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Cuba

The present report is a compilation of the information contained in the reports of treaty bodies, special procedures, including observations and comments by the State concerned, and of the Office of the High Commissioner for Human Rights (OHCHR), and in other relevant official United Nations documents. It is presented in a summarized manner due to word-limit constraints. For the full text, please refer to the document referenced. This report does not contain any opinions, views or suggestions on the part of OHCHR other than those contained in public reports and statements issued by the Office. It follows the general guidelines adopted by the Human Rights Council in its decision 17/119. Information included herein has been systematically referenced in endnotes. The report has been prepared taking into consideration the periodicity of the review and developments during that period.

Please recycle

I. Background and framework

A. Scope of international obligations[1]

International human rights treaties[2]

	Status during previous cycle	*Action after review*	*Not ratified/not accepted*
Ratification, accession or succession	ICERD (1972) ICESCR (signature only, 2008) ICCPR (signature only 2008) CEDAW (1980) CAT (1995) CRC (1991) OP-CRC-AC (2007) OP-CRC-SC (2001) CRPD (2007)	CPED (2009)	ICCPR-OP 2 OP-CAT ICRMW
Reservations, declarations and/or understandings	ICERD (reservation, art. 22, 1972) ICESCR (general declaration, 2008) ICCPR (general declaration, 2008) CEDAW (reservation, art. 29, 1980) CAT (declaration, arts. 2, para. 1, 20, paras. 1–3, 28 and 30, 1995) CRC (declaration, art. 1, 1991) CPED (declaration, art. 42, para. 2, 2009)		
Complaint procedures, inquiry and urgent action[3]	ICCPR (signature only, 2008) OP-CEDAW (signature only 2000) CAT, art. 20 (1995)		ICERD, art. 14 OP-ICESCR ICCPR-OP 1 OP-CEDAW, art. 8 (2000) CAT, arts. 21 and 22 OP-CRC-IC ICRMW OP-CRPD CPED, arts. 31 and 32

Other main relevant international instruments

	Status during previous cycle	*Action after review*	*Not ratified*
Ratification, accession or succession	Convention on the Prevention and Punishment of the Crime of Genocide		Rome Statute of the International Criminal Court
	Geneva Conventions of 12 August 1949 and Additional Protocols thereto[4] except Protocol III		Additional Protocol III to the 1949 Geneva Conventions[5]
	ILO fundamental conventions, except Convention No. 182[6]		Palermo Protocol[7]

Status during previous cycle	*Action after review*	*Not ratified*
UNESCO Convention against Discrimination in Education		Conventions on refugees and stateless persons[8] ILO Convention No. 182[9] ILO Conventions Nos. 169 and 189[10]

1. Several treaty bodies encouraged Cuba to ratify ICESCR; OP-ICESCR; ICCPR; ICCPR-OP1; ICCPR-OP2; OP-CEDAW; OP-CAT; ICRMW; OP-CRPD; Convention relating to the Status of Refugees and its Protocol; Convention relating to the Status of Stateless Persons; and Convention on the Reduction of Statelessness; the Palermo Protocol; the three Hague Conventions and ILO Convention 182.[11] The Office of the United Nations High Commissioner for Refugees (UNHCR) indicated that no action to sign the Palermo Protocols had been taken.[12]

2. In 2011, CRC called upon Cuba to withdraw its declaration to article 1 of the Convention.[13]

3. In 2011, CERD recommended that Cuba ratify the amendments to article 8, paragraph 6 of the Convention[14] and encouraged Cuba to make the optional declaration provided for in article 14 of the Convention.[15]

4. In 2012, CAT recommended that Cuba make the declarations under articles 21 and 22 of the Convention.[16]

5. UNHCR recommended that Cuba accede to the 1951 Convention on the Status of Refugees.[17]

B. Constitutional and legislative framework

6. CERD took note with concern that illegal entry into Cuba is a criminal offence.[18]

7. CERD noted that criminal legislation did not classify racial motivation as an aggravating circumstance and recommended amending the legislation.[19] It recommended that Cuba ensure that national legislation contains provisions regarding effective protection and remedies against violations of the Convention.[20]

8. CRC recommended that Cuba review all legislation affecting children; harmonize its legislation, particularly the Child and Youth Code, with the Convention; and adopt the draft Family Code.[21]

9. While noting Cuba's statement that its legislation contained no prohibition of the right to strike, the Committee of Experts on the Application of Conventions and Recommendations, (ILO Committee of Experts) requested Cuba to ensure that in the Labour Code reform no one suffers discrimination for having peacefully exercised this right.[22]

10. CRC was concerned that the age of majority was 16 years and called upon Cuba to amend the Family Code, Penal Code and Labour Code to raise the age of majority to 18 years.[23]

11. CRC was concerned that the principle of the best interest was not duly integrated into the legislation as it did not consider children as persons entitled to individual rights. It

recommended that Cuba incorporate such principle in the legislation, including in the draft Family Code, in administrative and judicial proceedings and in policies.[24]

C. Institutional and human rights infrastructure and policy measures

12. CRC, CERD and CAT recommended that Cuba establish a national human rights institution in accordance with the Paris Principles.[25]

