



REPUBLICA DE CUBA

Misión Permanente ante la Oficina de las Naciones Unidas en
Ginebra y los Organismos Internacionales con sede en Suiza

HUMAN RIGHTS COUNCIL
ELEVENTH SESSION

**Responses provided by Cuba on the recommendations listed
under paragraph 131 of the report of the Working Group on the
Universal Periodic Review of Cuba**

In the context of the adoption of the
outcome of the Review of Cuba

Geneva, 10 June 2009

- 1. Ratify and implement ICCPR and ICESCR as soon as possible (Canada; the Netherlands; France; Italy; Switzerland; Chile), and accelerate the ratification of ICCPR (Chile), without restrictions (the Netherlands) or reservations (Italy) and take measures to adapt its national legislation (the Netherlands), as well as facilitate public dissemination of these treaties and ensure that all Cubans are aware of the rights contained therein (Canada);**

Like in the case of other important international legal instruments on human rights, the ratification of the International Human Rights Covenants is going through analysis and the regular processes of consultations and conciliations with the relevant bodies and institutions at the national level. The foregoing is required by law for all international instruments before the State takes on the decision to legally become obliged with them.

The ratification process of an international treaty is assumed by our country with all the responsibility and rigorousness it deserves. This way of proceeding constitutes a guarantee for the full compliance with the matter dealt with by the treaty. Sufficient time is needed to carry out the evaluation of its provisions, the detailed study of the norms, policies and programmes in force, with a view to ensure the compatibility of the international obligations assumed with the political and legal internal system.

- 2. Consider acceding to the Rome Statute of the ICC and accelerate the ratification of the human rights Covenants on human rights (Brazil),**

Cuba has always defended the importance of preserving multilateralism and International Law. Historically Cuba has supported all efforts of the international community and the UN with a view to the creation of an effective, impartial and independent international system of justice.

In this spirit, Cuba actively participated in the process that concluded in the Rome Conference for the establishing of the International Criminal Court. The Statute of the ICC, unfortunately, did not succeed in establishing the guarantees which, in Cuba's opinion, would be the minimum to ensure the system of international justice that is needed. That opinion, however, does not deny some progress obtained in the process, especially the categorization of the crimes against humanity.

The authority granted to the UN Security Council – a body having an anti-democratic nature that denies the sovereign equality of states – in terms of the realm of application of the Statute, contradicts the principles of universality, equality, independence and impartiality that must sustain international justice in its complementary function with national systems of justice. As if it was not enough, the non-acceptance and subsequent imposition by the super-power on several States Parties to the Statute of Rome of bilateral treaties that limit respect and compliance with international obligations established by international law, seriously damages the credibility of the regime that sustains the work of the ICC.

The Cuban people, submitted for five decades to a policy of hostility, blockade and aggressions by a foreign power, do not recognize the essential value of an international justice institution which is prevented from looking after its just demands, both for the eventuality of the veto on its claims in the Security Council as well as for the fact that it was not even possible to implement a genuine and extensive categorization of the Crime of Aggression in the Rome Statute.

Cuba does not appreciate the eventuality of a change of circumstances that make reconsideration of its assessment in relation to the regimen established by virtue of the Rome Statute recommendable. In any case, we shall be keeping this matter under permanent study.

In relation to the second part of Recommendation 2, regarding the ratification of International Human Rights Covenants, read the commentaries made on the preceding recommendation.

3. Ratify the Optional Protocol to the Convention against Torture (OP-CAT) (United Kingdom);

Cuba is a State Party to the Convention against torture and other cruel, inhuman or degrading treatments or punishments (CAT) from May 17, 1995.

Cuba assures respect for the physical and spiritual integrity of persons. In the country there are no existing practices of torture or of other cruel, inhuman or degrading treatments or punishments.

Cuba has the effective national resources to ensure the rigorous application of the CAT.

Cuba has not considered it to be necessary to assume obligations with procedures and instances of supranational jurisdiction for the processing of individual petitions; nor does it resort to the assistance of international investigations in order to assure the people living in its territory the fullest of protection and enjoyment of rights and resources established by international human rights instruments. The adequate use of remedies established by national legislation has allowed Cuba to prevent any sort of violation of the regulations established by the CAT and other international human rights instruments.

