



HUMAN TRAFFICKING IN CUBA'S MEDICAL MISSIONS

REPORT

AUGUST - 2022

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TABLE OF CONTENTS

| | |
|----|--|
| | I. EXECUTIVE SUMMARY |
| 1 | II. DEFINITIONS OF HUMAN TRAFFICKING The United Nations' Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children The U.S. Trafficking Victims Protection Act |
| 6 | III. DEFINITION OF FORCED LABOR AS A DISTINCT FORM OF HUMAN TRAFFICKING The International Labour Organization's Forced Labour Convention, 1930 (No. 29) |
| 8 | V. STATE-SPONSORED HUMAN TRAFFICKING |
| 12 | VI. HUMAN TRAFFICKING IN CUBA'S MEDICAL MISSIONS Background: introduction to Cuba's medical missions program History of the medical missions Expansion of Cuba's medical missions program during the COVID-19 pandemic Forced labor in Cuba's medical missions Coercive recruitment environment compelling medical workers to enroll in the medical missions program Legal instruments and coercive practices governing medical missions The business of health humanitarianism |
| 27 | VII. CONCLUSION |

Executive Summary

For 59 years, Cuba's authoritarian regime has engaged in a state-run human trafficking enterprise involving its medical missions. In the name of helping countries address natural disasters and healthcare crises, Cuba has subjected over 400,000 medical workers to forced labor, withholding of payment, family separation, and deplorable working conditions, among other exploitative conditions. The human trafficking scheme of the Cuban government has become the main source of foreign income for the island's 63-year-old totalitarian government, while bolstering the regime's legitimacy and international support.

Our analysis shows that the Cuban government has imposed coercive and retaliatory practices on healthcare professionals deployed abroad in ways that violate binding international treaties protecting human trafficking victims, namely the United Nations' Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children and various International Labor Organization conventions. Cuba's human trafficking enterprise has also resulted in violations of the rights to privacy, freedom of expression, freedom of association, and freedom of movement of hundreds of thousands of Cuban doctors over the years.

In the following brief, we (1) present the legal instruments (international treaties and "soft law" norms) that call on states to protect the rights of human trafficking victims and incorporate a human rights approach to human trafficking solutions; (2) provide background information regarding the development of Cuba's medical missions; (3) outline the main coercive mechanisms Cuba uses to exploit the labor of its healthcare workers; (4) describe the role of the medical missions as "money-making" operations benefiting the Cuban regime; and (5) present a conclusion on the prior findings and suggest policy changes.



Cuban doctors attending a conference in Kenya. Photo credits: Getty Images.

Definitions of Human Trafficking

The United Nations' Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children

International law requires states to implement existing legal obligations to prevent and combat human trafficking in their territories. These obligations are most clearly defined in the United Nations' Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children¹ (also known as the Palermo Protocol), which Cuba has ratified.² States that have ratified the Palermo Protocol must ensure their national laws meet the requirements of the Protocol and are subject to the jurisdiction of international courts for treaty violations.

The Palermo Protocol is the first legally binding instrument to provide an internationally accepted definition of human trafficking.³ Article 3(a) of the Protocol defines "trafficking in persons" as the "recruitment, transportation, transfer, harboring, or receipt of persons [...] for the purpose of exploitation" by means of the threat or use of force, other forms of coercion, abduction, deception, fraud, debt bondage, abuse of power, or abuse of a position of vulnerability.⁴ This definition specifies "forced labour" as a form of exploitation, expanding traditional notions of human trafficking beyond sexual exploitation practices. Under the Palermo Protocol, consent of a trafficking victim is irrelevant when the trafficker achieved it through any of the aforementioned means.⁵

The Protocol defines "trafficking in persons" as the "recruitment, transportation, transfer, harboring, or receipt of persons [...] for the purpose of exploitation" by means of the threat or use of force, other forms of coercion, abduction, deception, fraud, debt bondage, abuse of power, or abuse of a position of vulnerability.

1 "Protocol to Prevent and Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime" OHCHR, 15 Nov. 2000, Accessed 27 June, 2022, <https://www.ohchr.org/en/instruments-mechanisms/instruments/protocol-prevent-suppress-and-punish-trafficking-persons>

2 "Signatories of the Protocol to Prevent and Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime", United Nations Treaty Collection, 15 Nov. 2000, Accessed 27 June, 2022, https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=XVIII-12-a&chapter=18

3 "Protocol to Prevent and Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime" UN Office on Drugs and Crime, Accessed 27 June, 2022, <https://www.unodc.org/unodc/en/human-trafficking/protocol.html>

4 "Protocol to Prevent and Suppress and Punish Trafficking in Persons," OHCHR.

5 Ibid.



*Signing ceremony of the Palermo Protocol, 9 December 2002.
Photo credits: UN Photo/Mark Garten.*

human rights.”⁶ Article 6 contains specific obligations to protect the privacy and identity of trafficking victims, as well as to aid in their “physical, psychological and social recovery” considering their “age, gender and special needs.”⁷ Moreover, according to Article 14, the Protocol will not affect the obligations of states under international law, including international humanitarian law and international human rights law.⁸

In addition to the Palermo Protocol’s language, the application of a human rights-based approach to human trafficking is incorporated in “soft law” documents such as the Recommended Principles and Guidelines on Human Rights and Human Trafficking (Recommended Principles and Guidelines)⁹ and the Office of the United Nations High Commissioner for Human Rights’ Commentary on the Recommended Principles and Guidelines on Human Rights and Human Trafficking (Commentary).¹⁰ While these “soft law” instruments at first sight lack the enforceability of treaties, they are many times considered faithful interpretations of binding treaties and further embody international legal norms and principles that are a source of legal obligations for states, including the right to liberty, the right to freedom of movement, the right to just and favorable conditions of work, and the right to security. These entrenched legal norms and principles can further be considered part of customary international law, which makes them universally applicable to all states. It is also important to note that the Recommended Principles and Guidelines and its Commentary establish a framework for state practice that could contribute to the development of new customary international law.

⁶ J N Ezeilo, “Achievements of the Trafficking Protocol: Perspectives from the former UN Special Rapporteur on Trafficking in Persons,” in *Anti-Trafficking Review*, issue 4, 2015, pp. 144–149, <https://www.antitraffickingreview.org/index.php/atrjournal/article/view/94>

⁷ *Ibid.*

⁸ *Ibid.*

⁹ “Recommended Principles and Guidelines on Human Rights and Human Trafficking” OHCHR, Accessed 27 June, 2022, <https://www.ohchr.org/sites/default/files/Documents/Publications/Traffickingen.pdf>

¹⁰ *Ibid.*



Secretary Antony J. Blinken at the 2021 Trafficking in Persons (TIP) Report Launch Ceremony.

The incorporation of a human rights-based approach in the Palermo Protocol and other “soft law” instruments acknowledges that all forms of human trafficking are indeed human rights violations. It changes the way states should approach anti-trafficking efforts, integrating human rights into their analysis of the problem and their responses. Identifying human trafficking as a human rights violation also triggers state obligations under binding human rights treaties. Crucially, a human rights-based approach can potentially expand the focus of human trafficking from criminal justice and crime

control to other structural issues underlying trafficking, especially the role of regime type. Analysis of the U.S. Department of State’s Trafficking in Persons Report’s (TIP Report) assessment of government efforts, from April 1, 2017 to March 31, 2018, shows that democratic regimes place better than authoritarian regimes in meeting the minimum standards for the elimination of human trafficking.¹¹ As such, effective measures to end human trafficking must also incorporate provisions that empower the civil and political rights of the citizens of authoritarian states.

Analysis of the U.S. Department of State’s Trafficking in Persons Report’s (TIP Report) assessment of government efforts, from April 1, 2017 to March 31, 2018, shows that democratic regimes place better than authoritarian regimes in meeting the minimum standards for the elimination of human trafficking.

¹¹ Vidwans, Prachi and Jamal, Malaak, “Authoritarianism and Trafficking in Persons,” Human Rights Foundation, 27 July 2018, Accessed 27 June, 2022, <https://hrf.org/wp-content/uploads/2020/07/HRF-policy-memo-2.pdf>

The U.S. Trafficking Victims Protection Act

The U.S. Trafficking Victims Protection Act of 2000 as amended (TVPA)¹² establishes basic requirements for states in combating human trafficking and recognizes “severe forms of trafficking in persons” as sex and labor trafficking. The TVPA and the Palermo Protocol contain similar definitions of human trafficking, focusing on the trafficker’s acts (i.e., recruitment, transfer, harboring, transportation, etc.), means (i.e., force, fraud, coercion, abduction, etc.), and purpose (exploitation).¹³ The TVPA also provides an additional legal framework to understand the scope of Cuba’s human trafficking patterns.

