

COVER PAGE

Joint presentation

"Cuban civilian workers abroad on behalf of the state".

Human Rights Council

Universal Periodic Review of Cuba 4th Cycle

April 2023

BY:

PRISONERS DEFENDERS

ACTIVE LEGAL DEFENSE OF HUMAN RIGHTS - JURISTS - RAPPORTEURS - HUMANISTS

Prisoners Defenders International Network (Prisoners Defenders)

MAIN ORGANIZATION of the joint presentation

Príncipe de Vergara, 109 - 2nd floor, 28002 Madrid, Spain

President, Javier Larrondo Calafat, Spanish citizen, with CI 07231399S

Phone: +34 647 56 47 41

Email: info@prisonersdefenders.org

<https://www.prisonersdefenders.org/>

PRISONERS DEFENDERS (Prisoners Defenders International Network) is an international institution rooted in the deepest humanism, whose mission is human rights reporting, legal action and pro-democracy advocacy in more than 10 countries in the Americas and Asia. Among the organizations that adopt our reports and explicitly refer to us are the [European Parliament](#), the [Human Rights Documentation Service of the European Parliament](#), the [Inter-American Commission on Human Rights](#), the [United Nations](#), the [United States Congress](#), the [United States Department of State](#), [Amnesty International](#), [Human Rights Watch](#), and many other organizations, governments and institutions, as well as media outlets such as [ABC](#), [Le Monde](#), [Le Point](#), [Le Figaro](#), [New York Times](#) or [Washington Post](#), among hundreds of newspapers and publications.

Y:

UNPACU

UNIÓN PATRIÓTICA DE CUBA

Patriotic Union of Cuba (UNPACU)

Calle 9 #10 e/ E y G, Reparto Mármol, Santiago de Cuba, Cuba

General Coordinator, **José Daniel Ferrer García**, Cuban citizen with CI 70072927509.

AUTOMATICALLY TRANSLATED FROM THE ORIGINAL IN SPANISH

Email: info@unpacu.org
<https://www.unpacu.org>

A. EXECUTIVE SUMMARY

1. In the third cycle of the Universal Periodic Review on Cuba only one recommendation affected the contingents of Cuban civilian workers abroad on behalf of the State:^{24,230}¹. However, the United Nations Special Rapporteur on Slavery, and the Special Rapporteur on Trafficking in Persons, sent a letter to Cuba on November 6, 2019² with the description of the working conditions of Cuban civilian workers abroad, assuring that, "*with the information received including first-hand (..) the working conditions reported could be elevated to forced labor, according to the indicators of forced labor established by the International Labor Organization. Forced labor constitutes a contemporary form of slavery.*" In June 2022, the Committee on the Rights of the Child issued a strong condemnation in its Report of Findings on Cuba,³ about the 8-year forced separation between parents and children ("*the de facto prohibition for parents who terminated a civil contract abroad to reunite with their children, sometimes for up to eight years, and the impact on children's health and well-being of years of separation from their parents*") that authorities cause families if workers decide to stop working or if they do not immediately return to Cuba after termination. The IACHR has also reflected in its 2020 Cuba report⁴ this situation, which it has reiterated in 2021. In 2020, there followed condemnations by Human Rights Watch⁵ and Human Rights Foundation⁶ on the same situation. In 2021, the European Parliament passed two resolutions by absolute majority condemning the conditions of slavery in Cuban missions abroad (TA-9-2021-0292⁷, TA-9-2021-0389⁸). In 2022, Human Rights Foundation issued a thematic report on Cuban medical missions⁹.

B. METHODOLOGY

2. From 2018 to the present, Prisoners Defenders has been conducting field and documentary research on the situation of overseas workers. For this purpose, 1,378 first-hand testimonies have been collected from workers who have suffered clear patterns of slavery and the forced family separation of their entire family and children when leaving work or not returning immediately to Cuba after finishing work. The study was carried out by legally analyzing all legislation and its progressive changes, analyzing thousands of documents obtained through the declarants and

¹ United Kingdom of Great Britain and Northern Ireland, Recommendation 24.230: "Criminalize all forms of human trafficking in accordance with the Palermo Protocols, and address the allegedly coercive elements of Cuban labor practices and medical missions abroad";

² Letter to Cuba from United Nations Mandates on November 6, 2019:

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24868>

³ Report on the Conclusions of the Periodic Report on Cuba (CRC/C/CUB/CO/3-6):

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2FC%2FCUB%2FCO%2F3-6&Lang=en

⁴ Excerpt from the 2020 Report of the IACHR Cuba:

https://drive.google.com/file/d/14LhMp7DxPynMhvaN0Bd0H_Lst6SE3krw

⁵ Human Rights Watch report on Cuba's medical missions:

<https://www.hrw.org/es/news/2020/07/23/cuba-normas-represivas-contramedicos-en-mision>

⁶ Human Rights Foundation report on Cuba with express mention of medical missions:

<https://hrf.org/cuba-60-years-of-revolution-60-years-of-oppression/>

⁷ European Parliament Resolution TA-9-2021-0292:

https://www.europarl.europa.eu/doceo/document/TA-9-2021-0292_ES.html

⁸ European Parliament Resolution TA-9-2021-0389:

https://www.europarl.europa.eu/doceo/document/TA-9-2021-0389_ES.html

⁹ Human Rights Foundation thematic report on Cuban medical missions abroad:

<https://hrf.org/reports/human-trafficking-in-cubas-medical-missions/>

through related research. Official documents with international legal validity have been obtained, first hand and on which we have the originals, proving all the findings.

