



# Convention on the Rights of the Child

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## Committee on the Rights of the Child

### **Consideration of reports submitted by States parties under article 8, paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict**

**Initial reports of States parties due in 2009**

**Cuba\***

[14 January 2011]

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\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document has not been edited.

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## I. Introduction

1. Cuba signed the Convention on the Rights of the Child on 26 January 1990 and ratified it on 21 August 1991. In keeping with this commitment, the Republic of Cuba strictly adheres to the provisions of this international instrument in its legislation<sup>1</sup> and practices and has thus laid the groundwork for consolidating and protecting the rights of children and adolescents in all areas of society.
2. Upon ratification of the Convention, the Government formulated a declaration which reads as follows: “With reference to article 1 of the Convention, the Government of the Republic of Cuba declares that in Cuba, under the domestic legislation in force, majority is not attained at 18 years of age for purposes of the full exercise of civic rights.”
3. In Cuba, children’s and adolescents’ rights and the safeguards and social policies established for their benefit predate the Convention itself and often exceed the scope of its provisions.
4. The special attention devoted to children and adolescents is provided through a multisectoral, multidisciplinary and coordinated system involving governmental and non-governmental entities, social organizations and the general population, including children and adolescents themselves.
5. As a sign of its commitment to the comprehensive protection of the rights of children and adolescents, which are safeguarded under the provisions of article 40 of the Constitution,<sup>2</sup> Cuba ratified the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography on 25 September 2001. It ratified the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict on 9 February 2007.
6. In keeping with article 10 of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, the latter entered into force for Cuba in March 2007. As set out in article 8 of this instrument, within two years following the entry into force of the Protocol for a State party, each State party is to submit a report to the Committee on the Rights of the Child providing comprehensive information on the measures it has taken to implement the provisions of the Protocol, including the measures taken to implement the provisions on participation and recruitment.
7. The present report has thus been prepared by Cuba in accordance with its obligation to provide information on its implementation of the Optional Protocol.

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<sup>1</sup> In accordance with article 12, subparagraph (b), of its Constitution, the Republic of Cuba subscribes to the principles of anti-imperialism and internationalism. It bases its international relations on the principles of equal rights, the self-determination of nations, territorial integrity, the independence of States, equitable international cooperation that is of mutual interest and benefit, and the peaceful and respectful settlement of disputes with other nations on an equal footing, as well as on the other principles enshrined in the Charter of the United Nations and in other international treaties to which Cuba is a party. Article 20 of the Cuban Civil Code stipulates that, if an international agreement or treaty to which Cuba has acceded establishes rules that are at variance with those laid down in the preceding articles of the Code or not contained in them, the rules of such agreements or treaties shall apply.

<sup>2</sup> Article 40 of the Constitution provides that: “Children and young people shall be granted special protection by the Government and society. Families, schools, government agencies and social and grass-roots organizations have the duty to devote special attention to the comprehensive development of children and young people.”

8. This report is the culmination of a process that involved many ministries and governmental and/or State institutions, the National People's Assembly, non-governmental organizations and other relevant institutions. The Ministry of Foreign Affairs coordinated the multidisciplinary working group that was tasked with conducting the broad participatory consultation process that led to the approval of this document.

9. The scope of this report does not include the territory illegally occupied by the United States Naval Station Guantanamo Bay, where the Cuban nation is deprived of the right to exercise its sovereignty and where a globally repudiated torture and arbitrary detention centre has been put into operation.

## **II. Factors influencing the implementation of the Convention and its optional protocols**

10. It is impossible to evaluate the real state of affairs in Cuba and, in particular, the current situation in which Cuban children and adolescents live without addressing the serious challenges and threats posed by outside forces which have a negative impact on efforts to ensure the full implementation of the Convention on the Rights of the Child and its optional protocols.

11. At the same time that the Cuban nation is making progress in implementing broad social programmes designed to increase civic participation, equity and social justice, external threats to the enjoyment of its rights to development, self-determination and peace have intensified as a result of the policy of hostility and the genocidal economic, financial and trade embargo that have been directed against Cuba by successive Administrations of the United States of America. As of December 2009, a very conservative estimate of the direct economic cost of this embargo to the Cuban nation puts the damage caused at more than US\$ 100.154 billion at current prices. This figure would increase to US\$ 239.533 billion if the calculation were based on retail price inflation in the United States, using the consumer price index inflation calculator of the Bureau of Labor Statistics of the United States Department of Labor. If account is taken of the fact that the dollar, measured in relation to the price of gold on the international financial market, has depreciated by a factor of over 30 between 1961 (when the price of a troy ounce of gold was pegged at US\$ 35) and the end of 2009 (when it broke through the thousand-dollar barrier), the total impact on the Cuban economy is on the order of US\$ 751.363 billion.

12. In addition to the long-standing economic, financial and trade embargo maintained by the United States Government, which has had repercussions on every aspect of life in the country, Cuba has had to cope with the impact of the international crisis, the increase in the cost of food, petroleum and petroleum products, and weather events such as the hurricanes which laid waste to the island in 2008.

13. These factors, especially the embargo, have translated into enormous material shortages for the Cuban people, reductions in the quality and quantity of their food supply and tremendous obstacles to the development of health and educational services, to cite only a few of their harmful effects. All this has inevitably had an impact on the overall development of children and adolescents.

14. Against this background, the State and Government of Cuba continue to apply a strategy focusing on survival, resistance and development in every sphere of economic, political and social life. Economic restructuring has continued, and new alternatives and solutions have been devised to minimize the negative impacts of these factors, make optimum use of financial and human resources and hold on to the ground that has been gained.

15. Despite these wide-ranging difficulties, Cuba has continued to establish and reinforce mechanisms to protect children's and adolescents' rights and their place in society.

### **III. Compatibility of the implementation of the Optional Protocol with the general principles of the Convention**

#### **A. The principle of non-discrimination**

16. The obligation to observe the principle of non-discrimination is set out in the Cuban Constitution, especially in articles 42 and 43, which refer to it specifically, and in Cuban law. All families who are raising children or adolescents enjoy the full range of constitutional rights, liberties and guarantees on an equal basis.

17. Article 37 of the Constitution guarantees equal rights for all children, whether born in or out of wedlock. Article 4 of the Civil Registry Act and its implementing regulations (Decision No. 157/1985) provided for the elimination of any differentiation or classification of births by stipulating that: "No birth registration or other document or certificate issued by the Civil Registry shall contain any indication that would differentiate some births from others or any reference either to the parents' civil status or to the child's filiation."