13. CERD noted with interest the establishment of a series of commissions to analyse and study racial discrimination, such as the Commission against Racism and Racial Discrimination of the Cuban Writers and Artists Union (UNEAC) and the inter-agency commission coordinated by the José Martí National Library.[26] It also noted the establishment of a coordinating group under the direction of the Central Committee of the Communist Party of Cuba to examine the issue of race and propose relevant actions.[27] However, CERD noted that Cuba had not established an independent body to monitor, supervise and assess the progress made in combating racism and racial discrimination, identify manifestations of indirect discrimination and submit proposals for improvements.[28]

14. While noting that the Attorney-General's Office and the Ministry of the Interior were empowered to inspect detention facilities, CAT recommended that Cuba establish an independent national system to monitor and inspect all detention places.[29]

15. CAT regretted that no independent mechanism had been established to receive complaints, conduct investigations into allegations of torture and ill-treatment and punish those responsible. It recommended that Cuba establish an independent mechanism for receiving complaints of torture and ill-treatment.[30]

16. While noting that, within the National Assembly, there was a permanent Commission on Children, Youth and Equal Rights for Women, CRC was concerned about the absence of a mechanism for coordinating the actions of all ministries and agencies responsible for the implementation of the Convention and lack of cooperation amongst the national, provincial and municipal authorities. It recommended that Cuba establish a national mechanism to coordinate all activities related to children's rights and to ensure that the national, provincial and municipal authorities cooperate in the implementation of the Convention.[31]

17. UNCT indicated that an economic and institutional reorganization process had been carried out focusing on national priorities such as food security, import substitution policy as well as on the efficiency and productivity of the economy. It highlighted the adoption in 2011, after a popular debate, of the Economic and Social Policy Guidelines for the Party and the Revolution where national challenges and development topics were addressed, such as the buying and selling of motor vehicles among private individuals, the buying and selling of houses, and the enabling of Cubans living in the country to travel abroad as tourists.[32] To implement these guidelines, the Permanent Commission of the Government for Implementation and Development was established.[33]

18. While noting the National Plan of Action for Children (2004–2010), CRC recommended that Cuba, in consultation with relevant partners, adopt and implement a national plan or policy covering all areas of the Convention and its two Optional Protocols.[34]

19. CAT welcomed the work of the National Group for the Prevention and Treatment of Domestic Violence.[35]

20. CERD welcomed the activities held in 2011 in commemoration of the International Year for People of African Descent.[36]

21. UNESCO acknowledged Cuba's cooperation for literacy through its programme "Yo si puedo" implemented by Cuban teachers.[37]

II. Cooperation with human rights mechanisms

A. Cooperation with treaty bodies[38]

1. Reporting status

Treaty body	*Concluding observations included in previous review*	*Latest report submitted since previous review*	*Latest concluding observations*	*Reporting status*
CERD	Aug. 1998	2009	March 2011	Nineteenth to twenty-first reports due in 2003
CEDAW	Aug. 2006	2011	-	Seventh and eighth reports pending consideration in 2013
CAT	Nov. 1997	-	May 2012	Third report due in 2010
CRC	May 1997	2009/2011	June 2011	Third to sixth reports due in 2017
				Initial OP-CRC-AC pending consideration. Initial OP-CRC-SC overdue since 2003
CRPD	-	-	-	Initial report overdue since 2010
CED	-	-	-	Report overdue since 2012

2. Responses to specific follow-up requests by treaty bodies

Concluding observations

Treaty body	*Due in*	*Subject matter*	*Submitted in*
CERD	2012	Proceedings on racial discrimination, racial stereotypes and expulsion of foreigners.[39]	-
CEDAW	-	-	-
CAT	2013	Fundamental legal safeguards for detainees; investigations and prosecution torture or ill-treatment; and remedies and redress provided to the victims.[40]	-

B. Cooperation with special procedures

	Status during previous cycle	*Current status*
Standing invitation	No	No
Visits undertaken	Right to food (28 Oct. to 6 Nov. 2007)	
	Mercenaries (12 to 17 Sept. 1999)	
	Violence against women (7 to 12 June 1999)	

	Status during previous cycle	*Current status*
Visits agreed to in principle	None	Torture (accepted in 2009)
Visits requested	Freedom of religion or belief (requested in 2006)	Freedom of peaceful assembly and of association (requested in 2011)
		Violence against women (requested in 2012)
	Freedom of opinion and expression (requested in 2003)	
Responses to letters of allegations and urgent appeals	During the period under review 13 communications were sent. The Government replied to all of these communications	

22. CAT noted Cuba's positive response to the visit request of the Special Rapporteur on the question of torture as confirmed in its voluntary commitments during the universal periodic review.[41]

C. Cooperation with the Office of the High Commissioner for Human Rights

23. In 2013, Cuba made a financial contribution to the Office of the High Commissioner for Human Rights.[42]

III. Implementation of international human rights obligations, taking into account applicable international humanitarian law