3. In four stages, this study has been presenting the findings. In May 2019, the results of the analysis of all legislation and 110 testimonies were presented.¹⁰ In September 2020, the complaint was expanded to 622 testimonies and new documentary evidence.¹¹ On January 26, 2022, 1,111 testimonies and new documentary evidence were submitted.¹² Currently, the launch of the new complaint with 1,378 testimonies is being prepared, the results of which we can see in this document.

4. In this way, the violation of the following international precepts has been identified: **A) United Nations - UDHR:** Arts.2,4,7,8,9,10,12,13,16,18,19,20,23,25; **B) International Covenant on Civil and Political Rights:** Arts.2..1,8,12,17,18,19,21,22,23; **C) International Covenant on Economic, Social and Cultural Rights:** Arts.2.2,4,4,5.1,6.1,6.2,7,8.1,8.2,8.3,10,11.1,12.1,15.1; **D) UNICEF - Convention on the Rights of the Child:** Arts.3.2,5,9.1,9.2,9.3,10.1,10.2,12.1,12.2,20.1,41; **E) International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families** (ICRMW is applicable as the conventions are null and void): Arts.2,10,11.1,11.2,12.1,13.1,13.2,14,15,16.1,16.2,18.1,19.1,20.2,21,25,26,32,33.1,39.1,40.1,41.1,42.1,44,55; **F) C029 - Forced Labor Convention, 1930;** **G) Protocol to Prevent, Suppress and Punish Trafficking in Persons (A/RES/55/25);** **H) 1926 Convention on the Abolition of Slavery;** **I) Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions Similar to Slavery of 1956;** **J) Cuba - Constitution of the Republic of Cuba** Arts.8,16g),40,41,42,43,44,46,71,95,96,97,98,99.

C. GENERAL NATIONAL CONTEXT

5. Only since 2018 there are almost two dozen communications by special procedures among which the most relevant OHCHR Fundamental Rights Mandates have been filed¹³ , including Trafficking in Persons and Slavery by Cuban civilian workers abroad.

6. In paragraph 54 of the report A/77/56 of the Committee on Enforced Disappearances,¹⁴ highlights how Cuba is the country in the world in 2021 with the highest number of Urgent Actions for Enforced Disappearances. It can also be seen how cumulatively since 2012 it is the third country in the world, only behind Iraq and Mexico.

7. As for the Working Group on Arbitrary Detention, it has issued very strong opinions on the arbitrary detention of 19 artists, intellectuals, religious and activists.¹⁵

¹⁰ Complaint dated May 14, 2019: [Whistleblower document](#) and [Press impacts](#).

¹¹ [September 2020 press release and impacts](#).

¹² [January 2022 complaint and press coverage](#), and [press coverage](#).

¹³ Communications by special procedures of various OHCHR Fundamental Rights Mandates: [CUB1/2022CUB7/2021](#), [CUB6/2021](#), [CUB2/2021](#), [CUB4/2021](#), [CUB3/2021](#), [CUB1/2021](#), [CUB1/2020](#), [CUB7/2019](#), [CUB6/2019](#), [CUB5/2019](#), [CUB2/2019](#), [CUB1/2019](#), [CUB6/2018](#), [CUB4/2018](#), [CUB3/2018](#), [CUB2/2018](#), [CUB1/2018](#), [CUB2/2018](#), [CUB1/2018](#)

¹⁴ Report A/77/56 of the Committee on Enforced Disappearances: <https://drive.google.com/file/d/1VCsuOEqqKEexDcYvHfOd6ulE5-rZbvIz>

¹⁵ Link to the opinions of the Working Group on Arbitrary Detention: [Maykel Castillo](#), [Denis Solís](#), [Luis Robles](#), [Keilylli de la Mora](#), [Roberto Quiñones](#), [José Daniel Ferrer](#), [Aymara Nieto](#), [Eliecer Bandera](#), [Humberto Rico](#), [José Pompa](#), [Melkis Faure](#), [Mitzael Díaz](#), [Silverio Portal](#), [Josiel Guía](#), [Marbel Mendoza](#), [Ivan Amaro](#), [Eduardo Cardet](#), [Ariel Ruiz](#) and [Omar Rosabal](#).

8. In its report of September 20, 2018, the Committee on the Elimination of Racial Discrimination made critical recommendations to Cuba regarding human rights defenders that speak to the seriousness of the situation they live in the country (CERD/C/CUB/CO/19-21).¹⁶

9. In June 2022, the Committee on the Rights of the Child issued a strong condemnation in its Report of Findings of the Periodic Report on Cuba¹⁷ of the forced 8-year separation between parents and children (*"the de facto prohibition for parents who terminated a civil contract abroad to be reunited with their children, sometimes for up to eight years, and the impact on children's health and well-being of years of separation from their parents"*) that the authorities inflict on overseas workers if they decide to stop working or if they do not return immediately after finishing their work.

