

The international law violations of Cuba's “international collaboration” (service export) arrangements

The Cuban State's large “cooperation agreements” to sell the services of its citizens as temporary workers—in health and other fields—to other governments or corporations violate the following international agreements ratified by Cuba and most of the countries where the workers are sent. These norms are generally reflected in the internal legislations of the destination/host countries.

The Trafficking in Persons (or Palermo) Protocol

The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, is one of three “Palermo Protocols” supplementing The United Nations Convention Against Transnational Organized Crime, adopted by the UN General Assembly on 15 November 2000, entered into force on 29 September 2003 and accepted by Cuba on June 20, 2013 with one exception regarding the settlement of disputes (Art. 15, paragraph 2 establishing arbitration and the option of referral to the International Court of Justice.)

- “Trafficking in persons means “the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, ...of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person, for the purpose of exploitation.” (Art. 3, subpara (a).)
- “The consent of the victim to the intended exploitation is irrelevant once it is demonstrated that deception, coercion, force or other prohibited means have been used.” (Art. 3 subpara. (b.)
- “Exploitation shall include, at a minimum, ...forced labour or services, slavery or practices similar to slavery, servitude...” (Art. 3 subpara (a.)
- Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences intentional conduct set forth in article 3 of this Protocol. (Art. 5).
- Sec. 103 (B) defines as a “severe form of trafficking”, “the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.”

ILO (International Labour Organization) Conventions

- **Convention No. 95 on the Protection of Wages** of 1949, signed by Cuba April 29, 1952, stipulates:
 - ◊ “Employers shall be prohibited from limiting in any manner the freedom of the worker to dispose of his wages.” (Art. 6.)
 - ◊ “Deductions from wages shall be permitted only under conditions and to the extent prescribed by national laws or regulations or fixed by collective agreement or arbitration award.” (Art. 8.)
 - ◊ “Any deduction from wages with a view to ensuring a direct or indirect payment for the purpose of obtaining or retaining employment, made by a worker to an employer or his representative or to any intermediary (such as a labour contractor or recruiter), shall be prohibited.” (Art. 9.)
- **Convention No. 29 on Forced or Compulsory Labor** of 1930, signed by Cuba July 20, 1953 defines “forced labour” as: “All work or service which is exacted from any person under the menace of any penalty and for which said person has not offered himself voluntarily.”
- **Convention No. 87 on the Freedom of Association and Protection to Organize** of 1948, signed by Cuba June 15, 1952, grants workers the right to associate themselves voluntarily and to establish unions.
- **Convention No. 98 on the Right to Organize and Collective Bargaining** of 1949, signed by Cuba April 29, 1952.

- **Convention No. 111 on Discrimination (in Employment and Occupation)** of 1958, signed by Cuba August 26, 1965.
- **Convention No. 122 on Employment Policy** of 1964, signed by Cuba Feb. 5, 1971, requires representatives of workers to be consulted concerning employment policies with a view to taking fully into account their experience and views and securing their full cooperation in formulating and enlisting support for such policies.
- **Convention 105 on the Abolition of Forced Labour** of 1957, signed by Cuba June 2, 1958.

Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

The C.A.T. entered into force in 1987 and was ratified by Cuba in 1995. It defines “torture” as any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as ... intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity (excluding pain or suffering arising only from, inherent in, or incidental to lawful sanctions).

International Covenant on Civil and Political Rights of 1966, signed by Cuba February 28, 2008.

Art. 7. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

Art. 8. 1. No one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited. 2. No one shall be held in servitude. 3. (a) No one shall be required to perform forced or compulsory labour.

The Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery of 1956, signed by Cuba June 28, 1954.

American Declaration of the Rights and Duties of Man

Adopted by the 9th International Conference of American States (1948), reprinted in Basic Documents Pertaining to Human Rights in the InterAmerican System, Organization of American States.

The Universal Declaration of Human Rights

Its Article 23 states that: 1. Everyone has the right to work, to free choice of employment, to just and favorable conditions of work, and to protection against unemployment. 2. Everyone, without any discrimination, has the right to equal pay for equal work. 3. Everyone who works has the right to just and favorable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection. 4. Everyone has the right to form and to join trade unions for the protection of his interests.



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