Child Rights References in the Universal Periodic Review

Summary:
A compilation of extracts featuring child-rights issues from the reports submitted to the first Universal Periodic Review. There are extracts from the 'National Report', the 'Compilation of UN Information' and the 'Summary of Stakeholder's Information'. Also included is the 'Final Report' and 'Conclusions and Recommendations' from the Review.

Cuba - 4th Session - 2009
5th February 2009, 2.30pm - 5.30pm

National Report
29. Act No. 59 of 16 July 1987 (Civil Code), Act No. 49 of 28 December 1984 (Labour Code), Act No. 81 (Environment Act), Act No. 14 of 1977 (Copyright Act), Act No. 24 of 1979 (Social Security Act), Act No. 1289 of 1975 (Family Code), Act No. 16 of 1978 (Children and Youth Code), Act No. 62 of 1987 (Criminal Code), Act No. 7 of 1977, as amended by Decree-Law No. 241 of 26 September 2006 (Civil, Administrative, Labour and Economic Procedure Act), Act No. 5 of 1977 (Criminal Procedure Act) and other laws, all supplement and establish guarantees of the exercise of all human rights in Cuba. The international treaties signed in the name of the Cuban State or its Government, also form part of Cuba’s legal order. Cuba has signed or ratified the major legally binding international human rights instruments.2

39. Death penalty. Even though this is included in Cuba’s national legislation, it is applied only in highly exceptional cases. It is handed down by the competent court only for the most serious cases of those crimes to which it applies. The death penalty cannot be imposed on persons below 20 years of age or on women who were pregnant at the time of the offence or are pregnant at the time of sentencing. In 1999, the National Assembly passed Act No. 87 amending the Criminal Code and providing for life imprisonment for various crimes mainly as an alternative to the death penalty. Since 2000, with a single exception in April 2003, Cuba’s policy has been not to carry out any punishment of this kind. A group of convicts had their death sentences commuted in May 2008. Cuba has incorporated the safeguards established by the United Nations in this regard into its legislation and implements them fully.

59. Education: a right of all Cubans. Cuba eradicated illiteracy in 1961 and is now working on the universalization of higher education. Chapter V of the Constitution, on “Education and Culture”, establishes that education is a public service provided free of charge. This function is performed by the State as a non-transferable duty and a right of all Cubans, without distinctions or privileges.

60. The Cuban State has created the material conditions and human capital to ensure quality education for all, with universal coverage and free of charge at all levels, regardless of students’ or their family members’ gender, skin colour, income, religion, opinions or political ideas.

61. School enrolment in different forms in the 0-5 age group in 2007/08 was 99.5 per cent. Enrolment for 6 to 11-year-olds was 99.7 per cent and for 6 to 14-year-olds 99.2 per cent. Nearly 70 per cent of young Cubans aged between 18 and 23 are at university. Cuba has one teacher for every 30 inhabitants. One hundred per cent of children with special educational needs receive appropriate attention in special schools.

62. Education is constantly being improved. The projects undertaken include: teaching of computing from primary level on; educational technology such as television and video in every classroom; creation of two educational television channels; establishment of special programmes for university education for older adults; creation of university-level units in every municipality in Cuba in order to provide universal access to that level of education. The Social Workers Programme has enabled thousands of young people to advance up to university level and perform socially useful work.

63. Of the Cuban State’s budget expenditure for 2007, 19.3 per cent was earmarked for education. Cuba has far exceeded the six objectives of the UNESCO Education for All Programme.

64. Right to culture. Culture and science in all their manifestations are fostered and promoted in Cuba, as are freedom of artistic creation, the defence of Cuba’s cultural identity and the conservation of the nation’s heritage and artistic and historical wealth. Culture is in reach
of all social sectors and all citizens, including those living in rural areas, are offered equal opportunities for developing their full potential. Cuba sees culture as one of the main sources of development, because of the spiritual, creative, emotional, moral and ethical richness it brings to society and to the nation’s material and intangible heritage.

