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**NATIONAL REPORT BY THE REPUBLIC  
OF CUBA TO THE UNIVERSAL PERIODIC  
REVIEW OF THE HUMAN RIGHT COUNCIL**



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## **I. METHODOLOGY AND CONSULTATION PROCESS**

1. This report is the outcome of a process involving a large number of ministries and Government and State institutions, Parliament, more than 300 non-governmental organizations (NGOs) and other concerned bodies. The Ministry of Foreign Affairs coordinated the national group set up to conduct the process of broad and inclusive consultation that led to the adoption of this document.

2. The scope of this report does not extend to the territory illegally occupied by the United States naval base at Guantanamo, where the Cuban people is deprived of sovereignty and within whose bounds the universally reviled centre of arbitrary detention and torture has been installed.

## **II. BRIEF HISTORICAL SUMMARY**

3. With the triumph of the Revolution on 1 January 1959, the Cuban people achieved true independence and were able to create the conditions for full and universal enjoyment of all human rights. The profound economic, political and social changes undertaken made it possible to do away with the structural injustices inherited from colonial and neocolonial rule in Cuba. The foundations of a democratic, fair, inclusive, equitable and compassionate society were laid and continuous progress has been made.

4. When the Revolution triumphed, Cuba found itself in a state of total and absolute dependence on the United States, underdevelopment, corruption, political and administrative fraud, chronic malnutrition, arbitrary detention, torture, disappearances and extrajudicial executions, illiteracy, neglected and inadequate health services, widespread poverty, discrimination against women, and racism. In short, the absolute negation of individual and collective rights.

5. The Cuban people, by its sovereign will, established a political, economic and social system, as enshrined in the 1976 Constitution. It did so in the light of the failure of successive models and prescriptions imposed by the powers that had dominated Cuba. It had suffered humiliating experiences: military interventions and constant interference by the United States, the pernicious impact of clearly unfair free trade agreements and the collapse of the so-called liberal bourgeois democracy. The Governments of the United States, with the connivance of the dependent and corrupt Cuban oligarchy, imposed brutal dictatorships to prevent the Cuban people from exercising their right to self-determination.

6. The Cuban people embarked on its project of freedom, solidarity and social justice in the face of a policy of intense hostility, aggression and blockade on the part of successive United States administrations. Cuba has suffered the adverse effects of economic warfare, mercenary invasion and terrorist attack by the United States.

7. Cuba has undergone and continues to undergo a process of permanent and profound change as it works to improve the socialist system endorsed and built up by its people, and strives to create a society that is ever fairer, freer, more independent, more compassionate, more equal and more productive, that ensures sustained economic growth and sustainable development and that develops as far as is humanly possible the democratic nature of its institutions, laws, policies and programmes, which are clearly people-oriented and inclusive in nature.

### **III. POLITICAL SYSTEM IN CUBA**

8. Cuba's democratic system is based on the principle of "government of the people, by the people and for the people". The Cuban people participate in the exercise and active control of Government through its political and civil institutions and in the framework of its laws.

9. Cuba is an independent and sovereign socialist state of workers, organized with all and for the good of all as a united and democratic republic, for the enjoyment of political freedom, social justice, individual and collective well-being and human solidarity.

10. Sovereignty is vested in the people, from whom all the power of the State originates. That power is exercised directly or through the people's assemblies and other State bodies that derive their authority from those assemblies.

11. The Cuban political system is the expression of the will of its people. It is a truly Cuban undertaking, based on its rich history of struggle for equality and solidarity between men and women, for independence, sovereignty, non-discrimination, unity, participation, people's power and social justice.

12. In 1976 the socialist Constitution was approved in a general referendum with a turnout of 98 per cent of all voters, 97.7 per cent of whom voted in favour. This made it possible to consolidate Cuba's institutional framework with the creation, among other things, of the organs of People's Power.

13. In 1992 a reform of the Constitution and of the Cuban electoral system consolidated the system's democratic foundations and made possible, among other things, the direct election of deputies to the National Assembly and of delegates to provincial assemblies by secret ballot. The high turnout in elections attests to Cubans' overwhelming support for their political system.<sup>1</sup> The Constitution was again amended in 2002, with the votes of more than 8 million Cubans, thereby reaffirming, by the will of the overwhelming majority of the people, the socialist nature of the Cuban Revolution.

14. The apparatus of the Cuban State is made up of legislative, executive, administrative, judicial, fiscal, control and defence bodies. Each group of bodies has a specific function in the apparatus of power.

15. The People's National Assembly, a single-chamber representative body, is the supreme organ of State power. It represents and expresses the sovereign will of the whole people, as established in article 69 of the Constitution. It is the only body in Cuba with constituent and legislative power.

16. The Council of State is the body of the People's National Assembly that represents it in the period between sessions, executes its resolutions and performs other duties assigned by the Constitution. For national and international purposes it represents the Cuban State at the highest level.

17. The Council of Ministers is the highest-ranking executive and administrative body and constitutes the Government of the Republic.

18. The National Defence Council is constituted and prepared during peacetime to lead the country in war conditions or during a war, a general mobilization or a state of emergency. The law regulates its organization and activities in accordance with article 101 of the Constitution.

19. The function of administering justice devolves from the people and is carried out on the people's behalf by the People's Supreme Court and the other courts that the law establishes.

20. The Office of the Attorney-General of the Republic is the State body whose primary responsibilities are to monitor and uphold legality and to institute criminal proceedings on behalf of the State.

21. The provincial and municipal people's assemblies set up in the political-administrative divisions into which the country is divided are the highest local organs of State power. They are invested with the highest authority for the exercise of State functions in their respective territories. There are 169 municipal assemblies, comprising 15,236 delegates, most of whom are not professionals and all of whom are elected by majority vote for a two and half year term.

22. The bodies of people's power are not the sole expression of democracy in Cuba. Other forms of direct democracy are encouraged, as well as a participatory culture, which includes social and grass-roots organizations representing the plurality of Cuban society. Important decisions are taken only when the broadest social consensus has been reached.

