



**International Convention on
the Elimination of All Forms
of Racial Discrimination**

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Committee on the Elimination of Racial Discrimination

**Concluding observations on the combined fourteenth to
eighteenth periodic reports of Cuba, adopted by the
Committee at its seventy-eighth session
(14 February–11 March 2011)**

Addendum

**Information provided by Cuba regarding the
recommendations in paragraphs 10, 14 and 20 of the
concluding observations***

[2 May 2013]

* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited.

Paragraph 10

1. Cuba has strong legislation providing guarantees to prevent and address reprisals with discriminatory motives and to expedite access to justice and remedies, by providing the opportunity to initiate administrative and judicial proceedings and to challenge decisions. This has resulted in the absence of criminal cases to date.
2. The Cuban constitutional order is based on the principle of absolute respect for human dignity and for the procedural and substantive rules governing the issues at hand and establishes all the guarantees and principles of due process. These include the principles of legality, citizen participation, presumption of innocence, objectivity, access to remedies, non-discrimination, equality of the parties, the oral and public nature of proceedings, the immediacy and concentration of proceedings, adversarial proceedings, the evaluation and substantiation of evidence and decisions, and the right of the parties to have the case reviewed if they do not accept the evidence and decisions.
3. Articles 41 to 43 of the Constitution of the Republic of Cuba confer equal rights and duties on all citizens, prohibit discrimination on grounds of race, colour, sex, national origin, religious belief and any other affront to human dignity, and also establish that such behaviour is punishable.
4. Furthermore, article 3, paragraph (b), of Act No. 49 of 28 December 1984 (Labour Code) establishes as one of the fundamental principles governing Cuban labour law that all citizens able to work, without distinction as to race, colour, sex, religion, political opinion or national or social origin, have the opportunity to obtain employment that enables them to contribute to society and to satisfy their needs.
5. Article 99 of the Act also provides that all workers, without distinction as to race, colour, sex, age or national origin, receive equal pay for equal work.
6. In Cuba, discrimination on grounds of race or any other consideration has no legal basis since all people have equal rights and duties. Any person who meets the eligibility criteria for a post may have access to it and may be appointed or promoted to management positions without distinction as to race, sex, origin or religious belief. This is not intended to be an exclusionary concept but, on the contrary, one that guarantees diversity of gender, origin, race and religious faith within the organizational structures of the State, in the spirit of popular awareness and culture that has prevailed since the triumph of the Revolution.
7. Expressions of discrimination — prohibited by the Constitution and other legislation — constitute an offence of “infringement of the right to equality” under article 295 of the Criminal Code, which specifically punishes such discriminatory behaviour.
8. Furthermore, the legal provisions in the area of employment guarantee access to justice and the right to challenge administrative decisions handed down in relation to employment and the rights of workers. Accordingly, if workers disagree with a disciplinary measure or if their rights have been violated, they may bring complaints before the labour justice bodies and the courts in cases provided for by law and in accordance with the provisions of Decree-Law No. 176 of 15 August 1997 on the system of labour justice.
9. The trial of such cases and the ability to appeal court decisions are governed by the Civil, Administrative, Labour and Economic Procedure Act of 19 August 1977, as amended by Decree-Law No. 241 of 26 September 2006.
10. A disciplinary measure of a discriminatory nature at work, which is illegal, may constitute the offence of “improper imposition of disciplinary measures”, provided for in article 297 of the Criminal Code, which stipulates that:

“(1) Anyone who, with or without legitimate permission, illegally imposes disciplinary measures on workers shall be liable to imprisonment for 3 months to 1 year or a fine of 100 to 300 accounting units (quotas).

(2) Any illegal disciplinary measure imposed out of enmity or vengeance or for any other malicious purpose shall be punishable by imprisonment for 6 months to 2 years or a fine of 200 to 500 accounting units.”

Paragraph 14

11. In Cuba, the media provide the population with information on racial, generational and gender integration, and on trends in these indicators in the composition of government and parliamentary bodies.

12. The media also promote the African cultural heritage, provide information on the struggles of people of African descent and design audiovisual materials to expose and combat racial discrimination.

13. In the field of education, an extensive coordination process is under way to integrate the subject into school and university curricula, and schools are encouraged to carry out activities promoting the African cultural heritage and are provided with support materials for that purpose.

14. Curricula are also being updated in order to continue to increase the coverage of African culture and history, slavery and the fight for its abolition, and the evolution of the African heritage to the present day. Efforts are being made to enhance knowledge of the role of black leaders and patriots in Cuban history through monuments, commemorative days and appropriate coverage of the subject in textbooks, and the national history curriculum is being actively revised to that end.

