

COVER PAGE



EIGHT GOALS ONE FOUNDATION SUBMISSION FOR THE UNIVERSAL PERIODIC REVIEW 2023 – CUBA

About Eight Goals One Foundation

Eight Goals One Foundation (8one) is an India headquartered civil service organisation with projects across the globe specifically catering to eight identified goals of Well-being, Gender Equality, Peace, Environment, Hygiene, Nutrition, Education, and Employment.

Since inception, the Foundation has worked for grassroots level interventions for the benefit of farmers, underprivileged and underrepresented sections of society.

In addition to the grassroots programmes, the Foundation also engages with the Indian Government, governmental representatives of various countries, inter-governmental organisations (including active engagement with UNESCO) as well as various civil service organisations, universities, and development agencies in India and across the world, for policy and social sector initiatives.

8one actively seeks and builds collaborations across demographics and geographies to create synergies for meaningful dialogue and action. To date, the Foundation has worked on over 30 projects involving communities from over 15 countries across the globe.

8one's engagement in Cuba has been pervasive ranging from implementation of projects at the ground-level with the local community to ongoing consultations with government and non-government leaders on a multitude of issues. Many of these intersect with the themes of the UPR that are addressed in this submission. More recently, 8one has worked actively with the Embassy of the Republic of Cuba in India, the José Martí Cultural Society, and the Cuban Institute of Friendship with the Peoples (iCAP). 8one's co-founder, Mr. Ramit Singh Chimni, is currently serving as the Chairperson of the International UNESCO/José Martí Prize Jury.

Methodology of the Review

1. The recommendations made in this review are a result of:
 - 1.1. Information received from primary sources, including individuals from government, non-government, and local community.
 - 1.2. Information received from secondary sources:
 - 1.2.1. Comparative review of New Constitution (w.e.f. 2019) and previous Constitution (reviewed under 2018 UPR Cycle)
 - 1.2.2. Comparative review of New Penal Code (w.e.f. 2022) and previous Penal Code (reviewed under 2018 UPR Cycle)
 - 1.2.3. Review of policy changes made by Ministry of Culture from 2018 onwards
 - 1.2.4. Comments from primary sources on the above
 - 1.2.5. Review of submissions provided by States and CSOs in the 2018 UPR cycle
2. The overarching issue of any study on Cuba is the overwhelming amount of misinformation or misconceptions in the mainstream that needs to be filtered through and tested against the ground realities. The most effective way to do this has been to discuss with a variety of stakeholders on the ground as well as across the world. This submission is the result of such discussions and analysis.
 - 2.1. A draft of this submission was shared for review by independent individuals within Cuba as well from India, North America, New Zealand and Europe, and their comments were duly considered. The final draft includes changes suggested by this jury.



Follow up on the Previous Review

3. Cuba only expressed apprehension on 30 recommendations, of which it has made a note but has not assured implementation, largely because they either require access to resources blocked by the embargo, or are in violation of the fundamental guarantees under the Constitution, or threaten the sovereignty of the population.
4. Of these 30 recommendations, we have focused on the key recommendations made to the State under the following themes:
 - 4.1. **Freedom of Opinion and Expression, Equality and Non-discrimination**
 - 4.1.1. Remove censorship and allow access to internet
 - 4.2. **Economic, Social and Cultural Right and Right to Vote**
 - 4.2.1. Voter turnout, Participatory governance, and State Policies
 - 4.3. **Administration of Justice and Fair Trial**
 - 4.3.1. Amend the Penal Code to avoid arbitrary detentions and indefinite extensions of preliminary investigations
 - 4.4. **Right to Adequate Standards of Living**
 - 4.4.1. Universal Welfare despite the US embargoes
 - 4.5. **Death Penalty and Conditions of Detention**
 - 4.5.1. Removal of the death penalty in the Penal Code
 - 4.5.2. Set up a mechanism for third-party monitoring of detention systems
 - 4.6. **Statistics and National Indicators**
 - 4.6.1. Put a robust and transparent process in place for collection and dissemination of data
 - 4.7. **Acceptance of International Norms**
 - 4.7.1. Ratification of Treaties and Optional Protocols, such as CCPR and CESCR
 - 4.7.2. Sign Optional Protocols for Individual Complaints on treaties signed by the State
 - 4.7.3. Set up an independent Human Rights Commission in line with Paris Principles
5. Cuba agreed to 339 recommendations made in 2018 review and expressed commitment to continue putting these recommendations into practice. Cuba has shown significant commitment to change and adapt, as well as strengthen, a systemic framework that ensures pervasive recognition and protection of human rights.
6. The recommendations agreed upon by Cuba fall under the following themes:
 - 6.1. Economic, Social and Cultural Rights and Right to Vote
 - 6.2. Freedom of Opinion and Expression, Equality and Non-discrimination
 - 6.3. Right to an Adequate Standard of Living



