

The United Nations, Geneva, Human Rights and

Cuba

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The United Nations, that gigantic body with headquarters in New York City, was born on October 24, 1945, when the world realized that it had to find a mechanism to avoid another cataclysm such as the one that had just ended, the Second World War. The aims of the organization are contained in its Charter and are relatively short, although profound: to preserve international peace and security; to promote ties of friendship among nations; to seek solutions to international economic, social, cultural, or humanitarian problems; to encourage respect for human rights and fundamental liberties.

The United Nations is composed of six principal bodies: the General Assembly, the Security Council, the Economic and Social Council (ECOSOC), the Trusteeship Council (nowadays inactive), The International Court of Justice and the Secretariat. Its overall structure is quite complicated and many offices, commissions and committees have something to do with human rights. **Figure 1**, taken from the UN website diagrams the variety of agencies involved. Nevertheless, the Human Rights Commission that meets every year in Geneva, Switzerland, is the main forum where human rights defenders can voice their concerns. It is part of ECOSOC.

ECOSOC is the branch in charge of enhancing the standard of living of all the people in the world and identifying solutions to economic, social and health problems. It is also responsible for stimulation of international cooperation in cultural and educational areas and fostering respect for human rights and fundamental liberties. ECOSOC has the power to order investigations and organize conferences. Given these vast responsibilities, ECOSOC uses approximately 70% of the financial and human resources of the UN.

ECOSOC is composed of 54 Member States, elected proportionally from each of 5 regions of states (Africa, Asia, Latin America and the Caribbean, Western Europe - which curiously includes the USA and Eastern Europe), each serving a three-year mandate. Every year 18 members leave and 18 new members are incorporated. Subsidiary bodies (commissions and committees) carry out its permanent activities. There are 9 functional commissions, the Human Rights Commission, with 53 members, being one of them. There are 6 standing committees, the Committee on Non-Governmental Organizations (NGOs), with 19 members, being one of them. Cuba has managed to get itself elected to consecutive terms in ECOSOC since 1989.

The Non-Governmental Organizations (NGOs)

In order to carry out its functions, ECOSOC consults with experts, academics, professionals, consumers, businesses and activists who must be members of a variety of special interest groups recognized by the Committee on Non-Governmental Organizations as being in Consultative Status. These groups have proliferated to more than 2,600 as of this year. The approved NGOs have the right to participate as observers in meetings and to present reports, accusations and opinions of

its members to the official delegates of the Member States. They can even make oral presentations in meetings of the Commissions.

Since NGOs must pass through a process of application and review to achieve Consultative Status, and since Cuba has been a permanent fixture of ECOSOC for the last 15 years, any application coming from organizations of Cuban exiles, Cuban dissidents or having them among their members is blocked. There are always enough sympathizers, or enough governments intimidated by Castro among the 19 Committee members to veto the entrance of a potential detractor. On the other hand, the list of approved NGOs reveals the presence of several Cuban government-controlled organizations such as: 1) the Federation of Cuban Women; 2) the Cuban Movement for Peace and Sovereignty of the People; 3) the Union of Cuban Jurists; 4) the Organization for Solidarity with the People of Asia, Africa and Latin America (OSPALL); 5) the Youth Studies Center. Several other NGOs, of socialist or Marxist roots, have always supported Cuba. Among these are the European Studies Center, the Europa Tier Mundi Center, the Indian Movement Tupac Amaru, and the Latin American Federation of Associations of Relatives of Disappeared Detainees (FEDEFAM).

The NGO supporters of Cuba are the accomplices that get into the record of the meetings long litanies full of falsehoods and fabrications in praise of Castro and his regime, and who deny the brutal violations of human rights in Cuba. The multiple associations of Cuban exiles or dissidents, blocked by Cuba, have neither vote nor voice in the United Nations; its members have to, instead, personally lobby the different country representatives, stand outside the building and demonstrate, or conduct a Parallel Forum in a hotel or other meeting room, as the organization Mothers Against Repression for Cuba (MAR por Cuba) has been doing.

