British Institute of International and Comparative Law

Cuban Foreign Medical Missions: Challenges and Opportunities Through the Lens of International Human Rights and Labour Standards

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Combatting Forced Labour in Cuban Foreign Medical Missions

This report is produced as part of a larger project exploring labour exploitation in Cuban Foreign Medical Missions (CFMM), undertaken by the British Institute of International and Comparative Law between 2024 and 2025.

The project explored the CFMM programme from the perspective of international labour and human rights law, analysing the working conditions of Cuban doctors participating in medical missions in host countries around the world, through research across a wide range of sources. In doing so, it mapped the international legal standards with which the CFMM programme should align, proposing recommendations to Cuba, host States and civil society organizations, aimed at better understanding and documenting the lived experiences of participants of the programme and promoting respect for international labour and human rights standards.

More information about the project and the project outputs are available at:
www.biicl.org/projects/combatting-forced-labor-in-cuban-medical-missions

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Introduction

The Cuban Foreign Medical Missions (CFMM) programme has been the flagship initiative of the Cuban Government for decades, recruiting and deploying thousands of health professionals abroad and integrating international students into its medical training system.[1] In 2023, the Universal Periodic Review National Report on Cuba mentioned that between May 2020 and September 2022, 58 Cuban Medical Missions were reported to be deployed in 42 countries to provide support with the COVID-19 pandemic. This is in addition to more than 28,000 Cuban healthcare professionals who were reported to be active in over 60 countries at the time.[2]

The benefits of this programme, which is part of Cuba's medical internationalism strategy, have been praised by Cuba and beneficiary countries alike, as it supports host States' efforts to ensure healthcare is provided in areas where it may be difficult to guarantee those services without such missions. Yet Cuban doctors who are part of those missions and a range of stakeholders, including United Nations (UN) experts, civil society organisations and journalists, have raised concerns about the working and living conditions of those doctors. Those concerns point towards practices that could amount to exploitation of Cuban doctors and retaliatory measures against those who denounce such practices or seek to leave.

This report presents research undertaken by the British Institute of International and Comparative Law (BIICL) on the international human and labour rights standards with which CFMMs should align, as a basis for recommendations to Cuba, host countries and civil society. Those recommendations build on the analysis that the report presents and are underpinned by the international framework on State responsibility.

As a first step, the report dives into the functioning of the programme. It provides a novel contribution to work in this field, as it provides a comprehensive literature review on CFMMs, and a comparison of 48 bilateral agreements regulating CFMMs between Cuba and host States or regions, the most extensive and detailed comparison of such sort to date. On the basis of the literature review, it also breaks down issues or patterns of concern in four areas around which this report is structured: working conditions; contractual (mal)practices; living conditions; and coercive practices. The report does not aim to determine whether there is sufficient evidence for those patterns to amount to human or labour rights violations; this would fall beyond its scope. In respect of (other) coercive practices and human and labour rights violations, the report also explores asylum claims in the context of medical missions.

As a second step, it provides a detailed analysis of the international labour and human rights standards applying to CFMMs, looking at the patterns identified in the aforementioned four areas, including reflections on trafficking in persons and emphasising that there is a wide spectrum of severity of exploitation, ranging from limitations on decent work to severe and extreme forms of exploitation.

As a third step, the report looks at CFMMs from the State responsibility perspective, building on the relevant legal frameworks, to emphasise the need to ensure that CFMMs are aligned with and respect international human rights and labour standards. Particular attention will be paid to the responsibility of Cuba as the sending State, and of three specific receiving countries: Brazil, Guatemala and Honduras.

Building on those three steps of analysis, the report concludes with recommendations to Cuba and host States, as well as to civil society.

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[1] 'The hidden world of the doctors Cuba sends overseas' (*BBC News*, 14 May 2019).

[2] A/HRC/WG.6/44/CUB/1 para. 227.

Understanding the programme

Some academic studies have highlighted Cuba's medical diplomacy as both a source of soft power and a model of South-South cooperation, whilst others have argued that the humanitarian framing of these missions obscures problematic aspects of their implementation. Where the majority of sources seem to converge—whether they praise or criticise Cuba's programme—is on the presence of elements of exploitation within the *de jure* and *de facto* frameworks of medical missions abroad. These elements are also highlighted in other sources, including in reports by human rights bodies.

To provide a better understanding of the programme, this section of the report provides a summary of the literature review undertaken by BIICL on CFMMs and identifies a breakdown of concerns that underpins the legal analysis in this report. It also provides a detailed analysis of bilateral agreements on CFMMs between Cuba and host countries, and a reflection on the impact of missions on asylum claims filed in host countries.

Summary of the literature review

The review of materials published by academics, international organisations, non-governmental organisations (NGOs) and news reports regarding CFMMs shows the polarisation of discussions and debates. NGOs reporting on CFMMs usually take a (strong) negative view of the programme, arguing that it constitutes a form of enslavement and human trafficking for Cuban healthcare workers sent abroad.[3] With a few exceptions, academic sources tend to be more favourable to CFMMs. Typically, they focus on the missions' origins, rationale or role in South-South cooperation, and briefly discuss concerns of human and labour rights violations. Few publications take a more nuanced approach of addressing arguments from both sides.

Despite this polarised approach, there is some consensus in existing publications regarding the exploitative nature of CFMMs (Section (i)), and on the economic and geopolitical benefits that the Cuban Government derives from CFMMs (Section (ii)). However, views are more divided on the voluntary nature of Cuban healthcare workers' recruitment in CFMMs (Section (iii)). The existing literature is also inconsistent or limited regarding other aspects of CFMMs (Section (iv)).