65. The Cuban system has 72 art schools, 20 of them elementary level and 37 intermediate level, and 15 art instructor training schools. In the 2007/08 school year the Higher Institute of Art had 1,511 students and there are also two higher education colleges in two of the provinces, Holguín and Camagüey. All in all there is a total of more than 27,000 students who receive free artistic training. The broad range of teaching throughout the country makes it possible to raise artistic talent to high levels. There is a large network of cultural institutions throughout Cuba.4

68. At the end of 2007 the unemployment rate stood at 1.8 per cent. There are programmes to address the special needs of women, youth, persons with disabilities and those who have served prison sentences, among others.

72. Despite the negative impact of the United States policy of hostility and blockade on the acquisition of resources and medical technologies, Cuba makes a colossal effort to keep its health services up to the highest standards of excellence. In the short and medium term, it seeks to increase life expectancy at birth to more than 80 years and reduce child mortality for children under 5 to less than 5 per thousand live births. A major investment programme is under way, which includes the refurbishment of many hospitals, polyclinics and other health units and the construction of new facilities such as genetics centres and rehabilitation wards.

73. In education, methods developed by Cuban experts, such as “Yo si puedo” (“Sure I can”) and “Yo si puedo seguir” (“I can go further”), have proved of great value in making millions of people literate, notably indigenous and Afro-descendant populations and women in rural areas. As at 14 October, more than 3.4 million people in 24 countries have been made literate with these methods. More than 30,000 young people from 124 countries and five overseas territories are studying in Cuba, nearly 24,000 of them studying medicine.

78. Between 1961 and the 2007/08 school year, over 52,000 young people from 132 countries and five overseas territories graduated from Cuban universities, including more than 34,000 from Africa.

86. Cuba has other home-grown mechanisms for monitoring and enhancing the realization of human rights. One example is the system of social workers, who provide services in the community and identify Cuban families’ support needs. Social assistance protects 328,462 families and benefits 599,505 people. Of these, 16,180 receive help in the home, 77.6 per cent are older people, 21.8 per cent are persons with disabilities and 0.6 per cent are working mothers with children with severe disabilities.

101. Pregnant prisoners receive medical care during pregnancy and are transferred to special wards for care. The birth takes place in hospital conditions and is attended by medical staff. They are also put on a special enhanced diet during pregnancy and until the child is one year old; during that period the prisoner is with her child all the time to ensure breastfeeding. Once the year is up, the baby may be handed over to family members or placed in a nursery free of charge.

102. Cuba continues to improve its prison system. Special emphasis is placed on education, with a view to making prisoners’ rehabilitation and social reintegration even more effective. Tarea 500 (Task 500), launched in 2000, is a programme designed to transform prisons into schools, and help rescue and guide young people and minors who risk committing offences.

UN Compilation

1. The Committee on the Rights of the Child (CRC) recommended that Cuba consider the possibility of reviewing its declaration to the Convention with a view to its withdrawal.7

18. CEDAW called on Cuba to take all appropriate measures to suppress the exploitation of prostitution of women, including discouraging male demand for prostitution. Cuba should increase its efforts to implement education programmes and campaigns against prostitution, to enhance women’s economic opportunities, to study the root causes of prostitution and take remedial measures.50 In 1997, while noting that trafficking and child prostitution were not major problems in Cuba, CRC recommended that the Criminal Code protect children up to the age of 18 from sexual exploitation. Further measures should address matters relating to the sexual exploitation of children, particularly through tourism.51

35. The ILO Committee noted that domestic legislation does not fully comply with Convention No. 79 concerning the Restriction of Night Work of Children and Young Persons in Non-Industrial Occupations,90 and that the prohibition made to persons under 18 years from carrying out certain hazardous work is not sufficiently wide to cover all types of hazardous work within the meaning of Convention No. 138.91