Labor trafficking is “the recruitment, harboring, transportation, provision or obtaining of a person for labor or services through the use of force, fraud or coercion for the purposes of subjection to involuntary servitude, peonage, debt bondage or slavery.”

The TVPA considers sex trafficking as any commercial sexual act performed by adults under the use of force, fraud, or coercion, or any commercial act “in which the person induced to perform such an act has not attained 18 years of age.” Labor trafficking is “the recruitment, harboring, transportation, provision or obtaining of a person for labor or services through the use of force, fraud or coercion for the purposes of subjection to involuntary servitude, peonage, debt bondage or slavery.” Transportation from one location to another is not required for victims to fall under the definition of “severe forms of trafficking in persons.”

The U.S. Department of State evaluates compliance with the TVPA on an annual basis in its TIP Report, which places states into one of four tiers based on a “3P” paradigm of “prosecuting traffickers,” “protecting victims,” and “preventing the crime.”¹⁴ The U.S. government bases tier placement on an evaluation of several factors, including general human trafficking conditions, government noncompliance, failure to make significant efforts, and “the extent to which government officials have participated in, facilitated, condoned, or [...] were complicit in trafficking.” Notably, the U.S. Department of State considers “trafficking in government-funded programs” and forced labor “in government-affiliated medical services”—such as Cuba’s medical missions—key factors in determining Tier 2 and Tier 3 placement.

12 “Victims of Trafficking and Violence Protection Act of 2000” U.S. Department of State, 28 Oct. 2000, Accessed June 27, 2022, <https://www.govinfo.gov/content/pkg/PLAW-106publ386/html/PLAW-106publ386.htm>

13 Office to Monitor and Combat Trafficking in Persons, “Understanding Human Trafficking” U.S. Department of State, 26 April 2022, Accessed 27 June, 2022, <https://www.state.gov/what-is-trafficking-in-persons/#:~:text=The%20United%20States'%20Trafficking%20Victims,means%3B%20and%203%20purpose.>

14 Vidwans and Jamal, “Authoritarianism and Trafficking in Persons.”

complicit in trafficking.”¹⁵ Notably, the U.S. Department of State considers “trafficking in government-funded programs” and forced labor “in government-affiliated medical services”—such as Cuba’s medical missions—key factors in determining Tier 2 and Tier 3 placement.¹⁶

The TIP Report places on Tier 1 governments that fully comply with the TVPA’s minimum standards for the elimination of trafficking.¹⁷ It places on Tier 2 states that are making significant efforts to meet the minimum standards, but do not fulfill them all.¹⁸ The TIP report also establishes a Tier 2 Watch List category for countries whose governments meet the Tier 2 criteria. However, Tier 2 Watch List countries share the following characteristics: (1) the number of victims of severe forms of trafficking is very significant or is significantly increasing; (2) there is a failure to provide evidence of increasing efforts to combat severe forms of trafficking from the previous year; or (3) the determination that a country is making significant efforts to bring itself into compliance with the minimum standards was based on commitments by the country to take additional future steps.¹⁹ Finally, the TIP Report places on Tier 3 countries whose governments do not fully comply with the minimum anti-trafficking standards and are not making significant efforts to comply.²⁰ According to the 2020 and 2021 TIP Reports, Cuba is a Tier 3 country.²¹



15 Office to Monitor and Combat Trafficking in Persons, “Report to Congress on 2021 Trafficking in Persons Interim Assessment Pursuant to the Trafficking Victims Protection Act,” U.S. Department of State, 7 Jan. 2021, Accessed 27 June, 2022, <https://www.state.gov/report-to-congress-on-2021-trafficking-in-persons-interim-assessment-pursuant-to-the-trafficking-victims-protection-act/>

16 Ibid.

17 Ibid.

18 Ibid.

19 Ibid.

20 Ibid.

21 Office to Monitor and Combat Trafficking in Persons, “2021 Trafficking in Persons Report” U.S. Department of State, 2021, Accessed June 27, 2022, <https://www.state.gov/reports/2021-trafficking-in-persons-report/>

Definition of Forced Labor as a Distinct Form of Human Trafficking

The International Labour Organization's Forced Labour Convention, 1930 (No. 29)



Cuban official giving declarations related to the Forced Labour Convention.

The International Labour Organization's (ILO) Forced Labour Convention, 1930 (No. 29), defines forced labor as "all work or service which is exacted from any person" under the threat of penalty and "for which the person has not offered himself or herself voluntarily."²² This definition consists of three legal elements: (1) work or service (all work arising in any activity, industry, or sector); (2) penalty (no specific activity is required); and (3) involuntariness (absence of free and informed consent and freedom to leave a job).²³ The TVPA contains a similar definition of forced labor.²⁴ Certain conditions—including compulsory military service,

normal civic obligations, minor communal service, conventional prison labor, and work in emergency situations—are exemptions to ILO's forced labor definition.

²² "Forced Labour Convention" International Labour Organization, 1930, Accessed 27 June, 2022, https://www.ilo.org/dyn/normlex/en/?p=1000:12100:0::NO::P12100_ILO_CODE:C029

²³ "What is Forced Labour, Modern Slavery and Human Trafficking?" International Labour Organization, Accessed 27 June, 2022, <https://www.ilo.org/global/topics/forced-labour/definition/lang--en/index.htm>

²⁴ "Human Trafficking" U.S. Department of Justice, Accessed 27 June, 2022, <https://www.justice.gov/humantrafficking>

Almost all countries have ratified the Forced Labor Convention (No. 29), including Cuba.²⁵ Notwithstanding, ILO member states²⁶ must respect the principle of elimination of forced labor regardless of ratification.²⁷ The prohibition against the use of forced labor is also considered a peremptory norm (*jus cogens*) of international law, meaning that it is of an absolute binding nature from which no exception is permitted.²⁸

Compared to the Palermo Protocol, the Forced Labor Convention (No. 29) has a stronger emphasis on the protection of trafficking victims. States have a commitment to not only criminalize forced labor and prosecute perpetrators, but also to provide victims with protection and access to justice.²⁹

It is important to note that forced labor is different from other forms of labor exploitation such as slavery. ILO identifies the following elements as suggestive of forced labor: (1) threat of physical or sexual violence, including blackmail, condemnation, and other forms of emotional torture; (2) restriction of movement and/or confinement to the workplace or a limited area; (3) bonded labor, including the withholding of wages; (4) retention of passports and identity papers; and (5) threat of denunciation to the authorities.³⁰ The U.S. Department of State also distinguishes forced labor by using indicators such as restrictions on workers' freedom of movement and the trafficker's use of force, fraud, or coercion. It also includes specific examples of coercion, namely withholding of pay, confiscation of identity documents, psychological coercion, reputational harm, and threats to other people.³¹ As we will discuss throughout this paper, we can find nearly all of the previous indicators of forced labor in Cuba's medical missions program.

Equally important, the Palermo Protocol and the TVPA consider forced labor as a distinct form of human trafficking. Please recall that Article 3 of the Palermo Protocol specifically describes forced labor as an example of human trafficking. ILO's Committee of Experts on the Application of Conventions and Recommendations reinforces this view, asserting that the "notion of exploitation of Labour" in the Palermo Protocol's definition of human trafficking links the Protocol and ILO's Forced Labor Convention and indicates that human trafficking for exploitation is contained in the Convention's definition of forced labor.³² Similarly, the TVPA recognizes two types of human trafficking: sex and labor trafficking. In sum, we should understand forced labor as human trafficking and not as a separate, lesser offense.

25 "Ratifications of the Forced Labour Convention," International Labour Organization, Accessed 27 June, 2022, https://www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::nO:11300:P11300_InSTRUMEnT_ID:312174

26 "Member States of the Forced Labour Convention," International Labour Organization, Accessed 27 June, 2022, <https://www.ilo.org/global/about-the-ilo/how-the-ilo-works/member-states/lang--en/index.htm>

27 "What is Forced Labour, Modern Slavery and Human Trafficking?" International Labour Organization.