15. Furthermore, a group of important Cuban institutions, including the Museum of the Slave Route (unique in this part of the world), other municipal and provincial museums, and the Fernando Ortiz Foundation are responsible for promoting the African heritage and the history of slavery.

16. Particularly important initiatives in recent years have included the action plan for the International Year for People of African Descent in 2011 and the related commemorations in 2012, together with a communication plan specifically devised to emphasize the importance of the bicentenary of the abolitionist and pro-independence rebellion led by José Antonio Aponte and of the centenary of the massacre of the Partido Independiente de Color. Cuba has warmly welcomed the idea of working from 2013 on the United Nations Decade for People of African Descent.

17. Diligent researchers, activists, members of social organizations and political leaders have set up working groups, organized events, published books and promoted commemorations.

18. The Government supports and promotes these discussions, a fact which has contributed to ensuring that the fight against discrimination has become a subject of discussion in different areas of intellectual, community and political activity. This has also facilitated the coordination of all the factors involved in the issue and increased practical commitment to cooperation and participation.

19. Another important development was the inclusion of the fight against racial prejudice among the issues to be discussed by one of the working commissions of the highest legislative body, the National People's Assembly.

20. The Government encourages and supports the participation of the country's organizations in the Regional Network of People of African Descent in Latin America and the Caribbean, which held one of its meetings in Havana in September 2012. The meeting provided an ideal opportunity to disseminate, in Cuba, current thinking on the fight against racism and discrimination.

21. The integration of Cuba into the Regional Network of People of African Descent in Latin America and the Caribbean and the constitution of its Cuban Chapter in September 2012 demonstrate the country's commitment to fostering citizen participation in combating all forms of discrimination. The Cuban Chapter of the Network operates at two levels: it discusses and condemns racism in civil society and promotes proposals to tackle the issue through education, culture, the media and other areas.

Paragraph 20

22. In Cuba, no one is returned to the border on the basis of skin colour, sex, ethnic or religious background or any other discriminatory ground; they can be returned for violating the specific provisions of article 215 of the Criminal Code, which contains no reference of the kind mentioned but establishes as an offence entry into the national territory without complying with legal formalities or immigration rules.

23. The conduct defined in article 215 of the Criminal Code is fully consistent with the provisions of article 3 of the Protocol against the Smuggling of Migrants by Land, Sea and Air, which supplements the United Nations Convention against Transnational Organized Crime protecting national legal systems. Accordingly, any persons crossing the border without observing the legal formalities are returned to their country of origin. This is carried out in full compliance with human dignity and the rights of migrants.

24. With regard to foreigners who have been tried and convicted by Cuban courts, article 46 of the Criminal Code establishes the additional penalty of expulsion from the national territory, and paragraph 3 of the article exceptionally authorizes the Ministry of Justice to order the expulsion of the convicted foreigner before the main sentence has been served, which is known as administrative expulsion. In this process, specific requirements must be met and supporting legal documentation must be provided, including a certified copy of the sentence, the certificate of extinction of the remainder of the penalty issued by the court, a behaviour and health report on the prisoner and a statement of the grounds for the requested expulsion.

25. As to the transfer of foreign prisoners to their countries of origin in order to serve their sentence there, in accordance with the legislation of each country, this is carried out under the agreements signed between Cuba and the State of origin or residence of the prisoner. These set out the requirements and conditions for the procedure, which may be initiated by any State party or the prisoners themselves. This procedure is governed by the relevant international principles, namely, ensuring, as a rule, that the prisoners serve their sentence in their country of origin, that they have agreed to be transferred, and that the requested State party and the requesting State party agree. Other formal requirements must also be met, such as accredited certification of the fact that the offence that led to the conviction also constitutes an offence in the person's country, a certified copy of the sentence, the certificate of extinction of the remainder of the penalty issued by the court, a behaviour and health report on the prisoner and a statement of the grounds for the transfer.

26. Pursuant to the State's desire to give special attention to this issue, the Governing Council of the People's Supreme Court issued Special Instruction No. 9 of 11 November 2009 which, in exceptional circumstances and subject to the requirements established therein, also authorizes the removal from the national territory of non-resident prisoners

who have been granted any of the benefits of early release from prison. The same applies to persons sentenced to corrective labour without imprisonment or restriction of freedom, to those whose corrective labour sentence with imprisonment has been suspended, and to those who have received a conditional sentence but who, owing to their residency status, cannot, in the national territory, be subject to the restrictions or obligations provided for by criminal law.

27. These mechanisms are applied equally to all prisoners in these legal categories, without any distinction as to race, sex, origin, background, religious belief or other factors that may debase the status and human dignity of the individual concerned.