Consensus on the exploitative nature of CFMMs

Several sources, including the UN Special Rapporteur on Contemporary Forms of Slavery and the UN Special Rapporteur on Trafficking in Persons, report concerns regarding Cuban doctors' salaries.[4] The existing literature consistently reports that Cuban healthcare workers receive low compensation for their work, often significantly lower than that of locals in equivalent roles, and that a substantial part of the fees paid by the receiving State is retained by the Cuban Government.
Publications also frequently refer to problematic practices with the employment contracts of healthcare workers sent on CFMMs. NGOs report that Cuban healthcare professionals often lack information on the terms of their contracts, do not receive a copy of the contract they sign, are not provided with any

[3] See, e.g. Cuba Archive and Outreach Aid to the Americas, 'The Systematic Violation of the Convention Against Torture of Cuba's "Internationalist" Medical Missions: Submission to the Committee Against Torture' (March 2022, link); Human Rights Watch, 'Cuba: Repressive Rules for Doctors Working Abroad: Receiving Governments Should Press for Change' (23 July 2020, link).
[4] UN Special Rapporteur (UNSR) on Contemporary Forms of Slavery, including its Causes and Consequences and UN Special Rapporteur (UNSR) on Trafficking in Persons, especially Women and Children, 'Joint Communication to the Government of Cuba – AL CUB 6/2019' (6 November 2019, link) 2–3.

contract at all or that contracts are falsified.[5] Contract falsification refers to the provision of employment contracts, signed by Cuban officials in the names of the healthcare workers without their permission, to the receiving State's authorities.[6] International organisations, such as the UN Special Rapporteurs and the International Labour Organization (ILO) Committee of Experts on the Application of Conventions and Recommendations (CEACR), also expressed concerns regarding the lack of transparency in the recruitment process of Cuban healthcare workers.[7]

Diverse publications, including a letter addressed to the Cuban Government from the UN Special Rapporteurs, NGO reports and scholars, report that Cuban healthcare workers endure excessive working hours without adequate rest during CFMMs.[8] The existing literature also documents restrictions on vacations. Professionals on CFMMs are, in principle, entitled to one month of paid vacation each year. However, the UN Special Rapporteurs and some NGOs report that Cuban workers are sometimes denied holidays as a form of punishment, as vacations tend to be considered as rewards.[9]

Additionally, diverse publications report that Cuban healthcare workers on CFMMs are prohibited from travelling and that their freedom of movement is restricted[10] as a result of a range of 'disciplinary regulations'. Several sources cite Cuban legislation restricting Cuban citizens and professionals' ability to travel in and out of Cuba, as well as criminalising leaving the country without authorisation. Some also mention that Cuban workers have their passports confiscated upon arrival in the host State or are not informed of their destination country or place of work until they arrive.

Several sources document restrictions on Cuban workers' autonomy and right to privacy during CFMMs.[11] They note that Cuban professionals are prohibited from driving without authorisation, socialising with locals outside of work, marrying a local and must abide by a curfew. The literature widely records Cuban workers' constant surveillance by Cuban security services during CFMMs, including outside of work.

Restrictions on family life and forced separation for Cuban healthcare workers participating in CFMMs are also documented. The UN Special Rapporteur on contemporary forms of slavery, for instance, noted that workers' families are not allowed to leave Cuba without authorisation while the professional is on a CFMM.[12]

Publications widely report that Cuban healthcare workers who do not complete their CFMM face forced exile from Cuba. NGOs and the UN Special Rapporteur mention the Cuban Penal Code, which punishes

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[5] Cuba Archive, 'Fact Sheet: Overview of Cuba's Medical "Collaboration"' (15 June 2020, link) 7; Prisoners Defenders, 'Consolidated Brief Report: Extension of Complaint "Cuba's Internationalization Missions" (II)' (September 2020, link) 7; Prisoners Defenders, 'Extension of Complaint: Cuba's "Internationalization Missions" (II)' (August 2020, link) 335.

[6] Prisoners Defenders, 'Extension of Complaint' (n 5) 335.

[7] UNSR on Contemporary Forms of Slavery and UNSR on Trafficking in Persons (n 2) 2–3; ILO CEACR, 'Direct Request – Forced Labour Convention No 29 – Brazil' (2015, link).

[8] UNSR on Contemporary Forms of Slavery and UNSR on Trafficking in Persons (n 2) 2; Human Rights Watch (n 3); Maria C Werlau, 'Cuba's Health-Care Diplomacy: The Business of Humanitarianism' (2013) 175(6) World Affairs 57, 64.

[9] UNSR on Contemporary Forms of Slavery and UNSR on Trafficking in Persons (n 2) 3; Human Rights Watch (n 3).

[10] Octavio Gómez Dantés, 'The Dark Side of Cuba's Health System: Free Speech, Rights of Patients and Labor Rights of Physicians' (2018) 4 Health Systems & Reform 175, 178–179; UNSR on Contemporary Forms of Slavery and UNSR on Trafficking in Persons (n 2) 2–3.

[11] UNSR on Contemporary Forms of Slavery and UNSR on Trafficking in Persons (n 2) 2.

[12] UN Special Rapporteur (UNSR) on Contemporary Forms of Slavery, Including its Causes and Consequences, 'Communication to the Government of Cuba – AL CUB 2/2023' (2 November 2023, link) 2.

the act of abandoning one's mission with up to eight years of imprisonment.[13] NGOs also document that healthcare professionals who do not complete their mission or are considered 'deserters' are forbidden from returning to Cuba for eight years under Cuban legislation.[14] Family members of workers who leave CFMMs are also targeted by retaliatory actions, such as not being authorised to leave Cuba.[15]

Lastly, the UN Special Rapporteurs and NGOs report other abuses faced by Cuban professionals during CFMMs. This includes threats,[16] sexual harassment,[17] being coerced into violating local laws and professional ethics[18] or being victims of violence, injuries and rare diseases or preventable illnesses due to the poor medical care available.

Consensus on the economic and geopolitical benefits that the Cuban Government receives from CFMMs

Existing publications generally agree that CFMMs have evolved from humanitarian missions based on solidarity into a significant source of income for the Cuban Government. While precise estimations of earnings are complex due to the lack of transparency of the Cuban Government's budget and CFMM cooperation agreements, the UN Special Rapporteur on Contemporary Forms of Slavery declared in 2023 that exporting healthcare professionals is Cuba's main source of revenue.[19] This view is widely shared by NGOs and scholars. Although less addressed in the literature, several sources emphasise that the Cuban Government receives more than just monetary payments and that benefits include trade or investments. When discussing financial benefits, the existing literature tends to focus on the Cuban Government. Few publications address the financial benefits that international organisations receive from assisting with the signing and implementation of cooperation agreements, such as the Pan American Health Organization facilitating the cooperation agreement with Brazil.[20]

The existing literature generally agrees on the diplomatic and geopolitical benefits that the Cuban Government derives from CFMMs. Several scholars argue that medical internationalism is an effective form of soft power, providing moral prestige, symbolic capital and influence to the Cuban Government.