10. In the Report of the Working Group on the Universal Periodic Review, third cycle, the United Kingdom of Great Britain and Northern Ireland made recommendation 24.230¹⁸. From that date to the present, Cuba not only has not changed the situation in these missions, but has enacted legislation contrary to this recommendation. Other recommendations that Cuba has received in the area of prevention against slavery and trafficking in persons to be considered are: 24.221 (Kazakhstan), 24.219 (Jordan), 24.213 (Bangladesh), 24.217 (Honduras), 24.220 (Kuwait), 24.224 (Nicaragua), 24.226 (Philippines), 24.227 (Qatar), 24.211 (Bolivarian Republic of Venezuela), 24.212 (Bangladesh), 24.214 (Guyana), 24.216 (Trinidad and Tobago), 24.218 (Iraq), 24.222 (Kyrgyzstan), 24.229 (Turkey) and 24.231 (Viet Nam). In all of them, and given that Cuba's participation in human trafficking in this period has been criticized and denounced by two United Nations Rapporteurships, the Committee on the Rights of the Child, the European Parliament on two occasions and numerous NGOs, such as Human Rights Watch, Human Rights Foundation and Prisoners Defenders, the implementation of the recommendations, logically, has not been adequate, since the country itself has been involved in human trafficking.

D. ON THE LEGISLATION APPLICABLE TO CIVILIAN LABOR MISSIONS ABROAD

11. The Cuban State calls "**mission**" the work performed by Cuban civilian professionals abroad on behalf of the Government. Cuban personnel selection companies contract workers with countries and multinationals, among them for medical work -through CSMC, SA-, seamen for various shipping companies, such as MSC (Italy, UK, France, Switzerland) or Northsouth (Canada) -through the selection company SELECMAR- as waiters, deck or engine personnel, on luxury cruise ships that in many cases sail in the Mediterranean, charging less than 100€ of basic salary for 40 hours/week, etc.¹⁹ Also the music and theater bands, when they are hired, hire through Cuban

¹⁶ Report CERD/C/CUB/CO/19-21 of 20 September 2018, the Committee on the Elimination of Racial Discrimination: <https://daccess-ods.un.org/tmp/3296126.12724304.html>

¹⁷ Report on the Conclusions of the Periodic Report on Cuba (CRC/C/CUB/CO/3-6): https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2FC%2FCUB%2FCO%2F3-6&Lang=en

¹⁸ United Kingdom of Great Britain and Northern Ireland, Recommendation 24.230: "*Criminalize all forms of human trafficking in accordance with the Palermo Protocols, and address the allegedly coercive elements of Cuban labor practices and medical missions abroad*";

¹⁹ Contracts in MSC Cruises for Cubans through Selecmar (to the marketing agent), which as you read takes 80% of the contract, "*only for Filipino and Cuban sailors*":

<https://drive.google.com/file/d/1Ckl9tNJROml6Vu7Zq5ZZyozJTOpBi8p> and https://drive.google.com/file/d/1DdUW6Kqr9GaJ_QQ7j5utWByXRxhaNluS

intermediary companies under these conditions. As has been proven, the Cuban government calls all these jobs "**missions**".

12. The current Cuban Penal Code²⁰ and the previous one have in common Article 176 (almost identical to Article 135 in the previous Penal Code²¹), which criminalizes with up to **8 years imprisonment to leave civilian work abroad or, having finished it, not to return to Cuba immediately**. The crime is called "Abandonment of Functions" and applies to all civilian employees abroad through the intermediation of the State: "*Article 176.1. The public official in charge of fulfilling a mission in another country who abandons it or, having fulfilled it, or having been requested at any time to return, expressly or tacitly refuses to do so, shall incur the penalty of deprivation of liberty for a term of three to eight years. 2. The same penalty shall be incurred by any public official who, on the occasion of the performance of a mission abroad and against the express order of the Government, moves to another country. 3. If the acts provided for in the preceding paragraphs are committed by a public employee, they are punishable by deprivation of liberty for a term of two to five years.*" This is the article of the Penal Code that the United Nations Committee on the Rights of the Child, in June 2022, requested Cuba in its conclusions brief²² to "**put an end to all separation of children from their parents due to the latter's decision to terminate a labor contract, and to amend Article 135, paragraph 1, of the Penal Code in order to remove all obstacles that prevent family reunification.**"

13. To enforce the deprivation of liberty of Article 176 of the Penal Code, the problem lies in the fact that, when a doctor or a professor decides not to return to Cuba at the end of his work or decides to leave the job (both are officially called "DESERTAR"), it is very complex to apply a penalty of deprivation of liberty to the subject, since usually the subject flees.