Observations

Freedom of Opinion and Expression, Equality and Non-discrimination

Internet access and censorship

7. The Cuban society greatly values deliberations and discourse.ⁱ The decisions made by the Cuban State are informed by the views and opinions of its general populace. Despite the State having an overwhelming presence in almost all spheres of life, there is a significant presence of independent journalists, media houses, and international NGOs that operate and are critical of the Cuban State. Evangelist groups of Cuba, which have been slowly gaining influence in the country, are publicly critical of the State and periodically mobilise people against State policies, release statements which can be deemed anti-establishment.ⁱⁱ
8. Internet-based censorship is non-existent as confirmed in theory as well as by experience. Most websites and apps that are blocked, such as Zoom or Google services, are blocked by the foreign service providers or the States in which they are basedⁱⁱⁱ. Access to internet is in large part restricted by the embargo which results in unavailability of internet services as well as devices such as smartphones and computers^{iv}. There is also evidence of foreign sources funding the dissemination of misinformation and 'bad news' about Cuba^v.

Gender and racial equality, and right to free association

9. Cuba ranks fifth globally in terms of gender equality^{vi, vii}. Cuba's Constitution also recognises the rights of its diverse ethnic groups and the government has taken measures to promote racial equality. The Afro-Cuban population has benefited from affirmative action policies in education and employment and there has been a concerted effort to preserve and promote Afro-Cuban culture. Cuba's success in protecting the rights of self-determination and free association of individuals has been acknowledged and appreciated by the world community.

Economic, Social and Cultural Rights and Right to Vote

Voter turnout and participatory governance

10. Cuba's electoral model and high voter turnout (70-80 per cent)^{viii} results in a significant level of representation of diverse communities among the candidates who are nominated and elected to the government. This is a testament to the government's commitment to democracy and the right to vote. Cuba is one of the very few enduring examples of substantive grassroots level democracy where citizens can directly nominate and elect their leader(s)^{ix, x, xi, xii}. The fact that the Communist Party of Cuba is not an electoral party, adds more meaning to the election process as the candidates at the local level are viewed as fellow citizens and not professional politicians.

Progressive State policy

11. It is important to shed light on the manner in which amendments and legislations are introduced and passed in Cuba. This can be seen in the State's move to legalise same-sex marriage, introducing greater safeguards against misuse of power, and providing the right to recall the elected representatives. The most notable example remains the Family Code and the new MSME policy. The Family Code has been commended in the past for securing welfare for children and the elderly, and now, for its inclusivity^{xiii}. The new MSME policy aims to create a conducive environment for the growth of MSMEs by providing them with financial and non-financial support^{xiv}. This starkly shows that Cuba has been mislabelled as a radical State for trying to develop a socialist model, impeding private sector development and stressing welfare as the objective of all stakeholders in the system.



Administration of Justice and Fair Trial

Arbitrary detentions during protests

12. It is important to acknowledge that the spike in arbitrary detentions during the July 2021 protests was concerning. However, it must be noted that most of the detainees were released and cases dismissed by the judiciary due to lack of evidence, which suggests that there is a proper check on “arbitrary” arrests which demonstrably works. Furthermore, those who were charged were charged for vandalism, not for political crimes^{xv}. This suggests that there is respect for the right to freedom of expression and peaceful assembly in Cuba.

Changes to the Penal Code

13. There is significant acceptance to preventing abuse of powers. The 2022 penal code has removed “pre-criminal dangerousness” or “social dangerousness”. While “estado peligroso” (loosely, state of dangerousness) still features in the penal code, but with a stipulation that it applies only to specifically enumerated crimes relating to harming “legal assets of the State.” Estado peligroso cannot be invoked for other crimes. It is important to continue to monitor the implementation of these provisions on the ground to ensure that they are applied in a fair and consistent manner.

Right to a fair trial

14. Notably, Articles 94, 95 and 96 of the Cuban Constitution guarantee due process of law, right to counsel, judicial independence, right to speedy trial and protection from false imprisonment, unjustified restraint, and self-incrimination. Additionally, Article 153 provides the right to public trial, except in case of State security, morality, public order and respect of the victim and their families, which adds significant transparency in judicial process. However, in order to strengthen the protection of right to fair trial, the State should take further steps to ensure the independence of the judiciary.

