

## **CONTRIBUTION OF THE PAN AFRICAN MOVEMENT UGANDA CHAPTER ON CUBA'S UPCOMING UN 2<sup>ND</sup> CYCLE OF THE UNIVERSAL PERIODIC REVIEW (UPR) ON HUMAN RIGHTS**

### **A. Human Rights in Cuba in the Eyes of the Pan African Movement**

1. In 2010, the Pan African Movement had the privilege of making an official visit to the island of Cuba. The visit was a culmination of the historical engagements the Pan African Movement has had with the people of Cuba over the years.
2. The first thing that was striking on arrival in Havana was the normalcy of life as people went about their activities – a stark contrast from what the western backed media has portrayed over the years. There exists a thriving tourist industry and a modern transport infrastructure, among others. This, in addition to the legendary camaraderie and hospitality of the Cuban people. The underline factor is the resilience and confidence of the Cuban people that are proud and fully aware of the successes of their revolution, especially in the important areas of education and health.
3. The Pan African Movement is however concerned about an injustice so grave against the government and people of Cuba. In addition to the US instigated economic blockage under the aegis of the UN, there also exists the incarceration of five Cuban nationals in US jails on trumped up charges. The five are: Fernando Gonzalez Llort sentenced to 19 years imprisonment; Antonio Guerrero Rodriguez sentenced to one life term and 10 years in addition; Gerardo Hernandez Nordelo sentenced to two life terms and 15 years imprisonment; Ramon Labanino Salazar sentenced to one life term and 18 years in addition and Rene Gonzalez Sehwerert sentenced to 15 years imprisonment. They are now known as the “Cuban Five”. Their crime? That of being agents of the Cuban government who infiltrated the US.
4. It is true that the Cuban Five were Cuban agents, but to understand the circumstances of their infiltration of the US is look at the facts at the time of their arrest. The previous Cuban Batista regime was US backed hence the success of the socialist people's revolution in 1959 began a reign of terrorist activities by elements of the former regime based in Miami, Florida. Activities of US based terrorist groups such as Alfa 66 and Commandos F-4 are well documented. These are groups that were behind terrorist bombings of infrastructure in Cuba in the first years of the revolution. The same groups also blew up a Cuban national airline carrier over the pacific in the 70s killing all 75 passengers on board. These are the same groups that went to the extent of targeting US law enforcement facilities in the US such as FBI offices in Florida, as well as even plotting to assassinate former President Reagan in order to force the arm of the US's full military might on Cuba.
5. The incarceration stemmed from the Cuban government's cooperation with the US's FBI in fighting the terrorists. In 1998, the Cuban Ministry of the interior provided the FBI

with detailed information about violent plots being hatched in Miami, together with video and audio tapes, and in-depth personal information related to the terrorist masterminds. It was obvious that this information was obtained by the Cubans through the infiltration of the terrorist groups on US soil and three months after this information was availed, the FBI arrested the five Cuban agents in their homes. Upon arrest, the five were put in solitary confinement for 17 months and yet this should not exceed 2 months according to US law. This was the beginning of a long list of violations of the most basic human rights meted unto these Cuban patriots.

6. Concerning the assassination attempt, it was Cuban intelligence that informed the Americans about the plot through the Cuban Ambassador to the UN. The assassins were apprehended and President Reagan later thanked the Cuban government through the same Ambassador. All this is documented. As the world is well aware, there was the infamous Bay of Pigs invasion out of Florida that involved amphibious landings of hundreds of terrorists on the Cuban coast, as well as aerial bombardment by air force planes from the US, which was defeated in 72 hours of combat. The wreckagees of the air force planes that were brought down by Cuban anti-aircraft guns are on display at the Museum of the Revolution in Havana and that misadventure has gone down in history as one of the US's worst annilations in combat.
7. In a country that prides itself as the epitome of democracy and justice, why the double standards? In what could be termed as probably the worst case of absurdity of the law in the world, one of the five was charged with the "premeditated murder" in an incident that occurred 18 months after he had been detained. The incident involved Cuban air force jets, while exercising their legitimate right to national sovereignty, brought down two planes originating from Miami and belonging to known terrorist groups. These planes had violated Cuban territory on numerous occasions to provoke a response for subversive reasons while carrying out sabotage missions.
8. Finally, it is a well-known fact in the US that it is "only in Miami where a by-law is passed demanding that the persons who wish to do business with the County, must declare under oath, that they will not do business either directly or indirectly with Cuba or its citizens." From the aforementioned, the crimes for which the Cuban Five are incarcerated are those of fighting against known terrorist groups bent on overthrowing the Cuban revolution for the last 50 years. It goes without saying that these groups are fully backed by the US government.
9. The injustice committed against the five has generated passionate solidarity campaigns around the world, including within the US where over 200 committees have been formed in 75 countries. The Pan African Movement also adds its voice among the millions of voices around the world that are lobbying for the release of the Cuban Five and calls upon its fraternity and networks to take up the call.