39. As regards access to antiretroviral treatment, Cuba exceeds 80 per cent in treatment coverage, according to a 2005 UNAIDS/WHO report.97 Cuba’s epidemic remains by far the smallest in the Caribbean but new HIV infections are on the rise, and preventive measures appear not to be keeping pace with conditions that favour HIV spread, including widening income inequalities and a growing sex industry. However, prevention of mother-to-child transmission programme remains highly effective. Universal and free access to antiretroviral therapy has kept the number of AIDS cases and deaths low.98

40. In 2006, CEDAW was concerned that, as a result of insufficient awareness about, and access to family planning and contraceptive methods, abortion may be used as a method of birth control and lead to multiple abortions during a woman’s childbearing years.99

41. The Special Rapporteur on the right of food, while noting the impressive progress made by Cuba towards the realization of the right to food, believed that important challenges remain.100 Those particularly vulnerable to poverty and food insecurity include people living in the eastern provinces, women, children, the elderly, as well as female-headed households. With a robust life expectancy of 75
years for men and 78 years for women, Cuba faces the future challenge of providing food security with a declining agricultural workforce. Despite the intended inclusiveness of the food rationing (libreta) system, Cubans face difficulties in accessing affordable food in light of their insufficient income, particularly those who do not belong to any of the groups at particular risk and have to obtain 50 per cent of their minimum food requirements from non-subsidized mechanisms such as agricultural markets. This situation has worsened in recent years. In addition, the limited number of products available in national currency has impeded the Government’s ability to ensure economic access to sufficient and adequate food to the whole population. While measures are being initiated to improve this, further progress is required. In 2008 the United Nations Statistics Division indicated that the proportion of the population that was undernourished in 2002 was 2.5 per cent.

43. According to UNESCO reports, investment in education is high, amounting to 10–11 per cent of gross domestic product, the teaching staff is well qualified and a strong literate environment has been set in place. The United Nations Statistics Division indicated that the net enrolment ratio in primary education in 2006 was 97 per cent.

47. A 2004 UNESCO report noted that Cuba has achieved high standards of education quality, and that its educational feats are impressive: it reduced illiteracy from 40 per cent to near zero in 10 years. CRC noted in 1997 the historic progress Cuba made in providing services for and advancing the well-being of children, especially in the fields of health and education. From 2004 to 2007, the Personal Representative also reported on positive aspects in the sphere of economic, social and cultural rights, especially in the areas of education and health. According to the 2004 CCA, Cuba has attained health indicators with a high degree of national homogeneity.

48. According to the Personal Representative, Cuba’s efforts are all the more significant given the disastrous and lasting economic and social effects - compounded in 2004 - of the embargo imposed on the Cuban population over 40 years ago, as well as its impacts on civil and political rights. The Committee on Economic, Social and Cultural Rights (CESCR) noted in 2003 that Cuba has experienced a result of the embargo and the repercussions this has on the enjoyment of human rights in the country. In particular, food importation is a difficult and expensive process, and medical supplies are in short supply, and women have been most affected as they are the principal actors in domestic life.

50. United Nations agencies also stressed the negative impact of the embargo on opportunities for development (UNDP and UNFPA); food security of the vulnerable segments of the population (FAO); food-based safety nets (WFP); fundamental rights of children, adolescents, women and families (UNICEF); in the area of health (UNFPA, WHO and PAHO); human settlements, planning and management and environmental health (UN-Habitat); education (UNICEF and UNESCO); science, culture, communications and information (UNESCO); and the quality of life of the most vulnerable groups (UNFPA) and the people in general (WFP and PAHO). The 2008-2012 UNDAF report noted that the blockade represents an obstacle to the process of development of the country.