18. Article 42 of the Cuban Constitution states that: "Discrimination on the basis of race, skin colour, sex, national origin or religious belief, and any other act that is offensive to human dignity, shall be prohibited and shall be punishable by law. Cuban State institutions shall instil in all persons, from the earliest age, the principle that all human beings are equal, as set forth in article 41 of the Constitution."<sup>3</sup>

19. The Constitution of 1992 reaffirms the main objectives and identifies the pillars of Cuban social policy. Article 44 of the Constitution stipulates that women and men shall enjoy equal economic, political, cultural, social and family rights.

20. Numerous legal provisions guarantee the fundamental human rights of children and adolescents of both sexes, without distinction. These rights include the rights to life, health, education, social security, social assistance, housing, employment and development, the rights to vote and stand for election, and adolescents' sexual and reproductive rights, including access to family planning services.

21. The committees established by the National People's Assembly — the highest organ of State power — are composed of deputies and are organized into multisectoral and interdisciplinary working groups that take on various responsibilities. One such committee is the Standing Committee for Children, Young People and Equal Rights for Women, which was established in 1982. It has been granted the authority to initiate legislation. As a result of its efforts, various laws and legal provisions have been developed and put forward, and measures have been taken to ensure the increasing realization of children's, young people's and women's rights and opportunities on an equal basis with others.

22. Various programmes and legal provisions reaffirm the resolve of the Cuban State to ensure that every child and adolescent has the opportunity and enjoys the right, without distinction, to be enrolled in the national education system and to reach as high a level of education as his or her abilities and efforts permit.

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<sup>3</sup> All persons shall enjoy equal rights and shall have equal responsibilities.

23. In the more than 30 years of its existence, the Family Code (Act No. 1289 of 14 February 1975) has helped to strengthen the family as the fundamental building block of society and has contributed to the growing equality of rights between sons and daughters.

24. The Code put an end to the class structure and to discrimination against certain children by reason of their parentage. As one of the main objectives of the Code, article 1 provides for the full realization of the principle of equality of all children, while article 65 stipulates that all children are equal and therefore enjoy equal rights and have the same duties towards their parents, irrespective of their parents' marital status. This has been the cornerstone of Cuban family law, which finds its source, as explained previously, in article 37 of the Constitution. It has resulted in the disappearance of any difference before the law between legitimate and illegitimate children in all matters relating to parenthood, the parent-child relationship and inheritance.

25. In conformity with the above-mentioned Code and according to their means, parents must provide for their children's needs for food, clothing and shelter and for education, recreation and development, without any distinction whatsoever.

26. The Cuban education system attains standards of performance comparable to those in developed countries and is organized nationwide into various subsystems in which all levels and types of education are interlinked, offering continuity of education right up to university level for all citizens, without distinction.

27. A special education subsystem provides for the educational needs of children and adolescents with physical or mental disabilities or behavioural disorders. It caters to pupils who have been diagnosed with mental retardation, deafness, hearing impairment, blindness, vision impairment, a speech disorder, a behavioural disorder or delayed mental development.

28. The special education system plays an important role in the protection of children. It is composed of a large number of institutions and types of support, resources, assistance and guidance that are made available to all groups of at-risk children with special educational needs, as well as their families, educators and communities.

29. Every education system inevitably instils ethical values in its students. In Cuba, the teaching of any subject — from preschool all the way up to higher education — is based on an educational approach designed to inculcate the highest human values, including those of equality and friendship.

30. The Cuban State condemns and prohibits racial segregation and apartheid, and its national policies and international activity reflect its adherence to this principle.

31. Accordingly, article 295 of the Criminal Code defines the offence of infringement upon the right to equality, which carries a penalty of from 6 months' to 2 years' imprisonment or a fine of from 200 to 500 base units (a variable unit whose amount is determined by the court), or both, for anyone who discriminates against another person or promotes or incites such discrimination, whether by overt displays or attitudes that are offensive in relation to that person's sex, race, skin colour or national origin, or by actions intended to hinder or prevent that person, on such grounds, from exercising or enjoying the equality of rights guaranteed by the Constitution. The same penalty is applicable to anyone who disseminates ideas based on presumed racial superiority or hatred, or who commits or incites acts of violence against any race or group of persons of another skin colour or ethnic origin.

32. Under article 120, paragraph 1, of the Criminal Code, the crime of apartheid is punishable by a penalty of between 10 and 20 years' imprisonment or death for "those who, with a view to instituting and perpetuating the domination of one racial group over another and in pursuit of policies of racial extermination, segregation or discrimination:

(a) Deny members of such a group the right to life and liberty by means of murder, a serious assault on their physical or mental integrity, liberty or dignity, torture or cruel, inhuman or degrading treatment or punishment, arbitrary detention or illegal imprisonment;

(b) Subject such a group to legislative or other measures intended to prevent its members from participating in the political, social, economic or cultural life of the country or of deliberately creating conditions that impede their full development by denying them fundamental rights or freedoms;

(c) Divide up the population on the basis of racial criteria, create reservations or ghettos, forbid marriage between members of different racial groups or expropriate their property;

(d) Exploit the labour of the group's members, particularly by subjecting them to forced labour.”

33. Paragraph 2 of the same article establishes a penalty of between 10 and 20 years' imprisonment if the offence entails any kind of persecution or harassment of anti-apartheid organizations or their staff.

34. By virtue of the many legal provisions and related practices to which the above-mentioned paragraphs refer, the principle of non-discrimination in Cuba also serves as the foundation for the protection of children from involvement in armed conflicts.

## **B. Best interests of the child**

35. The concept of the best interests of the child has been present in the administrative, educational, family, legal and judicial aspects of Cuban legislation since the 1970s, as evidenced by the use of such terms as “in the interests of and for the benefit of children”. This attests to the fact that the protection of children and adolescents and consideration, first and foremost, of what is best for them are an integral part of the Cuban vision of society.

36. Cuban government agencies and institutions promote comprehensive protection policies for children and adolescents. As the organ of the State whose primary function is to oversee and ensure legality, the Attorney General's Office is responsible for representing the State — and, as necessary, for representing underage, absent or legally incompetent parties — in judicial proceedings that may be instituted, as provided for by law, in the interests of society. The Attorney General is also responsible for ensuring compliance with laws, regulations and provisions concerning the treatment of minors in conflict with the law, minors who have behavioural disorders and those placed in welfare institutions.

