

**STATEMENT BY THE DEPUTY DIRECTOR-GENERAL FOR  
MULTILATERAL AFFAIRS AND INTERNATIONAL LAW OF THE MINISTRY  
OF FOREIGN AFFAIRS, AMBASSADOR PEDRO LUIS PEDROSO CUESTA,  
HEAD OF THE CUBAN DELEGATION, IN PRESENTING THE REPORT OF  
CUBA UNDER THE INTERNATIONAL CONVENTION FOR THE  
PROTECTION OF ALL PERSONS AGAINST FORCED DISAPPEARANCES.**

**(Geneva, Switzerland, 6 March 2017)**

Mr. President and distinguished members of the Committee:

I have the honor to present, on behalf of my Government, the report of Cuba on the Convention that is the subject of our attention, which was the result of a broad and participatory consultation process. This process involved numerous governmental and state institutions, the Parliament, non-governmental organizations and other entities which, on the whole, objectively assessed the implementation of the Convention.

Until 1958, enforced disappearances were a common practice of the authorities in Cuba, which reached its peak during the bloody Batista dictatorship. The Cuban Revolution, with deep humanist and ethical content, put an end to this State policy.

Since 1959, the guarantee to the right to life, the respect for the physical and moral integrity of the individual, and the defense of the interests of the citizens have been a pillar of the Revolution, despite having faced almost 60 years of aggression, acts of terrorism and a strong economic, commercial and financial blockade by the Government of the United States. That is why in the national territory under Cuban jurisdiction there are non enforced disappeared or secret detentions.

For this commitment, Cuba participated actively in the negotiations of the Convention; it was one of the main co-sponsors of the resolution that adopted it and one of the first 10 countries to ratify it in February 2009.

Mr. President:

The Cuban legal system regulates and protects the rights of the individual. The Constitution protects human dignity as an essential value. Accordingly, the law establishes not only the basic legal guarantees universally recognized for the protection of human rights, but also provides the material guarantees for the effective exercise of these rights, both civil and political, as well as the economic, social and cultural rights.

The Cuban State and Government have taken the necessary actions to prevent and punish acts proscribed under the Convention. Cuba will never allow the use of its territory for committing acts of this kind.

Therefore, the legal measures to protect the population from acts of enforced disappearance are not subject to exceptions in case of war, internal political instability or any other public emergency.

The criminal law provides for severe penalties for conduct against life, physical integrity and freedom of individuals. Criminal liability is aggravated when these conduct are committed against a minor, are the result of abuse of power or authority, take advantage of the victim's defenselessness or are committed by a public official.

The freedom and inviolability of the person are guaranteed to all those who reside in the national territory. No one can be arbitrarily detained. When the authorities are required to arrest upon evidence that the law has been violated, they act in accordance with the criminal procedure and in compliance with the broad guarantees of due process in conformity with international standards.

*Habeas corpus* is applicable to challenge the legality of detentions. Between 2010 and the first quarter of 2016, Cuban courts processed 88 *habeas corpus* proceedings. In for 4 of those cases the immediate release was ordered, without prejudice to criminal responsibility of those responsible. In addition, the Law allows other appeals to be filed.

The protection and assistance to victims, complainants and witnesses of any crime are available from the beginning of the criminal process.

Also, the country has an automated system of information to the population that allows to know the detention of any person. It is a reliable tool for providing information on arrests, enforcement of sanctions and precautionary measures of pre-trial detention. This system, other official registers and the records of each person deprived of liberty address the aspects indicated in Article 17, paragraph 3 of the Convention, and even others.

Mr. President:

Although enforced disappearances do not take place in Cuba, we are aware that there are still things to do. Every human work is perfectible, provided there is a commitment to it. That is why today we take the necessary actions to overcome the challenges we face.

In this way, we recognize the need to continue making progress in order to guarantee the normative and material specifications required by the Convention, and we wish to underline that we are working in that regard. An example is the ongoing studies for the modification and updating of the Penal Code, with a comprehensive vision of the changes that must be made, among which we assess the most explicit definition of the crime of enforced disappearance, according to the Convention.

In the meantime, as the national report pointed out, the absence of definition on forced disappearance has been supplemented through other crimes whose constituent elements may be associated with acts proscribed in the Convention.

The registration of statistical data still fails to meet the high level of detail required by this Committee and other treaty bodies. It is an area of challenge for any developing country.

Mr. President:

We intend to discuss now in more detail some key elements for our examination. For example, any person investigated, tried or detained enjoys the guarantees of fair treatment at all stages of the proceedings and those provided for by law before a competent, independent and impartial court.

The Prosecutor ensures respect for the procedural guarantees of the accused, the protection of the rights of the victim or offended by the crime and the interests of the State and the society in general.

Cuban law guarantees and regulates legal assistance to persons deprived of liberty, as well as communication with their families and other persons. Any detainee is guaranteed the right to appoint defense lawyers of his choice, who are a party to the proceedings and may offer evidence in his favor from the moment he is notified of a precautionary measure.

The police personnel carrying out the detention of a citizen is obliged to inform him of the reasons, the charges against him and the rights that assist him.

In the provision entitled Main Regulations in the area of Prosecution of Offences of the Police Station, it is established that any person who enters the detention area is given a medical examination. Detainees with injuries are not allowed to enter those areas without a medical certificate and determination of the causes of such injuries.