4. Ratify the declaration on article 22 on the CAT and consider ratification of OPCAT (Switzerland);

Regarding the recognition of the obligation contained in Article 22 of CAT, it must be pointed out that Cuba maintains a permanent assessment of those provisions of an optional nature to which the country is not obliged, even after the ratification of any international legally binding instrument. This applies to Article 22 of the CAT.

The consensus that has prevailed among the bodies making up the National Treaty Coordinating Body is to not favour the recognition of the jurisdiction of supranational entities regarding matters that find an effective response through exhausting the available national resources.

Regarding the possibility of ratifying the OP-CAT, reading of the commentaries to Recommendation 3 is suggested.

5. Consider the ratification of ICRMW (Azerbaijan);

The migratory issue in Cuba has been submitted to the historical political manipulation of the bilateral migratory relationship being carried out by successive US administrations. The application of the Cuban Adjustment Act adopted by the United States in 1966 and of the so-called dry feet, wet feet policy is a stimulus for illegal emigration and for the illicit traffic of persons from Cuba to the United States.

In the United States, impunity has been guaranteed to Cuban nationals responsible for atrocious crimes, including acts classified as terrorism by virtue of International Covenants. Serious crimes – several of them resulting in the murders of Cuban citizens not implicated in said actions – were committed in the course of the execution of operations of illegal emigration to the United States. Most of the perpetrators of these crimes enjoy the impunity offered to them by US authorities.

The impact of the political manipulation of the Cuban migration by the United States has been extended to third countries. Criminal organizations carry out operations involving trafficking of Cubans by using third countries as a bridge.

The Bush administration escalated the actions of anti-Cuban hostility in migratory matters, even to the point of funding special programmes to promote desertion of Cuban professionals who are providing services of solidarity in third countries in areas such as health and education, so that they abandon the compliance of their functions and migrate to the United States.

Regarding the rest of the world – excluding the already mentioned impact of the US anti-Cuban actions and measures-, the migratory flow of Cubans occurs normally, in an orderly and safe manner, fulfilling applicable international and bilateral norms and with the guarantee of protection required for the migrants.

Cuba has a reduced number of permanent foreign residents in its national territory. All of them have full guarantees for the exercise of their rights and freedoms recognized in international human rights instruments, without any kind of discrimination. They are equated to the Cubans by virtue of Article 34 of the Constitution of the Republic.

The International Convention on the protection of the rights of all migrant workers and their families is subject to analysis by the National Treaty Coordinating Body. We are not in a position to provide a value judgement on the outcome of such process of consideration.

6. Establish by law a national human rights institution in accordance with the Paris Principles (Mexico);

Cuba has a broad and effective inter-institutional system that includes the participation of non-governmental organizations to receive, process and respond to any individual or group complaint or petition regarding the enjoyment of human rights. This system also assesses the effectiveness of the mechanisms, policies and programmes in place for the promotion and protection of human rights and it presents and provides follow-up to the recommendations it considers to be opportune for continuing to improve the enjoyment of human rights in Cuba.

All Cuban citizens have the constitutional right to direct complaints and petitions to the authorities and to receive attention or pertinent answers, in a suitable time frame, in accordance with the law.

The General Attorney's Office of the Republic, among its functions, attends to claims presented by citizens about alleged violations of their rights and it plays a central role in the system.

The General Attorney's Office of the Republic, in order to foster this function, established a Department for Protection of Citizen Rights, as well as similar departments in each provincial district attorney's office. There is a district attorney dedicated to this area of work in each municipality in the country.

The General Attorney's Office attends to, investigates and responds to denunciations, complaints and claims legally formulated by citizens and in the cases where it finds violations of the law, it dictates binding resolutions in order to restore the respect for the law. The most frequent claims are regularly monitored by a team of specialists from the General Attorney's office. These are aware of the causes generating them and they act subsequently in order to avoid new violations.

There are other instances and mechanisms in the country to attend to citizen complaints and petitions on human rights matters. Among these, one might mention the following: social organizations; offices in charge of the attention to the population in each of the bodies of the

central state administration; the Secretariat of the Executive Committee of the Council of Ministers; delegates to the Municipal Assemblies of the Peoples' Power and Councils of Municipal and Provincial Administration, as well as the very permanent structures of the national Assembly; and the procedures of the Council of State attending the population.

In practice, this system has demonstrated effectiveness and the ability to respond to the interests, complaints and denunciations about alleged human rights violations.