23. The Cuban State recognizes and encourages the grass roots and social organizations that have emerged from the historic struggles of its people, and which bring together various sectors of the population, represent their specific interests and involve them in the tasks of building, consolidating and defending society.

24. Basic features of the Cuban electoral system:

- a) Public electoral rolls, with automatic, universal registration without charge for all citizens aged 16 and over who have the right to vote;
- b) Direct nomination of candidates at electoral assemblies;
- c) No discriminatory, lucrative and costly election campaigns;

- d) Transparency - the votes are counted publicly;
- e) Requirement of majority support - more than 50 per cent of the valid votes cast are required in order to be elected;
- f) The vote is free, equal and secret. All Cuban citizens have the right to vote and be elected, except as provided by law. Since there are no party lists, voters vote directly for the desired candidate;
- g) All members of the representative bodies of State power are elected and may be re-elected;
- h) All those elected are held accountable at regular intervals and are subject to recall at any time during their term of office;
- i) Deputies and delegates are not paid to perform their duties;
- j) High voter turnout - 96.89 per cent in the 2008 National Assembly elections;
- k) The Cuban Parliament is representative of the widest range of sectors of society. One deputy is elected for every 20,000 inhabitants or fraction greater than 10,000. All municipal territories are represented in the National Assembly. Up to 50 per cent of the deputies must be delegates from the constituencies and live in their constituency;
- l) The National Assembly elects the Council of State and the Council president from among its deputies. The President of the Council of State is the Head of State and Head of Government. The Head of State and Government must go through two elections: first one for deputy and then one held in the National Assembly, also by free, secret, direct ballot;
- m) The right to propose legislation rests with society as a whole and not only with deputies. Trade unions, student, women's and social organizations and individual citizens may propose laws, provided in the last case that the proposal has the support of at least 10,000 qualified voters;
- n) Laws are put before the deputies and passed by majority vote. A law is not discussed in plenary until it is clear, following repeated consultation with deputies and taking their proposals into account, that there is a majority in favour of discussion and approval. In practice this process includes public participation in the analysis and discussion of strategic issues;
- o) There are no political parties in an election; the role played by parties in other countries is taken by the people, either directly or through their representatives. The Communist Party plays no part in the electoral process but is the guarantor of its quality and transparency. It is not necessary to be a member of the Communist Party of Cuba in order to be nominated or elected. Of the 15,000 or more constituency delegates, 34.24 per cent are not members of the Communist Party. The people nominate and elect their local representatives. Deputies to the National Assembly and delegates to provincial assemblies are nominated by the delegates to municipal assemblies, after intensive consultations with social organizations.

25. Cuba does not claim to be a perfect society. The principal quality of Cuba's political system is its capacity for constant improvement as necessary to achieve full, genuine and systematic participation by the people in leading and directing society.

#### **IV. JUDICIAL SYSTEM IN CUBA**

26. The Constitution of the Republic of Cuba is the supreme law and lays the political, economic and social foundations of the State and the Government. It sets forth the principles for the organization of State bodies and establishes citizens' basic rights, duties and guarantees and the obligation of compliance.

27. The Constitution establishes the principles of Cuba's electoral system and the procedure for complete or partial amendment of the Constitution. If such amendment relates to the composition and powers of the National Assembly or its Council of State, or to rights and duties enshrined in the Constitution, it also requires ratification by majority vote of citizens with electoral rights, in a referendum called for that purpose by the Assembly itself under article 137 of the Constitution.

28. The system of legal protection for human rights in Cuba is not confined to a description in the Constitution; human rights are duly developed and guaranteed in other substantive and procedural provisions. Acts, decree-laws, decrees, decisions of the Council of Ministers and resolutions of ministers and heads of the central organs of State, all establish benefits and supplement the principles, rights and duties established in the Constitution, which define the relationship between individual members of society and between individuals and the State.

29. Act No. 59 of 16 July 1987 (Civil Code), Act No. 49 of 28 December 1984 (Labour Code), Act No. 81 (Environment Act), Act No. 14 of 1977 (Copyright Act), Act No. 24 of 1979 (Social Security Act), Act No. 1289 of 1975 (Family Code), Act No. 16 of 1978 (Children and Youth Code), Act No. 62 of 1987 (Criminal Code), Act No. 7 of 1977, as amended by Decree-Law No. 241 of 26 September 2006 (Civil, Administrative, Labour and Economic Procedure Act), Act No. 5 of 1977 (Criminal Procedure Act) and other laws, all supplement and establish guarantees of the exercise of all human rights in Cuba. The international treaties signed in the name of the Cuban State or its Government, also form part of Cuba's legal order. Cuba has signed or ratified the major legally binding international human rights instruments.<sup>2</sup>

30. The bodies with judicial functions monitor and uphold legality by close surveillance to ensure compliance with the Constitution, the law and other legal provisions on the part of State agencies, financial and social institutions and citizens.

31. The judicial system, which is regulated in chapter XIII of the Constitution, on "Courts and the Prosecution Service", plays an essential role in protecting human rights. The system meets international standards, notably the decisions of the United Nations congresses on prevention of crime and the treatment of offenders and the Basic Principles on the Independence of the Judiciary, which establish, among other things, the principle of the collective and individual independence of judges, who, in their role as dispensers of justice, owe allegiance only to the law.

32. The Cuban State has institutionalized a system of independent bodies, headed by the Supreme Court, which are collegial bodies with a membership appropriate to their competence and which ensures broad popular participation in the administration of justice. The Cuban judicial system is based on the following principles:

- a) The absolute independence of judges individually and of the entire court system in the administration of justice;
- b) The popular dimension of justice, achieved mainly by opening up judicial functions to non-professional judges (lay judges), who sit alongside the professional judges;
- c) All judges, professional and non-professional, are elected;
- d) The absolute equality of all persons before the law;

- e) Collegial courts for all acts of justice regardless of judicial instance or the nature of the case;
- f) The presumption of innocence. Every accused person is innocent until proved otherwise. The burden of proof lies with the prosecution;
- g) All trials are public, except where provided by law;
- h) All court decisions are appealable in accordance with the law applicable in each case;
- i) Every accused person has the right to a defence.