If a detainee is detected or known to have been the victim of an injury, the offender is required to have criminal responsibility under articles 272, 273 and 274 of the Penal Code. These articles provide for sanctions whose severity will depend on the seriousness of the injuries and the consequences for the victim. It is possible to challenge documentary evidence of investigative proceedings against allegations of injuries for which ex officio medical examinations are provided. Faced with possible implications of officers or agents in a detainee's

injuries, commissions are set up to investigate the matter and the Prosecutor's Office is informed.

We consider relevant to the Committee the priority given by our Government to the protection of lives of persons deprived of liberty.

The country has the necessary guarantees, both legal and practical, so that in all prison facilities a fair and dignified treatment is given to inmates, despite the material difficulties imposed by the blockade we are suffering, which affects all areas of life and has caused a direct economic damage of US 125, 873 billion dollars. Likewise, there are procedures to severely punish the personnel who violate or fail to comply with these norms.

It is a pillar of the penitentiary system to comply with the "United Nations Standard Minimum Rules for the Treatment of Prisoners or Mandela Rules".

All persons deprived of liberty receive free medical care and are guaranteed dentistry care.

A progressive regime is applied as a method to serve custodial sentences aimed at fostering the development of the educational process and at encouraging the positive behavior of prisoners by gradually decreasing the penitentiary rigor as a basis for their subsequent early release and assurance of an adequate social reintegration. Special priority is given to young people.

Educational programs have had a positive impact on the prison population, improving relations between inmates and their families as well as fostering an atmosphere of human improvement and enhancement in prisons.

The Supreme Court, the Office of the Prosecutor and the specialized organs of the Ministry of the Interior systematically assess and provide for the early release of inmates, taking into account the behavior, the characteristics of the acts committed and the family and health conditions.

Between 2010 and 2016, an average of one-third of those subject to sanctions benefited from early release, the vast majority on probation, and the remainder on prison leave, change of measure and on suspension of compliance of correctional labor with internment. In addition, in September 2015, 3,522 inmates were pardoned and in November 2016, 787 others were pardoned as well.

All establishments and prisons are subject to an independent inspection system. Judges and prosecutors have access to these facilities to supervise the enforcement of sanctions or provisional detention.

Article 127 of the Constitution and 28 of Law No.83 of the Attorney General empower this institution to carry out inspections in order to verify compliance with the law in any prison and detention facility. This guarantees the respect for the individual rights of the prisoners and the legality of the enforcement of sentences through a control mechanism that does not belong to the Penitentiary Administration.

In addition, under the Military Prosecutor's Act No. 101, military prosecutors are empowered to inspect at any time places of detention, disciplinary units and military penitentiary establishments.

At regular inspections of the Attorney General's Office, usually without prior notice, the Prosecutor interviews detainees, defendants in custody and people subject to sanctions, investigates their status or legal registration and makes them clear of any doubts. In cases in which he detects violations, he issues a mandatory resolution so that the broken legality is restored. Officials and authorities who in the exercise of their functions violate the guarantees and limits established are required criminal and administrative liability.

In general, between 2012 and 2015, the Attorney General's Office carried out 40,430 inspections in prisons and local detention facilities, with the immediate resolution of around 80% of the violations detected. The rest remained pending

in the period due to objective factors, generally associated with constructive investments.

Mr. President:

Children and adolescents receive priority attention in Cuba, under the principle that "nothing is more important than a child." The political will has made it possible to consolidate a comprehensive system that has been decisive for the wide protection enjoyed by Cuban children today.

The Penal Code establishes the offence of substitution of one child for another, by which sanctions are provided for those who remove or substitutes a child of someone else by another, which are aggravated if the offence is committed for profit or other malicious purpose. The Code also regulates the offence of Sale and Trafficking of Minors. In Cuba there are no street children available to adopt and preference is given to adoption by nationals, Cuban couples unable to conceive and wish to adopt. We are glad that, given the rigor of the adoption process in Cuba, there are no cases of illegal adoption.

Another relevant issue is that Cuba has in force a total of 11 extradition treaties and 27 reciprocal legal assistance agreements, of which 16 provide for extradition. In total, 27 agreements include extradition matters. In addition, the country recognizes the validity of the Bustamante Code on Private International Law of 1928, which in Title 3 regulates extradition. It has also incorporated a general method for concluding extradition agreements that allows for an interpretation of the criminal type capable of encompassing all figures, regardless of their denomination by national legislation. It does not follow the list method.

It is worth mentioning the priority given by the country to the professional and technical training of medical personnel, prison and police agents and authorities, public officials, criminal investigation officers, including those involved in interrogations and personnel in charge of law enforcement, whether

civil or military. Training programs include international human rights standards, including the Convention and provisions of Article 23.

Mr. President:

We are grateful for the possibility of establishing this dialogue, that we hope will help us to further improve our society and its work of justice, which we are consolidating with the updating of the Cuban economic model, in order to continue fostering the enjoyment of all human rights for all.

We will continue working from the Government and with the active participation of the civil society to maintain and improve the results and to face the challenges. All the representatives of our delegation, from their different areas, have come prepared to an open, objective and transparent dialogue.

Thank you.