Lack of independent judiciary

15. All State agencies and organs are structured based on the principles that the will of the people is supreme. The Cuban State has been accused of not having an independent judiciary, but this needs to be understood in the context of the unique design of Cuban judicial system. In Cuba, along with professional judges, ‘lay judges’ are also involved in the trial process. Lay judges are usually common citizens who are employed elsewhere and are elected to be part of the judicial process. These lay judges usually belong to different unions and communities which makes the judiciary representative of the population. Despite that, we recognise that the State needs to work towards introducing more checks and balances to ensure justice and fairness.

Right to Adequate Standard of Living

Universal welfare despite US sanctions

16. Despite the embargo, Cuba has been applauded for its universal and inclusive welfare model which has ensured enjoyment of basic human rights for the Cuban population. Cuba has performed very well on universal indicators, from HDI, to well-being to gender equality. Cuba has achieved universal access to education^{xvi}, healthcare^{xvii}, and housing, and has made significant progress in reducing poverty and inequality. We acknowledge that the sustainability of the welfare model is in jeopardy due to the embargo which has restricted access to resources and trade. We support Cuba in its call to the international community to lift the embargo and support Cuba in its efforts to provide for its people^{xviii}.

Support provided to other countries

17. Cuba has helped countries around the world create access to healthcare and education. Instances include, Operation Milagro (Miracle), and “Yo, sí puedo” (“Yes, we can”) which have significantly impacted healthcare and literacy in the Latin American region. During COVID-19, Cuba has also been asked to help with vaccination efforts in the Latin American region and other



parts of the world. In stark contrast, the US sanctions and some governments have actively impeded these interventions in various countries.

Universal healthcare but with lack of resources

18. Specific to vaccination during the COVID-19 outbreak, Cuba developed 5 vaccines for the virus in-house and successfully vaccinated 94% of its population. However, due to the embargo, there is a significant shortage of medicines. Close to 116 medicines from the Basic Table of Medicines regularly required by a large part of the population are unavailable.

Death Penalty and Conditions of Detention

Death Penalty

19. While Cuba has not abolished the death penalty it is important to highlight that the last person to be executed in Cuba was in 2003. Furthermore, the Cuban penal code contains provisions that are compliant with the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights which stipulate that the death penalty should only be applied for the most serious crimes.

Right to vote for Prisoners

20. While Cuba has made significant strides in ensuring the protection of human rights, including the right to vote, there remains a gap in the provision of political rights for prisoners. We recommend that Cuba works towards providing voting rights to prisoners as this would be a significant step towards the full realisation of political rights for all citizens. It is important to note that international law recognises the right of prisoners to vote and Cuba is a signatory to several international human rights treaties that recognise this right.

Statistics and National Indicators

Lack of public data collection and dissemination

21. Cuba has selectively provided data and reports to UN bodies and much of it is in the public domain. The lack of robust data collection is, in part, due to dearth of technology, capital and other resources in research. Furthermore, those that get published and are available in the public domain face a different challenge - most official government websites are inaccessible to foreign servers due to restrictions imposed by internet companies or States in different parts of the world^{xix}.

Lack of data on prison system

22. The prison system is placed under complete restriction and very limited data is available. We are concerned about this lack of transparency and recommend that Cuba considers setting up a robust internal channel for data collection and dissemination with reasonable transparency.



Acceptance of International Norms and Cooperation with UN Bodies and other organisations

Ensuring Human Rights provisions despite treaty compliance

23. We must draw a distinction between ratification of treaties and upholding of human rights on the ground; Cuba has ample evidence of the latter despite not complying with the former. For instance, despite rejecting the Optional Protocol on the Convention for Elimination of All Forms of Discrimination Against Women (CEDAW) Cuba has ensured high levels of women's participation in legislation, education, and workforce^{xx}.

Abstaining from signing optional protocol for individual complaints

24. Most of the optional protocols that have not been signed by Cuba, have not been signed by many other democracies in the world. The consensus is that the implementation of these protocols poses a challenge in ensuring the right to self-determination and impact the sovereignty of the State.