A. Equality and non-discrimination

24. CRC was concerned about widespread patriarchal attitudes and deep-rooted gender stereotypes regarding the roles and responsibilities of women and men in the family, leading to domestic violence against women and children. It encouraged Cuba to strengthen awareness-raising to combat gender stereotypes.[43]

25. CERD noted with appreciation the classification of apartheid as a criminal offence.[44]

26. CERD remained concerned about deeply rooted negative racial stereotypes and prejudices and by their sexist dimension. It encouraged Cuba to continue its efforts to put an end to racial stereotypes and prejudices, particularly through awareness campaigns and public education programmes. It also urged Cuba to ensure that the media avoids stereotypes based on racial discrimination. CERD reminded Cuba of the need to mainstream a gender perspective into all policies and strategies for combating racial discrimination.[45]

27. CERD remained concerned at the lack of reported cases, prosecutions and convictions relating to acts of racial discrimination and recalled that the lack of cases might be due to the victims' lack of information about the existing remedies. CERD recommended that the public at large be properly informed about their rights and the legal remedies available if those rights were violated.[46]

28. CERD welcomed the special measures and affirmative action taken to improve the representation of the population of African descent within public service and State enterprises and encouraged Cuba to step up its efforts to this end.[47]

B. Right to life, liberty and security of the person

29. In 2012, Cuba abstained during the adoption of General Assembly resolution 67/176 calling for a moratorium on the death penalty.[48]

30. While noting that there were no convicted prisoners awaiting executions and that all death sentences had been commuted to prison sentences of 30 years or life imprisonment, CAT remained concerned about high number of offences carrying the death penalty. It urged Cuba to abolish the death penalty.[49] CERD also invited Cuba to abolish the death penalty or formalize the de facto moratorium.[50]

31. CAT noted that information provided by Cuba indicated that between 2010 and 2011 there were 202 deaths in the Cuban prison system. It urged Cuba to promptly investigate all deaths in custody; assess the health care received by inmates; provide compensation to the victims' families; and guarantee monitoring and medical treatment of persons deprived of their liberty on hunger strike.[51]

32. CAT regretted that torture was still not codified as a specific offence and urged Cuba to criminalize torture.[52]

33. While noting that a programme of investment in the prison system had been approved, CAT was concerned about reports that the prison population allegedly experienced overcrowding, malnutrition, lack of hygiene, unhealthy conditions, and inadequate medical care. Reports also recount unjustified restrictions on family visits, transfers to detention facilities a long way from families of detainees, solitary confinement and physical and verbal abuse of prisoners. It recommended that Cuba ensure that detention conditions conform to the Standard Minimum Rules for the Treatment of Prisoners and in particular prohibit any cruel, inhuman or degrading punishment, such as solitary confinement.[53]

34. Regarding the death of 26 patients from hypothermia in January 2010 in the Havana Psychiatric Hospital, CAT urged Cuba to resolve any deficiencies in the psychiatric hospital network. It recommended that an analysis of the way in which psychiatric institutions operate be undertaken, with a view to adopting legislative and administrative measures to ensure that the guarantees required to prevent torture are applied in practice.[54]

35. While noting Cuba's statement that its legal system did not allow incommunicado detention, CAT remained concerned about protracted pretrial detention and indefinite detention of persons deprived of their liberty for political reasons. It urged Cuba to ensure that pretrial detention is not excessively prolonged; amend the Criminal Procedure Act to prevent indefinite prolongation of the examination of the preliminary case; ensure access to legal assistance; and respect the personal liberties of persons released on extra-penitentiary leave.[55]

36. CAT was concerned about the provisions of the Criminal Code, particularly the definition, based on subjective and vague concepts, of "dangerousness". It recommended that Cuba end the use of administrative detention on the basis of vague, subjective and imprecise criminal concepts such as pre-criminal social dangerousness.[56]

37. CRC was concerned about provisions permitting corporal punishment against children by their parents and guardians; and that corporal punishment was used at school and social institutions as a "discipline" measure. It recommended that Cuba ban corporal punishment and conduct public awareness campaigns on alternative non-violent forms of

discipline.[57] It encouraged Cuba to eliminate all forms of violence against children, including by implementing the recommendations of the United Nations Study on violence against children, paying particular attention to gender.[58]

38. CRC remained concerned that children might be engaged in child labour, sexual exploitation and prostitution, particularly within the tourism industry. It urged Cuba to protect children from any form of economic and sexual exploitation; and prosecute those responsible.[59]

39. CRC was concerned that the Penal Code provisions, sanctioning the use of children in prostitution and pornography and the sale of children, were limited to children under 16 years of age; and that children above 16 years engaged in prostitution could be placed in "re-education centres". It recommended that Cuba review its Penal Code to extend the protection of children from child prostitution, child pornography and sale of children up to the age of 18 years; and to refrain from placing in re-education centres children engaged in prostitution and to provide them with recovery, social reintegration and rehabilitation services.[60]

40. CRC was concerned that the Labour Code did not prohibit all types of hazardous work for children. It recommended that Cuba review its Labour Code.[61]

41. CRC recommended that Cuba protect all child victims of abuse, domestic violence, sexual and economic exploitation, abduction and trafficking, and/or witnesses of such crimes.[62]