## **V. CIVIL AND POLITICAL RIGHTS**

33. Chapter VII of the Constitution, on “Fundamental rights, duties and guarantees”, basically sets forth the principles and guarantees of human rights and fundamental freedoms, which are in line with the rights contained in the Universal Declaration of Human Rights and the other international human rights instruments. These are complemented by other chapters of the Constitution and the provisions of ordinary law.

34. The rights and guarantees recognized in the Cuban legal system include the right to life, liberty and inviolability of the person and personal integrity; the right not to be tried or convicted except by a competent court under laws that existed prior to the offence and with the formalities and guarantees established by law; the right to a defence; the right not to be subjected to violence or coercion of any kind to be forced to testify; the retroactive application of criminal law where that is favourable to the accused; the obligation to observe the law; the obligation to comply with court judgements and other final decisions; and the monitoring and upholding of legality by the Attorney-General’s Office.

35. The legal system is conceived as a form of protection for human rights, providing as it does a guarantee of the exercise of human rights and of the public safety demanded not only by international instruments but also by the Cuban people, whose enjoyment of that safety is one of its greatest achievements.

36. The guarantees in the criminal justice system are based on the fundamental principle of the dignity of the human person and respect for their status as a subject of law. The principles of legality, non-retroactivity of more severe criminal legislation, the presumption of innocence, reparation for miscarriages of justice, non-discrimination, the determination of sentence, and the principles of due process, are part of criminal law. In Cuba all criminal trials are conducted orally, with all the guarantees that requires.

37. The guarantees established in ordinary law include: the obligation of officials involved in criminal proceedings to note for the record any circumstances, whether favourable to the accused or not, and take them into account in their decisions, and to inform the accused of their rights; the presumption of innocence until proved guilty; the requirement for every offence to be tried independently of the testimony of the accused, their spouse or their relatives up to the fourth degree of consanguinity and the second degree of affinity, which means that, on its own, a statement by the person does not remove the obligation to furnish the evidence required to prove the facts; nobody may be arrested except in the cases and with the formalities prescribed by law; guarantees relating to detention, the rights of the detainee and the obligations of the police, the investigator and the prosecutor, as well as the precautionary measures that may be

ordered; the right to a defence and the powers of defence counsel; pretrial detention to be served in an institution or wing different from those used for serving custodial sentences.

### *Other points of interest*

38. **Rights to life, liberty and security of person.** These are at the core of the actions of the Cuban authorities and the functioning of society as a whole. The law punishes all conduct that jeopardizes human physical integrity and life. Criminal liability is increased where such crimes result from abuse of power or authority or take advantage of a person's inability to defend themselves. Violence against persons is not only a punishable offence but is prevented through other educational measures and by restrictions on the use of instruments that could endanger human life.

39. **Death penalty.** Even though this is included in Cuba's national legislation, it is applied only in highly exceptional cases. It is handed down by the competent court only for the most serious cases of those crimes to which it applies. The death penalty cannot be imposed on persons below 20 years of age or on women who were pregnant at the time of the offence or are pregnant at the time of sentencing. In 1999, the National Assembly passed Act No. 87 amending the Criminal Code and providing for life imprisonment for various crimes mainly as an alternative to the death penalty. Since 2000, with a single exception in April 2003, Cuba's policy has been not to carry out any punishment of this kind. A group of convicts had their death sentences commuted in May 2008. Cuba has incorporated the safeguards established by the United Nations in this regard into its legislation and implements them fully.

40. **Freedom of religion.** The Cuban revolution respects all churches and all religious beliefs, without any discrimination whatsoever. The Cuba State protects the freedom of worship and the Constitution establishes the separation of church and State. Under articles 8, 42 and 55 of the Constitution, the State recognizes respects and guarantees freedom of religion (the right to have religious beliefs or change them and to worship, or to have no religious beliefs and not to worship), religious institutions are separated from the State and all belief systems enjoy equal treatment.

41. The 1992 Constitutional reform established the secular nature of the Cuban State. Religious institutions freely choose their ordained functionaries and assign them to different regions in the country; they organize a considerable number of religious activities, at the local, national and international level and regularly receive religious literature and international representatives.

42. There are some 400 religions and religious institutions established around members' beliefs. In addition to Catholicism and the various Protestant and evangelical churches, other important religions in Cuba are African religions, spiritualism, Judaism, and the church of the Jehovah's Witnesses. All of them have churches and houses of worship where they can practise, and they do so regularly without hindrance. Before the Revolution came to power, many of these religions were outlawed, despite their large followings. The Revolution recognized them and did away with all legal provisions discriminating against or punishing believers for their religious faith.

43. General education is provided by the State. It is free of charge and based on the discoveries and benefits of science. Parents are free to give their children a religious and moral upbringing that reflects their beliefs; this may take the form of religious instruction given at home or in theological seminaries.

44. **Freedom of opinion, expression and the press.** Article 53 of the Constitution recognizes this right to all citizens. The material conditions for its exercise are created by the high standard of education and culture and the fact that the press, radio, television, cinema and other mass media are socially owned.

45. There is wide debate in Cuba on topics of all kinds relating to the political, economic, social and cultural life of the nation and the planet. Discussion and artistic creation is encouraged in intellectual, cultural and academic circles, and this is reflected in the diversity of publications and the variety of artistic productions available to the general public. In 2007 more than 70 writers and publishers attended 26 international book fairs, including the most important ones, in Frankfurt, Guadalajara and Barcelona. Cuba encourages very free creation, which results in intense intellectual activity that is reflected in various publications that regularly circulate throughout the country, and in the range of work generated by Cuba's highly diverse artistic community. Cuba has 723 periodicals, 406 in print and 317 on digital media, and 91 radio stations. The seventeenth Cuban International Book Fair in 2008 visited 42 cities and put in circulation more than 8 million copies of new titles, of which over half were purchased by the public in just the 24 days the Fair lasted, at modest prices reflecting the high priority the State attaches to this question.