Cuba is a state of workers. The workers exercise the power through different channels and institutions. The characteristics of state function and Cuban society respond to the sovereign will and priorities established by its people.

A national human rights institution established by virtue of the Paris Principles does not constitute a necessity identified by the Cuban people in the function of its will to continue building a society that guarantees total justice. In fact, it remains to be shown that countries having such institutions can exhibit greater performance in the promotion and protection of all human rights of all human beings and their peoples.

Cuba is indeed involved in the improvement of its own system of promotion and protection of human rights.

7. Issue (Czech Republic; Switzerland; France) and implement (Czech Republic) a standing invitation to all special procedures (Czech Republic; Switzerland; France);

Cuba ratifies its steadfast willingness to continue to extend invitations to visit the country to special procedure mandate holders of the Human Rights Council, established on non-discriminatory bases. The Special Rapporteur on the right to food visited the country in November 2007.

Cuba extended an invitation to Mr. Manfred Nowak, the Special Rapporteur against torture and other cruel, inhuman and degrading Treatments, to visit Cuba in the course of 2009.

We shall continue making these kinds of invitations, in an orderly manner and with absolutely no discrimination in terms of rights categories. We shall keep in mind both the capacity to assure successful compliance with the programmes required by such visits, as well as the impact and contribution that these may have on our country and for the promotion of human rights in other parts of the world.

The Cuban people preserve its sovereign capacity to invite, as considered to be opportune, mandate-holders of all kinds. Our country is submitted to a policy of hostility, blockade and aggressions from a foreign power, that imposes changing priorities according to the requirements for the defence of the rights of the Cuban people to peace, development and self-determination.

8. Continue with the policy of openness and cooperation with United Nations human rights mechanisms, and in particular that it consider favourably the requests by the mechanisms of the Council that have already expressed their desire to visit Cuba (Mexico);

The commentaries on Recommendation No. 7 are also applicable to this Recommendation. Cuba will continue inviting Council mandate holders, prioritizing consideration of the impact and the contribution that these may have on our country and for the promotion of human rights in other parts of the world.

- 9. Provide invitations to other United Nations Special Rapporteurs, in particular those responsible for human rights defenders (United Kingdom), freedom of opinion and expression, freedom of religion or belief, as soon as possible (United Kingdom; Slovakia), and the independence of judges and lawyers (United Kingdom) to visit Cuba;**

Commentaries to Recommendations 7 and 8 are applicable to this Recommendation.

- 10. Further open its doors to cooperation with human rights and humanitarian organizations, including by extending an open invitation to Special Procedures and by providing full access to representatives of the International Committee of the Red Cross (Canada), and allow ICRC to have access to prisons and visit prisoners (France);**

Cuba has cooperated with different humanitarian and human rights organizations throughout the world, both in its own territory as well as developing international cooperation missions, including in the emergency cases following the occurrence of natural disasters.

Such cooperation has been developed with governmental, inter-governmental and non-governmental organizations.

Our country is visited each year by hundreds of representatives of NGOs, many of which are intensely working in the promotion and protection of human rights.

Regarding the International Committee of the Red Cross (ICRC), Cuba maintains regular and fluid relations with that organization. Its representatives visit our country and together we provide follow-up to the agreements and activities that are planned, always adhering to the realm of the ICRC's mandate, in the broad spectrum of subjects dealt with by international humanitarian law.

In terms of carrying out visits to Cuban prisons, it should be pointed out that such facilities are subject to permanent and rigorous scrutinizing processes that are implemented by, among others, the Attorney General's Office of the Republic in its function as the general control body of the nation, and the Ministry of the Interior itself. The prison facilities are visited regularly by relatives of the prisoners, by representatives of political and social organizations, by law students, by artists sharing their creativity with the prisoners, as well as by religious authorities who provide their services to whoever so request.

Cuba actively participates in the processes of cooperation to perfect the prison systems established in the realm of the mandate of the Commission on Crime Prevention and Criminal Justice of the ECOSOC.

As Cuba explained in its presentation to the UPR, the country's prison system is heading towards transforming every prison of the country into a school in the most comprehensive sense of the concept.

No other kinds of visits to prisons are considered necessary in order to ensure the continuing improvement of the system governing their activities. The available resources for control, training, consultancy and professional development of the staff in charge of the functioning of the Cuban prison system have shown to be effective. The permanent improvement of the system does not require other types of visits nor complementary assistance.