37. Chapter IV (“Protection of minors”) of the Office of the Attorney General Act (Act No. 87/97) provides that the agencies of the Attorney General's Office, as represented by the public prosecutor appointed in each case, are empowered to discharge the functions associated with overseeing the treatment of children and ensuring that it is in adherence with the law. The rights of the child are also protected by The People's Courts Act (Act No. 82/97). Article 4 of the Act defines the objectives of judicial activity. Subparagraphs (b) and (c) of article 4 set out the objectives of safeguarding the social and political order established in the Constitution and protecting life, liberty, dignity and family relations.

38. The functions of the acting prosecutor include: representing and defending minors when they lack legal representation or when there is a conflict of interest between the legal representative and the minor; visiting homes and institutions devoted to caring for and educating minors who have been deprived of parental care with a view to assessing their legal situation, protecting their rights, property and interests, and taking any necessary

measures in that regard; conducting inspections of National Revolutionary Police units in order to monitor their compliance with established standards for the treatment of minors who have engaged in delinquent behaviour or have committed acts defined as offences; visiting schools for children with behavioural difficulties and juvenile rehabilitation centres (now referred to as “integrative schools”) in order to verify compliance with established standards for the care and treatment of children living in those institutions; and examining any and all types of documentation relating to the situation of minors and conducting interviews with children, teachers, psychologists, instructors, social workers, lawyers and other public officials responsible for educating and rehabilitating children.

39. When the prosecutor finds that a violation of the law has occurred, a resolution for redress must be issued.

40. In 2010, the standing committees of the National People’s Assembly carried out an assessment of the services provided to children who are without parental care and, in conjunction with the Ministry of Education, identified the following strategies for improving them:

- Ensuring that the activities carried out by the various agencies and institutions that help to run homes for young people who lack parental care are of a nature that will promote their comprehensive development;
- Giving particular attention to the material needs and overall education of these children and young people with a view to fostering their harmonious development and ensuring that they continue their schooling;
- Creating conditions conducive to young people’s entry into the workforce, social integration and independent development in line with their occupational level of development.

41. In judicial proceedings whose outcome will affect a child, the child’s views are taken into consideration. The methods used to learn what those views are include exploratory conversations between the child and specialists, either in the courthouse or elsewhere, depending on the nature of the proceedings and the circumstances of the case.

42. The Criminal Procedure Act regulates such proceedings, and the People’s Supreme Court, by means of Instruction No. 173 of 7 May 2003 of the Governing Council, has established guidelines for questioning children. In February 2005, the Child and Adolescent Protection Centre was established in Havana, and another such centre was set up in Santiago de Cuba in March 2008. These centres work to prevent the secondary victimization of children under the age of 16 who have been victims of sexual offences and thus help to ensure that minors involved in legal proceedings are treated appropriately and in a manner that is in their best interests and consistent with their evolving capacities.

43. In the area of family law, the courts are taking an innovative approach that represents a momentous step forward in the way that cases involving children or adolescents are handled. Instruction No. 187/07, published in the special edition of the *Official Gazette* dated 15 January 2008, takes into account the provisions of the Convention on the Rights of the Child and establishes that, in litigation involving a child’s custody or care or a parent’s visitation rights, the views of a child over the age of 7 shall be heard, provided that doing so is in his or her best interests. The instructions also state that the necessary arrangements shall be made to ensure that this hearing takes place in a favourable setting and in absolute privacy, preferably in one of the counselling centres for women and



families run by the Federation of Cuban Women<sup>4</sup> or in another locale that offers an appropriate environment.

44. The grandparents of the child or children concerned may also be heard in the capacity of third parties, and provision is made for the involvement of a team of specialist multidisciplinary advisers to assist the court and report to it on matters about which the court requests information.

45. The challenge for the future is to extend these arrangements to all municipal courts throughout the country and to modify the applicable procedural legislation accordingly. Work is currently being undertaken in both of these areas.

46. The principle of the best interests of the child is upheld by the country's system for selecting the best time for recruitment and enlistment for military service. Care is taken to avoid interrupting people's education and to encourage them to continue their education after having served.

## **C. The right to life, survival and development**

### **1. The right to life**

47. The right to life is protected by law starting from before birth, as evidenced by the fact that chapter VII ("Fundamental rights, duties and guarantees") of the Constitution provides for the protection of the family, maternity and marriage. Under the Constitution, children and young people are entitled to special protection from the State and society. Families, schools, government agencies and social and grass-roots organizations have a duty to devote special effort to promoting the comprehensive development of children and young people.

48. The main goals of Cuban social policy are to ensure citizens' enjoyment of the rights to health care and education, pensions for those retiring or in need of financial assistance, employment opportunities, access to basic nutrition, comfortable housing and the development of an increasingly just and caring society for everyone. However, the economic, financial and trade embargo imposed by the United States Government for nearly five decades now denies Cuban children the possibility of growing up in a more favourable social environment, since it impinges on essential sectors such as health care and education.<sup>5</sup>

49. Despite the embargo, levels of child mortality in Cuba have been among the lowest in the world for all these years — thus enabling Cuba to meet one of the Millennium Development Goals — and are the lowest in Latin America, making them comparable to those of developed countries. In 2009, the infant mortality rate was 4.8 for every 1,000 live births. In 21 municipalities of the country, infant mortality was zero.

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<sup>4</sup> The Federation of Cuban Women is a non-governmental organization that was established in 1960. It has a wide social base of support encompassing women in all sectors of Cuban society. This national mechanism for the advancement of women enjoys enormous strength, boasts a high level of representation, and has great influence and prestige. It brings together 4,237,383 women, constituting 88.5 per cent of the members of the female population who meet the age requirement (14 years of age or above). One of its primary objectives is to fight for the full inclusion, participation and advancement of women in the economic, political, social and cultural life of the country on the basis of equal rights and opportunities. It has special consultative status with the Economic and Social Council.

<sup>5</sup> See document A/65/83 of 12 August 2010, pp. 23–59.

50. Children are given 10 types of vaccines to protect them against 13 communicable diseases (poliomyelitis, diphtheria, tetanus, whooping cough, measles, rubella, mumps, severe infantile tuberculosis, typhoid fever, hepatitis B, haemophilus influenzae, and groups B and C meningococcal disease). In the case of all these vaccines, the rate of coverage is more than 95 per cent. Six vaccine-preventable diseases have been eradicated: poliomyelitis, diphtheria, measles, whooping cough, rubella and mumps.

51. These results reflect the strength of the Cuban health-care system, which has been developed at the community level and focuses on primary health care. Particularly noteworthy results have been achieved through the use of preventive measures to provide differential treatment to pregnant women who have special needs.