14. The Government then applies to the "*deserter*" a penalty that is granted by the Declaration of **Abandonment of Mission**. Subsequent to this declaration, he is officially declared a **DESERTOR** by the Ministry of the Interior. Immediately after, he is declared **EMIGRATE**, taking away all his properties and rights, and later he is declared **INDESEABLE**, a term that comes from **article 24.1 of Law 1312**,²³ denying him entry to the country for 8 years.

15. All of this is perfectly explained in the Consular Certificates that Cuba issues to people who suffer these situations. Below, and in the reference indicated,²⁴ we can see several examples of consular certificates of which Prisoners Defenders has an original copy.

²⁰ Penal Code of Cuba in force as of December 1, 2022:

<https://drive.google.com/file/d/1f02Ht4RbEIhbmZvSzpH3Fkl8ztGNqzbz>

²¹ Penal Code of Cuba in force until December 1, 2022:

https://drive.google.com/open?id=1_kf0R8TsMlxtFIReqAEDleeMfPNGCGTr

²² Report on the Conclusions of the Periodic Report on Cuba (CRC/C/CUB/CO/3-6):

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2FC%2FCUB%2FCO%2F3-6&Lang=en

²³ Law 1312, Migration Law:

<https://drive.google.com/file/d/0BykeosyKG0nGVFVQd1EyeTZ1bXpteW1OQUt0enO0dWdfeWhj>

²⁴ **Consular Certificate 1** with Selecmar attachments, detailing all the particularities of the declaration of DESERTOR (in this case a waitress of the luxury cruise line MSC Cruises, the largest European company in the world in her sector): **SEE; Consular Certificate 2**, detailing the method used: **SEE; Consular Certificate 3**, detailing particularities and method used: **SEE; Consular Certificate 3**, detailing particularities and method used: **SEE; Consular Certificate 4** ratifying the prohibition of entry to the country for 8 years, the loss of rights as a Cuban citizen, and the impossibility of appealing such decision: **SEE**

AUTOMATICALLY TRANSLATED FROM THE ORIGINAL IN SPANISH

16. As can be read in the Consular Certificates, the professional who did not return to Cuba after finishing his work is called DESERTOR:

- One of said certificates²⁵ reads: "*Citizen XXXXXXX did not return to Cuba at the end of her work and therefore it is considered that she did not comply with her contract. As a consequence, the Cuban Ministry of the Interior declared her a deserter since she abandoned a State Mission. **A Cuban citizen who is declared a deserter by the competent Cuban authorities automatically loses his or her residence in Cuba and is denied entry to Cuba for a period of 8 years from the date of the declaration of abandonment of the State Mission.** This is an internal regulation of the Cuban Ministry of the Interior. In the case of XXXXX, the Directorate of Identification, Immigration and Foreigners of Cuba, announced her Abandonment of Mission, which makes her a **deserter**, as of April 5, 20XX. In such sense, and as we have already made reference in this document, citizen XXXXX **lost her residence in Cuba and cannot enter the country for a term of 8 years**, nor for this sanction can she request her repatriation for the same period of time, **this decision is irrevocable** (...).*"
- It can also be read in another of the certificates²⁶ : "*Citizen XXXX breached her work contract **by not returning to Cuba within the established time**, and for this reason **the company SELECMAR notified the Cuban Ministry of the Interior of her dismissal from the entity, which declared her as a DESERTOR.** (...) The internal regulations of the Cuban Ministry of the Interior provide that **when a Cuban citizen abandons a State Mission and is declared a DESERTOR, this person has a sanction of limitation of entry to the country for a period of 8 years.** Likewise, Decree-Law number 302 of 2012 [Migration Law 1312] explains in its **article 24.1** the assumptions for which the entry of persons to Cuba is not admitted (...) XXXX **lost his residence in Cuba automatically, as well as his right to enter his country of origin for a period of 8 years**, which began to count from 05/04/20XX. During this period of time, XXXX cannot apply for the repatriation process. XXXX has approached the Consulate on several occasions and has shown his interest in traveling to Cuba, however, **due to the sanction imposed by the Cuban Ministry of Interior he is unable to enter the country.**"*

17. The declaration as a DESERTOR is made by the employer. For the doctors this company is CSMC, S.A. In the case of the seamen, it is SELECMAR. In the public certificates of these companies (of which we have several originals) you can read how they describe the "desertion" process:²⁷

*"Havana, Havana, 21, XXXX, 20XX
Ref.:SE DIRX/20XX*

*Sincerely Major Agdarys Morales Cordero
Head of Identification and Records Unit
DIIE MININT*

Subject: Report of contracted marine who did not return to the country

²⁵ Official Consular Certificate of Cuba 1:
https://drive.google.com/open?id=1T4XryQ1ZA0g4gkWeDeQCSeOWMGZu4u_o

²⁶ Official Consular Certificate of Cuba 2:
https://drive.google.com/open?id=1T90Y_C44vTcbJChlx77EVB18G9GOfxka

²⁷ Certificate of Desertion Selecmar - censored_Copy:
https://drive.google.com/file/d/1VLRcNxeUb8fYbOpuDp3fImun1dNeh_Wu

AUTOMATICALLY TRANSLATED FROM THE ORIGINAL IN SPANISH

Below we report the general data of a marine contracted through SELECMAR that did not return to the country, and was discharged from our entity for which it was declared DESERTOR.