28 Business & Human Rights Navigator, "Forced Labour" United Nations Global Compact, Accessed 27 June, 2022, <https://bhr-navigator.unglobalcompact.org/issues/forced-labour/#:~:text=Impacts%20on%20Human%20Rights&text=The%20prohibition%20of%20the%20use,which%20no%20exception%20is%20permitted.>

29 ILO Standards on Forced Labour, "The New Protocol and Recommendation At A Glance" International Labour Organization, 2016, https://www.ilo.org/wcmsp5/groups/public/@ed_norm/@declaration/documents/publication/wcms_508317.pdf

30 Working Group on Trafficking in Persons, "Analysis of Key Concepts of the Trafficking in Persons Protocol" Secretariat, Jan 27-29 2010, 2022, https://www.unodc.org/documents/treaties/organized_crime/2010_CTOC_COP_WG4/WG4_2010_2_E.pdf

31 Office to Monitor and Combat Trafficking in Persons, "Understanding Human Trafficking."

32 Working Group on Trafficking in Persons, "Analysis of Key Concepts of the Trafficking in Persons Protocol."

State-Sponsored Human Trafficking

Enduring misconceptions about human trafficking have helped cement the notion that trafficking perpetrators are always private individuals or criminal enterprises. However, present-day realities place governments as some of the most pervasive culprits of human trafficking.³³ States often support their human trafficking practices by withdrawing public benefits, withholding salaries, threatening to punish family members, or conditioning freedom of movement on labor, among other coercive mechanisms.³⁴

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While the Palermo Protocol asks governments to criminalize and prosecute human trafficking crimes at large, ILO's Abolition of Forced Labour Convention (No. 105) contains specific provisions against state-sponsored forced labor.³⁵ It prohibits ILO members that have ratified³⁶ Forced Labour Convention (No. 105) from using forced labor for economic development purposes, as a means of political coercion, or as labor discipline.³⁷

33 "2021 Trafficking in Persons Report" U.S. Department of State, June 2021, Accessed 27 June, 2022, <https://www.state.gov/wp-content/uploads/2021/09/TIPR-GPA-upload-07222021.pdf>

34 Ibid.

35 "Abolition of Forced Labour Convention" International Labour Organization, Accessed 27 June, 2022, https://www.ilo.org/dyn/normlex/fr/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID,P12100_LANG_CODE:312250,en

36 "Ratifications of the Abolition of Forced Labour Convention" International Labour Organization, Accessed 27 June, 2022, https://www.ilo.org/dyn/normlex/fr/f?p=1000:11300:0::NO:11300:P11300_INSTRUMENT_ID:312250

37 "Abolition of Forced Labour Convention" International Labour Organization.

In 2019, the U.S. Congress amended the TVPA to note that governments can show a “policy or pattern” of human trafficking. This amendment recognizes state-sponsored human trafficking in government-funded programs, specifically forced labor in government-affiliated medical services such as Cuba’s medical missions.³⁸ Although the TVPA already considers whether government officials “participated in, facilitated, condoned, or were otherwise complicit in trafficking” when deciding tier rankings, the 2019 amendment directly connects government-sponsored human trafficking to a Tier 3 ranking.³⁹ In fact, the 2020 TIP Report marked the first time the U.S. Department of State applied this new legal provision, finding that the following governments had a “policy or pattern” of human trafficking: Afghanistan, Belarus, Burma, China, Cuba, Eritrea, Iran, North Korea, Russia, South Sudan, Syria, and Turkmenistan.⁴⁰ The 2021 TIP Report equally determined that all previous states (except Belarus) have an ongoing documented “policy or pattern” of human trafficking, trafficking in government-funded programs, forced labor in government-affiliated medical services, sexual slavery, or the recruitment of child soldiers.⁴¹



Governments with a “policy or pattern” of human trafficking according to the 2020 TIP

38 “Trafficking in Persons Report” U.S. Department of State.

39 Ibid.

40 “2020 Trafficking in Persons Report” U.S. Department of State, June 2020, Accessed 27 June, 2022, <https://www.state.gov/wp-content/uploads/2020/06/2020-TIP-Report-Complete-062420-FINAL.pdf>

41 “2021 Trafficking in Persons Report” U.S. Department of State.



Urmila Bhoola, Special Rapporteur on contemporary forms of slavery, including its causes and consequences, during the 30th regular session at the Human Rights Council, 14 September 2015.



Maria Grazia Giammarinaro, Special Rapporteur on trafficking in persons, especially in women and children. Photo credits: UN Photo/Paulo Filgueiras.

In the case of Cuba, intergovernmental organizations and foreign governments have denounced state-sponsored human trafficking in Cuba's medical missions. For instance, in the 2018 UN Universal Periodic Review of Cuba, the U.K. recommended the island to "[c]riminalize all forms of human trafficking [...] and address coercive elements of Cuban labour practices and foreign medical missions."⁴² In September 2019, the U.S. Department of State announced visa restrictions on Cuban officials engaged in "exploitative and coercive labor practices" in the medical missions program.⁴³ Also, in November 2019, Ms. Urmila Bhoola (UN Special Rapporteur on contemporary forms of slavery, including its causes and consequences) and Ms. Maria Grazia Giammarinaro (UN Special Rapporteur on trafficking in persons, especially in women and children) sent a letter to the Cuban government, stating that the working conditions reported to them "from first-hand sources" could amount to forced labor.⁴⁴ Moreover, the 2021 TIP Report found that there is a "government policy or government pattern" in Cuba to profit from labor export programs with strong indications of forced labor, particularly in Cuba's medical missions.⁴⁵

The Cuban government has responded to human trafficking accusations by blaming them on a "campaign" by the U.S. government and its allies to "discredit" Cuba's medical missions.⁴⁶

For instance, in July 2021, Cuba's Ministry of Foreign Affairs issued a statement in response to the placement of Cuba as a Tier 3 country in the 2020 TIP Report, noting that Cuba rejects "in the strongest terms this defamatory campaign by the U.S. Government, promoted in conjunction with the most reactionary and corrupt sectors of that country..."⁴⁷ Similarly, in January 2022, Cuban Foreign Minister Bruno Rodríguez accused U.S. Secretary of State Antony Blinken and Assistant Secretary of State for Western Hemisphere Affairs Brian Nichol of "seek[ing] to tarnish the solidarity effort" of the medical missions.⁴⁸ The

42 UK Mission to the WTO, UN and Other International Organisations, "Universal Periodic Review 30: Cuba," UK Government, 16 May 2018, Accessed 27 June, 2022, <https://www.gov.uk/government/news/universal-periodic-review-30-cuba>

43 "Visa Actions Against Cuba Officials Exploiting Cuban Doctors" U.S. Embassy in China, 30 Sept. 2019, Accessed June 27, 2022, <https://cu.usembassy.gov/visa-actions-against-cuban-officials-exploiting-cuban-doctors/>

44 "Mandates of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences; and the Special Rapporteur on trafficking in persons, especially women and children" 6 Nov. 2019, UN Special Rapporteur Report, <https://spcommreports.ohchr.org/TMResults-Base/DownloadPublicCommunicationFile?glid=24868&fbclid=IwAR1-Flpa0CncBt--Gn6tu-nZubqmBG5QtgePNeJi2wZe24o6kqQSOM8FX8E>

45 "2021 Trafficking in Persons Report" U.S. Department of State.

46 Liz Caridad Conde Sánchez "Cuba and its medical collaboration: 58 years after offering life into the world" 24 May 2021, Accessed 27 June, 2022 <https://www.granma.cu/cuba/2021-05-24/a-58-anos-de-ofrecer-vida-por-el-mundo-fotos-video>; Rebel Youth, "The Mission of Cuban Doctors is to Provide Health, not Spread Ideology" 19 March 2019, Accessed 27 June, 2022 <https://www.juventudrebelde.cu/cuba/2019-03-19/la-mision-de-los-medicos-cubanos-es-brindar-salud-no-propagar-ideologia>; "To the Bahamas the 58 Cuban Medical Brigade that Leaves to Face the Pandemic" Granma, Jan. 14, 2022, Accessed 27 June, 2022 <https://www.granma.cu/mundo/2022-01-19/parte-primera-brigada-medica-cuba-na-henry-reeve-en-este-2022-rumbo-a-bahamas-video>

47 "Cuba Rejects US Report on Human Trafficking" TV South Net, 3 July 2021, Accessed 27 June, 2022 <https://www.telesurvtv.net/news/cuba-rechaza-informe-eeuu-sobre-trata-de-personas-20210703-0018.html>

48 "The U.S. Attacks Cuba again for "Trafficking in Persons"" France 24, 2 March. 2022, Accessed 27 June, 2022 <https://www.france24.com/es/minuto-a-minuto/20220203-eeuu-arremete-de-nuevo-contra-cuba-por-trata-de-personas>

Cuban regime has further responded to human trafficking denunciations by claiming that the missions show how Cuba's healthcare system is "one of the best and most advanced in the world."⁴⁹