Stakeholder Compilation (Spanish and English)

5. La FMC también indicó que la Comisión Permanente de “Atención a la Juventud, a la Niñez y la Igualdad de Derechos de la Mujer” de la Asamblea Nacional del Poder Popular, sigue desempeñando valiosas funciones en la protección y promoción de los derechos humanos de las mujeres, niñas, niños y adolescentes. La Asociación Cubana de Limitados Físico-Motores (ACLIFIM) hizo referencia al Consejo Nacional para la Atención a las Personas con Discapacidad (CONAPED) y a los planes de Acción Nacional para la Atención de Personas con Discapacidad, en particular el III Plan correspondiente al periodo 2006-2010.

45. El Foro indicó que la educación garantiza el acceso universal y gratuito para la población, sin distinciones. Resaltaron las transformaciones en la educación, orientadas a elevar su calidad general e integral y a garantizar su universalidad, habiendo implementado numerosos programas que persiguen la atención personalizada al estudiante, el respeto a los derechos de la niñez y la juventud y el acceso universal a la educación superior, a partir de la creación de sedes universitarias en todos los municipios y la Universidad del Adulto Mayor. Se han creado centros universitarios internacionales para la formación de médicos y de profesionales del deporte, otorgando becas gratuitas y se brinda apoyo pedagógico a través del intercambio de profesores. También se han creado grupos y centros de investigación en diferentes ramas de la ciencia, donde se han realizado importantes aportes para la salud, la educación, la sociedad y la cultura.

46. El Foro hizo notar además, que se ha garantizado especialmente, el derecho de creación de los jóvenes artistas, la participación de la población en la vida cultural, la creatividad personal y comunitaria y la conservación del patrimonio natural y cultural. Además de los esfuerzos realizados para incrementar las ofertas recreativas y en el desarrollo de las prácticas del deporte donde se han alcanzado logros significativos a nivel mundial.

Final Report

27. Education is universally accessible and free of charge at all levels. Cuba has more than surpassed the 6 goals of the UNESCO Education for All Programme.

28. Seventy-three percent of young Cubans between the ages of 18 and 23 are enrolled in universities. Cuba has 1 teacher for every 30 inhabitants. 100 percent of children with special education needs receive that kind of attention in schools outfitted for that purpose.

29. Important programmes directed towards excellence in education are implemented, among them: computer education from the primary level; technical-didactic supports such as TV and video in every classroom; the creation of two educational television channels; special university-level programmes for elderly persons; university teaching units in every municipality throughout the country, with the
31. The right to work has constitutional status. At the end of 2008, Cuba reached an unemployment rate of 1.6 percent. There are programmes that look after the special needs of women, youth, disabled persons and those people who have served sentences of deprivation of liberty, among others.

32. Every Cuban is assured access to quality health services that are free of charge. The National Health System is totally State-funded. Cuba has health indicators similar to those in developed countries. Infant mortality in children less than a year old was 4.7 for every thousand live births in 2008. Life expectancy at birth is 78 years old.

33. Cuba is moving towards preventive examinations of the entire population for the early diagnosis of diseases. The effectiveness of other programmes like the maternal-and-infant health and vaccination programmes is being improved; the vaccination programme guarantees one of the world’s widest immunization coverages.

34. The Cuban method called “Yo sí Puedo” (Yes I Can) has been contributing to the eradication of illiteracy, teaching more than 3.6 million people in 26 countries to read and write.

35. Between 1961 and 2008, Cuban universities graduated more than 52,000 young people from 132 countries and 5 overseas territories.

36. Cuba recently presented its periodic reports to the Committee on the Rights of the Child and to the Committee on the Elimination of Racial Discrimination. Cuba has begun drawing up its report to the Committee against Torture, which should be ready at the end of the first half of the year.