Divided views on the voluntary nature of doctors' recruitment

Opinions are more divided when analysing whether Cuban healthcare workers are coerced into joining or voluntarily recruited into CFMMs. Concerns of coercion in the recruitment of Cuban healthcare workers on CFMMs are reported by international organisations, such as CEACR or the UN Special Rapporteurs on Contemporary Forms of Slavery and on Trafficking in Persons.[21] The UN Special Rapporteur on Contemporary Forms of Slavery also raised concerns that Cuban professionals are pressured into joining

[13] Prisoners Defenders, 'Italy, Qatar, and Mexico are Co-Authors of Human Trafficking and Enslavement of Cuban Workers' (13 December 2022, link) 2; Prisoners Defenders, 'Consolidated Brief Report' (n 6) 6; UNSR on Contemporary Forms of Slavery (n 12) 2.
[14] Prisoners Defenders, 'Italy, Qatar, and Mexico' (n 13) 2; Cuba Archive, 'Fact Sheet' (n 15) 7-8.
[15] ILO CEACR, Observation – Forced Labour Convention No 29 – Venezuela (adopted 2020, link); UNSR on Contemporary Forms of Slavery (n 12) 2.
[16] UNSR on Contemporary Forms of Slavery and UNSR on Trafficking in Persons (n 4) 3.
[17] Prisoners Defenders, 'Consolidated Brief Report' (n 5) 25–30; Cuba Archive and Outreach Aid to the Americas, 'The Systematic Violation of the CAT' (n 3) 19.
[18] Cuba Archive and Outreach Aid to the Americas, 'The Systematic Violation of the CAT' (n 3) 12–20.
[19] UNSR on Contemporary Forms of Slavery (n 12) 5.
[20] Lise Alves, 'Cuba's Doctors-Abroad Programme Comes under Fire' (28 September 2019) 394 The Lancet 1132.
[21] ILO CEACR (n 13); UNSR on Contemporary Forms of Slavery and UNSR on Trafficking in Persons (n 4) 2.

CFMMs by factors such as poverty or limited work opportunities in Cuba. Several NGOs document the use of coercion and/or deception in the recruitment of healthcare workers into CFMMs. Other publications take a more nuanced approach to Cuban workers' decisions to go on CFMMs, stressing that motives are diverse. They mention 'a sense of solidarity', 'a commitment to improving lives by providing healthcare'[22] as well as 'economic interests and a chance to escape Cuba'.[23]

Uneven or limited analysis

On other aspects of CFMMs, the existing literature is inconsistent or limited. The reception and integration of Cuban healthcare workers in receiving States is covered with varying levels of detail. Some academic publications and news reports record the hostility faced by Cuban workers, but NGO reports do not. Some authors mention that local medical associations in Brazil, Venezuela, Portugal and Angola were hostile to the CFMM. Scholars argue that Cuban workers faced disrespect, distrust and rejection as well as xenophobia and discrimination from local medical professionals, the medical profession hierarchy and patients.

CFMMs are based on bilateral and trilateral cooperation agreements between Cuba, the receiving State and, at times, a third party, such as an international organisation or a supporting third State. Yet existing publications rarely address these instruments. This is, in part, due to the opacity of cooperation. Agreements tend to be kept secret[24] and often include a confidentiality clause covering 'any information exchanged between [the parties]' or accessed as part of the agreement.[25] Sources, including CEACR, stress the difficulty of obtaining documents and information from host States regarding their cooperation with Cuba.[26]

Existing publications consistently overlook the responsibility of States receiving Cuban healthcare workers and of international organisations facilitating CFMMs. Some NGOs argue that some host countries are 'co-authors of human trafficking and enslavement of Cuban workers', that the Italy–Cuba cooperation violates European Union (EU) law or stress receiving States' human rights obligations towards CFMM workers.[27] Still, most analyses fall short of addressing the host State's responsibility for labour and human rights abuses in CFMMs.

Most publications emphasise the positive impact of CFMMs on local communities and receiving States. Various international organisations, including the European Parliament, the UN Human Rights Council and the UN Special Rapporteur on Contemporary Forms of Slavery,[28] have praised CFMMs and Cuba's international solidarity. However, evaluating the impact of CFMMs is a complex process. Scholars often rely on various indicators, and some emphasise the lack of reliable official data.

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[22] Outreach Aid to the Americas, 'Cuba's International Medical Missions: A Critical Resource and Advocacy Guide' (September 2021, link) 9.
[23] Stéphanie Panichelli-Batalla, 'Castro's Legacy: Cuban Doctors Still Go Abroad. But It's No Longer Driven by International Solidarity' (*The Conversation*, 30 November 2016, link).
[24] Werlau (n 8) 59.
[25] See, e.g. Botswana–Cuba, *Memorandum of Understanding* (30/08/2012) art 7.
[26] ILO CEACR (n 13).
[27] See, e.g. Prisoners Defenders, 'Italy, Qatar, and Mexico' (n 13); Human Rights Watch (n 3).
[28] European Parliament Non-Legislative Resolution of 5 July 2017 on the Draft Council Decision on the Conclusion of the Political Dialogue and Cooperation Agreement Between the European Union and its Member States, of the One Part, and the Republic of Cuba, of the Other Part (P8_TA(2017)0297) para 42; A/HRC/WG.6/16/CUB/1 paras 123–133; UNSR on Contemporary Forms of Slavery (n 12) 1.

Several publications associate CFMMs with Cuban workers' desertion and consider that the opportunity to desert is one of the motives for Cuban doctors to join missions abroad. Several authors also emphasise the role of external actors in encouraging Cuban healthcare professionals to defect, such as the United States (US)–Cuban Medical Professional Parole Program between 2006 and 2017. However, analyses of Cuban professionals' desertions during CFMMs and the effectiveness of programmes such as the US Parole Program diverge, as the data is often inconsistent and difficult to compare.

Breakdown of issues

Based on the literature review, the analysis presented in this report refers to several practices which raise concerns in terms of human and labour rights violations. It is important to clarify, however, that assessing whether there is sufficient evidence to confirm those allegations is beyond the scope of this report and would need to be undertaken on a case-by-case basis, taking into account the particular situational and individual vulnerabilities and circumstances. The following table lays out the issues identified as concerning or problematic on the basis of academic literature, the work of NGOs, UN special procedures or the ILO.