### **C. Declaration of support on the occasion marking the 2<sup>nd</sup> Cycle of the UPR**

15. The Pan African Movement would like to add its voice to those that support the triumph of the Cuban Revolution that permitted her people to attain their true independence and the full and universal enjoyment of human rights for all. The Cuban people continue to be vindicated through their continued defense of the Revolution that made it possible for the enjoyment of civil, political, cultural, economic and social rights for all. All Cubans continue to pursue their rights to self-determination, development, peace as well as a fair, democratic and equitable international order.
  
16. From 2009 until 2012, Cuba has continued to move through a process of permanent and profound transformations in improving their socialist system, with endorsement and support of its people with the aim of advancing towards a society that is fairer and freer by the day, and more independent, acting in solidarity, equitably and productively. The policy of hostility, aggression and an economic blockade imposed by successive US administrations against Cuba has posed serious obstacles in the full enjoyment of human rights and the basic freedoms of all Cubans, including their rights to life, peace, self-determination and development. The most serious aspect of that policy is that it violates the most elementary rights of the Cuban people.
  
12. Cuba has always maintained a high level of cooperation with, and conformed to various United Nations human rights procedures and mechanisms that are non-discriminatory in nature and are of universal application. Cuba previously fulfilled the recommendations arising from the first cycle of the Universal Periodic Review (UPR) in 2009. Cuba has always been ready to participate in frank and genuine dialogue about human rights on a basis of respect of its dignity and sovereignty. Cuba thus conformed to a high number of recommendations in the first UPR cycle.
13. Therefore the continued unfair and malicious US instigated political and media propaganda campaigns against Cuba are ignorant of the achievements the country has made in the areas of human rights thus negatively affecting the country's UN human rights instruments. The US government further sponsors individuals to commit illegal and terrorist acts in Cuba hence abuse official UN human rights mechanisms and procedures.
14. The Pan African Movement would like to reiterate its support towards the cause of the Cuban peoples in realizing their aspirations as a sovereign nation. In that regard, the government of the socialist people's republic of Cuba has embarked on a number of measures aimed at streamlining their actions in line with international norms and requirements. It should however be noted that these efforts have not attracted the same goodwill, especially in as far as the US instigated UN economic blockade is concerned. Nevertheless, the following measures have been put in place:

## **B. The Legal and Institutional Framework for the Promotion of Human Rights**

15. Concerning basic human rights and freedoms, the Cuban Constitution recognizes the people's right to life, liberty and the inviolability of persons and their personal integrity, along with their right to work, take time off and the enjoyment of social security. In addition people are guaranteed the right to not be prosecuted and convicted without having access to a competent court by virtue of laws prior to the crime and with the formalities and guarantees established therein. They are further guaranteed the right to legal defense, the right of persons not to be forced to testify by the use of violence or coercion of any kind, as well as the application of retroactivity of criminal law when favorable to the prosecuted. Cuba fully adheres to the obligation to observe legalities, the obligation to comply with verdicts and other final court resolutions and control and preservation of legalities by the Attorney General's Office.
16. In the last few years, Cuba has adopted the legal and institutional framework of human rights concerning the Economic and Social Policy Guidelines in 2011. This sought the updating and adoption of the Cuban economic model, by elevating the quality of life of Cubans and moving forward in realising a society that is ever fairer, freer, more independent and standing together in solidarity. Cuba also works tirelessly to guarantee her people's defense, as well as the country's independence and sovereignty.
17. In this regard, Cuba has also ratified numerous relevant international instruments. In February of 2009, Cuba ratified the International Convention for the Protection of All Persons from Enforced Disappearance. More recently it signed into the International Convention for the Protection of Persons from Enforced Disappearance (February 2, 2009); ILO Recommendation 200 concerning HIV and AIDS and the world of work (February 13, 2012); the UN Convention against Corruption (July 28, 2008).
18. Other agrarian reforms have also been instituted where the transfer of land to peasants and other citizens was adopted, as well instituting other measures that guarantee social security, employment and housing. At the same time, Cuba is working on amendments that will be incorporated into the Criminal Code, the Family Code and the Labor Code.