46. Cuban artists and creators belong to various NGOs (dance, music, design, fine arts, etc.), including the Hermanos Saíz Association, which brings together, on a strictly voluntary basis, the most important Cuban writers, artists, intellectuals and promoters under 35; and the Cuban Writers and Artists Union (UNEAC), which has 8,454 members (2007). With the broad democratization of culture in Cuba, it has been possible to hold numerous conferences of artists and creators, and these have fostered open and thorough debate on various topics. The seventh UNEAC Congress in April 2008 broadened the range of topics for discussion, political, economic and social.

47. A wide-ranging debate on Cuban reality was recently conducted across the country. More than 5 million Cubans from all sectors of society attended 215,687 meetings and more than 1.3 million suggestions, criticisms and proposals were put forward.

48. Information and communications technologies are at the service of the whole people.<sup>3</sup> Training in their use is free. The United States blockade affects Internet access, restricting the bandwidth availability and making for high connection costs, as connection is currently only possible via satellite. Cuba observes the principle that available resources should benefit the largest possible number of Cubans. Priority is given to facilitating access through social and community centres and institutions, such as schools, universities, hospitals and health centres, libraries, research centres, local, provincial and national government departments and arts and cultural centres.

49. **Right of peaceful assembly, association and demonstration.** Article 54 of the Cuban Constitution recognizes these rights, which are also protected by other laws, including the Associations Act (Act No. 54) and the Labour Code, which guarantees the

right to organize and the right of all workers to meet, discuss and express their views freely on all issues or matters affecting them. There are 19 national unions and a Central Federation. These rights are widely exercised in Cuba. Civil society in Cuba comprises more than 2,000 organizations, some of the most prominent being the social and grass-roots organizations formed by women, peasants, workers, youth, students, pioneers and neighbourhood residents, and the scientific, professional, technical, cultural, artistic, sporting, religious and fraternal, friendship and solidarity associations and any others operating under the Associations Act.

**50. Right to equality, non-discrimination and the gender perspective.** The Cuban Constitution devotes one chapter, containing several articles, including articles 41, 42 and 43, to provisions on equality. Equal rights and duties are granted to all citizens, and all forms of discrimination are prohibited; discrimination is punishable by law.

51. All citizens are considered equal, regardless of race, skin colour, sex, convictions or national origin. The very composition of the National People's Assembly reflects the diversity of the Cuban people. The 614 deputies include representatives of all sectors. More than 28 per cent are labourers, farmers, service workers, teachers and health workers; 266, or 43.32 per cent of members of parliament, are women; 35.67 per cent are black or mestizo; 118 deputies are aged between 18 and 40; and more than 56 per cent were born after the triumph of the Revolution. The average age are 49 and 99.02 per cent having higher secondary education or higher education?

52. Cuba runs many programmes to consolidate social justice and equity. Broad public-interest programmes have particularly benefited those social sectors that suffered exclusion and discrimination during the colonial and neocolonial periods.

53. Substantial progress has been made in gender equality. Women enjoy the same rights and opportunities as men. There is a legal framework for the protection and promotion of all their rights, including sexual and reproductive rights. The Government has demonstrated its political will and commitment to the advancement of women. One example is the National Action Plan for Follow-up of the Beijing Fourth World Conference on Women, whose performance is evaluated regularly. The Plan guarantees gender mainstreaming in policies and programmes. The Federation of Cuban Women (FMC) is the national mechanism for the advancement of women.

54. In terms of employment, women account for 46.23 per cent of the workforce in the civil State sector. Women account for 38.26 per cent of all managerial positions; and for 66 per cent of the occupational category of technicians and professionals in the civil State sector. In the Council of State elected in 2008, women increased their representation by 16 per cent to 25.8 per cent. A further step forward in the advancement of women at work was the adoption of Decree-Law No. 234, on working women's maternity arrangements, which allows the mother and the father to decide which of them will take parental leave to look after the baby once the nursing period has ended.

**55. Right of complaint and petition.** Under article 63 of the Constitution, "All citizens have the right to bring complaints and address petitions to the authorities and to receive proper attention or responses in a reasonable time, in accordance with the law". All State agencies are required to set up an office to deal with the public. This will receive,

consider and answer complaints from the Public within the required time. Local and regional people's bodies, the National Assembly, the Council of State and political and social organizations, also receive requests and complaints and respond in timely fashion. The Attorney-General's Office has a Department for the Protection of Citizens' Rights.

**56. Right to participate in government.** This right is protected by article 131 of the Constitution and the other articles of chapter XIV, on "The Electoral System". Under article 131, all legally qualified citizens have the right to take part in the governance of the State, directly or through their elected representatives on the bodies of People's Power, and to that end to participate as prescribed by law in regular elections and referendums conducted by free, equal and secret ballot. This right is guaranteed under the Elections Act, Act No. 72 of 1992.

57. Each citizen is not only a holder of political power; they are also beneficiaries and joint owners of the nation's resources, wealth and basic means of production.

## **VI. ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

58. Cuba has made significant progress in the realization of economic, social and cultural rights.

**59. Education: a right of all Cubans.** Cuba eradicated illiteracy in 1961 and is now working on the universalization of higher education. Chapter V of the Constitution, on "Education and Culture", establishes that education is a public service provided free of charge. This function is performed by the State as a non-transferable duty and a right of all Cubans, without distinctions or privileges.

60. The Cuban State has created the material conditions and human capital to ensure quality education for all, with universal coverage and free of charge at all levels, regardless of students' or their family members' gender, skin colour, income, religion, opinions or political ideas.

61. School enrolment in different forms in the 0-5 age group in 2007/08 was 99.5 per cent. Enrolment for 6 to 11-year-olds was 99.7 per cent and for 6 to 14-year-olds 99.2 per cent. Nearly 70 per cent of young Cubans aged between 18 and 23 are at university. Cuba has one teacher for every 30 inhabitants. One hundred per cent of children with special educational needs receive appropriate attention in special schools.

62. Education is constantly being improved. The projects undertaken include: teaching of computing from primary level on; educational technology such as television and video in every classroom; creation of two educational television channels; establishment of special programmes for university education for older adults; creation of university-level units in every municipality in Cuba in order to provide universal access to that level of education. The Social Workers Programme has enabled thousands of young people to advance up to university level and perform socially useful work.