Notwithstanding human trafficking denunciations, Cuba has continued to promote its medical missions, undermining its binding obligation to meet the Palermo Protocol and ILO's Forced Labour Conventions (No. 29) and (No. 105). While the Cuban government has taken some steps to address other forms of labor trafficking (including training law enforcement officers, prosecutors, and judges on trafficking crimes), a fundamental issue of criminalization and enforcement remains.⁵⁰ As a country that governs in a totalitarian way⁵¹ and as the main perpetrator of human trafficking violations, the Cuban government has enjoyed unfettered power and total impunity. Specifically, the Cuban regime has systematically engaged in human trafficking through laws such as the Disciplinary Regulations for Cuban Civilian Workers Serving Abroad as Collaborators (Resolution No. 168).⁵²

What is more, Article 5 of the Constitution of Cuba subordinates all individual and collective rights of Cuban citizens to the state led by the Communist Party—the superior leading force of society—and stipulates that the construction of socialism and the journey to the Communist society are the only allowable goals.⁵³ To the extent that the medical missions are considered a strategic state project, Article 5 effectively prohibits domestic prosecution of the medical missions as a form of government-sponsored human trafficking crimes.⁵⁴

49 "Cuban Medicine an achievement to celebrate Latin America" TV South Net, 15 Jan. 2019, Accessed 27 June, 2022, <https://www.telesurtv.net/news/avances-misiones-medicina-cubana-paises-america-latina-20190111-0030.html>

50 "2021 Trafficking in Persons Report" U.S. Department of State.

51 El-Hage, Javier and Gonzales, Roberto, "The Case of Oswaldo Paya" Human Rights Foundation, 22, July 2015, pages 2-11 https://docs.wixstatic.com/ugd/60d7ae_fd3985d11e6b4c4185c8a9ae187a3778.pdf.

The report notes that "the Cuban Constitution establishes a totalitarian legal system based on a single official ideology—determined and interpreted by a single party—whose rulings cannot be discussed or criticized and must be obeyed by all citizens and public officials under threat of criminal prosecution." In addition to a single party ideology, "the Cuban Constitution does not recognize the judiciary as an independent organ separate from the executive and the legislative branches of government, nor as the organ responsible for interpreting the Constitution in an objective, independent, and impartial manner [...]" The Cuban Constitution also "creates a direct line of power and subordination between the attorney general and the State Council, eliminating the independence of a body that requires[...]the performance of its duties to be independent and free from arbitrary interference." Moreover, the Cuban legislation "command[s] lawyers to help fulfill justice by complying and strengthening 'socialist legality.'" As a result, the "constitutional and legal provisions" of Cuba's justice system "lack the guarantees needed to secure the independence of the courts, the prosecution, and the defense attorneys[...]"

52 "Fact Sheet Overview of Cubas Medical Collaboration" Cuba Salud, 15 June 2020, <https://cubaarchive.org/wp-content/uploads/2020/06/FACT-SHEET-Cubas-Medical-Diplomacy-1.pdf>

53 "Constitution of Cuba" Art 5, 24 Feb. 1976, <https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=542bbcc34>

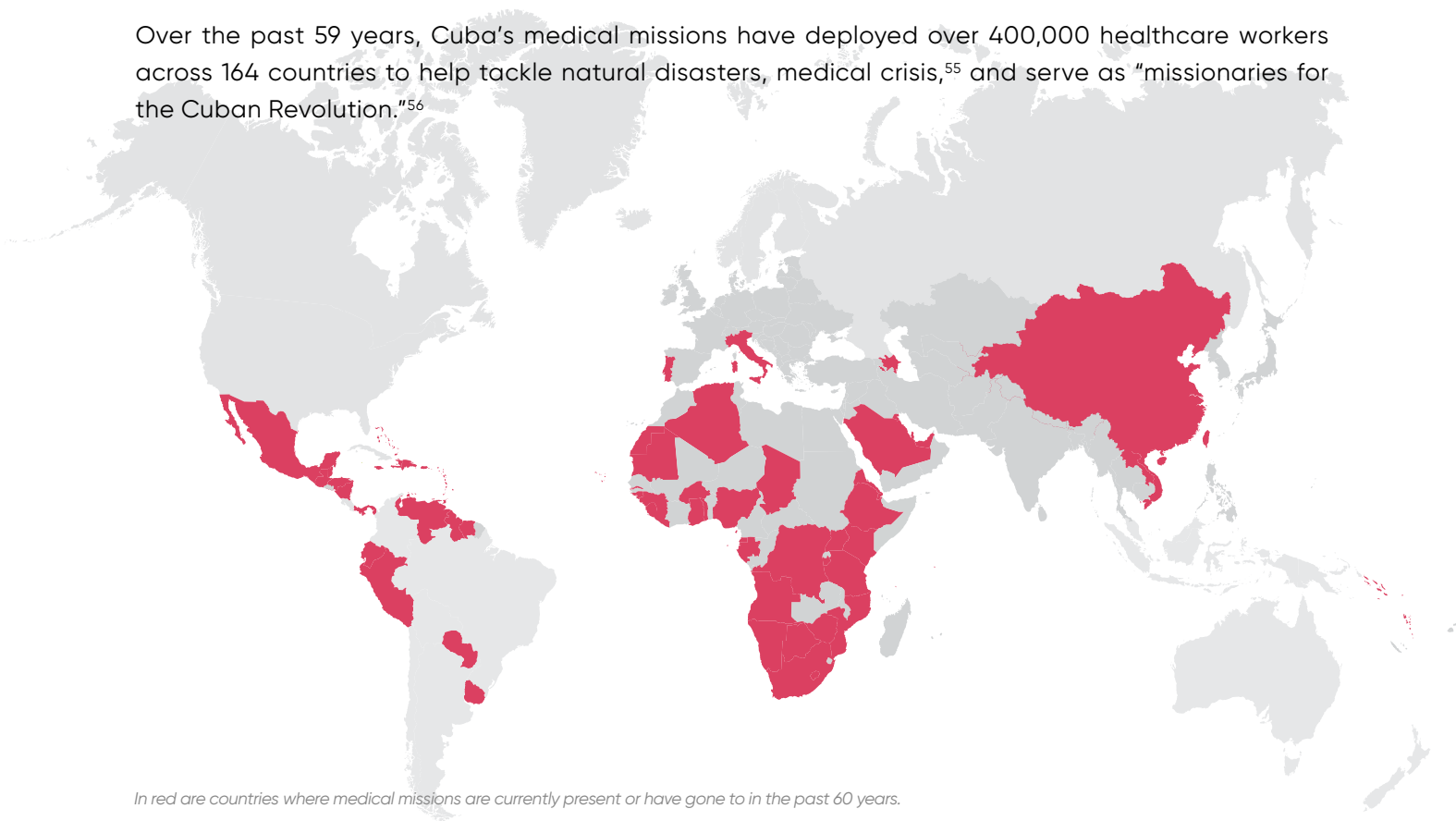
54 Ibid.

Human Trafficking in Cuba's Medical Missions

Background: Introduction to Cuba's Medical Missions Program

History of the Medical Missions

Over the past 59 years, Cuba's medical missions have deployed over 400,000 healthcare workers across 164 countries to help tackle natural disasters, medical crisis,⁵⁵ and serve as "missionaries for the Cuban Revolution."⁵⁶



In red are countries where medical missions are currently present or have gone to in the past 60 years.

⁵⁵ "Cuba: Repressive Rules for Doctors Working Abroad" Human Rights Watch, 22 March 2020, Accessed 27 June, 2022, <https://www.hrw.org/news/2020/07/23/cuba-repressive-rules-doctors-working-abroad>

⁵⁶ Maria C. Werlau, "Cuba's Health-Care Diplomacy: The Business of Humanitarianism" World Affairs Journal, 18 May 2013, <https://cubaarchive.org/wp-content/uploads/2020/04/Cuba%E2%80%99s-Health-Care-Diplomacy-W.A.-Journal.pdf>



Cuban soldiers in Angola. Photo credits: Telesur English.