- 11. Allow international independent organizations to visit Cuba (United Kingdom);**

It is difficult to understand the sense of this recommendation. Every year, Cuba receives visits from hundreds of representatives from inter-governmental and NGO international organizations including high-ranking UN officials.

Cuba was one of the first countries to receive the visit of a High Commissioner for Human Rights, in the person of His Excellency Mr. José Luis Ayala Lasso, in 1994, just a few months after this position was established in the UN. During the first months of 2009, we have received visits from the General Director of UNESCO and the Executive Director of the UNODC.

Only at the XI Encounter on Globalization and Development Problems, held in Havana from March 2 to 6, 2009, several dozens of representatives of international NGOs attended, all of them independent. We might also make reference to the visits we receive from international non-governmental organizations of lawyers and jurists, trade unions, women, indigenous peoples, organizations that claim self-determination of their peoples and others that promote the rights to development and peace. In other words, such visits involve international defenders of human rights whose independence has never before been questioned by anyone who is active in each one of the categories of human rights and who defend, both, individual rights of every human being, as well as the rights of peoples and the rights of third generation.

During visits to Cuba by personalities and representatives of independent international organizations, those distinguished persons take part in broad programmes of meetings with state and civil society representatives and they visit a wide variety of facilities and centres of civil, economic, cultural, political and social interest in the country; there they are offered the fullest of exchanges with the true representatives of the Cuban people, including their NGOs.

12. Address the root causes of prostitution by adopting measures enhancing women's economic opportunities (Austria);

Cuban economic and social policy prioritizes attention to the development of women, with sector programmes and specific measures contained in the National Action Plan for Follow-up to the IV UN World Conference on Women.

Not one woman in Cuba is forced into prostitution in order to assure herself the means for income and subsistence. Job opportunities for both men and women are broad and varied. Women constitute 46% of the country's labour force; 66% of the technical and professional force and 58% of all university graduates. They make up 38% of all persons in command positions and 43.32% of all the deputies to the National Assembly.

The phenomenon of prostitution does not have structural causes in Cuba today. The Socialist Revolution allowed us to surpass social and economic variables that led to the phenomenon of prostitution in the country prior to 1959.

After the Triumph of the Revolution, manifestations of prostitution were practically non-existent in Cuba until the decade of the 1990s. The need to develop international tourism in order to face up to the consequences of the tightening of the US blockade after the breakdown of economic relations that were developing for almost three decades with the then-socialist East European countries, imposed a collateral effect on the reappearance of the manifestations of prostitution.

In the difficult conditions of the special period of economic crisis affecting Cuba, even in its worst years, not one Cuban man or woman was abandoned to his or her fate. Cuba maintained universal social assistance and protection. The country used formulae that were deeply humane and full of solidarity, such as those establishing paid schooling and professional development for anyone losing their jobs when the economic activities they were involved in were paralyzed. Nobody in Cuba was forced into prostitution in order to have a decent standard of living.

The cases of prostitution from the 1990s, whose overall rates were far lower than those existing in most of the countries of the world, were associated to the stimulus brought by some tourists beginning to visit the country, many of them of European background. It was this sort of tourist –coming from a society where mass consumption is converted into a paradigm and where even sex acquires the value of merchandise- that caused the reappearance of prostitution cases in Cuba.

Once the state and Cuban society as a whole detected the reappearance of the above-mentioned manifestations of the phenomenon, several preventative programmes were designed and implemented; in these, education plays an essential role.

The Ministry of Tourism established a Department of Safety and Protection in charge of fighting against any sign of possible sexual exploitation and all kinds of corruption. The people working at tourist facilities are specially selected and trained and strict norms, controls and supervision are applied in which officials of the Ministry of the Interior and government structures in the different areas of the country also participate.

The Cuban state promotes family tourism and so packages have been created that allow for children under the age of 14 to stay free at the tourist facilities. Cuban hotels established “Children’s Clubs” that provide specialized child care whenever their parents so require.

Legislation in effect penalizes conduct related to the exploitation of prostitution or any form of sex trade.

Cuba shows solid and sustained achievements in the field of prevention and social attention. The State guarantees and improves, day by day, the conditions that allow for a full and decent life-style for everyone living in the Cuban territory. In this endeavour, the permanent will to comprehensively and coherently articulate and apply policies and programmes that have the human being and his wellbeing as a goal has become an essential ingredient.