63. Of the Cuban State's budget expenditure for 2007, 19.3 per cent was earmarked for education. Cuba has far exceeded the six objectives of the UNESCO Education for All Programme.

64. **Right to culture.** Culture and science in all their manifestations are fostered and promoted in Cuba, as are freedom of artistic creation, the defence of Cuba's cultural identity and the conservation of the nation's heritage and artistic and historical wealth. Culture is in reach of all social sectors and all citizens, including those living in rural areas, are offered equal opportunities for developing their full potential. Cuba sees culture as one of the main sources of development, because of the spiritual, creative, emotional, moral and ethical richness it brings to society and to the nation's material and intangible heritage.

65. The Cuban system has 72 art schools, 20 of them elementary level and 37 intermediate level, and 15 art instructor training schools. In the 2007/08 school year the Higher Institute of Art had 1,511 students and there are also two higher education colleges in two of the provinces, Holguín and Camagüey. All in all there is a total of more than 27,000 students who receive free artistic training. The broad range of teaching throughout the country makes it possible to raise artistic talent to high levels. There is a large network of cultural institutions throughout Cuba.<sup>4</sup>

66. **Right to work.** The right to work has constitutional status in Cuba. Employment is not subject to the vagaries of the market. Employment policy is guided by the following principles: full employment; equal opportunities for employment, without discrimination of any kind; freedom to choose employment; employment as the basis of social security; financial remuneration for retraining courses; demonstrated suitability for access to employment; equal pay for equal work; prohibition of child labour; guarantee of workplace health and safety; continuing training for skills enhancement.

67. Cuba has ratified 89 International Labour Organization (ILO) conventions, including seven of the eight core conventions. Labour and social legislation is consistent with their provisions and, in some cases, goes beyond the international standards set by those conventions, granting more extensive rights, benefits and protection to all workers.

68. At the end of 2007 the unemployment rate stood at 1.8 per cent. There are programmes to address the special needs of women, youth, persons with disabilities and those who have served prison sentences, among others.

69. Cuba has established the function of social labour inspector, an official who receives special training to sit on workplace health and safety committees. Cuba also provides comprehensive pre and post-natal facilities and has one of the world's most advanced laws on maternity leave.<sup>5</sup>

70. **Right to health.** Every Cuban has guaranteed access to quality health services free of charge, a right established for all Cubans under the Constitution (art. 50) and the Public Health Act (Act No. 45, chap. I, art. 4).

71. The right to health is realized through the national health system, which is entirely State-funded and has an extensive network of institutions nationwide staffed by more than 500,000 health workers. Services range from primary and preventive care to surgical interventions using the latest technologies. Cuba's health indicators are similar

to those of developed countries. One of these is the infant mortality rate for children under 1, which is 5.3 per thousand live births, with a life expectancy of 77.97 years.

72. Despite the negative impact of the United States policy of hostility and blockade on the acquisition of resources and medical technologies, Cuba makes a colossal effort to keep its health services up to the highest standards of excellence. In the short and medium term, it seeks to increase life expectancy at birth to more than 80 years and reduce child mortality for children under 5 to less than 5 per thousand live births. A major investment programme is under way, which includes the refurbishment of many hospitals, polyclinics and other health units and the construction of new facilities such as genetics centres and rehabilitation wards.

73. Priority is given to high-impact programmes such as cardiology, cancer, nephrology, ophthalmology and organ transplantation. Progress is being made towards screening for the entire population for the early diagnosis of disease. The effectiveness of some other programmes is also being enhanced, including the mother and child programme; the vaccination programme, which ensures one of the world's highest immunization coverage rates; prevention of communicable diseases; elderly care; and anti-smoking programmes.

74. **International cooperation and solidarity.** Despite the financial difficulties and resource constraints facing Cuba as a result of its situation as a developing country subjected to a tight blockade by the United States and an unjust international economic order, it has made a modest contribution in support of the cause of the human rights of other peoples.

75. From 1963 until 31 May 2008 Cuban cooperation abroad involved more than 341,000 civilian workers in 154 countries, including more than 126,000 health experts and technicians in 104 countries. At present, nearly 51,000 Cuban experts and technicians provide services in 96 countries, including more than 38,000 in the health sector in 74 countries.

76. Operation Miracle an eye-operation solidarity programme, has helped restore the sight of more than 1.3 million patients from 33 countries since July 2004 and as at 15 October 2008.

77. In education, methods developed by Cuban experts, such as "*Yo si puedo*" ("Sure I can") and "*Yo si puedo seguir*" ("I can go further"), have proved of great value in making millions of people literate, notably indigenous and Afro-descendant populations and women in rural areas. As at 14 October, more than 3.4 million people in 24 countries have been made literate with these methods. More than 30,000 young people from 124 countries and five overseas territories are studying in Cuba, nearly 24,000 of them studying medicine.

78. Between 1961 and the 2007/08 school year, over 52,000 young people from 132 countries and five overseas territories graduated from Cuban universities, including more than 34,000 from Africa.

79. On 19 September 2005 the Henry Reeve international contingent was created to provide emergency medical assistance to countries hit by natural disasters. More than

4,000 workers have been involved in its work since then, 687 in Guatemala, 2,564 in Pakistan, 602 in Bolivia, 135 in Indonesia, 54 in Mexico, 79 in Peru and 35 in China. They have provided medical assistance to more than 3 million victims, carried out more than 19,000 surgical operations and saved 468,000 human lives.

## **VII. PROTECTION OF CITIZENS' RIGHTS**

80. Cuba has an extensive and effective inter-agency system, also involving political and social organizations, to receive process and answer any complaint or request from individuals or groups of individuals in respect of the enjoyment of any human rights, as provided in article 63 of the Constitution.

81. The main guarantor of this right is the Attorney-General's Office, which was mandated under Act No. 83 of 1997 (art. 8 (c)) to address complaints submitted by citizens about alleged violations of their rights. Under article 24, paragraph 2, of the Act, the Office is responsible for ordering the full restoration of legality by means of a decision from the prosecutor. Where the complaint relates to the action of a body, the prosecutor will investigate all the allegations and, if the person is in the right, will order restoration of their rights and consequently of legality. The prosecutor is obliged to take the case through to a final resolution and their action is binding on offenders.