42. CERD took note of the measures adopted by Cuba to combat trafficking in human beings, particularly trafficking in women and children for the purpose of sexual exploitation, but regretted the lack of information on the scale of the domestic trafficking problem and its incidence among the population of African descent.[63]

C. Administration of justice, including impunity, and the rule of law

43. CAT was concerned about the lack of independence within the judiciary and the legal profession. It urged Cuba to guarantee the independence of judiciary; and ensure compliance with the Basic Principles on the Role of Lawyers.[64]

44. While noting the constitutional safeguards and the provisions of the Criminal Procedure Act establishing the inadmissibility of evidence obtained through torture, CAT expressed concern about the use of coercive methods during questioning. It urged Cuba to guarantee the inadmissibility of coerced confessions.[65]

45. CAT was concerned that Cuba did not extend all legal safeguards to all prisoners from the outset of detention. It urged Cuba to ensure that all detainees enjoy all fundamental legal safeguards; and guarantee the right of any person deprived of their liberty to have access to an immediate remedy to challenge the legality of their detention.[66]

46. Although Cuba provided information about the various mechanisms that deal with complaints, CAT urged Cuba to have all torture and ill-treatment complaints investigated by an independent body; suspend suspects from duty and compensate the victims. It also urged Cuba to protect and assist complainants and witnesses of torture and ill-treatment.[67]

47. CAT was concerned that victims of torture or ill-treatment could not obtain compensation if the perpetrator had been subjected to disciplinary rather than criminal sanctions. It urged Cuba to ensure that all victims of torture and ill-treatment obtain redress.[68]

48. Regarding children in conflict with the law, CRC was concerned that children under 15 years could be placed in institutional facilities and that the juvenile justice system was

not in compliance with the Convention. It urged Cuba to implement juvenile justice standards; treat children between 16 and 18 as juvenile offenders and not as adults; establish specialized courts for children in conflict with the law and ensure that children are held in detention only as a last resort, for as short a time as possible and separately from adults.[69]

D. Right to privacy, marriage and family life

49. UNHCR encouraged Cuba to consider amending the legislation with a view to granting Cuban nationality to children born of Cuban nationals, when such children would otherwise be stateless.[70] CRC also recommended that Cuba ensure the right of the child to a nationality.[71]

50. CRC encouraged Cuba to ensure adequate care and protection of children deprived of their family environment, and prevent separation of children from their families.[72]

E. Freedom of movement

51. The United Nations Country Team (UNCT) indicated that the updating of the migration policy had been approved in 2012, forgoing the required Travel Permit as well as the need for a letter of invitation. It added that as of 14 January 2013, Cubans would only need to submit their duly updated ordinary passport, and the visa issued by the country of destination when required, in order to travel. The ordinary passport would be issued to the Cuban citizens who meet the requirements of the Migration Law.[73]

52. While noting recent developments, CRC was concerned at the longstanding travel restrictions for Cuban nationals that result in involuntary separation within many Cuban families, thus imposing restrictions to the right of children to live with their parents.[74]

F. Freedom of religion or belief, expression, association and peaceful assembly, and right to participate in public and political life

53. CRC remained concerned that the right to freedom of expression, association and peaceful assembly were restricted and recommended that Cuba amend the Constitution.[75]

54. Various special procedures mandate holders sent communications relating to, inter alia: allegations of harassment and intimidation; in certain cases ill-treatment; arrests and violations of the rights to freedom of expression, assembly and peaceful association and the right to demonstrate.[76] The Government contested all the communications, providing detailed information relating to the allegations and stating, inter alia, that the allegations were untrue and politically motivated and that the organizations and/or persons mentioned were not operating as human rights defenders in Cuba.[77]

55. In 2012, the Special Rapporteur on the situation of human rights defenders expressed concern about the information received on growing violence and insecurity faced by human rights defenders, in particular those working to promote civil and political rights.[78]

56. Regarding political opponents, human rights activists and independent journalists, CAT remained concerned about arbitrary detention for short periods; the use of ambiguous criminal concepts such us “pre-criminal social dangerousness”; freedom of movement restrictions; intrusive surveillance; physical aggression; intimidation and harassment allegedly committed by the National Revolutionary Police and State security bodies; and “acts of repudiation”. It urged Cuba to put an end to such repression; investigate such acts;

protect all persons from intimidation or violence as a result of their freedom of opinion and expression and their right of association and peaceful assembly; and authorize the registration of human rights NGOs in the Register of National Association.[79]

57. The United Nations Educational, Scientific and Cultural Organization (UNESCO) recorded no killing of journalists and media workers between 2008 and 2011. However, it indicated that intimidation, arrest, and imprisonment of journalists continued to be reported.[80]

58. UNESCO encouraged Cuba to introduce a freedom of information law;[81] decriminalize defamation;[82] allow journalists and media workers to practice the profession in a safe, free, independent and pluralistic media environment[83] and allow for self-regulation of the media.[84]