52. Accidents are the leading cause of death among children between the ages of 1 and 4. To address this situation, a variety of approaches are used to educate families about safety, since the family plays such a key role in prevention. The National Accident Prevention Programme, which is carried out across a number of sectors, is coordinated by the Ministry of Public Health.

53. Family medicine is in the vanguard of the Cuban primary health-care model, which is based on core teams of medical practitioners who know their patients and who attend to children, adolescents and their families using a well-organized, ongoing and dynamic epidemiological and social clinical approach.

54. By providing for the treatment not only of children but also of their families, the Cuban primary care model makes it possible to take a more tailored approach, especially in the case of so-called dysfunctional families, and to find means of addressing potentially high-risk situations. Health-care personnel work with families to avert injuries, and the community is called upon to assist in altering the family environment. The attending physician follows up on cases, together with health brigade volunteers from the Federation of Cuban Women, nurses, paediatricians, psychiatrists, psychologists and social workers.

55. Services are provided to disabled children and adolescents through specialized programmes and through centres that teach families how to care for their disabled children and that teach disabled children how to become independent, to the extent allowed by their condition.

56. The Psychopedagogic Medical Centre, which is now part of the Ministry of Public Health, provides comprehensive care to persons with severe/profound intellectual disabilities, including such services as social assistance, evaluation and diagnosis, education, research and support with a view to maximizing their potential and promoting social inclusion, family relationships and community integration. It focuses on health care and health maintenance and on the development of sensory, motor and intellectual skills through psychopedagogic coaching in close collaboration with families and the community.

57. Work is progressing on the development of a Cuban system for the application of the International Classification of Functioning, Disability and Health (ICF) with the help of an ICF advisory group. This will allow for the establishment of a useful framework for measuring individuals' levels of functionality, disability and health, along with the identification of conditions affecting their health status.

58. Our understanding of the concept of special education is the result of many years of hard work on the interpretation and adaptation of innovative and contemporary global approaches to conditions in Cuba. In consequence, special education is conceived of as a system of schools, methodologies, resources, assistance, and guidance and training services for children with special educational needs (grouped according to their level) and for their families, teachers and communities.

59. There are also primary care teams in every health district. These teams, composed of paediatricians and other specialists, carry out paediatric consultations in conjunction with designated family doctors and nurses. These consultations offer another opportunity for contact between children and the Cuban health system and focus on evaluating and averting any risks to which children and adolescents may be exposed or providing a diagnosis and intervening when a risk has materialized. In the course of such consultations, the physical or mental signs of sexual abuse, among other problems, may be identified and the corresponding measures taken.

60. The National Comprehensive Adolescent Health-Care Programme is carried out by the Ministry of Public Health. Its objective is to increase coverage and improve overall health care for adolescents using a gender-based approach in order to enhance their quality of life. In so doing, it rationalizes the resources of the national health-care system. With the active participation of adolescents and their families and communities, and with the aid of intersectoral cooperation, activities are carried out under the Programme in the areas of organization, information, education, communication, prevention, welfare, teaching and research.

61. Comprehensive health care during adolescence encompasses the biological, psychological, social and gender-related aspects of this stage in people's lives within their family environment and the measures taken to address adolescents' needs in the areas of health, development and social well-being. In order to achieve this degree of comprehensiveness, a clinical, epidemiological and social approach is taken to the provision of services to persons in this age group.

62. Cuban criminal law stipulates that the death penalty is to be applied only in exceptional circumstances and only for the worst of the crimes to which that penalty may be applied. Article 29.2 of the Criminal Code expressly prohibits imposition of the death penalty on persons under the age of 20 and on women who were pregnant at the time they committed the offence or who are pregnant at the time of sentencing.

63. The implementation of measures to ensure that children do not participate in armed conflicts is one of the ways in which Cuba protects their rights to life, survival and development.

## **2. The right to survival**

64. Since the triumph of the Revolution, government policy aimed at ensuring the survival and development of children has focused on overcoming the social and economic disparities of the past.

65. Well before children are even born, the Cuban State and society ensure that they will have the right to a healthy and happy life by providing all mothers, without distinction, with the kinds of information and care that have produced one of the lowest infant mortality rates in the world. Once born, all children have the right to their identity and the right to citizenship.

66. In Cuba, 99.9 per cent of births take place in facilities run by the national health-care system.

67. The continuing search for ways to ensure that the rights of mothers and their children are duly recognized and protected, with particular emphasis on health care and social security coverage, has been a primary responsibility and objective of the Cuban State. This was given legal expression in Act No. 1263, the Working Women's Maternity Act, which was promulgated as long ago as 14 January 1974.

68. The Working Women's Maternity Act made important inroads in this respect, but regulations were needed to help to promote and create the conditions for shared parenting,

proper care for children in the event of the mother's death and the provision of economic protection for the widowed father and to help working parents to obtain specialized care for their children with physical or mental disabilities. Consequently, Decree-Law No. 234 on the Working Women's Maternity Act — which retained the essential elements of its predecessor while including some important additions — was promulgated on 13 August 2003.

69. The new regulations broaden and enhance working women's rights and provide greater maternity protection by guaranteeing and facilitating the provision of medical care during pregnancy, antenatal and postnatal leave, childcare, with differential treatment for children with disabilities, and setting out arrangements to facilitate breastfeeding. They also help to encourage mothers and fathers to share responsibility for looking after their children during the postnatal leave period and after the breastfeeding period and assist a father in taking up that responsibility in the event of the mother's death. This decree-law also applies to adoptive parents in all matters pertaining to the protection of children.

70. Working mothers are entitled to take time off from work before and after childbirth and to receive a cash benefit provided through the social insurance system. Their employment relationship is suspended during such periods of leave, with the worker retaining her position and wage rate.

71. In order to ensure that children receive proper care and treatment in their first year of life, working mothers or fathers are entitled to one day of paid leave a month so that they can take the child to the paediatrician for a check-up.

72. Article 27 of Decree-Law No. 234 entitles parents with disabled children to take unpaid leave as from the child's first year and until he or she reaches the age of 3 so that they will be better able to monitor the child's behaviour during these early years of life without giving up the possibility of returning to their jobs. The scope of this provision also extends to adoptive parents and to relatives who are required under the Family Code to provide maintenance. Paragraph (d) of the first temporary provision of this decree-law makes article 27 retroactive, which means that this benefit is also extended to the parents of disabled children who had not yet turned 3 years of age by the date on which the decree-law came into force.