Working conditions	Living conditions
▪ Forced participation into medical missions as a *sine qua non* to specialise in medical practice ▪ Majority of salary retained by Cuban Government, including through monthly deductions framed as donation to Cuban trade union or to the Cuban Communist Party ▪ Extended working hours and limited (or lack of) holidays ▪ Racial discrimination and sexual harassment ▪ Coercion into violating local laws and professional ethics duties ▪ Violation of freedom of association	▪ Poor and unsafe living conditions (accommodation and stipend for food, transportation and utilities being part of the scheme) ▪ Curfews and restrictions on socialisation ▪ Violations of the right to privacy and communication ▪ Confiscation of passports ▪ Prohibition of travel ▪ Restriction on movement (within the host countries) ▪ Forced family separation (no children allowed in missions) ▪ Visas tied to CFMM programme
Contractual malpractice	**(Other) Coercive practices**
▪ Inappropriate recruitment practices ▪ Lack of contract ▪ Lack of contractual transparency ▪ Lack of information about destination country ▪ Difficulty in modifying contractual terms ▪ Conditions for termination of contract ▪ Violation of the principle of non-waivability of labour rights	▪ Surveillance by Cuban intelligence agents (of both doctors and their families) ▪ Regular threats and intimidation ▪ Retaliatory action if doctor deserts from programme ▪ Forced exile for doctors not completing their mission (established in the criminal codes)

Figure 1: Mapping patterns of practices of concern

Analysis of bilateral agreements between Cuba and receiving countries

CFMMs are regulated by bilateral agreements between Cuba and host States. This section provides a summary of the exhaustive analysis that BIICL has undertaken on the content of those bilateral

agreements for a selection of countries for which they are accessible.[29] This includes 48 bilateral cooperation agreements related to CFMMs signed between Cuba and 19 partners. Partners include 16 national governments, namely the governments of Algeria, Argentina, Bolivia, Botswana, Dominican Republic, Ecuador, Guatemala, Honduras, Italy, Mali, Paraguay, Portugal, Qatar, South Africa, Uruguay and Venezuela, as well as three regional or local authorities, namely the Calabria Region (Italy), the Mexico City Government (Mexico) and the Rio Negro Province (Argentina). Signatories on the Cuban side are usually the Cuban Ministry of Public Health or the Cuban entity *Comercializadora de Servicios Médicos Cubanos Sociedad Anónima* (CSMC S.A.), but some agreements were contracted by other Cuban entities, such as the *Unidad Central de Cooperación Médica*[30] or the Cuban Ministry of Foreign Trade and Foreign Investment.[31] Of the agreements that form part of this study, 17 are general cooperation agreements and 31 are specialised. The term 'general agreement' refers to framework agreements which establish the intention to cooperate in specific fields and set general terms for future cooperation. They would usually be complemented by specific agreements at a later date. These general agreements may be focused on healthcare cooperation or cover a range of cooperation areas, including, but not limited to, healthcare. 'Specialised agreements' are agreements that contain details regarding the CFMM and relevant services contracted, such as the number of Cuban workers, duration of the mission and a review of the key responsibilities of the receiving entity and the Cuban contracting entity. While some bilateral agreements date back to the 1980s, 28 were signed between 2010 and 2023.

Overall, general and specialised agreements contain limited references to international law and, when they do, they tend to be generic. For example, the 2023 Memorandum of Understanding (MOU) with Italy refers to the 'applicable international law' and EU law obligations.[32] Some provisions are more specific, such as the 2012 Agreement with Guatemala, which stipulates that the Guatemalan Ministry of Public Health and Social Assistance is responsible for ensuring the necessary epidemiological conditions under international norms in the health centres where Cuban workers are posted.[33] None of the agreements refer to international labour standards, and references to international human rights law are very limited. Of 9 specialised agreements mentioning human rights, eight refer to the right to health and only one declares the 'respect for workers' [...] human rights'.[34]

Provisions regarding domestic law in general agreements are rare, and none of them refer to domestic human rights or labour laws. When they mention domestic law, references are usually generic (referring broadly to adherence to the laws of the host State). The Italy–Cuba MOU, for instance, requires that clinical activities be performed 'in accordance with the laws and regulations governing medical and non-medical healthcare professions in the host country'.[35]

In contrast, specialised agreements contain more references to domestic legislation. Some refer to domestic law in generic terms. For instance, eight of 31 specialised agreements require the receiving

[29] The analysis includes agreements between Cuba and Honduras, Algeria, Argentina, Bolivia, Botswana, Dominican Republic, Ecuador, Guatemala, Italy, Mali, Mexico, Paraguay, Portugal, Qatar, South Africa, Uruguay and Venezuela.
[30] Rio Negro Province (Argentina)–Cuba, *Contrato de Prestación de Servicios de Asesoria* (21/09/2000, approved by Decree No 507, on 21/05/2007).
[31] Algeria–Cuba, *Accord Cadre Relatif a la Coopération dans le Domaine de la Santé* (10/05/2016, approved by Presidential Decree No 19-339 on 10/12/2019).
[32] Italy–Cuba, *Memorandum d'intessa* (23/05/2023) art 2.
[33] Guatemala–Cuba, *Acuerdo Subsidiario de Cooperación* (04/10/2012) art 3(n).
[34] Calabria Region (Italy)–Cuba, *Primo contratto collettivo* (DCA No 161 on 16/11/2022) art 3(i).
[35] Italy–Cuba, *Memorandum d'intesa* (23/05/2023) art 4.

entity to hold information sessions for Cuban workers on the local legislation in force.[36] However, a number of agreements directly refer to domestic labour law. For instance, two agreements (one with an Italian region and one with a Province in Argentina) include explicit references to workers' rights.[37] Agreements generally do not refer to specific rights, but three agreements mention the workers' right to attend training for their professional and technical development.[38] While no agreement stipulates the right to participate in trade unions or professional organisations, two agreements mention the registration of Cuban workers in local medical associations.[39] Lastly, three agreements specify the nature of the relationship created between the host State and the Cuban professionals and highlight the local labour legislation governing their contracts.[40]