The Human Rights Commission

The Human Rights Commission is a subsidiary body of ECOSOC and is composed of 53 members elected by the latter. Every year, between March and April, the Commission meets for about six weeks in Geneva, Switzerland. Approximately 3,000 delegates attend this meeting, representing Member States of the Commission, observer States, affiliated bodies of the UN and NGOs. The initial task of the Commission in 1948 was the drafting and approval of the Universal Declaration of Human Rights. Nowadays, the Commission's work mainly focuses on the violations of the rights specified in the Declaration. Cuba was never a member before Castro; after Castro, Cuba has been a member in 1976, 1977, 1978, 1979, 1980, 1981, 1982, 1983, 1984, 1989, 1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005 and will continue in 2006; that is, for 27 of the last 31 years.

One of the most important tasks given to the Commission was the establishment of universal standards of human rights. In order to determine the adherence to such standards, the Commission can assign a Special Representative or a Rapporteur -- an individual with a great deal of expertise in these matter to gather pertinent data. Every year, the Special Representatives and Rapporteurs that have been appointed make a full report to the Commission based on information received from governments, NGOs, and private individuals. If allowed, they actually visit the country in person.

The Universal Declaration of Human Rights and the High Commissioner for Human Rights

On December 10, 1948 -- a day that has become recognized as "Human Rights Day" - the General Assembly approved the Universal Declaration of Human Rights that encompasses 30 articles. Although all of its articles are relevant, the following are quite germane to the Cuban case:

Article 3: Everyone has the right to life, liberty, and security of person.