82. In order to strengthen this role, the Attorney-General's Office created the Department for the Protection of Citizens' Rights and similar departments in each provincial prosecutor's office. In the municipalities, one of the prosecutors is assigned to this area of work.

83. The Attorney-General's Office, through the designated prosecutor, considers, investigates and answers the reports, complaints and claims legally addressed to it by citizens. The most important complaints are routinely monitored by a team of specialists from the Attorney-General's Office, who look into the cases arising and take appropriate action to prevent further violations.

84. Cuba has other bodies and mechanisms to deal with citizens' complaints and petitions in respect of human rights, including: social organizations, the National Revolutionary Police and in particular its mechanisms for dealing with the public, departments which deal with the public in each of the bodies of the central State administration, the Office of the Secretary of the Executive Committee of the Council of Ministers, delegates to the people's municipal assemblies and municipal and provincial administrative councils as well as the standing committees of the National Assembly, and the Council of State's mechanisms for dealing with the public.

85. Cuba has legal guarantees to ensure that everyone, whether Cuban citizen or foreigner, can assert their rights before the courts or the competent authorities and require that they be defended from violation. This system, which is thoroughly authentic and adjusted to the needs of Cuba's people, has been systematically improved to ensure its effectiveness and its ability to meet people's needs and expectations.

86. Cuba has other home-grown mechanisms for monitoring and enhancing the realization of human rights. One example is the system of social workers, who provide services in the community and identify Cuban families' support needs. Social assistance

protects 328,462 families and benefits 599,505 people. Of these, 16,180 receive help in the home, 77.6 per cent are older people, 21.8 per cent are persons with disabilities and 0.6 per cent are working mothers with children with severe disabilities.

87. Cuba will continue working to improve its human rights promotion and protection system.

## **VIII. PRISON SYSTEM**

88. The Revolution did away with the prison regime inherited from the Batista tyranny and has built up a penitentiary system which is profoundly humane and based on respect for and strict application of laws and regulations. It is inspired by the principle of re-educating and rehabilitating every inmate to rejoin society.

89. The old prisons, which lacked the most basic amenities, were closed. New prisons were built, some closed, some open, based on standards and principles developed by international criminal science and best practices in the treatment of prisoners.

90. Some of the key elements of the Cuban prison system are:

- a) Improvements in penitentiary law and regulations, applying the 95 provisions of the Standard Minimum Rules for the Treatment of Prisoners;
- b) Adoption and enhancement of a graduated system, whereby prisoners move through various regimes until they are given parole, based on their behaviour and the minimum sentence they are to serve;
- c) Establishment of criteria for classification of the prison population in order to ensure better treatment for groups and individuals (based on legal situation, sex, age, nationality, personal characteristics, level of risk, etc.);
- d) Building of premises suitable for prison facilities (group and individual cells, with air, lighting, ventilation, sanitary facilities and showers);
- e) Voluntary participation in socially useful work, paid in accordance with national pay scales and with workplace health and safety guarantees;
- f) Financial help to prisoners' families and social security for prisoners;
- g) Introduction of an education subsystem in prisons for general and technical schooling, including universalization of education;
- h) Introduction of a health subsystem for primary and specialized medical and dental care for prisoners;
- i) Artistic, sporting and leisure activities;
- j) Technical and vocational training and ongoing in-service training for prison staff (jurists, psychologists, educationalists, defectologists, sociologists and administrators).

91. The foundations of the Cuban prison system are clearly established in the Constitution, the Criminal Code, the Criminal Procedure Act and the prison regulations.

92. The Interior Ministry, the People's and Military Courts, the Attorney-General's Office and the Social Services and Prevention Committees are actively involved in upholding and ensuring legality in the prison system. The Attorney-General's role is essential in this regard.

93. With the graduated approach to prison treatment, prisoners may earn up to two months a year off their sentence for good behaviour, transfer from high- to low-security prisons and have prison terms commuted to non-custodial sentences.

94. Violence and abuse, both physical and mental, are totally prohibited and constitute an offence under the law.

95. Prisoners are given an adequate diet of at least 2,400 kilocalories a day and drinking water. Their families may also bring them up to 40 pounds of foodstuffs and other items on every visit.

96. Female prisoners are held in women's prisons, where all the staff are female and fully trained. Young prisoners also receive special treatment. They are held in juvenile prisons or in areas separate from the adult prison and are looked after by specialist staff.

97. Prisoners keep in regular touch with their families through visits, the use of conjugal quarters (available to inmates of both sexes), telephone calls and letters. To encourage good behaviour, prisoners may also be awarded passes or special home visits without a guard. They are taken to hospitals, funeral homes or burials in the event of the serious illness or death of a close relative.

98. Visits are conducted with no wire, bars, glass or barriers of any other kind preventing direct contact between prisoners and their families. As part of the comprehensive treatment for the prison population, and with a view to minimizing the negative effects of social isolation, supervised visits are made to cultural, sports, historical and economic centres. Prisoners' right to profess any faith and receive religious assistance is respected.

99. All prisoners are guaranteed free medical and dental care. The prison system has hospitals, health centres and medical points, and in every province there are ordinary hospitals with wards for convicts. Prisoners are guaranteed specialist care in any hospital in the country and medical teams comprising a range of specialists make regular prison visits.

100. There is 1 doctor for every 300 prisoners, 1 dentist for every 1,000, for preventive, support and specialist care, and 1 nurse for every 120 prisoners.

101. Pregnant prisoners receive medical care during pregnancy and are transferred to special wards for care. The birth takes place in hospital conditions and is attended by medical staff. They are also put on a special enhanced diet during pregnancy and until the child is one year old; during that period the prisoner is with her child all the time to ensure breastfeeding. Once the year is up, the baby may be handed over to family members or placed in a nursery free of charge.

102. Cuba continues to improve its prison system. Special emphasis is placed on education, with a view to making prisoners' rehabilitation and social reintegration even more effective. Tarea 500 (Task 500), launched in 2000, is a programme designed to transform prisons into schools, and help rescue and guide young people and minors who risk committing offences.