73. Cuba has implemented a highly successful programme for mothers of children with severe disabilities. The programme ensures that mothers who have quit their jobs in order to care for their disabled child receive the necessary assistance. It also covers mothers who have interrupted but not quit their jobs, who are paid a wage equivalent to the last wage earned before the interruption of employment; they also retain their social security entitlements, and the periods of time that they spend as a caregiver are recognized as periods of uninterrupted service for the purposes of their retirement pension. Stay-at-home mothers in the same circumstances are offered regular benefits, with the amount of that benefit being based on an assessment of family needs. This very successful programme currently pays benefits to 7,599 mothers of children with severe disabilities.

74. The Labour Code provides that pregnant women and women with children up to the age of 1 are exempt from any requirement to work overtime, work double shifts or render services outside their workplace. If their pregnancy prevents them from performing their assigned duties, they must be transferred temporarily, on a doctor's orders, to another position that is better suited to their physical condition.

75. Legal provisions governing family relationships and the functions, duties and rights of parents are set forth in the Constitution, the Family Code and the Code on Children and Young People (Act No. 16 of 28 June 1978). These instruments are based on the premise that the family environment is the natural setting for the growth and developmental well-being of all their members, especially children and adolescents, and that families should

thus be given the necessary support. The law also sets forth the obligation of children's legal representatives to provide for their maintenance, assist them in defending their interests and contribute actively to their education and development. Parents exercise parental authority jointly, doing so individually in the event of the other parent's death or pursuant to a judicial order for the suspension or termination of parental authority. A court may suspend or terminate a parent's right to exercise parental authority; such rulings are delivered in observance of due process and are always based on a consideration of the best interests of the child.

76. Children or adolescents who, for any reason, are placed in residential assistance, educational, rehabilitation or health-care facilities remain in contact with their parents and receive instruction in line with the current school curriculum (this is done even in hospitals, if appropriate). A variety of social services provide for such arrangements.

77. The Cuban State guarantees that children and adolescents who, for whatever reason, are placed in residential assistance, educational, rehabilitation or health-care facilities can remain in contact with their relatives. They are enrolled in the national education system and receive instruction that corresponds to their level and grade. In addition, various types of social services are in place to meet their special needs.

78. With the enactment of Decree-Law No. 76 in 1984, a network of centres was set up for abandoned children and children deprived of parental care, and improvements were made in the care provided to these children. The overarching principle is that children should be treated with dignity and should live in conditions resembling those of a home. The dreary orphanages of the past have been transformed into homes designed to provide children with a communal environment offering them greater security and fostering trust. The entry into force of this law was a milestone in the creation of a more highly developed social work and social assistance system. Admission to the centres is approved only in exceptional cases, and only when the possibility of having the child cared for by a family member has been ruled out. The centres receive children on a temporary basis when their parents are financially insolvent, have mental disabilities or have been deprived of their liberty pursuant to a judicial decision.<sup>6</sup>

79. The principle underlying current policies on the care of school-age children who have been deprived of parental care is that the emotional needs of children who have been abandoned by their families or who have lost their parents should be fully met. This is done by placing them in a foster family that can provide them, in addition to material support, with a stable and definitive home environment in which to grow up and learn how to be responsible members of their family and society.<sup>7</sup>

<sup>6</sup> Decree-Law No. 76 of 1984 and its implementing regulations, Ministry of Justice Decision No. 34 of 1984 and Ministry of Education Decision No. 48, provided for the establishment of a network of centres for minors who lack parental care. This national network of social assistance centres provides care and shelter for orphaned or abandoned children in a setting resembling a family home. These centres include homes for children between the ages of 6 and 17 (*hogares de menores*) and centres for children under the age of 6 (*círculos infantiles mixtos*).

<sup>7</sup> A foster family is provided by a married couple or by one or more persons who are related by blood, live in a dwelling of their own and care for one or more children in accordance with Decree-Law No. 76 of 1984 and Ministry of Justice Decision No. 34 of 1984. These families assist the children's homes in providing shelter, care and attention to orphaned and abandoned children on weekends and holidays, as well as during other periods. Emphasis is placed on ensuring the children's emotional well-being.

The directors of children's homes are responsible for selecting the foster families based on their interest in providing a foster home and the personal attributes of the family members; the consent of

80. As well as requiring children's legal representatives to comply with their obligations, the State and society provide them with various opportunities and with support to assist them in caring for their children.

81. The amendments made to the Criminal Code (Act No. 62 of December 1987) by means of Decree-Law No. 175 of 17 June 1997 and Act No. 87 of 16 February 1999 have strengthened the system of criminal laws that protect the family, children and young people and that promote healthy sexual development. These two pieces of amending legislation defined new criminal offences and increased the penalties for others, thus either directly or indirectly strengthening the system of protection for Cuban children and adolescents.

### **3. The right to development**

82. Article 39, subparagraph (b), of the Cuban Constitution stipulates that: "education is a function of the State and is free of charge". Through the extensive system of free day schools, boarding and semi-boarding schools and scholarships for all types and levels of education, as well as the provision of free school materials, the State ensures that every child, adolescent and young person, irrespective of his or her family's financial situation, has the opportunity to undertake courses of study that match his or her aptitudes, meet the requirements of society and fulfil economic and social development needs.

83. Under the national education system of Cuba, combining study with productive work and linking theory with practice, school with life, and teaching with production activities are considered crucial to the all-round development of children and young people. Productive work is treated as part of the curriculum, making it both a foundation and a medium for the moral education of the individual, given that work is considered to be a transformative and decisive element in the developing personality.

84. All students have access to computers free of charge from primary school on, even those who live in remote areas.

85. The media play a fundamental role in discussing and raising awareness of the rights of children and adolescents while also fostering understanding and acceptance of racial, religious and gender diversity. Radio and television programming in Cuba is fully in line with the main objectives of the Information Project on Children's and Adolescents' Rights.

86. In order to promote their overall development, all children and adolescents in Cuba are given access to radio and audiovisual programmes that are tailored to that audience and that are primarily intended to serve educational and recreational purposes and to provide guidance. These programmes help increase children's and adolescents' ability to understand and participate in the discussion of issues related to education, sexuality, diversity, environmental protection, the economy and society.

87. The media, particularly television, have a major impact in Cuba, as is attested to by the fact that television-viewing figures are quite high. Programmes for children and adolescents use age-specific approaches to the promotion of human values. They also provide a forum for airing opinions and serve as a source of family guidance, all of which contributes to children's all-round development.

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the child or children in question is also sought.

