

Nord Sud XXI
UPR Stakeholder Submission concerning Cuba
4th Session (2009)

Introduction

1. This UPR submission highlights the situation of social and economic rights in Cuba, particularly education and health care. In doing so Nord-Sud XXI reiterates that its views are without prejudice to those of other NGOs working in the field of human rights such as Amnesty International and Human Rights Watch in relation to the situation of other human rights. Due the limited nature of NGO involvement in the UPR, including significant restrictions on NGO contributions Nord Sud XXI finds itself limited in its contribution and forced to focus on just two areas of importance that should be of importance to the UPR process.

2. This UPR submission is based on an evaluation of data from UN sources, particularly, UNDP's 2007-2008 Human Development Report, and a Nord-Sud XXI fact-finding mission to Cuba conducted in August 2007. The government of Cuba did not cooperate with this fact-finding mission when invited to do so, but also did not obstruct it in any way. This mission spent two weeks in Havana and visited only a few villages in the surrounding region. The majority of the observation made in this contribution are based either on data disseminated by the United Nations or based on observations of the situation in urban Havana, the capital and largest city in Cuba.

3. The human rights to education and health care are guaranteed primarily by articles 12 and 13 of the International Covenant of Economic, Social and Cultural Rights.¹ The government's obligations extend not only to refraining from action that violates these rights, but also requires the government to take positive action--often requiring the investment of substantial resources--to ensure that all those under its jurisdiction are ensured the enjoyment of these rights.

4. For years Cuba has complained that successive resolutions of the Commission on Human Rights (Human Rights Council) constituted inappropriate pressure on the country. As a consequence the Cuban government refused to cooperate with Human Rights Council's mechanisms and thereby lost the benefit of the evaluation, advice and recommendation of these mechanisms. When recently, the mandate of the Special Rapporteur on Cuba was not renewed, the government of Cuba moved quickly to begin cooperating with thematic mechanisms of the Human Rights Council. Its actions included signing the International Covenant of Civil and Political Rights (ICCPR) and the International Covenant of Economic, Social and Cultural Rights (ICESCR) on 28 February 2008 as well as inviting and accepting the visits of the UN Special Rapporteur on the Right to Food. Cuba has also recently ratified the new International Convention on the Rights of Person with Disabilities (on 7 December 2007), Convention on the Elimination of All Forms of Discrimination against Women (1980),

1 993 *U.N.T.S.* 3, *entered into force* Jan. 3, 1976.

and the Convention on the Rights of the Child (1991), among others, all of which contain the human rights to education and health care.

The Human Right to Education in Cuba

5. Since 1961 the Cuban government has ensured free education all levels. This right is unambiguously enshrined in the Cuban Constitution in article 39(b) and has been applied to refugees granted asylum in Cuba as well as Cuban nationals. Article 39 of the 1992 Constitution deals expressly with Education and Culture. This right is again reiterated in article 51 that contains the right to education, stressing that this right includes “the fact that all educational material is provided free of charge.” Continuing education or adult education is also free according to this article. Article 52 contains a right to physical education, sports and recreation.

6. The Cuban government devoted 6.7% of its GDP and 12.6% of its total budget to education in 2002, according to UNESCO. Cuba also supports numerous foreign students to study at its universities. For example, 2,000 Venezuelan students will benefit from scholarships to Cuban universities under the terms of the Bolivarian Alternative for the Americas, an agreement with the government of Venezuela that was signed on 1 December 2004. The agreement also commits the two countries to promoting literacy.

7. This is one of the few examples of a state that has respected the right to education that is enshrined in article 13 of the International Covenant of Economic, Social and Cultural Rights that was recently signed by Cuba. The government of Cuba has accomplished this to such an extent that it has maintain the free access to even higher or university education, as is explicitly required by article 13(2)(c) of the ICESCR. It is one of the few countries in the world to have accomplished this feat. The right to education is also enshrined in article 26 of the Universal Declaration of Human Rights.

8. Cuba has 47 universities enrolling approximately 132,000 students (including 20,000 enrolled in distant learning programmes) according to the *Ministerio de Educación Superior* (Ministry of Higher Education). While entrance to the universities is based on merit some students interviewed in Havana claimed that unfair advantages are often given to students who support the government or are family members of senior government officials.

9. The education statistics concerning Cuba, according to the UNESCO Institute for Statistics’ EdStats Database (2008) are some of the most impressive in the world. In 2007 Cuba boasted over 95% primary school enrollment for both boys and girls with over 90% completion rates. Literacy is almost 100% and gender parity has been achieved, according to UNESCO.

10. During the August 2007 fact finding mission it was possible to visit the University of Havana and several secondary or lower level schools in Havana to view the facilities. It should be noted that this was done while the facilities were not being used during the school vacation period. Nevertheless, the general maintenance of school and university buildings appeared to be of a high standard relative to many surrounding buildings that were also visited or viewed

from the street.