[NAME AND SURNAME] [NAME AND SURNAME]

Position: Apprentice Bar Attendant

C.I. [XXXXXX]

Resided: [XXXXXX].

Municipality: [XXXXXX].

Province: Havana

AIRWAY

Vessel: MSC OPERA Company MSC CRUISES on [XXXXXX] in ITALY

Thanking you in advance for your always kind attention, I send you my best regards."

18. This declaration as DESERTOR reaches the Ministry of the Interior, which declares the worker DESERTOR and immediately issues two certificates. One of them declares him EMIGRADO.²⁸ The declaration of **EMIGRADO** means, in Cuban legal terms, that **the citizen loses ALL his property in Cuba and almost all his rights as a Cuban.**

19. Therefore, the person who leaves a job abroad, or who does not return immediately to Cuba becomes an official DESERTOR, is declared INDESEABLE and is forbidden to enter Cuba for 8 years, and at the same time is immediately declared an EMIGRATE, taking away all her property and a good part of her rights as a citizen: this is called in the jargon of the professionals as **THE LAW OF THE 8 YEARS.**

20. If the children of the DESERTORA are in Cuba, because of the Migration Law, their mother will not be able to sign their departure before a notary, which will prevent her from reuniting with them for many years, and they will remain orphans for at least 8 years. And so it happens with thousands of orphaned children in Cuba.

More than 5,000 children are currently separated from their parents and this has been the case for decades. The Committee on the Rights of the Child in the Conclusions of its Periodic Review of Cuba in June 2022²⁹ denounced this situation. This has also been partially described by the Special Rapporteurships on Trafficking in Persons and Slavery of the United Nations³⁰.

²⁸ Declaration of EMIGRADO from the Ministry of the Interior:

<https://drive.google.com/file/d/1VS2jIBiqQAgSKiVJSjUOfYb66ibSD0LS>

²⁹ Committee on the Rights of the Child - Conclusions of its June 2022 Periodic Review of Cuba, paragraphs 34 and 35:

<https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6OkG1d%2FPPrICAqhKb7yhsogu%2BrcYtuo0ebg3v3LZyh%2FkdEw4WmpeU9QV48NBzsHIJ%2F56Qg%2FdfFExiNzVk5YIGyGRcuV%2B8hjXl9mYjJG4mkNHQ1DTmsLOn2ziM5TW1gFO>

³⁰ Special Rapporteurships on Trafficking in Persons and Slavery of the United Nations - Letter AL CUB 6/2019 by Special Procedure:

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24868>

22. MINCEX Law Resolution 368 of 2020³¹. Prior to this legislation, the current Law Resolution 368 of 2020 of the MINCEX³², Resolution 168 of 2010 of the MINCEX³³, "*Disciplinary Regulations for Cuban civilian workers who provide services abroad as collaborators*" was in force, with practically the same text as the current Resolution 368, by which it was replaced and which applies to the same "*civilian workers*", now called "**cooperants**". This Law (both the previous one and the current Resolution 368, both almost identical) is known to be the Regulation to be complied with by all Cuban civilian cooperants, who are brought through contracts of the Government of Cuba and its companies (CSMC, SA, Selecmar and dozens of other sectoral personnel companies) with government entities or multinational companies (MSC Cruises, NorthSouth, governments, etc.).

23. Among the many **duties** read in this Law Mincex Resolution 368 of 2020³⁴, are:

- ***Inform their immediate superior of their partner relationships with nationals or foreigners, whether or not resident in the country where they are providing cooperation and, if applicable, their intention to marry in the country where they are providing services;***
- ***Return to Cuba at the end of their service abroad;***

24. It is also stated, among the "*rights*", that they may not receive visits from family members in the country of destination except "*with the permission of their superiors*". Preventing family reunification abroad prevents "*desertion*".

25. Among the many **sanctioned infractions** read in this Law Resolution 368 of 2020 of the Mincex of Cuba,³⁵ are:

- ***Participating in public events of a social nature without proper authorization;***
- ***To issue criteria or assessments in social networks (...) without having received prior instructions and authorizations in this regard;***
- ***Sustaining friendly relations or other types of ties with persons who take positions that are hostile or contrary to the principles and values of Cuban society and the Cuban revolution, whether they are nationals, foreigners or Cubans residing or not in the country where he/she renders the service;***
- ***Driving means of transport without being authorized to do so*** [whether or not they have a valid driver's license in the country of destination];
- ***Extending his presence outside the locality or country where he works or resides, once the reasons for his presence have ended, without having been authorized to do so.***

³¹ Law Resolution 368 of 2020 of the Ministry of Foreign Trade and Foreign Investment "Disciplinary Regulations for Cuban civilian workers who render services abroad as collaborators":

https://drive.google.com/file/d/19laZrP-hc6b1redI_7IB-sSiM5hal4hs/view?usp=sharing