Cuba's brand of "medical internationalism" began in the 1960s with Cuba sending doctors to Algeria during its war with France.⁵⁷ Between 1966 and 1974, Cuba expanded its nascent medical missions program and sent doctors to work in Guinea-Bissau in support of its liberation struggle against Portugal. When Guinean President Amílcar Cabral requested Cuban assistance, the island sent a small military contingent to the region, along with a 31-member medical brigade.⁵⁸ In 1975, Cuba embarked on its largest military campaign in Africa, sending combat troops to Angola in support of the communist-aligned People's Movement for the Liberation of Angola and providing doctors alongside its military aid.⁵⁹

In 2000, Cuba and Venezuela signed an agreement by which the Cuban side pledged to send health-care workers who would offer free services in places where health coverage was deficient and train Venezuelan personnel. Venezuela, for its part, committed to sending 53,000 barrels of oil per day to Cuba.⁶⁰ Thanks to the alliance with Venezuelan President Hugo Chavez, the number of reported Cuban health collaborators grew steeply from 6,190 in 2002 to 31,243 in 2005. By December 2008, nearly 29,296 Cuban health professionals were serving in Venezuela, 13,020 of them doctors.⁶¹

The Cuban government's efforts to expand its medical missions program continued throughout the mid-2000s through structural changes in the island's healthcare system. In 2010, the Ministry of Health announced a personnel reduction in the domestic healthcare sector so that more doctors could be sent abroad "to earn hard currency."⁶² In 2011, the Cuban government also carried out a series of privatization measures following the Russian model to make the state-owned economy fit into a free-market world. As a result, Cuba created the Comercializadora de Servicios Médicos Cubanos, S.A., the corporation that took over the business of exporting health personnel. Through this entity and thanks to the alliance with Venezuela, it was possible to export Cuban health-care labor on a massive scale.⁶³



Fidel Castro and Hugo Chavez

57 Ibid; Huish, Robert and Kirk, John "Cuban Medical Internationalism and the Development of the Latin American School of Medicine", *Latin American Perspectives*, Vol. 34, Issue 6, page 78. <https://journals.sagepub.com/doi/abs/10.1177/0094582x07308119>

58 Ibid. page 79

59 Ibid.

60 Connectas, "Neglect at Home, Profits Abroad: Cuba's Medical System," *Global Voices*, 22 Nov. 2021, Accessed 27 June 2022, <https://globalvoices.org/2021/11/22/neglect-at-home-profits-abroad-cubas-medical-system/>

61 Maria C. Werlau, "Cuba's Health-Care Diplomacy: The Business of Humanitarianism"

62 Ibid.

63 Connectas, "Neglect at Home, Profits Abroad: Cuba's Medical System."



Cuban doctors hold Brazilian and Cuban flags as they arrive in Brazil to be part of the 'Mais Medicos' program in the country. Photo credits: CiberCuba.

In 2013, Cuba created the Mais Medicos program with Brazil. While Cuba had medical programs in 60 other countries, its agreement with Brazil was one of the largest and most profitable, serving as a link between the cash-strapped island and South America's largest economy.⁶⁴ When Jair Bolsonaro was elected as president of Brazil in 2018, he ended the Mais Medicos program. President Bolsonaro announced the program could only continue if Cuban doctors directly received their salaries

from Brazil and were able to bring their families with them during their assignments, among other conditions. Cuba did not agree.⁶⁵

Currently, Cuba has between 34,000–50,000 healthcare professionals in more than 60 countries in Africa, Latin America, Europe, and the Middle East.⁶⁶

Expansion of Cuba's Medical Missions Program During the COVID-19 Pandemic

The Cuban government has taken advantage of the unique circumstances of the COVID-19 pandemic by expanding its overseas medical missions. Since March 2020, Cuba has increased the number and size of its medical missions, sending more than 2,770 additional healthcare professionals to 26 countries⁶⁷ to make up for lost tourism revenue due to the pandemic.⁶⁸

⁶⁴ Weissenstein, Micheal and de Sousa Marcelo, "Cuba Ends Medical Exchange Program with Brazil" AP News, 14 Nov 2018, <https://apnews.com/article/ecb41d0622df4022abd8724607faa505>

⁶⁵ Ibid.

⁶⁶ "2021 Trafficking in Persons Report" U.S. Department of State.

⁶⁷ Ibid.

⁶⁸ Fieser, Ezra and Bristow, Matthew, "Cuba is Exporting Doctors to Make Up for Lost Revenue" Bloomberg, 15 June, 2020, Accessed 27 June 2022, <https://www.bloomberg.com/news/articles/2020-06-16/coronavirus-pandemic-cuba-s-doctors-battle-virus-around-world>



Richard Branson. Photo credit: Exchanges Photos from Wikimedia.

ganda messaging after decline in Latin America. In October 2021, Cuba's Deputy Health Minister, Dr. Regla Angulo Pardo, announced that 57 teams made up of 4,982 health professionals had collaborated in the fight against COVID-19 in 41 territories in Latin America, Africa, and Europe.⁷²

In addition to increasing the size of its medical missions, the Cuban government has been using its COVID-19 vaccine candidates to further capitalize on its medical missions. Cuba has submitted three COVID-19 vaccine candidates for Emergency Use Listing by the World Health Organization (WHO). The agency has not approved Cuba's vaccine candidates, noting it is "awaiting information on strategy and timelines for submission."⁷³

Cuba's Ministry of Health has supported this expansion effort by launching a social media campaign publicizing the work of its medical professionals.⁶⁹ Celebrities such as Danny Glover⁷⁰ and Sir Richard Branson⁷¹ have strengthened this marketing campaign, nominating the Henry Reeve International Medical Brigade for the Nobel Peace Prize 2021 due to its work to alleviate COVID-19.

The pandemic has also allowed Cuba to revitalize its medical missions program and propa-



Medics and paramedics from Cuba pose upon arrival at the Malpensa airport of Milan, Italy, Sunday, March 22, 2020. Fifty-three doctors and paramedics from Cuba arrived in Milan to help with coronavirus treatment. © 2020 AP Photo/Antonio Calanni.

Although Cuba has not published the clinical trial results in scientific journals⁷⁴ and the vaccine candidates lack WHO approval, the government has secured funding to produce 200 million vaccine doses.⁷⁵ The Cuban government already exports its vaccine candidates to Iran, Nicaragua, Venezuela, and

69 "Un tercio de la humanidad ha recibido la mano de los profesionales cubanos de la salud" Sitio oficial de gobierno del Ministerio de Salud Pública en Cuba, 22 February, 2021, Accessed 27 June 2022, <https://salud.msp.gob.cu/un-tercio-de-la-humanidad-ha-recibido-la-mano-de-los-medicos-cubanos/>

70 Cuban doctors are an inspiration in the fight against COVID-19" CODEPINK, Accessed 27 June 2022, <https://www.codepink.org/cuban-doctors-are-an-inspiration-in-the-fight-against-covid-19>

71 Branson, Richard, "Thanking Cuba's doctors and nurses" Virgin, 21 August 2020, Accessed 27 June, 2022, <https://www.virgin.com/branson-family/richard-branson-blog/thanking-cubas-doctors-and-nurses>

72 Connectas "Neglect at Home, Profits Abroad: Cuba's Medical System."

73 "Status of Covid-19 Vaccines within WHO EUL/PQ Process" WHO, 2 April 2022, https://extranet.who.int/pqweb/sites/default/files/documents/Status_COVID_VAX_02April2022.pdf

74 Taylor, Luke, "Why Cuba developed its own covid vaccine and what happened next" in BMJ, issue 374, n1912, 2021. <https://www.bmj.com/content/374/bmj.n1912>

75 Taylor, Luke, "Covid 19: Cuba Will Request WHO for Homegrown Vaccine" in BMJ, issue 376, o230, 2022. <https://www.bmj.com/content/376/bmj.o230>



Doses of Cuba's Abdala coronavirus disease (COVID-19) vaccine are seen at a vaccination center in Caracas, Venezuela July 1, 2021. Photo credits: REUTERS/Manauere Quintero.

Vietnam.⁷⁶ Cuba has said that they could produce 120 to 200 million doses a year, which could generate gross income of \$600 million to \$1 billion for the island's regime.⁷⁷

If Cuba's COVID-19 vaccine candidates receive WHO authorization, the number of countries willing to buy the vaccines will likely increase, providing Cuba with the opportunity to send additional medical brigades as part of its vaccination package. Countries like Nicaragua and Venezuela, which host medical missions, already use Cuba's COVID-19 vaccine candidates. While Cuba's

COVID-19 vaccine candidates help underdeveloped nations in their fight against the pandemic, unfortunately, the vaccines further increase the number of health professionals Cuba will subject to forced labor.

Forced Labor in Cuba's Medical Missions

Coercive Recruitment Environment Compelling Medical Workers to Enroll in the Medical Missions Program

Cuba's authoritarian regime has used human trafficking practices that are "coercive, deceptive, and leveraged"⁷⁸ to recruit healthcare professionals to participate in the state-run medical missions program.

The Cuban government runs the island's healthcare system. It acts as the main employer of Cuba's healthcare workers, who cannot practice medicine privately.⁷⁹ This dynamic effectively traps doctors in an employment relationship where the state holds disproportionate power, leaving doctors with almost no authority over the conditions of their employment. They feel pressured to join medical missions to avoid losing their jobs or jeopardizing their chances of career advancement. Testimonies of former participants in the medical missions further corroborate the Cuban government's coercion.