59. CRC recommended respecting the independence of civil society.[85]

G. Right to work and to just and favourable conditions of work

60. According to the United Nations Country Team (UNCT), in fostering non-State forms of management as an employment alternative, in a context of restructuring the State's labour force, specific measures were established and regulations relaxed. It added that Cuba also decided to further expand categories of private jobs.[86]

61. While noting Cuba's information that the existence of only one trade union was not imposed and it was constituted by a decision taken freely by workers, the ILO Committee of Experts stressed that trade union pluralism must remain possible and that the law must not institutionalize a factual monopoly. The ILO Committee of Experts requested Cuba to ensure that all workers, without distinction, are able to establish and join organizations of their own choosing and to amend the Labour Code accordingly.[87]

H. Right to social security and to an adequate standard of living

62. CERD, aware of the economic obstacles that the country faces, noted with appreciation the advances that Cuba had made towards achieving the Millennium Development Goals (MDGs) and was pleased to see that several of the targets had already been reached and that significant progress had been made towards attaining others.[88]

63. UNCT indicated that Cuba had maintained a high human development rate. Cuba was a developing country which had achieved several MDGs long before these goals were agreed to in an international forum. The main challenges were in terms of quality and sustainability in what had already been achieved. UNCT stated that the three goals where Cuba considered progress insufficient to reach the target were the reduction of maternal mortality; improvement at the lives of slum-dwellers by 2020; and access to information and communications technologies.[89]

64. CRC called upon Cuba to establish a monitoring mechanism to avoid growing disparities among families and children.[90]

65. UNCT indicated that the Cuban population was aging rapidly. In 2011 18.1 per cent of the total population were persons of 65 years or older and this figure was expected to reach 30.8 per cent in 2030, of which 54 per cent would be women. Additionally the fertility rate dropped to less than the replacement level fertility since 1978. The low birth rates and rising life expectancy were leading to a rapid aging and a decline in working age population. Consequently an important concern was the rising dependency ratio, and its implications for public policies and services in particular care policies for the elderly.[91]

66. The Food and Agricultural Organization of the United Nations (FAO) stated in 2012 that Cuba had succeeded in eradicating the scourge of hunger.[92]

67. According to the United Nations Children's Fund (UNICEF), the proportion of the population using improved sources of drinking water in 2008 was 96 per cent in urban areas and 89 per cent in rural areas.[93]

I. Right to health

68. CRC welcomed achievements regarding the universal provision of basic health care as well as health-care indicators but was concerned about high maternal mortality in Ciego de Avila; high infant and child mortality in Isla de la Juventud; and abortions among adolescent girls, particularly those of 13 years of age. It encouraged addressing gaps in geographic localities; and strengthening its awareness-raising programmes on sexual and reproductive health education for adolescents.[94]

69. According to UNICEF, in 2010 the mortality rate for children aged under 5 years was 6 per 1,000.[95]

J. Right to education

70. UNESCO noted that primary education was compulsory and universal between 6 and 11 years of age. It added that the political will to develop an education of quality for all without exclusion was demonstrated by the fact that the budget for education had been multiplied by more than one third since 2000 and was still increasing.[96]

71. UNESCO also noted that there are schools in the most remote areas, even for just one isolated or hospitalized student. It added that when students cannot go to school by themselves, there are some mobile teachers. For those who drop out of school before completing nine years of basic education, options exist to encourage them to continue their studies.[97]

72. According to UNICEF, the adult literacy rate is 100 per cent and the enrolment rate in primary education was 100 per cent between 2005 and 2010.[98]

73. UNESCO indicated that Cuba was often shown as a good example in education. It noted that detailed analyses of the Latin American Laboratory for the Evaluation of Educational Quality (LLECE) study data revealed several factors in Cuba's success, including universal day care, more prevalence of home educational activities, smaller class sizes, higher levels of school and classroom material resources, better-trained teachers, greater parental involvement in school, a strong classroom disciplinary climate and relatively few multigrade or ability-grouped classes.[99]

74. UNESCO further stated that the State maintained a broad scholarship system for students and provided the workers with multiple opportunities to study to attain the highest possible amount of knowledge and skills.[100]

K. Cultural rights

75. UNESCO noted that civil society was recognized as a key player in Cuba's cultural life and played an active role at local level through its work with the Houses of Culture and the People's Councils.[101]

76. UNESCO indicated that Cuba should further strengthen capacities to develop the cultural sector at the local level, in conformity with the economic model. It added that

initiatives by the youth should also be supported. Special attention should also be paid to local needs and to the cultural approach to prevent conflict, in particular violence against women.[102]

L. Persons with disabilities

77. While acknowledging efforts to guarantee the rights of children with disabilities, CRC recommended that Cuba promote inclusive education of children with all forms of disabilities; adopt a law prohibiting discrimination against persons with disabilities, particularly children; and review existing policies and practices in relation to children with disabilities.[103]

M. Migrants, refugees and asylum seekers

78. CERD took note of initiatives to amend the legislation on migration and recommended that Cuba amend its legislation on migration and the status of foreigners as well as its laws on citizenship in order to prevent statelessness.[104] CERD was concerned about the lack of an enabling legal framework for the local integration of persons present in Cuba who required international protection and indicated that Cuba should adopt legislative and administrative measures to guarantee protection of refugees, asylum seekers and stateless persons.[105]

