

## Cuban Artists Protest New Legislation that Criminalizes Independently Produced Art

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**Luis Manuel Otero Alcántara** being arrested on Saturday, July 21, during a protest of Decree 349. Photo: X Index.

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Cuban artists and cultural figures are rallying against a new decree that will criminalize all independent cultural activity on the island. Issued by the government in July, Decree 349 aims to give the authorities total control over artistic production. Those affected include musicians, artists, writers, and performers, as well as the venues that allow creatives to host events that weren't first approved by the Ministry of Culture. Those found in violation of the decree, which will be enforced starting December 1, will face fines, property seizure, and jail.

According to artist Coco Fusco, "the law will empower a new cadre of inspectors to act as roving censors that can shut any cultural event down at a moment's notice." Fusco teamed up with artist Tania Bruguera; Laritzta Diversent, the head of the human rights organization Cubalex; curator Yanelys Nuñez; and artist Enrique Risco to pen an open

letter detailing their concerns about the decree. They point out that the legislation does not actually address how artists can create work legally and that it uses vague language that can be interpreted in a myriad of ways.

“We share an interest in creating conditions for the development of a dynamic Cuban culture but we believe that Decree 349 does not present a sound vision of the future for Cuban culture,” they wrote. “The new laws restrict the creativity of the Cuban people and criminalize independently produced art, limiting the ability to determine who can be an artist to a state institution.” The petition also states that the law will infringe on international human rights agreements that Cuba signed at the United Nations headquarters in New York in 2008. Addressed to president Miguel Díaz-Canel Bermúdez, the letter, which was posted on the US-based global activism site Avaaz, calls for government institutions to engage in dialogue with independent artists about how to ensure that culture can continue to thrive in the country. Since it was published on August 8, more than 280 people have signed the document.

Following the announcement of the decree, several artists have staged protests. According to Translating Cuba, artists Luis Manuel Otero Alcántara, Amaury Pacheco OmniPoeta, Iris Ruiz, Soandry Del Rio, and José Ernesto Alonso were arrested in late July while demonstrating in front of the Capitol building in Havana. Fusco told artforum.com that Nuñez Lleyva and Otero Alcántara were also detained on August 11 while hosting a Without Permission of the 349 concert, where several musicians suffered minor injuries as police attempted to break up the performance.

The open letter can be read in full below:

*Mr. Díaz-Canel Bermúdez,*

*On July 10th, the Decree 349/2018 was issued; a decree that addresses “Violations by individuals of the regulations regarding the provision of artistic services.” We share an interest in creating conditions for the development of a dynamic Cuban culture but we believe that Decree 349 does not present a sound vision of the future for Cuban culture.*

*The new laws restrict the creativity of the Cuban people and criminalize independently produced art, limiting the ability to determine who can be an artist to a state institution. Cuban artists have not been consulted and will not have recourse to independent arbiters in the case of any dispute.*

*We are concerned about the presence of vague phrases such as “contents that are damaging to ethical and cultural values.” The decree has no description of how to create legally. Furthermore, the history of the arts demonstrates that the questioning of established systems of thought is the motor of aesthetic progress. Without it, art would not have advanced.*

*Today, crowdfunding offers new ways to subsidize artistic ventures with the help of friends. The Cuban government should not confuse these new means of support with direct financing from hostile governments and organizations. The fact that a Cuban artist manages to finance his or her creations independently does not make him or her into an opponent of the government. Millions of individuals around the world have found opportunities to express themselves outside established cultural institutions and industries.*

*Decree 349 empowers the Ministry of Culture to designate supervisors and inspectors who can censor and suspend artistic presentations, impose fines and confiscate instruments, equipment, the permit that allows artists to be self-employed, and even an artist's home. To us, this is an excessive measure that, in addition to generating an antagonistic relationship between artists and the institutions that should serve their needs. It also lays the groundwork for administrative corruption.*

*This decree violates the covenants that were lobbied for and signed by Cuba in the United Nations, such as the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and the Declaration on Right to Freedom of Expression and Artistic Creation.*

*A culture can exist without a Ministry, but a Ministry of Culture or a nation cannot exist without the creativity of its citizens. Decree 349 leads to the impoverishment of Cuban culture.*

*We, who sign this letter, direct our concerns in good faith. We want to create a dialogue between Cuban artists and institutions so that Cuban culture continues to be a culture by and for all.*

*Tania Bruguera, Laritza Diversent, Coco Fusco, Yanelys Nuñez, Enrique Risco*