76 Ibid.

77 Werlau, Maria "WHO Approval for Cuba's Covid-19 Vaccines Would Strengthen the Cuban Regime," Global Americans, 22 March 2022, Accessed 27 June, 2022, <https://theglobalamericans.org/2022/03/who-approval-for-cubas-covid-19-vaccines-would-strengthen-the-cuban-regime/>

78 "Fact Sheet Overview of Cuba's Medical Collaboration" Cuba Salud

79 Ibid.

According to a 2020 Prisoners Defenders report, where they interviewed more than 400 former participants in the medical missions, nearly 34% of participants claim they “felt partially or totally” compelled to join the medical missions program because of fear of “being negatively marked at work,” and around 68% of the workers allege the lack of “viable” employment alternatives as additional reason to enroll in the program.⁸⁰

Cuban doctors also face state-imposed burdens to secure independent labor contracts abroad. Cuba requires doctors to have special permission to leave the country.⁸¹ The Ministry of Health often refuses to issue proof of the educational credentials of health professionals. In November 2018, the Cuban government issued additional restrictions regarding issuance of educational credentials, prohibiting the legalization of academic or other types of documents for health professionals serving in missions or attending international events.⁸² This tactic renders Cuban doctors unable to demonstrate their qualifications to practice outside Cuba. As a result, their only option to work overseas is through the government’s medical missions.



Minister of Justice Oscar Silvera Martínez's pre-recorded statement at the General Assembly.

The coercive recruitment practices the Cuban government uses to compel doctors to join the missions equally include economic pressures. The monthly salary of Cuban doctors ranges from \$70 to \$75,⁸³ which is insufficient to pay for food and basic staples. According to testimonies of former participants in the medical missions, a significant 88.4% of the workers affirm that “the situation of extreme poverty” and their low salary influenced their decision to join the medical missions.⁸⁴ Once more, Cuba leaves doctors with no other alternative than to join the medical missions to supplement their low wages.

The 2021 TIP Report corroborates the Cuban government’s coercive recruitment, reporting that government officials “force or coerce” individuals to participate and remain in the medical missions.⁸⁵ It also affirms that Cuba has not implemented measures to “prohibit force, fraud, or coercion” by foreign labor recruiters and the state in recruiting medical workers.⁸⁶ The 2021 TIP Report concludes that Cuba has not addressed its “exploitative and coercive policies” in the medical missions, which are “clear indicators of human trafficking.”⁸⁷

80 “Cuba’s Internationalized Missions II,” Prisoners Defenders, page 29, <https://drive.google.com/file/d/1UyLbvZOymrcNNRNHgd6ELA9AC6PGMT7u/view>

81 “Forced/Compelled Labour (trafficking in persons) By the Cuban State of temporary workers overseas in Internationalist Medical Missions”, Free Society Project, Cuba Archive, Global Liberty Alliance, Victims of Communism Memorial Foundation, 15 Jan 2020, <https://cubaarchive.org/wp-content/uploads/2020/04/2020-TIP-Cuba-Information-Report-FINAL-1.15.2020-1.pdf>

82 Ibid.

83 Ibid.

84 “Cuba’s Internationalized Missions II,” Prisoners Defenders. page 29.

85 “2021 Trafficking in Persons Report” U.S. Department of State.

86 Ibid.

87 Ibid.

Given Cuba's coercive practices, the "lack of consent" of healthcare professionals to participate in the medical missions is not required for a finding of human trafficking. Human trafficking can still take place even if the victim initially consented. Article 3(b) of the Palermo Protocol unequivocally states that "[t]he consent of a victim of trafficking [...] to the intended exploitation [...] shall be irrelevant" if threat or use of force and other forms of coercion have been used.⁸⁸ The analysis focuses on the trafficker's coercive conduct and not that of the victim's prior consent or ability to meaningfully consent thereafter.⁸⁹ ILO's Forced Labour Convention (No. 29) also finds forced labor in "all work or service [...] for which the person has not offered himself or herself voluntarily."⁹⁰ It reiterates that forced labor can occur in situations where the victim lacks free and informed consent, as it is the case of Cuban doctors.

Legal Instruments and Coercive Practices Governing Medical Missions

Disciplinary Regulations for Cuban Civilian Workers Serving Abroad as Collaborators (Resolution No. 168)

Ministerial Resolution 168 of the Cuban Ministry of Foreign Trade and Investment (adopted in 2010), officially named the Disciplinary Regulations for Cuban Civilian Workers Serving Abroad as Collaborators (Resolution No. 168), is the principal regulation that establishes the obligations and disciplinary sanctions the Cuban government imposes on all medical personnel working on missions.⁹¹ By means of coercion and abuse of power, Resolution No. 168 regulates almost all aspects of the lives of medical workers in ways that violate their rights to freedom of association, freedom of movement, and freedom of speech for the purpose of exploiting their labor.

Under Resolution No. 168, it is a punishable "disciplinary offense" for Cuban doctors to engage in the following activities protected by the right of freedom of association:

I. To have "relationships" with anyone whose "actions are not consistent with the principles and values of the Cuban society."⁹²

II. To be "friends or establish any other links" with Cuban dissidents, people who have "hostile or contrary views to the Cuban revolution," or who are "promoters of a way of life contrary to the principles that a Cuban collaborator abroad must represent."⁹³

88 "Protocol to Prevent and Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime" OHCHR.

89 "2021 Trafficking in Persons Report" U.S. Department of State.

90 "Forced Labour Convention" International Labour Organization.

91 "Resolution No. 168 of 2010," Ministry of Foreign Trade and Foreign Investment, 2 March 2009, Cuba <https://www.cubanet.org/wp-content/uploads/2015/09/Resoluci%C3%B3n-168-2010-Reglamento-Disciplinario.pdf>

92 "Resolution No. 168 of 2010," Ministry of Foreign Trade and Foreign Investment, Article 8(g)

93 "Resolution No. 168 of 2010," Ministry of Foreign Trade and Foreign Investment, Article 8(h-j)

III. To live with “unauthorized” people.⁹⁴

IV. Medical personnel are required to disclose all “romantic relationships” to their immediate supervisors.⁹⁵

The Cuban government enacted the aforementioned rules to prevent doctors from meeting sympathetic parties who could help them eliminate some of the factors underpinning their forced labor. For instance, some of the rules effectively preclude doctors from gaining permanent residence in the host country via marriage or finding individuals who could sponsor their family members. In this way, Cuba is securing one of the main coercive tools at its disposal: the threat of prolonged family separation.

Provisions in Resolution No. 168 also restrict Cuban health workers’ freedom of movement by prohibiting them from engaging in the activities below:



Cuban doctor Ramona Matos announces a federal lawsuit against PAHO for its alleged role in human trafficking in Doral, Fla., April 5. Photo credits: Matias J. Ochner/Zuma Press.

I. To leave the country where the healthcare worker provides services without authorization.⁹⁶

II. To stay longer than authorized in a town or province other than where the healthcare professional works and resides.⁹⁷

III. Medical personnel are required to request permission to travel to provinces or locations other than their assigned workplace.⁹⁸

IV. To drive means of transportation without authorization.⁹⁹

V. To “frequently visit places that damage [the doctor’s] prestige,” as well as to “visit places that, given their characteristics, are prone to public order disturbances.”¹⁰⁰

94 “Resolution No. 168 of 2010,” Ministry of Foreign Trade and Foreign Investment, Article 6(f)

95 “Resolution No. 168 of 2010,” Ministry of Foreign Trade and Foreign Investment, Article 2(n)

96 “Resolution No. 168 of 2010,” Ministry of Foreign Trade and Foreign Investment, Article 5(l)

97 “Resolution No. 168 of 2010,” Ministry of Foreign Trade and Foreign Investment, Article 5(m)

98 Ibid.

99 “Resolution No. 168 of 2010,” Ministry of Foreign Trade and Foreign Investment, Article 8(r)

100 “Resolution No. 168 of 2010,” Ministry of Foreign Trade and Foreign Investment Article 8(c-d)

Cuba clearly designed Resolution No.168's restrictions on mobility to prevent doctors from having the means and the opportunity to "desert" the medical missions. Cuban handlers and local collaborators further ensure doctors' compliance by subjecting them to constant surveillance, forcing them to spy on their own colleagues and inform Cuban authorities on any intentions their co-workers might have to "abandon" the mission.¹⁰¹

As an added measure to prevent "desertions," the Cuban government issues medical workers a special passport that precludes them from traveling anywhere but Cuba and their assigned host country.¹⁰² Cuban supervisors often retain doctors' passports upon their arrival in the host country.¹⁰³ By example, the 2021 TIP Report notes that Cuba has acknowledged it withholds passports of medical personnel in Venezuela.¹⁰⁴