37. Malaysia noted that, despite serious constraints and challenges, Cuba continues to achieve a balance between civil and political rights and economic, social and cultural rights. It commended Cuba’s significant achievements in education, health and food. It recommended that Cuba consider sharing its experience and best practices with other developing countries in achieving the MDGs, particularly in areas of primary education, gender equality and reduction of child mortality; continue its implementation of measures designed to further promote and protect the rights of children and to intensify its efforts aimed at providing greater opportunity for higher education; and step up its implementation of best practices on gender equality and women’s empowerment at all levels and instances of decision-making mechanisms. Malaysia pointed out that in November 2008 it had, along with an overwhelming majority of the General Assembly, voted for the seventeenth consecutive year in favour of a resolution calling for an end to the unilateral economic sanctions imposed against Cuba. The lifting of those sanctions would contribute greatly towards the enjoyment of the full spectrum of human rights by the Cuban people.

38. The Libyan Arab Jamahiriya noted that the Cuban Constitution enshrined all human rights, individual freedoms, freedom of opinion and expression, through a democratic framework based on people power as well as through the educational structure which allows all Cubans to benefit from educational facilities, as well as health services. It praised Cuba’s efforts in ensuring equality between men and women. Cuba has taken a number of initiatives which guarantee the right to employment, free choice of employment and ensure a dignified life, especially through its establishment of officials trained in security and safety matters in the workplace, of antenatal and postnatal services and of the best maternity-leave programmes in the world. The Libyan Arab Jamahiriya also welcomed the progress made in the area of protecting children and combat exploitation of children through prostitution.

39. India has close, friendly and historic ties with Cuba, a fellow member of the Non-Aligned Movement. Cuba has constantly contributed to the human rights debate with its characteristic energy and intensity. India commended Cuba for its open, cooperative and constructive participation in the UPR mechanism and welcomed the fact that Cuba has signed the ICCPR and the ICESCR. India congratulated Cuba for its impressive achievements in the education and the health sectors, ensuring nearly universal school enrolment and very high university enrolment rates. Cuba’s guaranteed access to high-quality, free health services through a State-funded, intensively staffed and extensively spread national health system, is a laudable achievement. India recommended that Cuba share its experiences and good practices with regard to the right to health, in particular maternal and child care programs and HIV/AIDS control programs, and, in view of the growing aging population, that it continue and consolidate its programs for the benefit of the aged and the elderly.

40. Colombia, congratulating Cuba for the signing of ICCPR and ICESCR, as well as the announcement that it will ratify CED. This gesture clearly reflected the Government’s and the people’s commitment to continue making progress towards the full realization of the human rights for all Cubans. It added that guaranteeing access to adequate health services was not only a State obligation, but also an essential element to ensure persons can exercise their rights in an effective and appropriate manner. Colombia recognized Cuba’s achievements and best practices in this area and requested more information on the progress made with the programme to prevent mother to child transmission of HIV and the coverage of anti-retroviral treatment, as well as the reduction in maternal mortality, noting that these programmes have been recognized by UNAIDS and WHO.

41. Uzbekistan commended the steps taken by Cuba to promote human rights and freedoms, in particular in the areas of gender equality, protection of the rights of women and children. It welcomed Cuba’s achievements in the area of social protection and health care, the right to education, freedom of religion and belief, reforms in the prison system, as well as the ways in which they protect political, civil, social and cultural rights. It welcomed the allocation of a significant portion of the state budget to education. Uzbekistan recommended that Cuba continue efforts to ensure compatibility between national legislation and international obligations assumed by the country, in accordance with the human rights treaties that Cuba has acceded to; and consolidate further and exchange its experiences in programmes aimed at specialized care for young people, taking into account their interests and socio-economic situation, all of which helps young people to develop their full potential.
96. Austria indicated that treaty bodies and special procedures have repeatedly noted the lack of an independent judiciary in Cuba, asked about legislative plans to strengthen the independence of the judiciary, and recommended that (a) Cuba assure to all citizens the right to be heard by an independent tribunal. In 2003, the Working Group on arbitrary detention held that the deprivation of liberty of 79 persons was arbitrary and requested Cuba to remedy this situation. Austria asked about the follow-up given to these recommendations. It recommended that (b) Cuba halt the prosecution of citizens who are exercising the rights guaranteed under articles 18, 19, 20, 21, and 22 of the UDHR. Austria asked how the Government is addressing the problem of sexual exploitation of women through prostitution, and how the recommendation of CRC regarding changes to the Criminal Code to protect children from sexual exploitation are implemented. Austria recommended that (c) Cuba also address the root causes of prostitution by adopting measures enhancing women’s economic opportunities.