The foster family is not the same thing as a pre-adoptive family, although that may sometimes turn out to be the case. In selecting foster families, the directors of children's homes coordinate with the Federation of Cuban Women and rely on their assistance, as well as, where necessary, on support from other political, social and grass-roots organizations.

88. Valuable locally focused services are provided by the public computer centres that are situated in each of the country's provinces. Cuba also has two educational channels with programming targeted at students in different areas of specialization and in the various grade levels. This programming helps to increase the level of education in the country.

89. The Constitution also provides for the right of all children and adolescents to enjoy access to culture, sport and recreation, and the Cuban Government conducts many programmes and initiatives to that end.

90. The State helps to guide and promote educational, cultural and scientific activities in all their forms. There is freedom of artistic creation so long as the content does not encourage acts that are contrary to the legal and moral principles underpinning Cuban society. There is freedom of artistic expression, as well. In order to raise the cultural level of the people, the State promotes and provides art education, as well as fostering creativity and cultivating artistic expression and art appreciation among children starting from an early age.

91. While championing the best expressions of different cultures from around the world, the State also protects the Cuban cultural identity and ensures that the nation's cultural heritage and artistic wealth are preserved. The State promotes citizens' participation in developing educational and cultural policy through the country's social and grass-roots organizations.

92. All Cuban citizens have the right to physical education, sport and recreation. Enjoyment of this right is guaranteed through the inclusion of physical education, exercise and sport activities in the curricula of the national education system. The broad range of instructional activities and resources made available to the people also facilitate large-scale participation in sport and recreational events.

93. The Cuban State guarantees equal access for all its citizens to seaside resorts, beaches, parks, social centres and other cultural, sport, recreation and rest facilities.

#### **D. Respect for the views of the child**

94. The right of all persons to freely express their opinion is recognized and guaranteed under article 53 of the Cuban Constitution. The fact that the press, radio, television, cinema and other mass media are the property of the State or society ensures that the material conditions for the exercise of this right are in place.

95. Cuban children and adolescents have access to forums in which their opinions are heard and respected.

96. Through student organizations, Cuban school and university students identify and discuss shortcomings in the educational process and ways to improve that process, school life in general and the work of their organizations. These organizations include:

- The José Martí Pioneers Organization;
- The Federation of Senior Secondary School Students;
- The University Students' Federation.

97. From the age of 14, students can also join grass-roots organizations or non-governmental organizations (NGOs) such as the Federation of Cuban Women (which is only open to girls) and Committees for the Defence of the Revolution, in which they can discuss social and economic problems affecting the places where they live.

98. The country has a number of programmes for children and adolescents which were initiated by the Government but whose coordination, development and implementation

have been entrusted to student and youth organizations. This strategy is driven by a concern to ensure that the beneficiaries of programmes also take the lead in running them, so that they can, in turn, ensure that the programmes address their actual interests, needs and expectations.

99. Children and adolescents actively participate in the design, coordination, development and implementation stages of programmes undertaken by the Cuban Revolution for their benefit. These programmes include the:

- People's Camping Programme: The objective of this programme is to provide people with the opportunity to enjoy healthy leisure and recreational activities that put them in direct contact with nature. Most participants are children, adolescents and young people who form associations of campers, young ecologists and scouts to underpin the implementation of the programme. There are 84 facilities across the country, and they are used by 60 per cent of the population each year;
- Young Computer Club Programme: Children and adolescents from all over the island are involved in developing educational software and games, and they are taught how to share this knowledge with others in schools and workplaces. There are 607 clubs, with at least 2 facilities per municipality, and over the years more than 2.4 million people have completed some of the dozens of computer and electronics courses they offer;
- Audiovisual Programme: This programme promotes and runs workshops for children and adolescents throughout the country at which they help to design programming that meets children's and adolescents' intellectual needs, matches up with their interests and takes into account the diversity of the population and the differing social codes that have meaning for each age group;
- Young Creators and Artists Movement: Led by the Hermanos Saíz Association, which is a selective alliance of volunteers drawn from among the country's most important young (under age 35) writers, artists, intellectuals and promoters, this movement has been in existence for 24 years and has 2,173 members;
- Young Scientists Brigades Movement: Cuban workers aged between 17 and 35 volunteer to become members of these brigades, which are organized in all occupational sectors in Cuban society and form part of the country's scientific and technological innovation system. The movement brings together talented young people in the field of science to contribute to the country's development and the implementation of far-reaching social programmes. The movement is made up of 186,008 brigadiers belonging to 15,617 brigades.

100. With regard to the administration of justice, reference has already been made in paragraph 43 to the innovations introduced in the country's municipal courts in cases related to family law. Amendments have also been made to the Family Code that help to ensure that children's and adolescents' views are respected.<sup>8</sup>

#### **IV. Implementation of the Optional Protocol**

101. The above description of the measures taken to harmonize national legislation and practice with the general principles of the Convention on the Rights of the Child will be

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<sup>8</sup> This innovation was first introduced in the municipalities of Guanabacoa in the city of Havana and Placetás in Villa Clara and was then introduced into the municipal courts in all the other provinces in April 2010.



supplemented by an explanation of how the implementation of the Optional Protocol to the Convention on the involvement of children in armed conflict fits in with those general principles.

## Article 1

102. In Cuba, for the purposes of implementing the provisions of this Optional Protocol, the expression “take a direct part in” is understood to refer to the connection between a person and the combat activities engaged in during armed conflicts.

103. Cuban law provides for the enlistment of male citizens in the Armed Forces once they turn 18, which excludes the participation of persons under that age in areas where hostilities are taking place.

104. There are no cases of members of the Armed Forces under the age of 18 who have been taken prisoner. There are no armed conflicts taking place in Cuba.

## Article 2

105. National Defence Act No. 75/94 and Decree-Law No. 224/2001, which deals with military service, provide that in the year in which male citizens turn 16, they are obliged to report to the authorities and to officially register for military service. Pre-recruitment preparatory arrangements, specialist military training and preventive medical treatment and assistance begin as of that point.

106. Local community organizations help to prepare these young people for their military recruitment. They explain to them the importance of fulfilling their duty to defend the nation as provided for by the Constitution, tell them what is involved in military service, and inform them about the opportunities they will have for resuming their education upon their completion of military service.

107. These legal provisions also establish that the minimum age for call-up to active military service is 18, while those wishing to enlist voluntarily in the Armed Forces may do so in the year of their seventeenth birthday. For men, active military service may last for up to two years. In the case of women, active military service is voluntary and lasts for up to one year; they are subject to the same age requirements as men.