³² Law Resolution 368 of 2020 of the Ministry of Foreign Trade and Foreign Investment "Disciplinary Regulations for Cuban civilian workers who render services abroad as collaborators":

https://drive.google.com/file/d/19laZrP-hc6b1redI_7IB-sSiM5hal4hs/view?usp=sharing

³³ Resolution 168 of 2010 of the Mincex "Disciplinary Regulations for Cuban civilian workers serving abroad as collaborators": https://drive.google.com/open?id=1iLeLPFiNRtR-5nOLT2_XMB7yzPBo7CDE

³⁴ Law Resolution 368 of 2020 of the Ministry of Foreign Trade and Foreign Investment "Disciplinary Regulations for Cuban civilian workers who render services abroad as collaborators":

https://drive.google.com/file/d/19laZrP-hc6b1redI_7IB-sSiM5hal4hs/view?usp=sharing

³⁵ Law Resolution 368 of 2020 of the Ministry of Foreign Trade and Foreign Investment "Disciplinary Regulations for Cuban civilian workers who render services abroad as collaborators":

https://drive.google.com/file/d/19laZrP-hc6b1redI_7IB-sSiM5hal4hs/view?usp=sharing

Prisoners Defenders has numerous examples that have already been made public of the sanctions applied by this and previous regulations. They include loss of job, partial revocation of their profession for periods of years or for life, or where they are forced to report their relationships. Some examples are as follows:

- Prosecution file for MINCEX Resolution 368: "***Interruption of the mission without the right to benefits and follow-up for dissident behavior***".³⁶
- Expulsion from the mission for **posting on social networks**.³⁷
- Dossier for **publishing** his disagreement with the Cuban authorities **on social networks**.³⁸
- Document of obligation to **report relationships or cohabitation with your partner**.³⁹

27. **Migration Law 1312.** By this Law 1312, Migration Law⁴⁰, professionals cannot leave Cuba with an ordinary passport (Art. 23), but with a temporary document, valid only for the country of mission, which is called "*Official Passport*", illegal, which sets off alarms at the borders, something desirable for the Cuban Government in case of the "*desertion*" of the Cuban civilian worker abroad. In the case of seamen, the document is called Seaman's Passport.

28. The ordinary Cuban passport, however, is the one that allows the individual to leave the country (Article 9.1 of Law 1312). But this law states in Article 23, sections e) and f), that **professionals and persons with higher education may not obtain a regular passport**, a requirement to travel for personal reasons or to emigrate, an impediment that flagrantly violates Article 13 of the UDHR.

29. Article 24.1.e) of the Migration Law, moreover, establishes that, **if a professional is declared DESERTOR by the authorities, he/she is an "undesirable", and is prohibited from entering the country**, which flagrantly and without possible discussion violates Article 13 of the UDHR.

30. With this provision of Article 24.1.e) of Migration Law 1312, the "*deserters*" are prohibited from returning to Cuba for at least 8 years, without being able to see their children, their family, their home. This can be read in multiple Consular Certificates and certificates of the Ministry of the Interior of Cuba and its companies in a way that is shameful and in violation of human rights:

- **Cuban Consular Certificate 1**,⁴¹ which explicitly states: "*The Cuban citizen who is declared a deserter by the competent Cuban authorities, automatically loses his residence in Cuba and is denied entry to Cuba for a period of 8 years from the date the Abandonment of the State Mission was declared. This is an internal regulation of the Cuban Ministry of the Interior*".

³⁶ Persecution file for MINCEX Resolution 368: "*Interruption of the mission without the right to benefits and follow-up for dissident conduct*": <https://drive.google.com/open?id=1DF0TSbRvYRBypheE9FRrBrVswLCZV2P9>

³⁷ Expulsion from the mission for posting on social networks: <https://drive.google.com/open?id=1muQ3sZr670bVws923eeLA3PJQICwKe6e>

³⁸ Disciplinary proceedings for publishing on social networks his disagreement with the performance of the Cuban authorities in the mission: https://drive.google.com/open?id=1XL_EnVgKe9rtoFKk7MHjYG0YFkWOwZ1R

³⁹ Document of obligation to report relationships or cohabitation with your partner: https://drive.google.com/open?id=16ZzmHCT9_EICLb_0Y_KWbP0vjfnivXVp

⁴⁰ Law 1312, Migration Law: https://drive.google.com/open?id=1tuXpRcky0M2LoZ-xs1hUgIl_g_kXkciC-

⁴¹ Consular Certificate of Cuba 1: <https://drive.google.com/open?id=12rB-AXDGHY4Bo74FmK99UdYw6U2yDic5>