Working conditions

Specialised cooperation agreements contain provisions regarding Cuban professionals' working conditions during their mission, unlike general agreements, which tend to be silent on this point. It can be generic provisions, such as the requirement that 'Cuban professionals receive the same working conditions and responsibilities as their [local] counterparts'.[41] But most specialised agreements tend to include more specific provisions. 17 agreements, indeed, stipulate the provision of equipment, tools, materials and/or medicines to ensure workers perform their duties throughout the mission. 25 agreements also contain provisions related to Cuban professionals' healthcare during their mission. This includes provisions related to the repatriation of a worker to Cuba in case of serious illness, accident or death of the worker, or in case of illness or death of a worker's immediate family member. Specialised agreements also include guarantees of medical, dental, hospital and/or pharmaceutical care for Cuban professionals during the mission, often provided free of charge. Moreover, specialised agreements address workers' safety while on the CFMM in quite generic terms,[42] with only a few exceptions.[43]

CFMMs may be sent to areas with significant safety concerns, but some specialised agreements attempt to mitigate these risks. The 2008 Agreement with Qatar, for instance, provides that CFMM workers must be provided with 'secure housing' and 'security services at that housing'.[44] Four agreements also foresee the suspension of the CFMM if there are concerns for the workers' safety and physical integrity. However, they do not contain any procedure for workers to raise their concerns or issues during a mission.

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[36] Algeria–Cuba, *Convention pour la mise en œuvre des modalités de coopération dans le domaine de la santé* (30/01/2018) art 4.2(o).

[37] 34Calabria Region (Italy)–Cuba, *Primo contratto collettivo* (DCA No 161 on 16/11/2022) art 3(j);30 Rio Negro Province (Argentina)–Cuba, *Contrato de Prestación de Servicios de Asesoria* (21/09/2000, approved by Decree No 507, on 21/05/2007) art 8.

[38] Guatemala–Cuba, *Acuerdo Subsidiario de Cooperación* (04/10/2012) art. 5; Portugal–Cuba, *Renovação do Acordo de Cooperação* (30/12/2009) art III(k); Portugal–Cuba, *III Renovação do Acordo de Cooperação* (30/12/2011) art 3.2(n).

[39] Portugal–Cuba, *Alteração e Aditamento ao Acordo de Cooperação* (30/04/2014) art 3.2(b); South Africa–Cuba, *Agreement on Cooperation in the Field of Health* (30/03/2001) annexure A, art 5.

[40]30 Rio Negro Province (Argentina)–Cuba, *Contrato de Prestación de Servicios de Asesoria* (21/09/2000, approved by Decree No 507, on 21/05/2007) art 8; Calabria Region (Italy)–Cuba, *Contratto quadro internazionale* (DCA No 87 on 17/08/2022) preamble; 34Calabria Region (Italy)–Cuba, *Primo contratto collettivo* (DCA No 161 on 16/11/2022) para (j), art 4(d).

[41] Portugal–Cuba, *Alteração e Aditamento ao Acordo de Cooperação* (30/04/2014) 39art 3.2(c).

[42] Algeria–Cuba, *Convention pour la mise en œuvre des modalités de coopération dans le domaine de la santé* (30/01/2018) 36art 4.2(g), Bolivia–Cuba, *Acuerdo de Cooperación* (5309/06/2015) art III(l), Botswana–Cuba, *Memorandum of Understanding* (30/08/2012) art 5.2(d).

[43] Calabria Region (Italy)–Cuba, *Contratto quadro internazionale per la somministrazione di personale medico* (approved by DCA No 87 on 17/08/202240) art 3.2(b).

[44] Qatar–Cuba, *Agreement for the Provision of Medical Services* (22/04/2008) art 4(2)(d–(e).

Overall, no specialised agreements mention any independent mechanisms to monitor the workers' working conditions and safety during their mission, which would enable the implementation of these guarantees in practice.

Working hours and time off

Given their generic nature, general cooperation agreements tend not to contain provisions on working hours and time off. However, about half of the specialised agreements do. 15 specialised agreements, indeed, address Cuban professionals' working hours and shifts with varying levels of detail.[45] For instance, five agreements state that Cuban workers' working days or hours will be set by the receiving State or its Health Ministry, or that it will align with the regulations in force.[46] Four agreements are more specific and detail the weekly and daily working hours, as well as the working days. Overtime work tends to be overlooked by bilateral agreements. Only one stipulates that if overtime work is required, the receiving authorities 'will pay the difference'.[47]

As healthcare professionals, Cuban workers will likely be required to do on-call and night shifts. Yet the engagement of bilateral agreements with these shifts, their duration or frequency is inconsistent. Two agreements expressly include on-call shifts in the weekly working hours, whereas two others specify that workers will be on duty for emergencies in addition to their regular hours. Yet two other agreements mention on-call shifts, but it is unclear if they are included in the weekly working hours or in addition.[48]

16 specialised agreements include provisions on holidays and time-off, albeit with varying levels of detail.[49] For instance, seven agreements imply that workers have holidays during the CFMM when determining which state covers the costs of international travel for workers' vacations in Cuba. Eight bilateral agreements, however, explicitly refer to workers' vacation by providing the number of holidays to which they are entitled each year.[50] Six of these agreements further stipulate that CFMM workers are entitled to commemorate the Cuban national bank holidays,[51] the host country's national holidays[52] or both.[53]

Remuneration

General agreements rarely address workers' remuneration during the CFMM. Only two general agreements address salaries indirectly by stipulating which State or authority is responsible for covering workers' remuneration. Specialised agreements tend to be vague when referring to Cuban workers' remuneration. For instance, some specialised agreements stipulate hourly rates or monthly amounts, but only four explicitly mention the terms 'remuneration' or 'salary' with regard to healthcare workers on CFMM. Nevertheless, both general and specialised agreements usually contain some provisions related to the financial aspects of the cooperation, such as which of the two contracting parties is responsible for

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[45] See BIICL, Cuban Foreign Medical Missions: Analysis of Bilateral Agreements (2025), p. 13.
[46] Ibid.
[47] Calabria Region (Italy)–Cuba, *Accordo di cooperazione* (August 2022) art 4(10).
[48] See BIICL, Bilateral Agreements, n 45, p. 14-15.
[49] Ibid, p. 15-16.
[50] Ibid.
[51] Bolivia–Cuba, *Acuerdo Interinstitucional de Cooperación* (08/06/2018) art V(c); Mali–Cuba, *Accord de Coopération* (19/10/2006) art 8.
[52] Honduras–Cuba, *Convenio de Cooperación en Materia de Salud* (24/11/2016) art 6(16).
[53] Bolivia–Cuba, *Acuerdo de Cooperación* (09/06/2015) art VI(c); Calabria Region (Italy)–Cuba, *Accordo di cooperazione* (47August 2022) art. 3.2(k); Guatemala–Cuba, *Acuerdo Subsidiario de Cooperación* (04/10/201238) art. 7.

covering certain costs. But no general agreement stipulates the overall cost of the cooperation. 12 specialised agreements, however, state the monthly or yearly fee to be paid to Cuba for the medical services or for each worker provided.[54] Still, most agreements do not indicate the programme's overall cost.

