government today to universally accepted norms of morality, fairness and justice, contribute substantially to the normalization of relations between the United States and Cuba and represent a meaningful stride towards world justice and world peace.

Having heard two full days of compelling evidence, we would urge the President of the United States of America, President Barack Obama, to pardon completely all these five persons and to release immediately and unconditionally the three persons who continue to languish in prison in the United States

**Therefore be it resolved** that the 2014 National Lawyers Guild at its convention in Chicago calls on U.S. President Obama to immediately release the remaining three of the Cuban Five still in prison and grant a full pardon to each of the Cuban Five.

**IMPLEMENTATION:** This resolution is to be implemented by the NLG Cuba Subcommittee, the International Committee, in coordination with the NLG National Office, and the anticipated support of other committees and chapters to educate their members and the public about this case.

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