103. Training courses for prisoners have been set up and are run in 100 per cent of Cuba's prisons, and over 90 per cent of those currently serving sentences attend on a voluntary basis. Courses are taught using video technology, closed circuit television, educational publications and additional teaching materials, with advice from Ministry of Education teachers. School education up to twelfth grade is given, along with technical training in trades such as bricklaying, carpentry, plumbing, electricity, handicrafts, welding and male and female hairdressing. Computing and physical education courses have been introduced and encouragement given to libraries and sporting, recreational and cultural activities, and to specialist festivals and tournaments between prisons. Prisoners are also offered access to higher (university) education.

104. In 2005 facilities of a new kind were built, called working and learning centres, to enable persons deprived of their liberty, selected on grounds of conduct and discipline to study and work in an open regime, to obtain a level of all-round culture.

## **IX. CUBA'S COOPERATION WITH THE UNITED NATIONS HUMAN RIGHTS MACHINERY**

105. Cuba has a long history of international cooperation in the field of human rights. It has demonstrated its unequivocal willingness to engage in frank and open dialogue on all issues, provided that respect prevails.

106. In 1988 the Cuban Government received a visiting mission of five members, including the president, of the Commission on Human Rights. The mission report recognized that there was no human rights situation in Cuba that would warrant selective treatment.

107. The following year, 1989, Cuba reiterated its willingness to cooperate with the United Nations Secretary-General in following up the recommendations contained in the report of that mission. This process was interrupted by the decision by the United States to manipulate it for its own hostile anti-Cuban purposes. Except for 1998, United States pressure and blackmail barely let up in the anti-Cuban campaign between 1990 and 2005.

108. Despite its principled opposition to such spurious manoeuvres, the Cuban Government never broke off its cooperation with those human rights mechanisms that are applied universally and on a non-discriminatory basis. Cuba was one of the first countries to receive a visit from a United Nations High Commissioner for Human Rights, in the person of Mr. José Ayala Lasso, in 1994.

109. In 1995 Cuba invited a delegation of international NGOs - France-Libertés, the International Federation of Human Rights Leagues, Doctors of the World and Human Rights Watch - to visit. The representatives of these organizations received the full support of the Cuban authorities and did what they had set out to do, including visiting several prisons and interviewing prisoners they were interested in.

110. In 1998 Cuba extended invitations to visit to the Commission on Human Rights Special Rapporteurs on mercenaries and on violence against women, and they did so in 1999.

111. Cuba has systematically provided the information requested by the thematic procedures of the Commission on Human Rights and the Human Rights Council. Cuba has submitted several periodic reports to the international human rights treaty bodies. In August 2006 it presented and discussed its combined fifth and sixth reports to the Committee on the Elimination of Discrimination against Women and is preparing to submit its third periodic report to the Committee on the Rights of the Child and its fourteenth report to the Committee on the Elimination of Racial Discrimination.

112. Cuba has ratified a large number of international human rights instruments and is a State party to 41 of the most important treaties in this field.

113. The elimination in 2007 of the illegitimate mandate of the so-called Personal Representative of the High Commissioner for Human Rights on the situation of human rights in Cuba allowed Cuba to extend its policy of cooperation on human rights. In that context it received a visit from Mr. Jean Ziegler, Special Rapporteur on the right to food (28 October-6 November 2007), and the Cuban Government confirmed its readiness to extend further invitations to other special procedures of the Council. Cuba signed the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights in February 2008.

114. Cuba participated actively in the Human Rights Council's institution-building process and continues to play an important part in strengthening the Council's work both in its national capacity and as Chair of the Non-Aligned Movement.

## **X. OBSTACLES AND PROBLEMS**

115. **Policy of hostility, embargo and aggression applied by successive United States Governments.** The United States economic, trade and financial embargo constitutes an act of genocide under article II, paragraph (c), of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide and an act of economic warfare according to the London Naval Conference of 1909. This economic warfare has been a constant feature of the United States policy against Cuba for nearly 50 years. Its purpose, as stated in April 1960, has been "to bring about hunger, desperation and the overthrow of the Government" of Cuba.

116. Two of the best-known and most widely reviled components of the blockade are the so-called Torricelli Act (1992) and Helms-Burton Act (1996). Their provisions are contrary to the Charter of the United Nations and violate international law. The direct economic damage caused to the Cuban people by the application of the United States economic, commercial and financial blockade of Cuba from the time these laws were imposed virtually 50 years ago until May 2008 amounts to more than \$93 billion. Taking into account the devaluation of the dollar and the fluctuations in its value over time, at current rates this is equivalent to \$224.6 billion.

117. During the two terms of President George W. Bush's administration hostility towards Cuba has escalated to unprecedented levels. The May 2004 report of the so-called Commission for Assistance to a Free Cuba and its July 2006 addendum, which includes a secret chapter on aggressive actions, expose the intentions of the authorities in Washington: to impose "regime change" against the will of the Cuban people, not excluding the use of military force to that end.

118. The Cuban people has suffered mercenary invasions; biological assault and attacks by radio and television; external encouragement of illegal and violent emigration; plans to assassinate its top leaders; threat of nuclear war in 1962; as well as acts of sabotage and terrorism resulting in numerous casualties and major setbacks for Cuba's economic and social objectives.

119. The Cuban people have suffered the scourge of terrorism promoted, organized, financed or simply permitted with impunity by the United States Government. The 681 terrorist actions against the Cuban people and one mercenary invasion, all proved and documented, have brought about the irreparable loss of the lives of 3,478 men, women and children, while another 2,099 Cubans have been left physically disabled for life. Yet five young fighters against terrorism and defenders of the human rights of the Cuban people are still in arbitrary detention in the United States and subjected, along with their families, to psychological torture of the cruellest kinds.

**120. Recruitment, financing and use of mercenaries to further the United States Government's anti-Cuba policy.** A key objective in the war and the hostility towards the Cuban nation has been to recruit and control hirelings of the United States anti-Cuba policy on Cuba's own territory and provide them with logistical and financial support.