## **C. Cooperation with Treaty Bodies and Other Non-Discriminatory United Nations Human Rights Mechanisms**

19. Cuba continues to maintain a high level of cooperation and interaction with United Nations human rights procedures and mechanisms that are non-discriminatory in nature and universal in application. For instance, Cuba has unequivocally maintained an open door policy of discussion on all matters with all states. It is open to this honest interaction on the basis of reciprocal respect to the country's right to sovereignty and

acknowledgement of the right of the Cuban people to choose their own political, economic and social systems.

20. In that regard, Cuba has in the past presented three reports to human rights treaty bodies, namely: the second periodic report to the Committee on the Rights of the Child (2011), the combined reports of the 14<sup>th</sup> to 18<sup>th</sup> to the Committee on the Elimination of Racial Discrimination (2011) and the combined second, third and fourth reports to the Committee Against Torture (2012).
21. Cuba further forwarded another three reports in the spirit of opening up lines of communication with relevant international bodies and organisations. These include: the seventh and eighth combined periodic reports by virtue of the Convention on the Elimination of All Forms of Discrimination against Women (2010), the initial report by virtue of the Optional Protocol to the Convention on the Rights of the Child on the participation of children in armed conflict (2011) and the initial report by virtue of the Convention on the Rights of Persons with Disabilities (2012).

#### **D. Equality and Non-discrimination**

22. In the last four years, Cuba has continued to promote numerous initiatives aimed at enhancing broader enjoyment of all human rights and fundamental freedoms for all on an equal basis and without discrimination whatsoever. The Cuban government has also adopted measures to fight against forms of discrimination based on prejudices due to sexual orientation and gender identity.

#### **E. The Right to Life, Liberty and Personal Security**

23. It should be noted that since the last UPR report, Cuba has not passed any death sentence. In April of 2009, the Council of State decided to commute the death penalty and replace it with a 30-year sentence or life imprisonment for all inmates that had been convicted with the death sentence. This decision was adopted as a sovereign act, in accordance with the humanitarian conduct and ethics of the Cuban Revolution from its beginnings.

#### **F. The Administration of Justice, Including the Fight against Impunity and the Rule of Law**

24. Cuba has institutionalized a system of independent bodies that are headed by the Supreme Court, acting collegially and composed according to their competency. These bodies deliver justice with the support of the broad popular participation of the people.
25. The Cuban judicial system is based on the following principles while dispensing its function of delivering justice: the absolute independence of judges and the entire Court system; the popular nature of justice; the elective nature of judges (both professional

and lay judges); the absolute equality of all persons before the law; the presumption of innocence until proven guilty; all trials are public, except in cases as dictated by the law; all rulings of the courts may be appealed according to requirements of the law on a case by case basis; every accused party has the right to legal defense.

**G. The Freedom of Religion and Beliefs; Expression of Association and Peaceful Assembly and the Right to Participate in Public and Political Life**

26. In spite the great strides made in the area of human rights as enumerated above, Cuba continues to be victimised under a well-organized and politically motivated ferocious propaganda campaign to discredit its performance in human rights matters. This campaign, based on unfounded accusations, can only result in obscuring Cuba's reality and performance in matters dealing with the promotion and protection of all human rights for all. Worse still is the fact that this propaganda campaign ignores Cuba's legitimate concerns on human rights issues.
27. As part of a US government instigated hostile policy, various projects discrediting Cuban authorities are promoted with the aim of disrupting order, inciting violence and creating the image of a supposed climate of destabilization and unruliness in the country. These activities are financed by ultra-rightwing organizations in the city of Miami, as earlier cited. The US government's declared aim in this endeavor is the destruction of the established political and social system in Cuba.
28. It thus becomes clear that the so-called human rights defenders acting in Cuba are nothing but mercenaries acting in the service of the American government. This is because their actions seek to undermine and destroy Cuba's judicial fabric (national laws), which is in contradiction to Article 3 of the Declaration on Human Rights Defenders adopted by the UN General Assembly on December 9, 1998. The actions of these so-called human rights do not therefore conform to the above Declarations.
29. It should be noted that in Cuba, all human rights defenders receive equal protection under the law according to the Declaration on Human Rights Defenders. Nobody in Cuba has been persecuted or penalized for peacefully exercising their rights, including those of expression, opinion and association, within the framework of the broad liberties guaranteed by the Constitution of the Republic and its laws. These laws are fully conform to international human rights instruments and standards. Confronted with a policy of aggression and hostility by the greatest power in the world, ethics have always been a corner stone for the Cuban Revolution and will continue to be.
30. Lastly, religious based discrimination is non-existent. There exist approximately 400 religions and religious institutions in the country that carry out their activities freely without any interference from the State. All religions have their places of worship where they carry out their activities without any hindrance whatsoever.