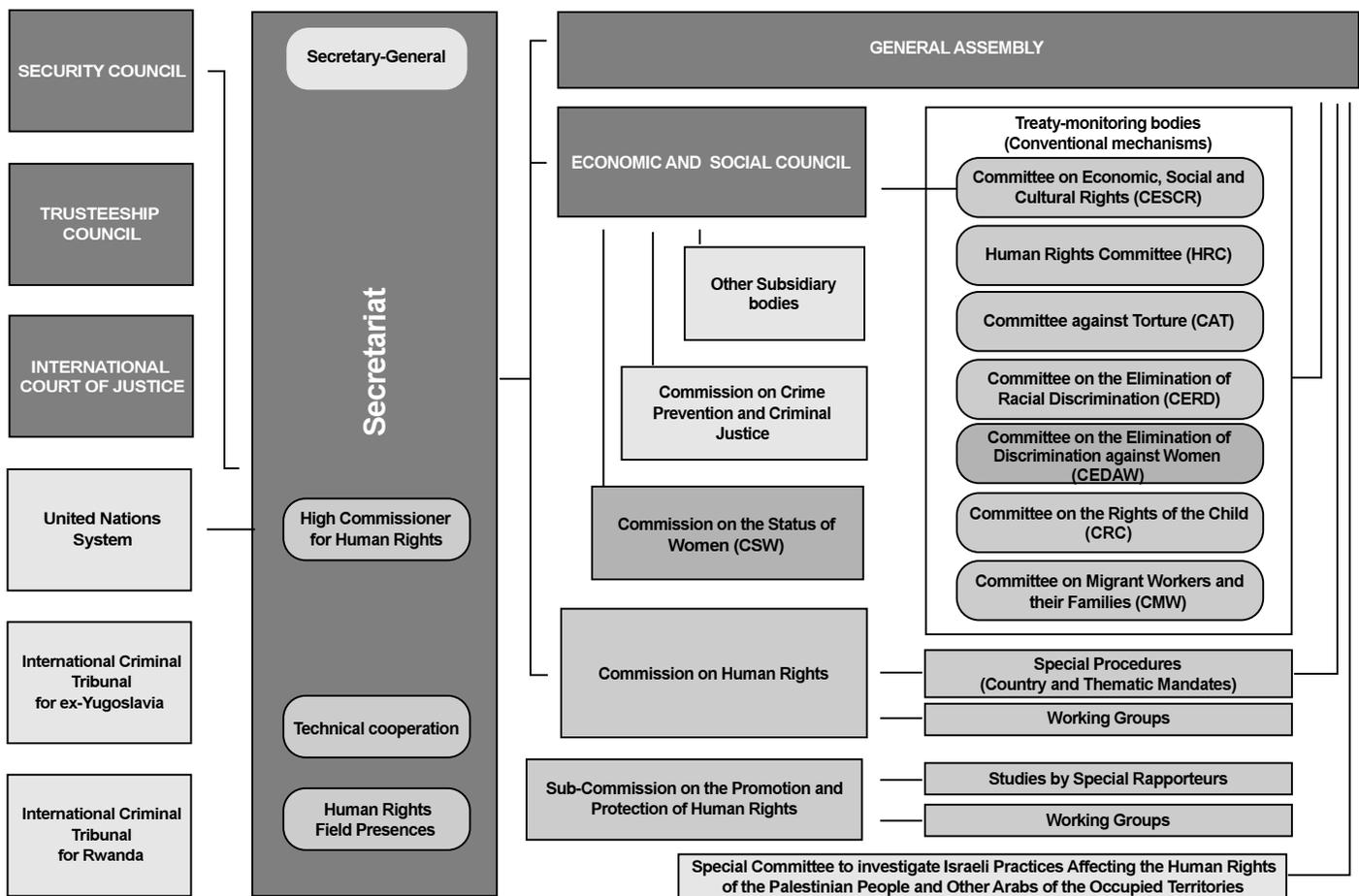


Figure 1

Structure of the United Nations Human Rights Bodies and Mechanisms

Article 5: No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 9: No one shall be subjected to arbitrary arrest, detention or exile.

Article 12: No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honor and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 13: Everyone has the right to freedom of movement and residence within the borders of each State. Everyone has the right to leave any country, including his own, and to return to his country.

Article 17: Everyone has the right to own property alone as well as in association with others. No one shall be arbitrarily deprived of his property.

Article 18: Everyone has the right to freedom of thought, conscience and religion.

Article 19: Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 20: Everyone has the right to freedom of peaceful assembly and association. No one may be compelled to belong to an association.

Article 21: Everyone has the right to take part in the government of his country, directly or through freely chosen representatives. The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

The High Commissioner for Human Rights is the main official of the United Nations in charge of human rights and reports to the Secretary General. The High Commissioner directs the interna-

tional movement for human rights and is the moral authority and spokesperson for the victims. The position was created in 1993 and its office is also located in Geneva, in the Palais Wilson. The Canadian Louise Arbour was named High Commissioner in 2004, after the death of Brazilian Sergio Vieira de Mello who had been murdered in Iraq.

Activities of the Commission of Human Rights with Respect to Cuba

It took 30 years of injustice and ruthlessness for the Commission to take official notice of the violations taking place in Cuba. Among the multitude of victims were those executed by firing squad with or without trials; those disappeared, tortured or imprisoned; those who drowned in the Florida straits trying to escape, and those two million Cubans who had to go into exile. In Cuba, since 1959, there had been absence of democracy, only one political party (the Communist) allowed and even the official constitutional denial of the Fundamental Liberties (freedom of the press, of expression, of opinion, of reunion and of association). Some prisoners had managed to smuggle out little rolled-up pieces of paper written in minute, very compact handwriting detailing atrocities suffered or witnessed and the exiles who received them forwarded them to the UN; some foreign personalities also lodged accusations against the Cuban regime. However, those were the years when the Soviet Union, the communist Eastern Block countries and the so-called non-aligned nations ganged up in unyielding support of Castro.

In 1988, however, the Cuban dictator made the tactical and strategic mistake of allowing entry into the country of a special mission of the UN (created in Resolution Number 1988/106), composed of six Rapporteurs, to observe the human rights situation in the island. The ambassador-members of this historic group came from Senegal, Bulgaria, Colombia, Ireland, Nigeria

and the Philippines. The news of their visit spread like wildfire in Cuba and approximately three thousand people went in person to the Hotel Comodoro, in the Miramar section of Havana where the Rapporteurs were staying, to present an avalanche of testimonies. They were dissidents, former political prisoners, families of disappeared and of those summarily executed (among them Mrs. Margarita Marín Thompson, a mother whose three sons were shot by firing squad on the same day for the "crime" of entering the Embassy of the Vatican and asking for asylum). They, as well as the ordinary citizens fed up with the abuses who also attempted to present evidence, demonstrated extraordinary courage, since they could be arrested just for going there, as many, indeed were. Only less than half of the affidavits could reach the UN group, since the Cuban police, downstairs, intercepted the people as soon as they realized that what they thought would be a small group developed into a veritable multitude.