Resolution No. 168 equally violates the freedom of expression rights of medical workers, prohibiting them from undertaking the following activities that could result in the public condemnation of Cuba's human trafficking:

I. To "disseminate or propagate opinions or rumors that undermine the morals or prestige of the group or any of its members."¹⁰⁵

II. Medical personnel are required to ask for "authorization and instructions" to "express opinions" to the media about "internal situations in the workplace" or that "put the Cuban collaboration at risk."¹⁰⁶

III. Medical personnel are required to request "authorization" to "participate in public acts of a political or social nature."¹⁰⁷

Sanctions for violating Resolution No. 168 include withholding of wages, job demotion, fines, job transfer, public reprimand, and expulsion from the mission, among others.¹⁰⁸ Under Cuba's Criminal Code, medical staff who "abandon" their jobs abroad may face imprisonment for up to eight years.¹⁰⁹ If doctors do not return to Cuba at the end of the mission, the Cuban government can also revoke their medical licenses or retaliate against their families living in Cuba.¹¹⁰

101 "Fact Sheet Overview of Cuba's Medical Collaboration" Cuba Salud

102 Ibid.

103 Ibid.

104 "2021 Trafficking in Persons Report" U.S. Department of State.

105 "Resolution No. 168 of 2010," Ministry of Foreign Trade and Foreign Investment, Article 6(h)

106 "Resolution No. 168 of 2010," Ministry of Foreign Trade and Foreign Investment, Article 5(j)

107 "Resolution No. 168 of 2010," Ministry of Foreign Trade and Foreign Investment, Article 5(i)

108 "Resolution No. 168 of 2010," Ministry of Foreign Trade and Foreign Investment Article 10 (a-h)

109 "Law No. 62, Penal Code" National Assembly of People's Power, 23 Dec. 1987, Article 135.1 <https://www.warnathgroup.com/wp-content/uploads/2015/03/Cuba-Penal-Code-Lawyers-Without-Borders-2009.pdf>

110 "2021 Trafficking in Persons Report" U.S. Department of State.

The reading of Resolution No. 168 confirms that it meets the elements of human trafficking in the Palermo Protocol and the TVPA. Specifically, the Cuban government's acts (recruitment, transfer, harboring, and transportation of medical personnel), means (coercion, abuse of power and of the doctors' position of vulnerability), and purpose (labor exploitation for financial gain) are consistent with human trafficking violations. Cuba's use of coercion and the element of involuntariness (absence of free and informed consent and freedom to leave a job) surrounding the doctors' employment also violates ILO's Forced Labor Convention (No. 29). Finally, Resolution No. 168 is contrary to Cuba's obligations under ILO's Forced Labor Convention (No. 105), expressly prohibiting states from using forced labor for economic development purposes, as a means of political coercion, or as labor discipline.

It is important to note that it is an accepted principle of international law that treaties apply to all individuals within a state's jurisdiction, including non-citizens.¹¹¹ As such, we can argue that host countries also have human rights obligations to all individuals living in their territory, including Cuban medical workers. The International Covenant on Civil and Political Rights (ICCPR),¹¹² which most host countries have ratified, protects the rights to freedom of expression and association, liberty, and movement. The International Covenant on Economic and Social Rights (ICESCR),¹¹³ which recognizes the right to just and favorable conditions of work and to an adequate standard of living, enjoys almost universal ratification. Equally important, the Universal Declaration of Human Rights¹¹⁴ contains freedom of speech and movement protections, including the right of all individuals "to leave any country" and to return to their birth country. As a result, host countries have an international law obligation to prohibit Resolution No. 168 from taking place in their territories, ensuring effective anti-trafficking and human rights protections for Cuban doctors.



No Somos Desertores supporters holding up signs of the 8 year ban. "Médicos cubanos exigen que se les permita viajar a la Isla" Photo from No Somos Desertores Facebook.

111 "Recommended Principles and Guidelines on Human Rights and Human Trafficking" OHCHR, 2010, https://www.ohchr.org/sites/default/files/Documents/Publications/Commentary_Human_Trafficking_en.pdf

112 "International Covenant on Civil and Political Rights" OHCHR, 16 Dec. 1966, General Assembly Resolution 2200A, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>

113 "International Covenant on Economic, Social and Cultural Rights" OHCHR, 16 Dec. 1996, General Assembly Resolution 2200A, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>

114 "Universal Declaration of Human Rights" United Nations General Assembly Resolution 27A, 10 Dec. 1948, <https://www.un.org/en/about-us/universal-declaration-of-human-rights>

The 8-Year Ban

In addition to Resolution No. 168, Cuba's coercive mechanisms include the use of its immigration laws to prevent the "desertion" of medical personnel working abroad, further demonstrating human trafficking in its medical missions.

Under Migration Law 1312,¹¹⁵ which defines "undesirables" as "inadmissible" for immigration purposes, the Cuban government declares any medical worker who leaves the medical missions program a "traitor to the homeland" and therefore "undesirable." In conjunction with Migration Law 1312, Cuba applies Article 135 of the Criminal Code¹¹⁶ to "deserters" for leaving their employment contract, which subjects them to up to eight years in jail. In practice, the Cuban government applies Article 135 to ban "deserters" from entering Cuba for a period of eight years (the 8-year ban), instead of incarcerating them.¹¹⁷

In conjunction with Migration Law 1312, Cuba applies Article 135 of the Criminal Code to "deserters" for leaving their employment contract, which subjects them to up to eight years in jail. In practice, the Cuban government applies Article 135 to ban "deserters" from entering Cuba for a period of eight years (the 8-year ban), instead of incarcerating them.

¹¹⁵ "Law No. 1312 of 1976 - Migration Law," 20 Sept. 1976 <https://www.refworld.org/docid/51a342b34.html>

¹¹⁶ "Law No. 62, Penal Code" National Assembly of People's Power, Article 135.1.

¹¹⁷ The Human Rights Foundation interviewed two Cuban medical professionals who participated in Cuba's medical missions in Venezuela (from 2004 to 2010) and Sierra Leone (from 2014 to 2015). They affirm that the Cuban government has banned them for eight years from entering the island after they abandoned their assignments. It is important to note that one of the medical workers interviewed applied twice for a humanitarian visa to visit his ailing mother in Cuba. Cuban authorities denied both humanitarian visa applications because the worker was subject to the 8-year ban.

Medical workers subject to Migration Law 1312 who have tried to enter Cuba have received inadmissibility documents at customs and have been immediately deported.¹¹⁸ Members of the group *No Somos Desertores*¹¹⁹ have reported that the Cuban government has prevented them from entering the island for emergencies and funerals of relatives because they have “abandoned” medical missions or overstayed their assignments.¹²⁰



Cuban doctors gathered in Miami. Photo credits: Marti Noticias.

Cuba uses the 8-year ban as a powerful coercive tool to compel medical workers to endure forced labor. The 8-year ban effectively holds the families of medical workers hostage due to the credible threat of long family separation. Please note that medical workers must leave their families in Cuba for the term of their contract (typically 2–3 years) and can only take a month of paid vacation per year.¹²¹ Even in case of grave illness or death of a close family member, doctors cannot travel back to Cuba without government authorization.¹²² As such, the Cuban government is not only violating the freedom of movement and association of doctors, but also the human rights of their spouses and children.

118 “Cuba’s Internationalized Missions II,” Prisoners Defenders, page 33.

119 No Somos Desertores is an association of Cuban health professionals living in different parts of the world to whom the government of Cuba denies the right to visit the island under the 8-year ban ([see https://nosomosdesertores.com/about-us](https://nosomosdesertores.com/about-us))

120 “Fact Sheet Overview of Cuba’s Medical Collaboration” Cuba Salud.

121 Ibid.

122 Ibid.

One-Sided Contract Negotiations and Wage Theft Provisions in Labor Contracts

Another example of Cuba's human trafficking violations is the way in which the government contracts in the provision of services through its medical missions program. The Cuban government uses its unequal position of power and bargaining superiority to stop medical workers from determining the rights and obligations included in their employment contracts.