- **Cuban Consular Certificate 2,**⁴² which explicitly states: *"The internal regulations of the Ministry of the Interior of Cuba contemplate that when a Cuban citizen abandons a State Mission and declares himself as a DESERTOR, this person has a sanction of limitation of entry to the country for a period of 8 years"*.
- **Cuban Consular Certificate 3,**⁴³ which explicitly states: *"her migratory status for Cuba is Emigrated, since the Ministry of the Interior of Cuba declared her as a Deserter"*.
- **Cuban Consular Certificate 4,**⁴⁴ which explicitly states with respect to a seafarer hired by MSC Cruises through the government of Cuba and who did not return to Cuba after finishing his job for two years: *"he is restricted from entering Cuba for having abandoned an Official Mission. Persons who leave Official Mission cannot enter Cuba for a term of 8 years"*.
- **Airport entry prohibition to a Cuban doctor "DESERTOR" for being "inadmissible"** in the country, despite being a Cuban citizen.⁴⁵
- **Certificate 1, of "DESERTORES",**⁴⁶ for a series of Cuban workers reported by SELECMAR to the Ministry of the Interior of Cuba (about seafarers working for MSC Cruceros) which states: *"Below we report the general data of 6 seafarers hired through SELECMAR who did not return to the country, and were dismissed from our entity and are therefore declared DESERTORES"*.
- **Certificate 2, of "DESERTOR",**⁴⁷ for a Cuban worker reported by SELECMAR to the Ministry of Interior of Cuba (about seafarers working for MSC Cruceros) which states: *"Below we report the general data of a seafarer hired through SELECMAR who did not return to the country and left our entity and was therefore declared DESERTOR"*.
- **Certificate 3, of "DESERTOR",**⁴⁸ of Cuban workers reported by SELECMAR to the Ministry of Interior of Cuba (about seafarers working for MSC Cruceros and NorthSouth) which states: *"Below we report the general data of 6 seafarers hired through SELECMAR who did not return to the country and have left our entity and are therefore declared DESERTORES"*.

31. The effects of this forced family separation on children are devastating. Prisoners Defenders made a compilation of scientific studies of the illnesses that science had detected in groups that

⁴² Consular Certificate of Cuba 2: https://drive.google.com/open?id=1VLqh-BPcwiEChGwCa0RSLufzomTX_Wnl

⁴³ Consular Certificate of Cuba 3: <https://drive.google.com/open?id=1VQbsJ3DXCa2cdBEBLTJA3rsxuCNvuyDf>

⁴⁴ Cuban Consular Certificate 4: <https://drive.google.com/open?id=1VMGAqJW9nT6nIecNTVBWTrIpxLqPFAr3>

⁴⁵ Cuban doctor banned from entering the airport "DESERTOR" as "inadmissible":

<https://drive.google.com/open?id=1yr7zBMSyOaz1i-%20pPhuR16u19Mg0WQvXj>

⁴⁶ Certificate 1, from "DESERTORES", for a number of Cuban workers reported by SELECMAR to the Cuban Ministry of Interior: <https://drive.google.com/open?id=1VMeVXWUlwHdyHTtnNRu4ZIGsLx3OeSy3>

⁴⁷ Certificate 2, from "DESERTOR":

https://drive.google.com/open?id=1VLRCNxeUb8fYbOpuDp3fImun1dNeh_Wu

⁴⁸ Certificate 3, from "DESERTOR": https://drive.google.com/open?id=1YRPF49SOQwFn4uHvSas_k3b711a8Itn

had suffered this family separation, highlighting very serious mental, emotional, psychological and physical affectations.⁴⁹⁵⁰

32. **Decree 306 of 2012.**⁵¹ This Law is called with the following self-explanatory title: "*On the treatment of cadres, professionals and athletes who require authorization to travel abroad*". It prohibits the free exit from the country to any professional or person with studies or qualified work of medium or higher level. Article 2.a) makes the professional, in order to leave a profession and emigrate, have to wait 5 years, due to the delay of the Cuban Government in "*replacing*" his vital functions for the country, and this is called "*liberation*" of the profession.

33. To be "liberated", a doctor must spend 5 years in labor ignominy, suffering repression and discrimination until he/she obtains this designation and can leave the country freely. However, Cuba sends contingents of hundreds of Cuban doctors instantly to bill for the State abroad by confiscating between 75% and 95% of their salaries. In order to bill fortunes, the State does find replacements for these doctors in a matter of days.

34. The current Penal Code, with its articles 282,283,284 and 285, and the previous one with articles 215,216 and 217, have unjustifiably and arbitrarily criminalized and criminalize the exit and entry of the country, not restricting it only to citizens with criminal charges, but applying it to the entire population without restrictions. For years and even today, numerous citizens have been prosecuted and imprisoned for these articles.

D1. RECOMMENDATIONS

End all separation of children from their parents, and between members of the same family, due to the decision of civilian workers abroad to unilaterally terminate a labor contract or not to return immediately to Cuba upon completion of the contract.

36. To repeal Article 176 of the Penal Code, which punishes labor disengagement with 8 years of imprisonment, and Resolution 368 of 2020 of the Ministry of Foreign Trade and Foreign Investment, which violates fundamental rights.

37. To annul the qualification as *deserters of the* thousands of workers abroad who have been so qualified by the current legal framework, in order to eliminate all obstacles that prevent family reunification.

38. To repeal Decree 306 of 2012 "*On the treatment of cadres, professionals and athletes who require authorization to travel abroad*", for representing a flagrant and substantial violation of Article 13 of the UDHR for hundreds of thousands of Cuban citizens.