The UN visiting group was simply appalled, They requested to interview some political prisoners (called counter-revolutionary delinquents by the government) and after overcoming the initial reluctance, were able to interview two of them always in the presence of State Security Police officers. The two prisoners had the courage to inform the committee members of all the abuses taking place and, in addition, were able to smuggle to them a little roll of paper detailing the massacres that took place in the Isle of Pines and Boniato prisons and the names, dates and places of killings, tortures, beatings and other horrors that had occurred in the many Cuban prisons. When the committee members left, they extracted promises of cooperation and reform from Cuba. When they came back to Geneva, in Resolution 1989/13, they recommended that the Secretary General make use of the mechanism of "direct contact" - a discreet and confidential diplomatic maneuver - to make sure that the government of Cuba complied with promises of reform. Not having received any satisfactory answer, Mr. Rafael Rivas Posada, from Colombia was appointed Special Representative of the Secretary General for the situation of human rights in Cuba in Resolution 1991/68. The Cuban government refused to cooperate with him. On the 3rd of March of 1992, the title of Mr. Rivas Posada was changed to that of Special Rapporteur for Cuba with a one-year renewable mandate and the written objective to "end the jailing of defenders of a peaceful political change, protect the defenders of human rights, aid in the exercise of fundamental freedoms and follow up on the human rights situation." Mr. Rivas Posada soon received a death threat for him and his family from Cuban sources and resigned his appointment fifteen days later. The new Rapporteur, Mr. Carl Johan Groth of Sweden, assumed his office on August 31. Thereafter (except for 1998) up to an including 2005 for a total of 15 years, the Human Rights Commission has gone on record against Cuba with statements such as:

The Commission:

Regrets profoundly the numerous uncontested reports of violations of basic human rights and fundamental freedoms[...]

Calls upon the Government of Cuba to cease the persecution and punishment of citizens for reasons related to freedom of expression and peaceful association, permit legalization of independent groups, respect guarantees of due process, permit access to the prisons by national independent groups and international humanitarian agencies, review sentences for crimes of a political nature, and cease retaliatory measures towards those seeking permission to leave the country[...]

Is deeply concerned at information contained on arbitrary arrests, beatings, imprisonment, harassment and threats[...]

Regrets profoundly the numerous unanswered reports of violations of basic human rights and fundamental freedom[...]

Notes with deep regret the continued failure of the Government of Cuba to cooperate with the Special Rapporteur and its refusal to permit him to visit Cuba in order to fulfill his mandate[...]

Is profoundly concerned at continued violations in Cuba of

fundamental human rights and freedoms enumerated in the Universal Declaration of Human Rights, such as the freedoms of thought, conscience and religion, opinion and expression, assembly and association, and rights associated with the administration of justice[...]

Deplores the arbitrary arrest, detention and harassment of Cuban citizens[...]

Calls upon the Government of Cuba to release the numerous persons detained for activities of a political nature..."

In 1998, the year of the Pope's visit to Cuba, the members of the Commission were as fooled as the rest of the world and the Pope himself, believing that real change in Cuba was forthcoming. Castro duped them all. The Commission did not approve a proposed resolution extending the mandate of the Special Rapporteur. By 1999, however, the statements of "regret" and "concern" started all over again, uninterrupted to today.

After Rafael Rivas Posada and Carl John Groth, the person in charge of monitoring the situation of human rights in Cuba is, since 2002 (Resolution 2002/18), Mdme. Christine Chanet from France with the title of Personal Representative of the High Commissioner of Human Rights and the duration of the mandate not specified. After the 1988 fiasco, Cuba has never again permitted the entrance of the United Nations to investigate conditions and make interviews inside the island.

Since the Commission has no enforcement powers, it can make statements and pass resolutions whose effect is to throw some mud on the face of the tyrants, to shame them, to unmask them as violators of human rights and fundamental liberties in front of 191 nations. Even though the Commission cannot impose any type of sanction, the Resolutions it adopts do hurt the oppressors. The tyrants get so irritated and so uncomfortable that in some cases (granted, very few) they improve the circumstances of a victim, or they release a prisoner.

Improper Conduct of the Cuban Diplomats

The delegation from communist Cuba in Geneva is huge, being the largest delegation from any Latin American country except Mexico that has one more member than Cuba. One name that has persisted in the Cuban delegation since 1989 is that of Miguel Alfonso Martínez, member of the Communist Party, the only party allowed in Cuba, who is also rumored to have been a colonel of State Security Police. Cuba sends more people to Geneva than Australia, France, India, Italy, Pakistan and Ukraine, just to mention some countries that are much larger than Cuba, They inundate the site with pamphlets, expensively published books and posters that praise the regime, while they constantly remove and destroy whatever information related to violations the victims' advocates have managed to place on tables or bulletin boards near the entrance of "Salle XVII" where the meetings take place. They freely millions of dollars in all forms of propaganda in the print and electronic media in Europe, Africa and Latin America. They wine and dine delegates and NGO members in expensive restaurants and hotels.