## **H. The Right to Work under Satisfactory Working Conditions; and the Right to Social Security and Adequate Standards of Living**

31. Cuba has ratified 88 ILO Conventions. Workers' fundamental rights and those of the unions in Cuba are not only included in the Constitution, but also in the Labor Code as well as in other complementary legislation all in conformity with ILO Conventions.

## **I. The Right to Health, Education, Food and Culture**

32. Cuba continues to ensure universal access to free public health. In 2011 the infant mortality rate reached 4.9%, the lowest in Latin America and the Caribbean. In 2011, the maternal mortality rate was at 40.6 per 100,000, among the lowest in the world.

33. The UNESCO Report on Lifelong Learning for All (2011) acknowledges Cuba as having attained among the highest educational development and is placed at number 14 in the world according to their Education for All Rating (IDE). That notwithstanding, Cuba continues to strive in attaining greater quality of teaching/ instruction at all levels.

34. For Cuba, the requirement for its entire population to enjoy the right to food and food security constitutes a matter of national security. The government's political will has been steadfast in attaining the right to food, in spite of the economic blockade against Cuba by the US. This includes the negative impact the blockade has had on the availability of funding for the importation of foods and investment in technologies in this field. New measures have been promoted to implement the recommendations of the Special Rapporteur after their visit in 2007.

35. Freedom to cultural expression is promoted in the country as a grassroots phenomenon, promoting equality and opportunities for the development of the potential of every citizen without discrimination.

## **J. International Cooperation in Health, Education and Natural Disasters Management**

36. Cuba has promoted various cooperation programs and projects in health matters. A Comprehensive Health Program is being developed in 40 countries. Furthermore, Operation "Miracle" is being promoted to return sight to thousands of citizens in the world. From its inception on July 8, 2004 until January of 2012, 2,261,987 surgeries have been performed.

37. On the other hand, the international contingent of doctors specialized in disaster management and serious epidemics, continues with its work. They are composed of the Henry Reeve Brigade that is made up of 5,490 Cuban collaborators who have provided medical assistance to more than 3 million victims as highlighted in the intervention in Haiti where 3,774 Cuban collaborators have been at work there since 1998. The Latin American School of Medicine (ELAM in its Spanish acronym) has graduated 9,960

medical doctors from 58 countries between 2005 and 2011, in addition to health professionals in 11 countries that are being trained.

38. Cuba continues to broadened its cooperation in the area of literacy and post-literacy campaigns using the Cuban methods called “Yes, I can” (*Yo, sí puedo*, in Spanish) (UNESCO King Sejong Literacy Prize), “I Can Read and Write Now” (*Ya puedo leer y escribir*, in Spanish) and “Yes, I Can Continue” (*Yo, sí puedo seguir*, in Spanish). At the end of May 2012, the number of graduates of the *Yo, sí puedo* program totaled to 6,775,332 and 853,088 for the *Yo, sí puedo seguir* program.
39. Cuba has provided its international cooperation to various Latin American and Caribbean countries in the reduction of disaster risks. It also participates with agencies and bodies in the United Nations on projects concerned with reducing disaster risks.

#### **K. Obstacles in the Prevention, Promotion and Protection of Human Rights in Cuba**

40. Among the various obstacles that Cuba faces in the prevention, promotion and protection of human rights include: The ongoing policy of hostility, blockade and aggressions by successive US administrations; the illegal occupation of a portion of national territory on which a US naval base is stationed hence an international centre for torture and other *lèse-humanité* crimes; recruitment, financing and use of mercenaries and terrorists under the aegis of the anti-Cuban US policy which acts against the Cuban people; and the increase of US government funding towards the so called “human rights defenders” in Cuba, among others.
41. And finally, the administration of President Obama earmarked 40 million dollars (20 million per fiscal year) through USAID and the State Department for the 2010 and 2011 fiscal years, for public operations towards a “change of regime” in Cuba. Much more money has been channeled for its undercover intelligence service operations.
42. The Pan African Movement stands in solidarity with the government and people’s of the socialist republic of Cuba and urges the UN to endorse and mainstream Cuba’s efforts in the areas of human rights as contained in this document as it is subjected to the 2<sup>nd</sup> cycle of the UPR.



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