79. UNHCR noted that neither legislation nor any kind of national refugee status determination mechanism existed. It added that UNHCR mandate recognition was therefore the only avenue by which persons could access international protection.[106]

80. UNHCR indicated that by 17 September 2012, there were 64 refugees recognized under UNHCR mandate lacking legal status. It noted that Cuba hosted 360 refugees, considered temporary residents, who were students on scholarships funded by Cuba. However, UNHCR added that local integration was not an option for refugees.[107]

81. UNHCR further stated that Cuba observed the non-refoulement principle and offered “de facto” temporary protection to refugees recognized under UNHCR mandate, until such time as they were resettled in a third country.[108] It added that even though refugees did not have a regularized migration status, they had access to health and education.[109]

82. UNHCR made reference to the accepted universal periodic review (UPR) recommendation on action to align, strengthen and make legislation compatible with Cuba’s international obligations. It recommend that Cuba establish legal and administrative rules or procedures to protect non-citizens, including migrants, at risk of persecution and/or torture in their country of origin, and urged Cuba to fully respect the principle of non-refoulement.[110]

83. UNHCR encouraged Cuba to accord refugees similar treatment to that which was granted to alien permanent residents and to allow refugees to work on a self-employed basis.[111]

84. In 2012, UNHCR noted with interest the arrival of asylum seekers whose cases were assessed on an emergency basis in order to prevent their refoulement.[112] It recommended that Cuba consider granting mandate refugees, during the period of their stay, the migration status of temporary residents and provide them with documentation.[113]

85. UNHCR recommended that Cuba establish official identification and referral mechanisms for persons in need of international protection.[114]

86. CAT was concerned about the lack of a legal framework to protect refugees, asylum seekers and stateless persons as well as the fact that de facto temporary protection did not include the recognition of refugee status. It also noted with concern that, although refugees and asylum seekers had access to free health services and education, they were unable to obtain a work permit and had no access to housing and other public services. CAT recommended that Cuba protect refugees, asylum seekers and stateless persons, facilitate their local integration and amend the legislation governing migration.[115] CERD made a similar recommendation.[116]

87. UNHCR was not aware of any measures to protect victims of trafficking, particularly those who might face security risks if returned to their countries of origin. It encouraged Cuba to inform victims of trafficking of their right to seek asylum and recommended that Cuba establish official identification and referral mechanisms for persons in need of international protection. UNHCR stands ready to assist the Government in establishing such mechanisms.[117]

N. Right to development

88. After taking note of the report of the Secretary-General on the implementation of General Assembly resolution 66/6, in 2012, the Assembly adopted resolution 67/4 on the "Necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba". In its submission, UNCT noted that the embargo had a direct impact on the human development context.[118]

89. UNCT indicated that Cuba's first United Nations Development Assistance Framework- UNDAF (2008–2012) addressed five key areas: Local Human Development, Natural Disaster and Risk Mitigation, Environment and Energy, Health and Food security. It added that Cuba agreed to extend the current UNDAF to fully align the new programming cycle with the Economic and Social Policy Guidelines. The second UNDAF (2014–2018) would be critical to substantively contribute to national development.[119]

Notes

[1] Unless indicated otherwise, the status of ratifications of instruments listed in the table may be found on the official website of the United Nations Treaty Collection database, Office of Legal Affairs of the United Nations Secretariat, http://treaties.un.org/. Please also refer to the United Nations compilation on Cuba from the previous cycle (A/HRC/WG.6/4/CUB/2).

[2] The following abbreviations have been used for this document:

ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
OP-ICESCR	Optional Protocol to ICESCR
ICCPR	International Covenant on Civil and Political Rights
ICCPR-OP 1	Optional Protocol to ICCPR
ICCPR-OP 2	Second Optional Protocol to ICCPR, aiming at the abolition of the death penalty
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
OP-CEDAW	Optional Protocol to CEDAW
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
OP-CAT	Optional Protocol to CAT
CRC	Convention on the Rights of the Child
OP-CRC-AC	Optional Protocol to CRC on the involvement of children in armed conflict
OP-CRC-SC	Optional Protocol to CRC on the sale of children, child prostitution and child pornography
OP-CRC-IC	Optional Protocol to CRC on a communications procedure

ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
CRPD	Convention on the Rights of Persons with Disabilities
OP-CRPD	Optional Protocol to CRPD
CPED	International Convention for the Protection of All Persons from Enforced Disappearance

[3] Individual complaints: ICCPR-OP 1, art 1; OP-CEDAW, art. 1; OP-CRPD, art. 1; OP-ICESCR, art. 1; OP-CRC-IC, art.5; ICERD, art. 14; CAT, art. 22; ICRMW, art. 77; and CPED, art. 31. Inquiry procedure: OP-CEDAW, art. 8; CAT, art. 20; CPED, art. 33; OP-CRPD, art. 6; OP-ICESCR, art. 11; and OP-CRC-IC, art. 13. Inter-State complaints: ICCPR, art. 41; ICRMW, art. 76; CPED, art. 32; CAT, art. 21; OP-ICESCR, art. 10; and OP-CRC-IC, art. 12. Urgent action: CPED, art. 30.