121. The mercenaries working for imperialist policy against the Cuban people have adapted their methods according to the needs and phases of the strategy of aggression. They have gone from being invaders to being terrorists and from being terrorists to being bogus human rights defenders. Anti-Cuban political and media campaigns use the most sophisticated techniques and means of disinformation.

122. There has been a colossal increase in the funds and resources allocated to recruitment and payroll in pursuit of the United States Government's anti-Cuba policy. In fiscal years 2007 and 2008 the Bush administration put \$80 million towards State operations aimed at imposing "regime change" in Cuba. A great deal more was channelled into covert actions by its intelligence services.

123. The creation and financing of so-called "internal dissent" and its coverage by the international media are a lucrative business not only for the mercenaries recruited in Cuba to act against their own people, but chiefly also for the Miami-based terrorist mafia of Cuban origin.

124. The Cuban people defends its Revolution, which is the guarantee of its freedom and sovereignty and ensures respect for its Constitution and its laws. The agents of the foreign Power that seeks to destroy the Cuban nation are punished for their crimes, always in strict accordance with the highest international standards of justice and humanism.

**125. Climatic phenomena.** The ravages of hurricanes and tropical storms have always had a more or less adverse impact on Cuba. The combined effect of recent hurricanes Gustav and Ike as they crossed virtually all Cuba's territory is without doubt the most devastating in the history of these phenomena in terms of the extent of the damage caused. Though the rapid and efficient action of the Government of Cuba and its Civil Defence units prevented a worse disaster and helped to limit the destruction, the damage was extreme. Losses were initially estimated at around \$5 billion; in addition to

agriculture, housing was one of the hardest-hit sectors, with damage to more than 444,000 dwellings, 63,249 of them completely destroyed.

126. **Human rights campaign against Cuba in the United Nations.** Cuba's undeserved condemnation over a period of years by the defunct Commission on Human Rights (1990-2005) and the Third Committee of the General Assembly (1992-1997) was an essential component of the anti-Cuba policy of successive United States Governments. Its purpose was to create a pretext for continuing and intensifying the policy of hostility, blockade and aggression against the Cuban nation.

127. The Human Rights Council's decision to discontinue the mandate of the so-called Personal Representative of the High Commissioner for Human Rights on the situation of human rights in Cuba was a historic act of justice and an acknowledgement of the illegal and discriminatory nature of 20 years of measures against Cuba.

128. Cuba comes to the universal periodic review mechanism ready to discuss any subject, provided its sovereignty and dignity are respected. It will not, however, recognize the validity of any value judgements based on documents produced by the anti-Cuban special mechanisms established under resolutions imposed by the United States on the former Commission on Human Rights.

## **XI. CONCLUSIONS**

129. Despite the conditions of underdevelopment inherited from a colonial and neocolonial past, the tight blockade imposed by the United States Government, an unjust and unequal international economic order in which Cuba has been forced to find a place, and the adverse impact of increasingly frequent and destructive hurricanes and other natural disasters, the Cuban people has managed to make significant progress and is still consolidating its revolutionary transformations with the aim of building an evermore just, free, independent, fair, democratic, compassionate and inclusive society. The laws, institutions and functions of the Cuban State are based on the exercise of power by the great majority of workers, intellectuals, professionals and artists. Cuba has an extensive and active civil society. Cubans participate effectively and systematically in decision-making processes, not only in the political and electoral arenas but also in economic, social and cultural spheres.

130. The policy of hostility, blockade and aggression of successive United States Governments against Cuba has been a serious obstacle to Cubans' full enjoyment of human rights and fundamental freedoms, including the rights to life, peace, self-determination and development. Moreover, that policy violates several of the most elementary rights of the Cuban people.

131. Cuba cooperates with all non-discriminatory and universally applicable procedures and mechanisms of the United Nations human rights system and is prepared to continue with international cooperation and genuine dialogue on human rights.

132. The Cuban people will continue to proclaim and defend the revolution that made possible the realization of the civil, cultural, economic, political and social rights of every person in this country. It will work to make the revolution ever more efficient, productive and sustainable. It will continue to ensure, with dignity and quiet pride, its

rights to self-determination, development, peace and a just, democratic and equitable international order. And it will pursue with determination the good works and universal thought of its national hero José Martí, who said “Homeland is humanity”.

### *Notes*

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<sup>1</sup> Due to limitations established for the number of words in drawing up this document, it will not be possible to apply a gender approach for every article, noun and adjective.

<sup>2</sup> Cuba is a participating State in numerous international instruments in these matters, such as: the International Convention on Elimination of All Forms of Racial Discrimination; the Convention on the Elimination of All Forms of Discrimination Against Women; the Convention on the Rights of the Child; Facultative Protocol to the Convention on the Rights of the Child pertaining to the sale of children, child prostitution and using children in pornography; Facultative Protocol to the Convention on the Rights of the Child pertaining to the participation of children in armed conflict; International Convention on the Suppression and Punishment of the Crime of Apartheid; UNESCO Convention against Discrimination in Education; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; International Convention against the Recruitment, Use, Financing and Training of Mercenaries. In February 2008, Cuba signed the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

<sup>3</sup> At the close of June 2008, the country had more than 570,000 computers, equivalent to 5.1 PCs for every 100 inhabitants, 70% of which were on-line. There are 2,180 domains, just in the .cu extension, and more than 3,500 Internet sites. The social use of the ICTs permits us to have more than 1,336,000 Internet users, in spite of the limitations imposed by the blockade on technologies and international submarine fibre optics; of these, 327,000 users navigate on the full Internet system.

<sup>4</sup> Among the various cultural facilities, the country also has 376 libraries, 20 “Casas de Trova” (venues for troubadour-style music), 514 Video Halls, including 334 in the Youth Video Clubs, 377 public libraries, 290 museums and 3 circus tents. More than 2,500 cultural promoters are at work in Peoples’ Councils, electoral districts and settlements.

<sup>5</sup> The current law guarantees a 100% paid maternity leave for 18 weeks (six weeks prenatal), plus a leave-extension at 60% of full pay for up to a year after the birth of the child, with the right to job re-incorporation at the end of the leave.