13. Progressively reduce the number of offences liable to death penalty (Italy) and consider subsequent measures towards its complete abolition (Switzerland; Italy);

Even if it is included in the national legislation, the application of this sanction has a very exceptional nature in Cuba. It is only applied by the authorized tribunal, in extremely serious cases, for a reduced number of crimes for which this sanction is established, and it is nuanced by a wide range of requisites and guarantees that must be complied with. Life-term sentences are prescribed for some crimes with the aim of using this as an alternative for the death penalty.

A few months ago, the Cuban Council of State adopted the decision to commute the death penalty for a group of convicted persons. The decision was adopted as a sovereign act, in keeping with the humanitarian and ethical conduct that has characterized the Cuban Revolution since its inception.

Philosophically speaking, Cuba is against application of the death penalty. We are in favour of eliminating it when suitable conditions exist.

We have been forced, in the legitimate defence of our national security, to establish and to apply severe laws against terrorist activities and crimes designed to destroy the Cuban state or the lives of its citizens, always adhering to the strictest legality and with respect for the most ample guarantees.

Even if the death penalty prescribed in the national legislation, Cuba understands and respects the arguments of the international movement that proposes its elimination or a moratorium. For that reason, our country has not rejected initiatives in the United Nations having this aim.

14. Establish a recurrent system of review of its prisons by United Nations and other relevant international observers, in support of their stated commitment to continue to improve the prison system in Cuba (United Kingdom);

The Cuban prison system fulfills the Minimum Rules for the Treatment of Prisoners adopted by the United Nations.

A programme designed to convert prisons into schools and centres for human improvement is being applied in Cuba, offering facilities to the inmates so that they may go to school and train in professions having social relevance.

The system includes the application of a progressive regime designed to motivate positive behaviour in the inmates, through a gradual decrease in prison severity and as a basis for later granting of conditional liberty or suspension of the sentence. 82% of the inmates who leave the prison do so without having served their whole sentence.

There is a sub-system organized for medical and dental care, both primary and specialized, for inmates. There is one doctor per every 200 prisoners, one dentist per every 900 for preventive care, general and specialized, and one nurse per every 100. No prisoner has a medical condition that is incompatible with their prison regimen. Whenever that has happened, invariably the corresponding out-of-prison permits have been authorized.

Legal assistance is guaranteed for the inmates and personal contacts and made available with their legal representatives. There is also the guarantee of religious assistance on an individual and group basis for those inmates who request it and this is provided by representatives of the religious organizations officially registered in the country.

Inmates have the right to present complaints and petitions to the authorities and to receive attention or pertinent responses, in a time frame according to the law.

Every prison facility has been equipped with TVs and video equipment for educational purposes. At the present time there are 31 university campuses in the prisons.

Encampments were created with the aim to allow inmates to work, on the basis of the principle of willingness, at construction sites and in the area of food production, with adequate salaries. They are equipped with adequate living and working conditions. Those sentenced to prison and are working, have the right to receive the benefits of the Social Security System.

Violence and mistreatment, both physical and psychological, are totally prohibited and constitute crimes under the law.

Inmates receive visits, carried out without any screens, bars or glass walls or any other type of obstacle impeding direct contact between the inmate and his family or friends.

In accordance with international law, all prisons and detention centres are subject to a system of independent inspection by the responsible authority which administers said facilities.

The Ministry of the Interior, the Peoples' and Military Courts, the Attorney General's Office of the Republic and the Commissions for Prevention and Social Attention participate actively in the protection and ensuring of legality within the Prison System. Among them, the role of the Attorney General is essential.

Cuba has a permanent national system, with territorial structures, for review, supervision and systematic and recurring control of the prison and detention centres. That system has demonstrated its effectiveness as a support for the fulfilment of the objective of tirelessly improving the country's prison system. Cuba does not consider it necessary to establish a recurring review system for its prisons by the United Nations or by any other relevant international observers.

15. Adopt the necessary measures to combat sexual exploitation and adopt a law providing a legal framework to protect minors from sexual exploitation (France);

The Cuban legislation establishes the adequate legal framework for the protection of children and adolescents, without any differences.

The Criminal Code dedicates its Title XI to the "Crimes against the normal development of sexual relations, against the family, childhood and youth", and in particular, Chapter I deals with "Crimes against the normal development of sexual relations".