[4] Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (First Convention); Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (Second Convention); Geneva Convention relative to the Treatment of Prisoners of War (Third Convention); Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Convention); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II). For the official status of ratifications, see Federal Department of Foreign Affairs of Switzerland, at www.eda.admin.ch/eda/fr/home/topics/intla/intrea/chdep/warvic.html.

[5] International Labour Organization Convention No. 29 concerning Forced or Compulsory Labour; Convention No. 105 concerning the Abolition of Forced Labour; Convention No. 87 concerning Freedom of Association and Protection of the Right to Organise; Convention No. 98 concerning the Application of the Principles of the Right to Organise and to Bargain Collectively; Convention No. 100 concerning Equal Remuneration for Men and Women Workers for Work of Equal Value; Convention No. 111 concerning Discrimination in Respect of Employment and Occupation; Convention No. 138 concerning Minimum Age for Admission to Employment.

[6] Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III).

[7] Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

[8] 1951 Convention relating to the Status of Refugees and its 1967 Protocol, 1954 Convention relating to the Status of Stateless Persons and 1961 Convention on the Reduction of Statelessness.

[9] International Labour Organization Convention No.182, concerning Worst form of Child Labor Convention.

[10] International Labour Organization Convention No.169, concerning Indigenous and Tribal Peoples in Independent Countries and International Labour Organization Convention No.189 concerning Decent Work for Domestic Workers.

[11] Concluding observations of the Committee on the Elimination of Racial Discrimination (CERD/C/CUB/CO/14-18), paras. 17, 19 and 21; concluding observations of the Committee on the Rights of the Child (CRC/C/CUB/CO/2), paras. 31, 42, 57 and 58; and concluding observations of the Committee against Torture (CAT/C/CUB/CO/2), paras. 9, 13, 14 and 29. See also UNHCR submission to the UPR on Cuba, p. 3.

[12] UNHCR submission to the UPR on Cuba, p. 1.

[13] CRC/C/CUB/CO/2, para. 23.

[14] CERD/C/CUB/CO/14-18, para. 23.

[15] Ibid., para. 26.

[16] CAT/C/CUB/CO/2, para. 28.

[17] UNHCR submission to the UPR on Cuba, p. 1.

[18] CERD/C/CUB/CO/14-18, para. 20.

[19] Ibid., para. 11.

[20] Ibid., para. 10.

[21] CRC/C/CUB/CO/2, 1 para. 7. See also CRC/C/CUB/CO/2, para. 37.

[22] ILO Committee of Experts on the Application of Conventions and Recommendations, Observation concerning ILO Freedom of Association and Protection of the Right to Organise Convention, 1948

(No. 87), adopted 2011, published 101st ILC session (2012), tenth paragraph, available from http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:2698638.

[23] CRC/C/CUB/CO/2, paras. 22–23.
[24] Ibid., paras. 26–27.
[25] CRC/C/CUB/CO/2, para. 13; CERD/C/CUB/CO/14-18, para. 13; and CAT/C/CUB/CO/2, para. 25.
[26] CERD/C/CUB/CO/14-18, para. 4.
[27] Ibid., para. 5.
[28] Ibid., para. 13.
[29] CAT/C/CUB/CO/2, para. 13.
[30] CAT/C/CUB/CO/2, 30 – para. 16. See also CAT/C/CUB/CO/2, para. 13.
[31] CRC/C/CUB/CO/2, paras. 8–9.
[32] UNCT submission to the UPR on Cuba, paras. 3–6.
[33] Ibid., para. 7.
[34] CRC/C/CUB/CO/2, paras. 10–11.
[35] CAT/C/CUB/CO/2, para. 5.
[36] CERD/C/CUB/CO/14-18, para. 6.
[37] UNESCO submission to the UPR Cuba, para. 34.
[38] The following abbreviations have been used for this document:

CERD	Committee on the Elimination of Racial Discrimination
CEDAW	Committee on the Elimination of Discrimination against Women
CAT	Committee against Torture
CRC	Committee on the Rights of the Child
CRPD	Committee on the Rights of Persons with Disabilities
CED	Committee on Enforced Disappearances

[39] CERD/C/CUB/CO/14-18, para. 27.
[40] CAT/C/CUB/CO/2, para. 32.
[41] Ibid., para. 6.
[42] 2013 OHCHR Report on Activities and Results (forthcoming).
[43] CRC/C/CUB/CO/2, paras. 24–25.
[44] CERD/C/CUB/CO/14-18, para. 12.
[45] Ibid., para. 14.
[46] Ibid., para. 10.
[47] Ibid., para. 15.
[48] Draft resolution A/67/L.2; A/RES/67/176; A/67/PV.60; GA/11331, 111-41-34, annex 13, available at http://www.un.org/News/Press/docs//2012/ga11331.doc.htm.
[49] CAT/C/CUB/CO/2, para. 14.
[50] CERD/C/CUB/CO/14-18, para. 12.
[51] CAT/C/CUB/CO/2, para. 15.
[52] Ibid., para. 7.
[53] Ibid., para. 10.
[54] Ibid., para. 19.
[55] Ibid., para. 11.
[56] Ibid., para. 12.
[57] CRC/C/CUB/CO/2, paras. 36–37.
[58] Ibid., para. 38.
[59] Ibid., paras. 20–21.
[60] Ibid., paras. 52–53.
[61] Ibid., paras. 50–51.
[62] Ibid., para. 56.
[63] CERD/C/CUB/CO/14-18, para. 16.
[64] CAT/C/CUB/CO/2, para. 18.
[65] Ibid., para. 22.
[66] Ibid., para. 8.
[67] Ibid., paras. 16 and 17.
[68] Ibid., para. 24.

