

**Submission to the UN Universal Periodic Review**  
**30th UPR Working Group Session of the Human Rights**  
**Council re Cuba**  
**5 October 2017**

Submission by

National Coalition of Concerned Legal Professionals (NCCLP)

The Cuban government and peoples have continued to make strides in addressing discrimination — both racial and gender-based — in their country and through their international relations.

Theme *A42 Institutions & policies — General*

1. The Preamble of the Universal Declaration of Human Rights states that, “recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.” Article 7 states that, “All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.”

2. The issue of discrimination in Cuba has been part of the country's political agenda since 1959. The 1976 Cuban Constitution, ratified in 1976 by popular vote and most recently amended in 2002, codified into law for the first time the socialist principles underlying Cuba's 1959 revolution.<sup>i</sup>

3. Equality between men and women has traditionally occupied a prominent place in post-revolutionary Cuban law, even before the adoption of the 1976 Constitution, as had outlawing discrimination on the basis of the color of skin, national origin, religious beliefs or political positions.
4. The Cuban constitution's nondiscrimination provisions typify the special emphasis that the document, as a whole, places on protecting labor rights, which have a fundamental importance in Cuban law.
5. Article 1 of the Constitution defines Cuba as a socialist state of workers, organized with and for the good of all. Hence, the Cuban laws on right to work must be understood as a constitutional right.
6. Article 9b guarantees that there will be no man or woman capable of working who lacks an opportunity to obtain an employment with which he or she can contribute to the goals of society and fulfill his or her personal needs; and that there will be no person incapacitated for work who lacks a decent means of subsistence.
7. Articles 41 and 42 contain provisions that expressly establish equality as the country's governing legal and constitutional norm and prohibit discrimination on the basis of "race, color of the skin, sex, religious creeds, national origin, or any other type offending human dignity" in all major areas of public and social life.
8. It is a constitutional principle that workers get equal pay for equal work (Article 43). The right is included in the labor code and the labor ministries have established that there is no difference in salaries between men and women — the salary is specified by the position. Dating back to the 1960s, Cuba has maintained a policy of publicizing workers' salaries,

as a solution to the issue of inequality between men and women in the workplace with regard to salaries.

9. Cuba adopted major statutory reforms to its labor laws in December 2013, officially publishing them in June 2014. These labor law reforms were the subject of immense debate among the Cuban public, reflecting widespread public participation in this important issue. The Cuban legislature consulted the opinions of an estimated 2.6 million Cuban workers in a series of local, regional, and national debates and assemblies on how best to amend Cuba's labor code, which had hitherto remained unchanged for nearly thirty years.<sup>ii</sup>

10. Cuba has well-defined rights and protections for expectant mothers and care of babies, as a constitutional principle (Article 44). Expectant mothers in Cuba are entitled to 100% paid time off from work for six weeks prior to childbirth and for an additional twelve weeks thereafter. At the end of the twelve weeks, one of the two parents is entitled to paid leave to care for the child until the child is one year old, while the other parent returns to work.<sup>iii</sup> In February 2017, the availability of the shared parental leave program was extended to include grandparents, thus allowing parents, if they choose, to return to the workplace sooner.<sup>iv</sup>

***Theme: F12 Discrimination against women***

11. In relation to equality of women, Cuba's accomplishments are exceptional. Women have worked in different professional fields and have undertaken almost half of the work in the civil sector (48%). Women dominate the field of professionals and technicians (66%). More than 70% of health professionals, doctors, professors and attorneys are female, as well.

12. Substantial female representation is also reflected in important governmental positions. For example, almost half of the members (48.9%) of the Cuban National Assembly are female and of the Council of State, 41.9%. Cuba currently ranks third in the world in the percentage of women in the country's main governing body. The United States, by comparison, ranks 97th out of 193 nations in the world.

13. There many avenues of communication between the management and the workers in Cuba, as well as among the workers themselves. The fundamental element is the collective convention of labor, which is worked out between management and the workers, involving decisions on the hours of work, holidays and vacations, etc. There are also assemblies of the unions, where workers and the management board can communicate. The unions in Cuba are continually looking for ways to boost the communications.