Overall, bilateral agreements contain limited guarantees of full and direct salary payment to the workers. Neither agreements referring to their salary or remuneration, nor agreements stipulating hourly rates or monthly amounts, provide that the workers would receive full and direct payments. Similarly, in the *Accordo di cooperazione*, the Calabria Region commits to opening local bank accounts for Cuban workers when they arrive in Italy,[55] but fails to guarantee full salary payments into this bank account.

Contractual (mal)practices

General agreements do not contain provisions addressing Cuban workers' employment contracts specifically, and only four specialised agreements refer to individual contracts, at times including details on those contracts.[56] The Agreement with South Africa, for instance, lists the specifications regarding the appointment that the workers' contracts must entail, such as the position, salary, duration and location of the posting.[57] Cooperation agreements with the Calabria Region are the most detailed on workers' contracts. The *Primo Contratto Collettivo* stipulates that Cuban workers may only be recruited after obtaining 'contracts in accordance with current regulations' and requires that workers sign their contracts in Italy.[58] In addition, agreements with the Calabria Region include provisions aimed at ensuring Cuban workers freely express their willingness to join the CFMM. They require CSMC S.A. to 'provide a copy of the individual declaration of availability to accept the professional assignment' and Cuban workers to 'personally reiterat[e]' their acceptance 'when signing the individual contract with the [receiving entity]'.[59]

A number of bilateral agreements also restrict the possibility of Cuban healthcare workers being recruited outside of the cooperation. Indeed, 11 specialised agreements guarantee 'that the Cuban medical professionals […] only perform their functions in the public sector' and that they 'are not employed in the private sector during the agreed period of service provision'.[60] Under the Agreement with South Africa, Cuban workers providing services in the private sector will be dismissed.[61] Similarly, two general

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[54] Algeria–Cuba, *Convention pour la mise en œuvre des modalités de coopération dans le domaine de la santé* (30/01/2018) annex 2; Botswana–Cuba, *Memorandum of Understanding* (30/08/2012) art 6.1; Calabria Region (Italy)–Cuba, *Contratto quadro internazionale per la somministrazione di personale medico* (approved by DCA No 87 on 17/08/2022) art 1.2; Ecuador–Cuba, *Convenio Interministerial de Cooperación y Servicios Medicos Profesionales* (11/10/2012) art 5; Mexico City–Cuba, *Acuerdo de Cooperación Bienal* (23/04/2020) art 2; Mexico City–Cuba, *Acuerdo de Cooperación Bienal* (16/12/2020) art 2; Portugal–Cuba, *Acordo de Cooperação Para a Prestação de Serviços Médicos* (13/06/2009) annex 2, art 3; Portugal–Cuba, *III Renovação do acordo de Cooperação* (30/12/2011) annex 2, art 3; Portugal–Cuba, *Alteração e Aditamento ao Acordo de Cooperação* (30/04/2014) 39annex 2, art 3; Uruguay–Cuba, *Convenio para la Prestación de Servicios en la Esfera de la Salud* (23/01/2012) arts 4.1, 4.2 4.3; Uruguay–Cuba, *Suplemento No 1* (20/12/2017) art 4.2, annex 1; Uruguay–Cuba, *Convenio para la Prestación de Servicios en la Esfera de la Salud* (28/11/2018) arts 4.1, 4.2, 4.3, annex 1.

[55] Calabria Region (Italy)–Cuba, *Accordo di cooperazione* (47August 2022) art 3.2(s).

[56] See BIICL, Cuban Foreign Medical Missions: Analysis of Bilateral Agreements, BIICL 2025, p. 26-27.

[57] 39South Africa–Cuba, *Agreement on Cooperation in the Field of Health* (30/03/2001) annexure A, art 3(1).

[58] 34Calabria Region (Italy)–Cuba, *Primo contratto collettivo* (DCA No 161 on 16/11/2022) preamble para (j), art 1.

[59] Ibid art 3(b); Calabria Region (Italy)–Cuba, *Accordo di cooperazione* (47August 2022) art 3.1.

[60] Bolivia–Cuba, *Acuerdo de Cooperación* (5309/06/2015) art III(q). See also BIICL, Cuban Foreign Medical Missions: Analysis of Bilateral Agreements, BIICL 2025, p. 29.

[61] 39South Africa–Cuba, *Agreement on Cooperation in the Field of Health* (30/03/2001) annexure A, art 5(f).

agreements prohibit workers from performing activities other than their functions and from receiving any other remuneration, unless they have been authorised to do so.[62]

Although these restrictions apply only for the duration of the agreement, four agreements stress that the healthcare workers cannot be employed for any other activities after the end of the cooperation.[63] A couple of agreements also address the case of healthcare workers who decide to leave the CFMM. In the *Accuerdo Subsidiario de Cooperación,* Guatemalan authorities commit not to employ 'doctors or technicians who have deserted' CFMMs.[64] In the 2016 Agreement, Honduras commits not to recruit any Cuban healthcare professional applying individually. Under this Agreement, CFMM deserters would automatically lose 'all migratory privileges' their authorisation to practice medicine and be removed from the country.[65]

Living conditions

In comparison to other issues relating to Cuban workers, general agreements are more likely to contain provisions relating to subsistence allowances during CFMMs. Indeed, eight of 17 general agreements address CFMM professionals' accommodation, food and/or local transportation.[66] Specialised agreements also widely engage with Cuban workers' housing and living conditions during their mission.[67] The majority of these agreements stipulate that the receiving country's authorities provide free accommodation, food and necessary services for the workers. But others are more detailed, for instance, by listing the services guaranteed or stipulating that the accommodation is 'in liveable conditions' or 'properly furnished'.[68]

Nine specialised agreements also include the payment of an allowance or stipend to Cuban healthcare workers covering all or part of their expenses during their mission.[69] Four agreements specify the monthly amount of the stipend, but one refers to 'the table in force for Public Administration',[70] thus suggesting that Cuban workers' allowance is aligned with what local workers would receive. The *Accordo di Cooperazione* with the Calabria Region further stipulates that the allowance will be paid upon the arrival of the Cuban workers in Italy and that subsequent payments will be made within the first ten days of each month. However, the payment is made 'through CSMC S.A.',[71] and thus fails to ensure that workers receive the full amount of the subsistence allowance to which they are entitled under this cooperation. Overall, agreements that include stipends are imprecise regarding direct payments to the workers.