104. Honduras congratulated Cuba for its good practices in the area of international cooperation despite its economic situation, and for its demonstrated capacity to provide solidarity assistance to countries in need. Honduras commended Cuba’s efforts to eradicate illiteracy. It recommended that Cuba share and transfer its experiences and good practices in the preparation and response to natural disasters, that have allowed consolidating a civil defense system with important achievements and results in the protection of the right to life and other basic human rights of citizens, in a context where meteorological phenomena is ever more recurring in Central America and the Caribbean; share its experiences and good practices in terms of organizing the national health system that has allowed substantial gains in the promotion and protection of the right to health, particularly with regards to experiences in primary and maternal-infant care; and share their experiences and result in the international cooperation oriented towards the promotion of the right to education, including the eradication of illiteracy and, in particular, in the application of the method “Yes I Can” in diverse national, regional, and local realities.

108. Côte d’Ivoire welcomed the progress made by Cuba despite a very difficult environment. Cuba has already achieved the goals of the world food summit of 1996 and the first MDG to reduce by half the number of people suffering from hunger by 2015. Cuba has also achieved other MDGs, ensuring primary education for all (goal 2), promoting gender equality and empowering woman (goal 3) and reducing child mortality (goal 4). It noted that this great country intents in addition, to achieve fully goals 1, 5 and 6 by 2015. According to UNICEF, Cuba is clearly on track to achieve most of the millennium development goals by 2015. This is to its credit and to the credit of developing countries. Côte d’Ivoire made a solemn and urgent appeal to the entire international community to have all possible good wishes being brought to bear and that good offices be offered to ensure that this painful economic embargo which has victimized Cuba and its heroic people be lifted.

111. Ukraine noted the progress made in the realization of economic, social and cultural rights, particularly, the right to health and the right to education. It noted with satisfaction that every Cuban has guaranteed access to quality health services free of charge, and the total availability and high quality of education. It noted numerous Cuban programs on international cooperation and solidarity on rendering medical aid to the countries that suffered from natural disasters. It extended the utmost appreciation of the Ukrainian people and the Government for treatment and care of several generations of Ukrainian children affected by the Chernobyl catastrophe. It also indicated that the right to education is also granted by Cuba to these Ukrainian children. With regard to the educational system, Ukraine asked Cuba to provide more information on the University for elderly people.

Conclusion and Recommendations

130. The recommendations formulated during the interactive dialogue have been examined by Cuba and the recommendations listed below enjoy the support of Cuba:

6. Continue its implementation of measures designed to further promote and protect the rights of children and to intensify its efforts aimed at providing greater opportunity for higher education (Malaysia)

28. Share its experiences and good practices with regard to the right to health, in particular the primary, maternal and child care programs as well as HIV/AIDS control programs; and in view of the growing aging population (India; Djibouti; Honduras)

32. Every Cuban is assured access to quality health services that are free of charge. The National Health System is totally State-funded. Cuba has health indicators similar to those in developed countries. Infant mortality in children less than a year old was 4.7 for every thousand live births in 2008. Life expectancy at birth is 78 years old.

33. Cuba is moving towards preventive examinations of the entire population for the early diagnosis of diseases. The effectiveness of other programmes like the maternal-and-infant health and vaccination programmes is being improved; the vaccination programme guarantees one of the world’s widest immunization coverages.

48. Consider sharing its experience and best practices with other developing countries in achieving the MDGs, particularly in areas of primary education, gender equality and reduction of child mortality (Malaysia)