11. Although the 2007 fact finding mission took place during the school holiday period it was possible to meet with several students and teachers. Of approximately a dozen students and three teachers who were contacted the following comments and concerns were raised. The students and teachers names have been protected at their request:

- several students, who were met together as a group, expressed satisfaction with their university education, although they also expressed an interest in being able to learn more about other countries and cultures, which they claimed are not part of their regular curriculum;
- some university students questioned whether the curriculum was too biased to supporting government policies and asked if a curriculum could not be constructed that provided more information about criticism of Cuba, adding that they needed this information to defend their state;
- four university students in Havana expressed confidence that their level of education was as good as that of person anywhere in the world, but when asked if they had had the opportunity to compare their education with other outside of Cuba they answered negatively;
- four university students in Havana confirmed that that university education was free, but still complained about the necessity for them work as well to contribute to family expenses which distracted from their education;
- Several students outside of Havana expressed the difficulty with attending technical schools because of the fact that they had to work full-time to contribute to supporting their family.
- one teacher complained of the lower remuneration and lack of adequate materials, stating that he had to work other jobs as well as his full-time teaching job to support her family; and
- The same teacher complained about the quality of the materials available for teaching claiming that many books from overseas, especially Spanish books from Mexico and Spain, were not readily available or cost too much for either students or teachers to purchase.

12. It was not possible to address the government about the concerns expressed because of its failure to officially cooperate with the visit.

The Human Right to Health in Cuba

13. The right to health is the responsibility of the Cuban state. It is unequivocally guaranteed by article 50 of the Cuban Constitution that states that "[e]veryone has the right to health protection and care." The right expressly includes the right to free medical

care, including hospital care and dental care. By providing for this right Cuban government has taken a significant formal step towards providing for the human right to health as it is stated in article 12 of the International Covenant of Civil and Political Rights that was recently signed by Cuba. The right to health is also enshrined in article 25 of the Universal Declaration of Human Rights.

14. The Cuban government devoted 9.6% of its GDP and 8.4% of its total budget to health in 2002, according to the Washington, D.C, based World Bank. The Bolivarian Alternative for the Americas agreement mentioned in paragraph 6 above also commits Cuba to providing more than 15,000 medical professionals to the 'Barrio Adentro' programme that is providing health care to some of the neediest Venezuelans.

15. Although the Cuban health care system is considered one of the best in the world, it is significantly handicapped by the inability of medical facilities to upgrade due to the unilateral economic sanctions imposed by the United States (*See below*, External Factors affecting the human rights to education and health).

16. Any visitor to Havana is inevitably struck by the state hospitals as compared to other buildings. The hospital buildings are well maintained and the sanitary conditions inside the hospitals visited were outstanding.

17. The unannounced visits hospitals in Havana in August 2007 included a visit to the 750-bed *Hermanos Almejeiras Hospital* and a maternity clinic in the old city. Below are some observations and opinions expressed by persons at the hospitals, both patients and hospital staff.

- it was obvious that Hermanos Almejeiras Hospital served overwhelmingly people from Cuba, including some of the local people;
- we were told that sprawling Hermanos Almejeiras Hospital served more than 150,000 people in the local vicinity, which we observed included many people who appeared to be common workers;
- the hospital facilities visited were well-kept and hygiene was equal or better than that of hospitals in, for example, Washington, D.C.;
- some patients at Hermanos Almejeiras Hospital expressed concern that they had to pay a small amount for the medical services they received, apparently for drugs or medical supplies;
- neither facility appeared overcrowded, but had a regular flow of persons that were being served;
- at the maternity clinic three women with babies expressed pleasure at their treatment, but two also expressed concern about being able to care for their children after the return home and to work;

- Several hospital and clinic staff complained about the lack of adequate drugs and medical supplies, they claimed was due to the unilaterally imposed embargo.

18. Again it was not possible to address the government about the concerns expressed because of its failure to officially cooperate with the visit.

External Factors affecting the human rights to education and health

19. Cuba is a country that has suffered from unilaterally sanctions imposed by the United States. The effects of this embargo on the enjoyment of the human rights to health care have been well documented² and would appear to be equally relevant to supplies in the field of education. Health experts have posited that the state responsibility for the obstructions to the right to health lies with the United States government that maintains the sanctions.³

Recommendations

20. Cuba should be commended for signing the ICCPR and ICESCR and should be encouraged to ratify both these treaties quickly and without reservations and to begin immediately cooperating with the respective treaty bodies.

21. Cuba should be encouraged to ratify the optional protocols allowing for individual communications that either exist or will soon exist under each treaty.

22. Cuba's efforts to ensure the right to education and health care should be used as an example for other countries of a best practice of the prioritization of human rights by the adequate allocation of resources.

23. Cuba should be reminded that its significant effort to protect social and economic rights must of civil and political rights as well.

24. Attention should be had for the sanctions that have been unilaterally imposed on Cuba and that form the single most significant impediment to the Cuban government's efforts to ensure the human rights to education and health care.

2 See Barry, M., "Effect of the U.S. Embargo and Economic Decline on Health in Cuba," 132 (2) *Annals of Internal Medicine* (18 January 2000) and Garfield, R., Santana, S., "The impact of the economic crisis and the US embargo on health in Cuba," 87(1) *American Journal of Public Health* 15-20 (January 1997).

3 Kirkpatrick, AF., "Role of the USA in shortage of food and medicine in Cuba," *The Lancet* 1489-1491 (30 November 1996).