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[62] Dominican Republic–Cuba, *Convenio Marco de Cooperación* (6/05/2019) art IX; Paraguay–Cuba, *Convenio Básico de Cooperación* (19/06/2000, Law No 2261) art XII.
[63] Uruguay–Cuba, *Acuerdo Complementario de Cooperación - Centro Oftalmológico 'José Martí'* (28/06/2013) art 5(l); Mexico City–Cuba, *Acuerdo de Cooperación Bienal* (16/12/2020) art IV(6); Mali–Cuba, *Accord de coopération* (19/10/200651) art 11; Guatemala–Cuba, *Acuerdo Subsidiario de Cooperación* (3804/10/2012) art 3(j).
[64] Guatemala–Cuba, *Acuerdo Subsidiario de Cooperación* (3804/10/2012) art 3(l).
[65] Honduras–Cuba, *Convenio de Cooperación en Materia de Salud* (24/11/2016) arts 6(6), 6(7).
[66] See BIICL, Cuban Foreign Medical Missions: Analysis of Bilateral Agreements, BIICL 2025, p. 23.
[67] Ibid, p. 24.
[68] Ibid.
[69] Ibid, p. 25.
[70] Portugal–Cuba, *Alteração e Aditamento ao Acordo de Cooperação* (30/04/2014)39 art 3.2(h).
[71] Calabria Region (Italy)–Cuba, *Accordo di cooperazione* (August 2022)47 arts 3.2, 4.2.

Migration/movement of Cuban workers

21 of 31 specialised agreements and one general agreement include provisions related to the Cuban healthcare professionals' immigration status during the mission.[72] Bilateral agreements generally require the receiving State to facilitate the workers' entry and stay in the country or to assist them with obtaining the relevant immigration status. However, neither general nor specialised agreements contain provisions guaranteeing Cuban professionals' autonomy or freedom of movement during the mission. Similarly, while one agreement requires the Cuban authorities to assist Cuban workers to obtain their passports,[73] no agreement includes provisions ensuring that Cuban professionals can keep their passports while on a CFMM.

Provisions on States' cooperation

Financial aspects

Compared to other aspects of bilateral cooperation, the financing of the cooperation and relevant programmes is one of the most detailed features of bilateral agreements. 11 of 17 general agreements and 28 of 31 specialised agreements contain—at times highly detailed—provisions related to the funding of the cooperation, the payment of Cuban workers' subsistence allowances, their remuneration or for the services provided by Cuba.[74] While bilateral agreements are equivocal on payments to Cuban workers, 20 specialised agreements cover in detail the payment modalities between the receiving State and Cuba.[75]

Dispute resolution

Overall, provisions relating to dispute resolution tend to be generic. 11 general agreements and 14 specialised agreements stipulate that disagreements between the two States are to be resolved amicably and in good faith, through diplomatic channels or direct negotiations.[76] However, bilateral agreements with the Calabria Region contain more detailed provisions regarding the conciliation and arbitration procedure to be used in the event that the parties cannot reach an agreement.[77]

Monitoring

Generally speaking, provisions relating to monitoring cooperation are generic. For example, three general agreements mention the creation of a monitoring and evaluation commission,[78] but only one specifies the commission's role.[79] Specialised agreements contain similar provisions on the creation of a monitoring committee, its role and its meeting schedule.[80] None of the agreements contains or refers to a process for monitoring the receiving State's compliance with its obligations towards workers in CFMMs.

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[72] See BIICL, Cuban Foreign Medical Missions: Analysis of Bilateral Agreements, BIICL 2025, p. 32.
[73] 39South Africa–Cuba, *Agreement on Cooperation in the Field of Health* (30/03/2001) annexure A, art 6(c).
[74] See BIICL, Cuban Foreign Medical Missions: Analysis of Bilateral Agreements, BIICL 2025, p. 33-34.
[75] Ibid, p. 35.
[76] Ibid.
[77] Ibid, p. 36-37.
[78] Algeria–Cuba, *Accord Cadre Relatif à la Coopération dans le Domaine de la Santé* (10/05/2016)31 art 10.1; Argentina–Cuba, *Convenio Marco de Cooperación en Materia de Salud* (19/01/2009) art 5; Bolivia–Cuba, *Acuerdo Interinstitucional Internacional – Recursos Humanos Para los Programas de Medicina Física, Rehabilitación y Genética* (08/12/2016).
[79] Argentina–Cuba, *Convenio Marco de Cooperación en Materia de Salud* (19/01/2009) art 5.
[80] See BIICL, Cuban Foreign Medical Missions: Analysis of Bilateral Agreements, BIICL 2025, p. 37.