108. Recruits become members of the Armed Forces once they have been passed by the corresponding military committee and have officially reported to the military unit in which they will undergo basic military training.

109. The public civil registry is the institution through which the State registers events related to a person’s civil status. Births, marriages, deaths, the acquisition, loss or recovery of Cuban citizenship and other events that establish or affect a person’s civil status are entered in the civil register. In order to have evidentiary value, the documents which attest to the occurrence of events that affect a person’s civil status must first be entered in the civil register. A person’s official identity card, which bears the name of the civil registry office in which his or her birth was registered and gives the corresponding volume and page number of the register, then constitutes the legal basis for verifying the person’s age.<sup>9</sup>

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<sup>9</sup> Provisions dealing with the comprehensive information and identity system, which is governed by Act No. 1234 of 15 June 1971, also address this matter.

110. There is no provision for reducing the minimum age of recruitment in exceptional circumstances (states of emergency), since the regulations in place already provide that citizens may be called up for duty under such circumstances.

111. Compulsory military service has not been suspended in Cuba.

### Article 3

#### Paragraph 1

112. In accordance with the declaration made upon the country's ratification of the Optional Protocol, the minimum age for the voluntary recruitment of Cuban citizens into the Armed Forces is the year of the individual's seventeenth birthday.

113. Between 2007 and 2009 (three years), 27,830 people under the age of 18 voluntarily joined the Armed Forces; all of them did so in the year of their seventeenth birthday or after having already turned 17. The following table provides more detailed information in this regard.

Table  
**Voluntary enlistment in the Armed Forces**

<i>Description</i>		<i>Total</i>	<i>Women</i>	<i>Men</i>
<b>Total</b>		<b>27 830</b>	<b>424</b>	<b>27 406</b>
Zone	Rural	<b>7 600</b>	94	7 506
	Urban	<b>20 230</b>	330	19 900
Territory	West	<b>3 629</b>	25	3 604
	Central	<b>7 758</b>	128	7 630
	East	<b>16 443</b>	271	16 172
Social origin	Worker	<b>23 100</b>	348	22 752
	Farmer	<b>2 718</b>	49	2 669
	Intellectual	<b>1 699</b>	21	1 678
	Self-employed	<b>126</b>	2	124
	Unemployed	<b>187</b>	4	183

114. In Cuba, enlistment for active military service by active students, who make up the majority of enlistees, takes place once they have completed their higher secondary education and before they start university or continue with further studies, so as not to interrupt completion of these courses of study.

115. Voluntary enlistment in military service is regulated as described above to ensure that young people who complete their higher secondary education and receive deferred places at university can take up those places as soon as possible and can, when it is considered most appropriate, prepare themselves to defend the homeland, which they do for a shorter period than other young people.

116. On entering military service, all young people are considered recruits and receive basic military training that prepares them to serve their country. On conclusion of that training, they become soldiers or sailors. Steps are taken to ensure the personal safety of all recruits while they are completing their military service.

**Paragraph 3**

117. Decree-Law No. 224/2001 governs the procedures involved in recruitment for military service in accordance with National Defence Act No. 75/94. It covers the entire process, from the moment that a person expresses his or her intention to volunteer up to actual entry into the Armed Forces. In addition to the initial written application from the person concerned, which includes a statement of intention, the necessary documents are prepared for the person's registration with the Military Committee, a medical examination is performed in order to assess the person's state of health, and information on the person's family and economic situation is obtained.

118. All of these materials are evaluated by the recruitment commission in conjunction with the person concerned. The recruit's close relatives are also invited to participate in the process as soon as the decision concerning entry into active military service is taken, and they remain involved up to the time of the initial posting. This process ends when the person officially reports for duty to the unit where he or she will serve.

119. The medical examinations that are performed to assess recruits' state of health are carried out by local public-health commissions made up of high-level specialists in internal medicine, surgery, orthopaedics, dermatology, ophthalmology, otolaryngology, psychiatry and dentistry, as well as gynaecology in the case of examinations of female recruits. These specialists cross-check the results of the examinations with a list of medical conditions in order to determine whether the person's state of health is as required to enter or remain in active military service. If medical treatment or surgery is needed in order to meet the necessary health criteria, this is provided at no cost to the person concerned.

120. As has already been explained, the identity card is the document that volunteers are required to show to prove their age.

121. Volunteers and their parents or guardians are provided with the information that potential recruits need to form their own opinion as to whether they want to enter military service. The press, radio and television also provide information about what is involved in military service. Local grass-roots organizations, schools and student organizations all take part in the training process, as well as permanent staff of the Armed Forces, who discuss the matter directly with young recruits and their relatives.

122. The minimum period of effective service is generally one year, although in some cases it may be less if an exception is approved by the Ministry of the Revolutionary Armed Forces. Early discharge from military service may be granted on grounds of illness or family problems, in recognition of exceptional service or as a means of allowing people to go on to serve their country in civilian posts. Women recruits may be discharged at their own request. A court of law may also authorize an early discharge.

123. The system for the administration of justice and rules of military discipline apply equally to everyone. At the time of writing, no members of the military under the age of 18 were being detained or were the subject of judicial proceedings before military courts. Article 18 of Military Offences Act No. 22 of 15 February 1979, as amended by Decree-Law No. 152 of 1994, establishes penalties for the crime of desertion ranging from 2 to 5 years' imprisonment.

124. Defending the socialist homeland is the greatest honour and supreme duty of all Cubans. The military service to be provided by Cubans is regulated by law. Treason is the most serious of crimes, and those who commit it are subject to the most severe penalties. Following successful completion of military service, young people have the opportunity to go on to higher education; their period of service is also recognized in the calculation of the total number of years worked.

**Paragraph 5**

125. The minimum age for entering or enrolling in a military school is 17.
126. The Cuban Armed Forces have a network of seven institutions of higher education where officers are training to take up command, technical, legal and medical duties. These courses of study are from four to six years in length.
127. The Camilo Cienfuegos military schools — pre-university establishments that prepare adolescents aged between 14 and 17 for careers in the military — are feeder schools for the higher-level educational institutions.
128. The curricula in these schools cover the promotion and protection of human rights, particularly in relation to the principles of international humanitarian law and to respect for children's rights, as provided for in the Convention on the Rights of the Child.
129. Students in officer training schools range in age from 17 to 23 years old and come from all regions of the country. Their social origins are representative of the composition of Cuban society, as enrolment in these centres is open to all. On completing their first year, these students are in a position to help defend the nation in the event of an armed attack. They have the right to ask to leave these institutions at any stage of their studies.
130. Military discipline is maintained in Cuban military schools in full accordance with the principle of respect for human dignity. The focus is on the use of persuasive teaching techniques to help instil self-discipline. Regulations governing the operation of all of the country's educational centres establish the rights and duties of both students and faculty members.