Recommendations

25. Based on our study and observations we would like to present the following recommendations:

- 25.1. Given the lack of access to national statistics for the rest of the world and considering the rising misinformation on ill treatment of detainees in Cuba, the State should consider setting up a robust channel for collecting and reporting statistics on population in prison and their well-being, and make this information available in public domain periodically to reinforce confidence in the legal system.
- 25.2. Since Cuba is a party to the UDHR and has guaranteed universal suffrage to its population, the State should consider including convicts under this right and create a transparent process that allows convicts to cast votes anonymously, thus achieving increase voter turnout and political participation from convicts much like the rest of the population.
- 25.3. Resulting from the adaptive and democratic process of civil participation in legislation, Cuba has revised its Constitution and penal code recently to comply with the recommendations made during the previous UPR Cycle. The State should consider increasing awareness about the provisions in the new Constitution and penal code for prevention and redressal of human rights violations by State officials.
- 25.4. Under Article 94(d) of the Constitution, which guarantees right to judicial independence, the use of the clause “when appropriate” impedes the universal recognition of right to competent, independent, and impartial trial. Therefore, the State should consider removing the clause to prevent its misuse and guarantee the right to fair trial for all citizens unconditionally.
- 25.5. Recognising that an independent judiciary is crucial for addressing potential legislative hindrances to democracy, Cuba should consider establishing a legal framework that allows an independent judiciary to function without violating the existing participatory, consultative, and adaptive processes that ensure that the will of the people outweighs the letter of the law.
- 25.6. By balancing welfare-driven political ideology with incentives to the private sector without jeopardising the former, Cuba has the opportunity to set an example with its new policies of a truly inclusive and progressive socio-economic model. The State should, therefore, introduce measures for promoting quick adoption of policies that support individual socio-economic development and create opportunities for participation of and partnership with the private sector nationally and internationally.
- 25.7. In order to continue to sustain a universal welfare model despite the US sanctions, the State should consider collecting and placing data in the public domains about the capital inadequacy and resource procurement challenges to allied States to mitigate the effects of the US embargo and provide adequate quality of life to its population.
- 25.8. The State should continue to protect and promote human rights, regardless of the State's position on signing Optional Protocols for Individual Complaints. The State should continue to provide universal access to education and healthcare, ensure food security through State welfare and promote private enterprise. The State should also continue to denounce the US embargo on international forums and platforms.



Conclusion

26. In conclusion, 8one supports Cuba's efforts towards promoting equality and non-discrimination, and ensuring economic, social, and cultural rights for its citizens. We urge the government to continue its efforts towards improving the standard of living of its citizens and promoting democracy and human rights. We also commend Cuba's commitment to the UPR process and its efforts towards implementing the recommendations made during the previous UPR cycle.



ENDNOTES

ⁱ Most Cubans identify with a collectivistic culture and firmly believe in civic participation. Local community organisations such as the CDR (Friends of the Revolution), student unions and other professional unions have been known to protect and promote open dialogue within the community and ensuring increased participation in elections and referendums.

ⁱⁱ This could be observed during the protests organised by the Cuban churches which opposed the State's move to legalise same-sex marriage. Additionally, there are outlets like Breakthrough News and Peoples' Despatch which are operating in Cuba and regularly publish news critical to the State.

ⁱⁱⁱ Not necessarily due to political reasons, but as a consequence of the way that the internet is set up, virtually all of Cuba's Internet services are routed through U.S. servers. Currently, ALBA-1 fibre optic cable, jointly owned by Cuba and Venezuela, is the primary infrastructure for internet. Considering Cuba's close proximity to Florida, a direct connection between Miami and Havana would be relatively inexpensive, and would provide much faster internet services for Cuban users, as well as lower latency times and additional capacity for emergency communication.

^{iv} Smartphones are mostly imported in Cuba. The population's internet activity is really low. Accessing internet requires gathering in public places and using public hotspots which, in turn, provide slow access or are too expensive to use.

^v For example, Cuban government blocks access to the U.S. propaganda station TV Marti, an American State-run radio and television international broadcaster based in Miami, Florida, financed by the federal government of the United States through the U.S. Agency for Global Media (formerly Broadcasting Board of Governors, BBG). However, citizens have easy access to The New York Times, Wall Street Journal, and even the ultra-conservative Spanish edition of the Miami Herald. Twitter, Facebook, and cell phone apps such as IMO are also easily accessible.

^{vi} World Economic Forum's Global Gender Gap Report 2020.

^{vii} In Cuba, women occupy 48 percent of parliamentary seats and represent more than 70 percent of university graduates (UNDP, 2018).

^{viii} Cuba witnesses amongst the highest voter turnouts in the world. Universal suffrage is granted by the Constitution and all citizens above the age of 16 have the right to vote. Voting booths are also set up in Cuban embassies in different countries to enable Cuban citizens living abroad to vote. 84.4% of the population participated in the referendum for the 2019 Cuban Constitution and 86.85% voted 'yes'.