39. To comply with Article 13 of the UDHR and to this end repeal all provisions, such as Decree 306, Articles 23, 24.1 and 25 of Law 1312 "Migration Law", and Articles 282, 283, 284 and 285 of the current Penal Code, which prevent Cuban citizens who are not involved in criminal proceedings or military service from leaving the country freely.

E. ON THE SITUATION DECLARED BY CUBAN CIVILIAN WORKERS ABROAD

⁴⁹ Scientific Report - Forced separation for 8 years of Cuban doctors and their children causes serious disabilities in the children: https://drive.google.com/file/d/1S77U_Gf8gXKVU2B-vxn7p7uB2J2oils3

⁵⁰ Report submitted to the Committee on the Rights of the Child (see sections IV, V and VI): <https://drive.google.com/file/d/1DVh6lO3fETCXTwnqpTybczqTfnYh1zK0>

⁵¹ Decree 306 of 2012: https://drive.google.com/file/d/1_B1IbJDo4AUoYeOnemvBzwPVBaZpIHr8/view

40. The result of the **1,378 testimonies of civilian workers abroad** collected since 2019 by Prisoners Defenders has led to a series of tabulations and statistics on the violations suffered by these workers. Among the testimonies are doctors, nurses, technicians, sailors, artists and athletes, who all report very similar situations given that the legal framework that applies to them is identical for all of them.

41. The following are the percentage results resulting from examining the testimonies based on the affidavit made by each one of them using the declaration form: ⁵²

- I did not volunteer: 77.54% of the testimonials.
- I was not given a copy of the employment contract or there was no contract at all: 68.59% of the testimonies.
- I did not know the final work destination (city, hospital, etc.) or it was unfulfilled upon arrival in the destination country: 69.36%.
- He was watched by Cuban officials or their collaborators: 77.19%.
- She should not have had friendships or romantic relationships with natives that were not reported and approved: 78.40%.
- Could not stay overnight outside the assigned place without approval: 74.87%.
- I was subject to movement restrictions within the same country where I worked: 80.90%.
- I could not leave my home after a certain time without permission, even after work or days off: 68.16%.
- He was obliged to attend meetings of a political nature: 85.03%.
- I was oriented or instigated to monitor colleagues in their professional and private behavior: 67.21%.
- I had to report any suspicious situation that a colleague might want to abandon his or her performance: 77.62%.
- If someone in my environment left the mission, I had to perform an act of repudiation (an act where they gather and are forced to insult the offender): 64.11%.
- During vacations I did not receive 100% of my income: 52.07%.
- I was forced to falsely increase the labor statistics: 60.07%.
- I was told that if I left I would not be able to return to Cuba for 8 years: 90.96%.
- Had child/children under 18 years of age in Cuba: 48.11%. Of the doctors who testified, half were unable to see their minor children again after the "desertion".
- Weekly working hours: 72.53 hours per week on average among all the testimonials.
- It had to fulfill an agenda and/or work of a political nature and/or in favor of political options among the native population: 64.89%.
- I suffered or saw colleagues suffer threats: 75.39%.
- I suffered or saw physical violence by officials or with their permissiveness: 21.69%.
- I suffered or saw colleagues suffer sexual harassment by officials or with their permissiveness: 42.77%.

⁵² Declaration form of the testimonies collected:

<https://drive.google.com/file/d/1iVy9yKcPOUuGGEJsrf0MCsTjR9HhAScB>

42. These are the results of the analysis with the latest testimony counts (1,378). The percentages have remained similar throughout the different testimony shipments of 2019 (110)⁵³, 2020 (622)⁵⁴ and 2022 (1,111)⁵⁵, as can be seen in the sources, showing broad statistical consistency.

43. Regarding the confiscation of salaries, the analysis of the 1,378 testimonies, with complete information on salaries compared to the Agreements signed in dozens of countries, shows that the Government of Cuba withholds from professionals an average of 86.55% of the average amount of emoluments that the contracting countries and companies assign to them as salaries.

E1. RECOMMENDATIONS

44. Put an end to the practices of forced labor on Cuban civilian workers abroad denounced by the Special Rapporteur on contemporary forms of slavery⁵⁶, including its causes and consequences, the Special Rapporteur on trafficking in persons, especially women and children, and by the Committee on the Rights of the Child in the Conclusions of its Periodic Review of Cuba of 16 June 2022⁵⁷.

45. Put an end to the practices of forced labor and modern slavery suffered by Cuban civilian workers abroad who travel for labor purposes in so-called missions through or with the participation of the State.

⁵³ May 14, 2019 Complaint: [Complaint document and testimony response statistics.](#)

⁵⁴ [Complaint document and response statistics from 2020 testimonials.](#)

⁵⁵ [DComplaint document and response statistics from the 2022.](#)

⁵⁶ Letter to Cuba from United Nations Mandates on November 6, 2019:
<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24868>

⁵⁷ Report on the Conclusions of the Periodic Report on Cuba (CRC/C/CUB/CO/3-6):
https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2FC%2FCUB%2FCO%2F3-6&Lang=en