**Article 4**

131. There are no armed groups in Cuba.

**Article 5**

132. With regard to the provisions of Cuban law or international instruments applicable in the State party that are most conducive to the realization of the rights of the child, in addition to the information provided in this report, reference should be made to the second periodic report of Cuba to the Committee on the Rights of the Child, submitted in January 2009 (CRC/C/CUB/2), and in particular to chapter I, entitled "General implementation measures".
133. The international treaties signed by the Cuban State or its Government also form part of the domestic legal order. Cuba has signed or ratified the major legally binding international human rights instruments, which also protect children's rights. Cuba is a State party to 42 international human rights instruments,<sup>10</sup> including the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.

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<sup>10</sup> Cuba is a State party to many international instruments in this area, including: the Convention on the Rights of the Child, the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography; the United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention against Discrimination in Education; the International Convention on the Elimination of All Forms of Racial Discrimination; the International Convention against the Recruitment, Use, Financing and Training of Mercenaries; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Convention on the Prevention

134. Cuba is also a State party to the four Geneva Conventions of 12 August 1949:

- (a) Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field;
- (b) Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea;
- (c) Geneva Convention relative to the Treatment of Prisoners of War;
- (d) Geneva Convention relative to the Protection of Civilian Persons in Time of War.

## Article 6

### Paragraphs 1 and 2

135. With regard to the implementation by Cuba of the provisions of international instruments such as the Optional Protocol, it should be noted that, once the Council of State has ratified the instrument in question or acceded to it, the instrument acquires full legal effect in the national legal system in keeping with the international commitment that has been undertaken. In addition, as explained earlier in this report, article 20 of the Civil Code stipulates that: "If an international agreement or treaty to which Cuba is a party contains provisions that differ from those appearing in the corresponding articles of the preliminary provisions of the Code or contains provisions which are not set forth therein, the provisions of the said agreement or treaty shall apply."

136. National Defence Act No. 75/1994 guarantees protection for children and for the general population in states of exception. Article 9 of the Act stipulates that states of exception may be declared on a temporary basis, either throughout the national territory or in a given part thereof, in order to ensure the defence of the nation or to protect the population and the economy in the event of the occurrence or imminence of a military attack, natural disaster or other catastrophe, or circumstances that by their nature, scale or essence threaten the domestic order, the safety of the country or the stability of the State.

137. The protection of the population in regions where combative action is taking place is provided for under Military Offences Act No. 22 of 1979. Article 44, paragraph 1, of that law establishes that anyone who uses violence against the population or destroys or illegally occupies property on the pretext of military necessity in regions where military action is being carried out is subject to a penalty of between 1 and 8 years' imprisonment. Paragraph 2 of the same article provides that, if the acts described in the previous paragraph are committed repeatedly or with cruelty or cause considerable material damage, the penalty shall be from 8 to 20 years' imprisonment or death.

138. In addition to these two legislative provisions, there are also other legal instruments and various measures which provide a framework for the effective application of the provisions of the Optional Protocol, as has been explained in this report.

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and Punishment of the Crime of Genocide; the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity; the International Convention on the Suppression and Punishment of the Crime of Apartheid; the Convention on the Rights of Persons with Disabilities; the Convention on the Elimination of All Forms of Discrimination against Women; and the International Convention for the Protection of All Persons from Enforced Disappearance. In February 2008, Cuba signed the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

139. With reference to subparagraphs (c) to (f), it should be noted that the Ministry of the Revolutionary Armed Forces is the body that oversees the enlistment of young people into military service. The Ministry also makes arrangements with the press and with radio and television stations to disseminate information on the Cuban military service system, which has an indirect impact on the implementation of the Optional Protocol.

140. The application of recruitment procedures is periodically checked and evaluated by the oversight mechanisms of the Revolutionary Armed Forces in order to prevent the occurrence of any of the situations prohibited under the Optional Protocol.

141. As part of their civic education, which begins in primary school, students have classes on a range of topics, including the National Defence Act and the decree-law on military service, which cover the information mentioned in the previous paragraphs.

142. Dissemination of information on the Optional Protocol in languages not recognized in the Constitution is not necessary, since Cuba is a unitary republic with a single nationality and language. It should be added that Cuban law does not permit the recruitment practices prohibited by the Optional Protocol.

### **Paragraph 3**

143. As has been explained, the Cuban Government has adopted laws and other measures to ensure that children are not involved in armed conflicts in the country. Accordingly, the Government does not have any information to report with regard to subparagraphs (a), (b), (c), (d), (f) and (g) as they relate to paragraph 3.

144. In relation to subparagraph (e) of the revised guidelines regarding initial reports to be submitted under the Optional Protocol, in reference to article 6, paragraph 3, of the Optional Protocol, it should be noted that there are no legal provisions in either the civilian or military legal systems that specifically define the recruitment of children as a criminal offence; the report provides detailed information on the recruitment process in Cuba.

145. Although there are no known cases of this kind of practice, and while Cuban law does not allow the recruitment of children, if a child were to be recruited into the armed forces, either intentionally or unintentionally, by a recruiting officer, this could constitute an offence such as abuse of office or negligence, as provided for in articles 13 and 14 of the Military Offences Act, or as abuse of authority or coercion, as provided for in articles 133 and 286 of the Cuban Criminal Code.

146. In addition, the special section of title I, on offences against State security, of book II of the Cuban Criminal Code establishes penalties for hostile acts against a foreign State involving recruitment or other hostile acts against a foreign State that give rise to the threat of war or reprisals against Cuba or expose Cubans to ill-treatment or to reprisals against their person or property.

147. Depending on the specific circumstances and the degree of endangerment involved, such acts may be punishable as administrative offences defined in the disciplinary regulations applicable to military personnel. Paragraph 27.1 (f) of those regulations refers to: "failure to carry out or negligence in carrying out the functional duties of the post or other assigned missions and tasks", while subparagraph (II) refers to: "in the course of duty, a failure to abide by the legal provisions in force, orders and final decisions issued by a court of law, and decisions adopted by a higher body or superior officer".

### **Article 7**

148. Cuba has not provided or received any technical cooperation or financial assistance in connection with the implementation of the Optional Protocol.