[69] CRC/C/CUB/CO/2, paras. 54–55.
[70] UNHCR submission to the UPR on Cuba, p. 6.
[71] CRC/C/CUB/CO/2, para. 31.
[72] Ibid., para. 40.
[73] UNCT submission to the UPR Cuba, para. 11.
[74] CRC/C/CUB/CO/2, para. 41.
[75] Ibid., paras. 32–33.
[76] A/HRC/13/22/Add.1 y Corr.1, párrs. 653 a 655; A/HRC/14/23/Add.1, párrs. 573 a 583, 592 a 600, y 610 a 616; A/HRC/16/44/Add.1, párrs. 664 a 669; A/HRC/18/51 y Corr.1, pág. 64; A/HRC/19/44, págs. 72, 139 y 144; A/HRC/20/30, págs. 39 y 48; A/HRC/21/49, pág. 13. También A/HRC/WGAD/2012/23.
[77] A/HRC/13/22/Add.1 y Corr.1, párrs. 656 a 664; A/HRC/14/23/Add.1, párrs. 584 a 591, 601 a 609, y 617 a 630; A/HRC/16/44/Add.1, párrs. 670 a 683; A/HRC/18/51 y Corr.1, pág. 64; A/HRC/19/44, págs. 72, 139, 144 y 151; A/HRC/20/30, págs. 39 y 48; A/HRC/21/49, pág. 13. También A/HRC/WGAD/2012/23.
[78] A/HRC/19/55/Add.2, párr. 95.
[79] CAT/C/CUB/CO/2, para. 20.
[80] UNESCO submission to the UPR on Cuba, para. 47.
[81] Ibid., para. 54.
[82] Ibid., para. 53.
[83] Ibid., para. 56.
[84] Ibid., para. 55.
[85] CRC/C/CUB/CO/2, paras. 18–19.
[86] UNCT submission to the UPR on Cuba, para. 10.
[87] ILO Committee of Experts on the Application of Conventions and Recommendations, Observation concerning ILO Freedom of Association and Protection of the Right to Organise Convention, 1948 (No.87), adopted 2011, published 101st ILC session (2012), eighth paragraph, available from http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:2698638.
[88] CERD/C/CUB/CO/14-18, para. 8.
[89] UNCT submission to the UPR on Cuba, para. 1.
[90] CRC/C/CUB/CO/2, para. 49.
[91] UNCT submission to the UPR on Cuba, para. 2.
[92] FAO, *Panorama de la Seguridad Alimentaria y Nutricional en América Latina y el Caribe 2012*, pág. 31. Disponible en www.fao.org/alc/file/media/pubs/2012/panorama.pdf.
[93] UNICEF, *Estado Mundial de la Infancia 2012: Niñas y niños en un mundo urbano*, pág. 96. Disponible en www.unicef.org/spanish/sowc/files/SOWC_2012-Main_Report_SP.pdf.
[94] CRC/C/CUB/CO/2, paras. 45–46.
[95] UNICEF, *Estado Mundial de la Infancia 2012: Niñas y niños en un mundo urbano* (nota 94 *supra*), pág. 88.
[96] UNESCO submission to the UPR Cuba, paras. 24 and 25.
[97] Ibid., para. 30.
[98] UNICEF, *Estado Mundial de la Infancia 2012: Niñas y niños en un mundo urbano* (nota 94 *supra*), pág. 88.
[99] UNESCO submission to the UPR on Cuba, para. 23.
[100] Ibid., para. 7.
[101] Ibid., para. 42.
[102] Ibid., para. 52.
[103] CRC/C/CUB/CO/2, paras. 43–44.
[104] CERD/C/CUB/CO/14-18, para. 18.
[105] Ibid., para. 19.
[106] UNHCR submission to the UPR on Cuba, p. 2.
[107] Ibid., pp. 2 and 4.
[108] Ibid., p. 2.
[109] Ibid., p. 2.
[110] Ibid., p. 3.

[111] Ibid., p. 5.
[112] UNHCR submission to the UPR on Cuba, p. 2.
[113] Ibid., p. 5.
[114] Ibid., p. 4.
[115] CAT/C/CUB/CO/2, para. 9.
[116] CERD/C/CUB/CO/14-18, para. 19.
[117] UNHCR submission to the UPR on Cuba, p. 4.
[118] UNCT submission to the UPR on Cuba, para. 16.
[119] Ibid., paras. 13–14.