Government officials of the host country and the Cuban Ministry of Health (on behalf of the state-owned company *Comercializadora de Servicios Médicos Cubanos, S.A.*) execute the final employment contracts based on the terms they have agreed to during negotiations.¹²³ Cuba does not inform doctors of the terms of their contracts.¹²⁴ The Cuban government presents doctors with the contracts they must sign at the last minute—often right before they depart for their destination—and with no access to legal advice.¹²⁵ Cuba usually informs workers of housing arrangements, working conditions, and wages upon leaving the island or after arriving at their host country.¹²⁶

Cuba's purposeful misinformation regarding doctors' wages serves to further their financial exploitation. Under the state-negotiated labor contracts, healthcare workers receive 9–25% of their salaries,¹²⁷ which are usually below the minimum wage or the poverty line in the host country.¹²⁸ The Cuban government retains the remaining portion of their wages in Cuban bank accounts—often in Cuban pesos rather than the hard currency Cuba receives for the doctors' medical services.¹²⁹ If medical workers "abandon" the mission, the government confiscates the portion of their wages retained in the island.¹³⁰ This exploitative provision aids Cuba to avoid "desertions" by imposing on the doctors a strong financial incentive to finish their contractual obligations and return home.

Under the state-negotiated labor contracts, healthcare workers receive 9–25% of their salaries, which are usually below the minimum wage or the poverty line in the host country.

123 "Cuba's Internationalized Missions II," Prisoners Defenders, page 41.

124 "2021 Trafficking in Persons Report" U.S. Department of State.

125 "Forced/Compelled Labour (trafficking in persons) By the Cuban State of temporary workers overseas in Internationalist Medical Missions", Free Society Project, Cuba Archive, Global Liberty Alliance, Victims of Communism Memorial Foundation.

126 Ibid.

127 "2021 Trafficking in Persons Report" U.S. Department of State.

128 "Cuba's Internationalized Missions II," Prisoners Defenders.

129 "2021 Trafficking in Persons Report" U.S. Department of State.

130 Ibid.

The Cuban regime's abusive contractual provisions violate human trafficking laws enshrined in the Palermo Protocol and ILO's Forced Labor Conventions (No. 29) and (No. 25). The exploitative remuneration terms included in the doctors' labor contracts also violate ILO's Equal Remuneration Convention, 1951 (No. 100),



Dr. Yamila de Armas Aguilera, president of the Cuban Medical Services Trading Enterprise

which calls states to "ensure the application to all workers of the principle of equal remuneration."¹³¹ Under the Equal Remuneration Convention (No. 100), Cuba and most host countries have a binding obligation to ensure the salaries doctors receive are equal to those of their counterparts in the destination country. Furthermore, these exploitative wage provisions breach Article 23¹³² of the Universal Declaration of Human Rights, calling states to protect the rights of "free choice of employment," "just and favourable conditions of work," equal pay, and "just and favourable remuneration."

The Business of Health Humanitarianism

Medical missions' services sales have been Cuba's main source of foreign income since the early 2000s, generating more than any other sector of the Cuban economy. The 2021 TIP Report estimates that the Cuban government collects six to eight billion dollars annually through its medical missions program.¹³³ The payments Cuba receives per doctor vary widely, ranging from \$3,000 a month in Namibia to \$25,000 a month for a plastic surgeon in Saudi Arabia.¹³⁴

The government of Cuba keeps at least 75% of what the host country pays per doctor, while the doctors themselves receive only 9–25% of this amount.¹³⁵ For instance, Cuban doctors working on the Mais Medicos mission in Brazil received \$400 per month—9.36% of what the Brazilian government paid for them—according to the Brazilian Federal Court of Accounts.¹³⁶ Nearly half of doctors' salaries are kept in a Cuban bank account that doctors cannot access until they return to Cuba after completing their mission.

¹³¹ "C100 - Equal Remuneration Convention" International Labor Organization, 1951, Accessed 27 June 2022, https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_Ilo_Code:C100.

¹³² "Universal Declaration of Human Rights" United Nations General Assembly.

¹³³ "2021 Trafficking in Persons Report" U.S. Department of State.

¹³⁴ "Fact Sheet Overview of Cubas Medical Collaboration" Cuba Salud.

¹³⁵ "2021 Trafficking in Persons Report: Cuba" U.S. Department of State.

¹³⁶ Tribunal de Contas da União. Sentence 003.771/2014-8. Ministry of Health. Accessed 27 June 2022, https://drive.google.com/file/d/1FBLcfd-17kn-mqZ_gYUHN8qtNte19dWOv/view



*Announcement of the First International Fair of Medical and Wellness Tourism.
Photo Credits: Central American and Caribbean Digital Newspaper.*

Honduras, Haiti, Niger, Rwanda, and Mali from the governments of Germany, France, Japan, Norway, and Australia.¹³⁸ During the 2014 Ebola epidemic, WHO financed Cuba’s medical missions to Liberia and Sierra Leone.¹³⁹ From 2013 to 2018, PAHO charged a 5% fee to serve as an intermediary for Brazil’s Mais Medicos program, an agreement that earned Cuba \$400 million per year.¹⁴⁰

In most cases, host countries pay Cuba directly with public funds. However, Cuba also enters into tripartite “collaboration” or triangulation agreements by which third party governments and international organizations—including WHO, the United Nations International Children’s Emergency Fund (UNICEF), and the Pan American Health Organization (PAHO)—pay for Cuba’s health services to underdeveloped countries.¹³⁷ By example, Cuba has received financial assistance for its medical missions in



Cuba’s area at the Dubai Expo 2020.

The financial gains the Cuban government generates through its medical missions program meets the exploitation definition the Palermo Protocol proscribes. Cuba is also in violation of ILO’s Convention No. 95 on the Protection of Wages, signed by Cuba, which prohibits employers from “limiting in any manner the freedom of the worker to dispose of his wages.”¹⁴¹

137 “Fact Sheet Overview of Cubas Medical Collaboration” Cuba Salud.

138 Maria C. Werlau, “Cuba’s Health-Care Diplomacy: The Business of Humanitarianism”.

139 “Fact Sheet Overview of Cubas Medical Collaboration” Cuba Salud.

140 Ibid.

141 “C095 - Protection of Wages Convention” International Labor Organization, 1949, Accessed 27 June 2022, https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312240

Conclusion

The information presented in this brief demonstrates that the Cuban government has engaged with impunity in state-sponsored human trafficking that violates Cuba's international law obligations. Cuba's totalitarian regime has used its disproportionate power over medical professionals and their conditions of employment to exploit and abuse healthcare workers through myriad coercive mechanisms, ranging from threat of family separation and forced exile to movement restrictions and wage theft. Cuban doctors fear their refusal to participate in the medical missions will generate reprisals from the government,



Miguel Diaz-Canel in negotiations with President Putin, by the Russian Presidential Press and Information Office, November 2, 2018.

which runs the island's healthcare system. Additionally, Cuba has used the low pay for its doctors to further coerce them into the medical missions program. Once in the program, Cuban healthcare personnel face violations of their rights to freedom of association, freedom of movement, and freedom of speech. Cuba's medical missions have also served to export the island's misleading brand of medical diplomacy and further the myth of Cuba as a "world medical power." Finally, the government's exploitative trafficking scheme has funded Havana's authoritarian regime by providing billions of dollars in revenue from the sale of medical services.

This combination of international support and financial exploitation has prevented the Cuban government from facing widespread condemnation from the international community and adopting structural reforms to end human trafficking. As a result, stopping human trafficking in Cuba's medical missions will require a complex response that addresses all contributing factors that permit the exploitation of medical workers.



Cuban President Miguel Diaz Canel, right, and his Mexican counterpart Andres Manuel Lopez Obrador, left, raise their arms during a ceremony to award the Jose Marti order to President Lopez Obrador, at Revolution Palace in Havana, Cuba, Sunday, May 8, 2022. Photo Credits: Yamil Lage/Pool Photo via AP.



Moreno and Diaz Canel meeting at the UN HQ in New York.

HRF's analysis of relevant international law and Cuba's human trafficking violations suggests that the international community, including democratic governments and international organizations, in order to comply with their own human rights obligations prohibiting engaging in aiding and abetting in human trafficking practices, should adopt the following recommendations: (1) host countries should stop using Cuba's medical missions unless the Cuban government eliminates Ministerial Resolution 168, ends the 8-year ban, pays Cuban doctors in full, and allows medical workers to enter into labor contracts with the host country without intermediaries; (2) the international community should remove Cuba from PAHO and start a transparent, independent investigation into PAHO's responsibility in the trafficking of Cuban doctors in Brazil; (3) global democracies should implement sanctions against the communist regime for trafficking Cuban doctors; specifically the U.S. should apply Global Magnitsky sanctions on all actors who aid Cuba's human trafficking scheme and raise international awareness of Cuba's role as a perpetrator of human trafficking; and (4) the UN human rights system—through its human rights agencies, organizations, and programs—should ban funding for Cuba's medical missions and publicly sanction Cuba's regime for violating binding human trafficking treaties.