In the middle of a session, even though the protocol actually forbids it, the Cuban diplomats applaud cheer and yell every time any one of their cronies enters a statement in their support. The so-called diplomats from Cuba verbally insult and even threaten members of the delegations who present or co-sponsor resolutions against Cuba. The crowning moment of their audacity took place during the 60th Meeting in 2004, when they verbally abused and physically attacked first Guillermo Estévez inside the meeting room, hitting him in the neck and in the legs, and later in the hallway, Frank Calzón, pounding him in the head and leaving him unconscious on the floor,

Summary and Conclusion

The idea of the United Nations, as an abstract concept, is simply marvelous. In reality, however, we find that its aims and work are so constantly hindered by dictators, tyrants, and anti-democratic governments that its effectiveness is almost nil.

Cuba did not go under the lens of the United Nations for many years. There had been around 35,000 deaths either in front of firing squads, or for lack of medical attention or by beatings in prison. There had been thousands of men women and children drowned, eaten by sharks, or machine-gunned by planes, patrol boats or helicopters in the Florida Straits while trying to escape in rafts. There had been "desaparecidos" as well as a locked trailer truck full of men asphyxiated while being transported as prisoners from Girón. There had been hundreds of peasants assassinated in the mountains. There had been massive arrests in city corners, forced labor camps such as those of U.M.A.P. There had been peasants herded into concentration camps in Pinar del Rio and Camagüey (that still exist) in a macabre emulation of what the Spaniard Captain General Weyler had done between 1896 and 1898 while Cuba was still a colony. There had been the two boat lifts (Camarioca in 1965 and Mariel in 1980) where Cubans desperately packed themselves in small boats because it had been announced that, finally, they could leave the island if they took that route. There had been about two million citizens in exile. Neither of these atrocities had moved the Commission of Human Rights.

Commission of Human Rights.

Once the communist government of Cuba was finally recognized as a violator of human rights and fundamental liberties, there have been fifteen resolutions "deploring" and "regretting" the situation in Cuba and calling upon the Cuban government to change: 1) 1988/107; 2) 1990/48; 3) 1991/68; 4) 1992/61; 5) 1993/63; 6) 1994/71; 7) 1995/66; 8) 1996/69; 9) 1997/62; 10) 1999/8; 11) 2000/25; 12) 2001/16; 13) 2002/18; 14) 2003/13; 15) 2004/11; and this last one, 2005/31. Needless to say that Castro has apparently paid no attention to the content of these resolutions; on the contrary, every time it happens he assails the governments who supported the resolutions with his typical barrage of insulting epithets. His claws even reach to the hearts of these countries in an effort to politically destabilize them. The tyrannical practices have not abated.

Even though the resolutions have been repeatedly approved there has always been a block of Member States in the Commission of Human Rights that support Castro. These Member States are also, with very few exceptions, dictatorships, tyrannies and anti-democratic regimes, who are violators of human rights in their own countries.

What is absurd and outright disgraceful is the UN policy that permits governments that have been found to be violators of human rights to sit in the Commission of Human Rights and have voice and vote. From the comfort of their seats in the august body tyrants seek respect for their perversity. How is it possible that violators be also judges?

It is necessary to modify the mechanism and the rules of membership of the Commission of Human Rights as well as the Committee on Non-Governmental Organization (the one that approves or rejects any new NGO). The least that should be done is to expel from the Commission any member state that has lack of transparency, unjust incarceration, deprivation of human rights, violations of fundamental liberties, or genocide among others. Their participation should be barred until substantive and verifiable improvements have taken place. Only those countries with a viable democracy, transparency in government and free elections by the will of the people should form part of the Commission. In addition, the Commission should be in communication with the Security Council so that this last body could consider appropriate sanctions to be imposed on the violators.

Only with modifications in their rules, mechanisms and procedures can the Commission of Human Rights actually become the ethical and moral conscience of the United Nations.

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