***Theme: A41 Constitutional and legislative framework***

14. All Cuban citizens have access to legal services through offices of “La Organización Nacional de Bufetes Colectivos” (ONBC) or “National Organization of Collective Law Offices.”<sup>v</sup> The Ministry of Justice sets the fees that the *bufetes colectivos* can charge based on the complexity of the case, the level of court hierarchy, and number of appeals. The bufetes charge minimal fees, ranging from 10 Cuban pesos to 400 (approximately 50 cents to \$15). Further, if an individual is unable to afford even these low fees, legal services are provided for free.<sup>vi</sup>

***Theme: A42 Institutions & policies - General***

15. For nearly sixty years, Cuba has continued to make prodigious gains on behalf of its population, despite the severe pressures caused by the unlawful economic, commercial and financial blockade imposed by the United States, in derogation of international law and world opinion. In

2014 Cuba estimated the damage from the blockade to the Cuban people and their country at \$1.1 trillion, with an additional untold amount of needless human suffering.

16. The extraterritorial character of the U.S. blockade of Cuba is pervasive. Many third parties — companies and states — negotiate with Cuba. However, the U.S. laws penalizing these companies for doing business with Cuba then negatively impact those third parties' business with the United States. The U.S. Government levies multimillion-dollar sanctions on any banks that challenge the blockade. The same happens in the commercial sector with a U.S. ban on trade with companies and subsidiaries based in third countries that engage in transactions with Cuba. There is also a prohibition on companies in third countries that export Cuban products to the United States, or those that sell goods and services to Cuba that contain more than 10% of components or technology from the United States. For example, a significant portion of equipment used in the public health sector contains a high percentage of components manufactured in the United States, so the blockade makes much lifesaving medical technology unavailable to the Cuban people.

17. The number of lives lost or medically compromised because of these restrictions is inestimable. There are children suffering from certain cancers who must take medications that are only produced in the U.S. and are, therefore, inaccessible due to the blockade. Cuba is a developing nation with limited resources. Normal trade, as with any nation, including the United States, is essential to its sustainable development.

18. NCCLP urges the UN Human Rights Council to recognize Cuba's exceptional success implementing fundamental human rights — in particular, addressing discrimination in all its forms — in the face of the monumental challenges posed by the continuing, unlawful actions of the

United States. Clearly an end to the immoral and illegal blockade is essential to advancing the progress the Cuban people need and deserve.

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*See* The Constitution of the Republic of Cuba, 1976 (as Amended to 2002), *available at* <http://www.constitutionnet.org/files/Cuba%20Constitution.pdf>.

ii “Massive participation on the new Draft of Labour Code” by Carmen Rodriguez, Escambray, August 16, 2013; “Cuba Workers: Nearly 3 million people consulted on Draft Labor Code,” <http://www.blunblog.org/2013/10/26-million-cuba-workers-make-thousands.html>; “Workplace Discrimination Law in Cuba,” by Geoffrey H. Schotter, Esq., *Verdict*, July 2016.

iii “Cuba’s Maternity Leave Extended to Fathers, But Few Dads Take It,” by Debra Evenson, *Medic Review*; <http://www.medicc.org/publications/medicc-review/0605/mr-features.html>

iv “Cuba wants more babies, so it’s giving parental leave to grandparents, too,” by Nick Miroff, *The Washington Post*, February 11, 2017.

v “America’s ‘Access To Justice’ Crisis: Does Cuba Hold The Answer?” by Dean Jackie Gardina, J.D, the Santa Barbara and Ventura Colleges of Law, March 30, 2017 <https://www.facebook.com/notes/the-santa-barbara-ventura-colleges-of-law/american-access-to-justice-crisis-does-cuba-hold-the-answer/1514479585261042/>

vi Lecture by Msc. Armanda Nuris Piñero Sierra, Director Bufete Servicios Especializados, to an NCCLP delegation on November 11, 2014.