Sexual abuse of children is forbidden in our society and whoever commits acts of this sort is severely sanctioned, according to the regulations of the Criminal Code where sanctions are stipulated for the person who uses or induces children into prostitution, in the practice of corrupt or pornographic acts, whether they be hetero or homosexual in nature.

On June 17, 1997, Decree Law No 175 was passed to modify the Criminal Code, and in 1999 Law 87 was put into effect. In both cases sanctions were toughened against transgressors of the norms of social life, analyzing specially the title dedicated to the protection of childhood and adolescence.

By means of these modifications the crimes of procurement and trafficking in persons were added, the limits of sanctions were increased and specific modalities of trafficking in persons were introduced, establishing severe sanctions for those who were promoting, organizing or inciting the entry or departure of persons in the aim of exercising prostitution or any other form of the sex trade, identifying as an aggravating factor the recidivism in this type of crime or whether the delinquent makes a habit of this type of illegal activity.

As for the Crimes against Normal Development of Childhood and Youth, various modifications to the legislation in effect have been introduced with the aim of perfecting the framework for protection. For example, the crime of Corruption of Minors is now applied to anyone who uses a person younger than 16 years of age, of either sex, in the exercise of prostitution or in acts of corruption, hetero or homosexual pornography or other unacceptable activities.

The Criminal Code has other elements that protect children and adolescents in society. The development of the framework of protection has also responded to the challenges presented by transnational organized crime and other illegal activities associated with the growth of international tourism and the frustrated desires of using the Cuban national territory as a point of transit in international drug trafficking. For these types of crimes, it is also foreseen an accessory sanction to loss or suspension of Parent-Child rights and those of Guardianship.

In all cases, especially when circumstances of familiarity with the victim occur, accessory sanctions such as the confiscation of goods and the loss or suspension of rights deriving from parent-child or guardianship relations for parents, grandparents or guardians.

The Ministry of the Interior has spearheaded various plans and programmes for the confrontation of prostitution, corruption, pornography and other behaviours that put at risk the physical, psychological and social integrity of children and adolescents.

Cuban children and adolescents who are victims of prostitution receive special treatment that begins the moment the occurrence is ascertained. During the process qualified professionals from police investigation and the Minors Department of the Ministry of the Interior take part. At the same time, officials from the Institute of Legal Medicine participate, as experts in the field of physical or psychological disturbances, determining possible after effects for the victim and recommending treatment or follow-up as each case requires, from the medical, psychological, psychiatric, educational, family or social point of view.

Officers from the Prevention Department of the Ministry of the Interior, specialized in minors, ensure adequate treatment for child victims and their families, maintaining due compartmentalization and discretion in the handling of information avoiding that the very investigation process becomes traumatic or produces psychological effects that will affect the emotional state of the minor and stigmatize him or her on a societal level. Cuban law establishes, through the testimony of children that may be victims of sexual and commercial exploitation, support in all areas with the aim that the children do not become re-victimized.

From February 2005, the country has been developing the Centre for Attention to Children and Adolescents. It is a specialized facility whose goal is to decrease secondary victimization of mistreated children and adolescents. It prioritizes attention to events related to sexual crimes and will be extended to all criminal acts that harm the integrity of young children.

Taking into account the Law for Criminal Procedure and Investigation 173 of the Peoples' Supreme Court, each child and adolescent must be treated as an individual case both in the Protection Centre as well as during the hearing, in such a manner as to guarantee the adequate participation of the child in the process, as guarantee of their higher interest, attending to the evolution of their faculties.

The experience of the Centre for Protection and the Reference Centres for Circulation of the Rights of the Child reinforces and complements the policy maintained in many spheres of social life.

The tourism system rigorously applies the instructions that minors of both sexes must be present at tourist facilities in the company of adults. Access to discos and night clubs is forbidden to children younger than 16 years of age, since this does not correspond to their normal development and schedules. Guarantees for this policy are in effect at such locations; personal identification must be shown at the entrance. Cubans must show their identity cards and foreigners their passports.

The Tourism Sector in Cuba does not permit sex tourism. Control is especially strict, as we have pointed out, when there are children in attendance. Surveillance measures are applied along with regular scrutiny and severe sanctions for those not complying, including expulsion from the Tourist System and processing by the courts.