^{ix} For the 2023 National Assembly elections, 19000 nominations were proposed at the grassroots level by neighbourhood committees, of which 4760 pre-candidates were elected to the Municipal Assemblies through a secret ballot. From these pre-candidates, 470 candidates were selected to stand for the National Assembly elections - 50% of these candidates were elected members of the Municipal Assemblies, and the other 50% were nominated by assemblies consisting of Cuban Workers' Federation, Committee for the Defence of the Revolution, Federation of Cuban Women, Union of Artists and Writers, the Students Federations, and the National Association of Small Farmers. At this point, the electoral model allows only one candidate to stand for each seat in the National Assembly. In the national elections, the Cuban people vote for representatives to the National Assembly of People's Power. The voters are allowed to either vote for all of the candidates on their ballot, or for multiple candidates, or for only one. Citizens may also choose to abstain from voting, or invalidate their votes.

^x To be elected to the National Assembly, each candidate must obtain more than 50% of the valid votes cast in the constituency in which they are running. If this is not attained, the seat in question remains vacant unless the Council of State decides to hold another election. There is no party slate and candidates can be nominated even if they are not members of the Communist Party. Campaigning is not permitted in elections in Cuba; rather, photographs and biographies of candidates are publicly posted. This ensures there is no divisiveness of party politics or interferences by big-money donors, as is seen in many countries around the world.

^{xi} In 2023, of 470 candidates, the representation of women candidates was 56%. 10% of the candidates represented people from grassroots, including farmers, healthcare professionals, educators, sportspeople, and media professionals. 20% of the candidates were in the age range of 18 to 35 years. 45% of the candidates represent black and mixed-race communities.

^{xii} Anyone above 16 can put up their candidature for election to the Municipal Assembly, and anyone over 18 years can submit their candidature for becoming lawmakers in the National Assembly of Peoples' Power.

^{xiii} The 2022 family code referendum in Cuba was a historic milestone for the country and the region. The referendum, held on 25 September 2022, approved amendments to the family code of the Cuban Constitution that legalized same-sex marriage, same-sex adoption, and altruistic surrogacy, among other rights. The referendum passed with 67% of the vote, reflecting the broad support of the Cuban people for these progressive changes. The referendum was the result of a participatory and democratic process that involved public consultations, debates, and proposals from various sectors of society. The new family code recognizes the diversity and dignity of all forms of family and affirms the principles of equality, solidarity, and respect for human rights. Cuba's family policies have been described as among the most progressive in Latin America.

^{xiv} The policy, which came into effect in September 2021, allows the creation and operation of micro, small, and medium enterprises (MSMEs) in various sectors of the economy, including agriculture, industry, services, education, culture, and sports. The policy also enables MSMEs to access foreign capital, foreign markets, and foreign technology. By March 2022, almost 2500 MSMEs had been authorized by the Ministry of Economy and Planning (MEP), of which 113 were private and two were State-owned. The new MSME policy aims to promote entrepreneurship, innovation, productivity, and employment in Cuba, as well as to foster social inclusion and environmental sustainability. The policy is expected to boost Cuba's GDP growth and improve its competitiveness in the global market.

^{xv} Primary sources indicated that most detainees were released within the same day in compliance with the provisions in the new penal code. However, this information was not reported from secondary information sources.

^{xvi} Cuba spends 10% of the GNP on education. With close universal free-of-cost access to primary and secondary education, Cuban education system checks the boxes on inclusivity and delivering learning outcomes. UNESCO, World Bank and UNDP programs seem to find the system commendable. Gross Enrolment Ratio (GER) in Primary School (up to Grade 6) is almost 100%. GER in Secondary School is 80%, and in university level is 30%.

^{xvii} Not only does Cuba have a very high doctor-to-patient ratio (7.5 per 1000) compared to many developed countries, Cuban doctors are known for providing their services to people in need worldwide. Many instances were shared by primary sources especially showcasing the role Cuba and its doctors played in mitigating the pandemic in Latin American and West African countries.

^{xviii} A significant number of conversations with people on the ground seemed to believe there is a "warfare" agenda behind the embargo, especially because the US wants to topple the successful socialist model that Cuba has been able to build over the years. This has also resulted in Cuba inviting China and India to pump capital and technology, as well as looking at liberalising certain sectors of the economy to boost private enterprise.

^{xix} It is widely reported that due to lack of availability of data to Cubans, there is a significant opportunity cost in terms of socio-economic development as well as cultural development. This was especially underlined by Cubans who are educated, working, and involved in social development activities, such as students, artists, educators, and leaders of non-profit organisations.

^{xx} Apart from 48% representation in parliament and 70% in universities, women account for 48% of the workforce and enjoy equal pay.