The country has also instituted the System of Prevention and Social Attention on the national, provincial and municipal levels and in the territories of the peoples' councils and districts which, among their aims, promote the participation of the population in the tasks of prevention and social attention and cooperation with the institutions that develop confrontation with anti-social and criminal activities. This provides for a comprehensive analysis, determination and effective application of multi-sector and multi-disciplinary actions.

Regarding this Recommendation, we also suggest reading the commentary to Recommendation 12.

16. Ensure the right to equality before courts and tribunals, and to a fair trial, as provided for by the Universal Declaration of Human Rights and ICCPR, and as outlined by the United Nations Basic Principles on the Independence of the Judiciary (Israel), and assure to all citizens the right to be heard by an independent tribunal (Austria);

In Cuba it is institutionalized a system of independent Tribunals, headed by the Supreme Popular Tribunal; those tribunals act collegially, are composed according to their competency, and have broad participation by the people in the process of imparting justice.

The Tribunals control and re-establish legality on the basis of surveillance and strict compliance with the Constitution, the laws and other legal regulations.

Cuban Judges are independent in their function of imparting justice and their only subordination is to the law, as it is established in the Constitution of the Republic and the Law of the Popular Tribunals. They are elected by the Assemblies of the Peoples' Power in accordance to the concerns.

Professional judges are elected, upon proposal by the Peoples' Supreme Court, for indefinite terms and they may only be revoked for reasons foreseen in the law; this contributes to autonomy and independence in the exercise of their functions.

The institution of lay judges constitutes one of the essential characteristics of the popular nature of the administration of justice in Cuba and, at the same time, one more democratic manifestation of our political system.

Lay judges are Cuban citizens who do not have any juridical degree; they impart justice at various instances in the popular tribunals throughout the Republic of Cuba, on a par with professional judges, for a period of 5 years.

Lay judges come from worker collectives, communities and civil society organizations. To be elected, the requisites are: be a Cuban citizen and enjoy high social acknowledgement.

The principles and guarantees foreseen in the Cuban criminal law are based on the principle of the dignity of the human being.

Principles such as legality, citizen participation, the presumption of innocence, objectivity, correction of judicial error, non-discrimination, determination of the punishment, equality between the parties, ownership of the criminal action, hearing process, publicity, immediation, concentration, contradiction, appreciation and backing up of evidence, protection of the victims, as well as the other principles of due process, are incorporated into the criminal law in force.

All trials are oral and public except in the cases exempted by law, with all the guarantees this entails. The judges are obliged to substantiate their rulings, according to the principle of free appreciation of the evidence.

Every accused person has the right to defence. No type of violence or coercion will be used to force persons to declare. Any declaration obtained by infraction of this precept is null and void and those responsible will be sanctioned in accordance with the law.

No accused person is obliged to declare in the context of its case. However, the accused have the right to declare whenever it is deemed convenient, in the interest of their own defence and in explanation of the facts. If they do not know the Spanish language or are illiterate or deaf-mute, interpreters will be assigned by regulation so that declarations may be made.

The court system in Cuba has a Code of Ethics that expresses the values and principles guiding the actions of the judges in a very precise way.

17. Adopt a law guaranteeing freedom of movement within the territory in accordance with ICCPR, which Cuba has signed, repeal the system of permits to leave the territory, and consequently delete from the criminal code the crime of illegal departure from the territory (France).

The existence of an official policy on the part of the government of the United States to subvert the constitutional order in Cuba, that has a legal framework unilaterally established to bring it to reality, including the actions of its special services and complicity with that policy by other governments, has determined the adoption of a protection strategy on the part of the Republic in order to guarantee its national independence and sovereignty.

In this context, the Constitution of the Republic of Cuba and Cuban laws establish the framework for the protection of the right of Cubans to freedom of movement and to select their place of residence in the country, to depart from the national territory and to return to it. National legislation and the policies applied in this matter are fully compatible with the substance of the ICCPR.

Every Cuban residing abroad who has his/her passport up-to-date may return to national territory as many times as he/she desires.

Cubans receiving corresponding authorization of the foreign governments in question travel without other restrictions abroad, except those established by law as exceptions based on reasons of national security or public interest.

Regarding this Recommendation, we suggest reading the commentaries to Recommendation 5, where reference is made to political manipulation in the bilateral migratory relationship, which even affects migration and trips by Cubans to third countries, applied by successive American administrations in function of its policy of anti-Cuban hostility.