Medical missions, defections and asylum claims

In 2019, the British Broadcasting Corporation (BBC) reported that 'with more than 30,000 Cuban doctors active currently in 67 countries, many of which in Latin America and Africa, but also in European countries like Portugal and Italy, the Cuban authorities have strict rules to try to avoid that Cuban citizens defect once abroad'.[81] One of the most detailed reporting on Cuban medical missions has been published by (CPD), indicating that the conditions of personnel on medical missions were such that almost half of the people whose testimonies were collected by CPD defected from the mission, and that a significant proportion of those who completed the mission did not return or defected from a subsequent mission.[82] It also makes explicit reference to instances in which doctors on medical missions have sought asylum during or after their medical missions, especially on the Refugee Convention ground of 'political opinion'—including in Brazil (where asylum was 'offered' to Cuban doctors and several lawsuits were filed challenging the working conditions of the medical missions)[83] and Venezuela,[84] as well as in the US (where there is a history of desertions in the context of the Cuban Medical Professional Parole Program, which started in 2006 and ended in 2017).[85] Asylum requests have been lodged on several bases, according to the CPD report, including that deserters could face up to eight years in prison according to Articles 135 and 216 of the Cuban Criminal Code, or a *de facto* eight-year ban on entry into Cuba.[86]

Focus on selected 'host' countries

As presented in Section 3(c) of this report, BIICL has analysed a series of bilateral agreements with a set of countries in which there is an overall relatively high presence of Cuban refugees—including **Mexico** and **Venezuela**, Cuba's largest and most extensive medical aid effort—as well as with countries where the asylum system is either *de jure* or *de facto* inaccessible to Cuban nationals (e.g. **Qatar** and **Algeria**). In what follows, whilst aware of the opacity around asylum claims information in the majority of jurisdictions worldwide, we attempt to provide an overview of whether and how Cuban medical personnel have sought international protection during, or after, medical missions abroad, including whether and why asylum was 'offered' to Cuban on medical missions. Such claims can help shed light on some of the human rights violations reported in the context of these missions.

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[81] 'El mundo oculto de los médicos cubanos que son enviados a trabajar al extranjero' (*BBC News*, 2019). See also Human Rights Watch, 'Cuba: Repressive Rules for Doctors Working Abroad' (2020).

[82] See Prisoners Defenders, 'Misiones de Internacionalización de Cuba. Comunicación para inicio de procedimiento especial Oficina de las Naciones Unidas en Ginebra' (2019) and 'Extension of complaint: Cuba's Internationalization Missions' (2020). For a summary, see 'Consolidated Brief Report. Extension of complaint: Cuba's Internationalization Missions' (2020). In addition, see more recent reports: Prisoners Defenders, 'Italy, Qatar, and Mexico are Co-Authors of Human Trafficking and Enslavement of Cuban Workers' (2022); Prisoners Defenders, 'Ampliación del proceso de denuncia del caso penal de las víctimas de las misiones médicas de Cuba, y de otras víctimas profesionales, presentado ante la Oficina de las Naciones Unidas (Ginebra) y la Corte Penal Internacional' (2024).

[83] Lucas Vigidal, 'Pedidos de refúgio de cubanos quase triplicam após saída do Mais Médicos' (Globo, 2019). On lawsuits, see Andres Oppenheimer, 'Cuban doctors in Brazil file lawsuit claiming U.N. agency made $75 million from "slave trade." If true, it's criminal' (*Miami Herald*, 2018) and Ernesto Londoño, 'Cuban Doctors Revolt: 'You Get Tired of Being a Slave' (*The New York Times*, 2017).

[84] See 'Cuba-Médicos desertores: Seducidos y abandonados' (*CubaSi*, 22 January 2014).

[85] More information on the CMPP is available here. The program started in 2006 and ended in 2017. For an analysis of defections, see Michael Caeser, 'Cuban Doctors Working Abroad Defect to the USA' (2007) 369(9569) The Lancet 1247.

[86] CPD, 'Extension of Complaint' (n 2) 32.

The Americas

In **Brazil**, asylum was 'offered' to Cuban doctors upon Jair Bolsonaro's decision in 2018 to close the *Más Médicos* program,[87] which was initiated by Dilma Rousseff in 2013. It is estimated that between 2013 and 2018, 8,000 Cuban doctors were part of the medical mission, and upon the end of the program, the Brazilian Minister of Health at the time, Luiz Henrique Mandetta, stated that 1,800 Cuban doctors had remained in Brazil.[88]

As was reported in *El País*,[89] the Brazilian Ministry of Justice has not shared information on the number of Cuban doctors who received asylum as this data is confidential. However, some sources pointed to a significant increase in the number of asylum claims around the time of the closure of the *Más Médicos* program: indeed, it was reported that 'between November 2018 – the month the agreement with Cuba ended – and April 2019, the council received 12.6 [asylum] requests per day. A year earlier, during this period, the average was 4.8',[90] citing data from the Brazilian National Committee for Refugees (Conare). Sources also reported that 'political persecution' was a Refugee Convention ground commonly relied upon by doctors.[91]

In 2019, the BBC reported that Cuban doctors who 'decided to stay [in Brazil] now denounce the precarity in which they find themselves', a precarity that ensued from the gap between Bolsonaro's promise that 'Cuban doctors who wanted to stay in the country would be granted asylum and could work as doctors if they revalidated their degrees' and the Cuban Government 'withhold[ing] their [professional] documentation', effectively rendering their qualifications' revalidation unattainable.[92]

In **Guatemala**, a complaint was submitted in 2020 before the Constitutional Court—though unsuccessfully—to halt the renewal of the medical missions' agreement and to ensure that Cuban doctors could receive asylum in the country. Inspired by **Brazil**'s 'asylum offer' upon closure of the medical program on grounds of its forced labour characteristics, the complaint argued that an agreement renewal would not only be damaging to the economy of Guatemala but would also make Guatemala complicit in forced labour.[93]

In **Mexico**, in 2024 alone the Mexican Commission for Refugee Assistance (COMAR) received more than 16,000 asylum applications from Cuban citizens.[94] Whilst it is unknown whether any of these applications relate to Cuban medical professionals sent to Mexico by the Cuban Government (at least, according to official databases), there is anecdotal evidence of doctors who had been sent on medical missions

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[87] Jorge Carrasco, 'Más Médicos: "Nuestro salario era bajo, pero era mejor que en Cuba", la decepción de médicos cubanos ante la retirada de su país del programa médico en Brasil' (*BBC News*, 22 November 2018).
[88] Vigidal (n 3).
[89] Beatriz Jucá, 'Los médicos cubanos en Brasil: entre el miedo a Bolsonaro y las carencias en la isla' (*El País*, 23 November 2018).
[90] Vigidal (n 3).
[91] ibid; Beatriz Díez, '"Nos veían como dioses, hoy nos ven como nada": la difícil situación de miles de médicos cubanos en Brasil tras la llegada al poder de Bolsonaro' (*BBC News*, 19 March 2019).
[92] Díez (n 11).
[93] See 'Piden asilo político para los médicos cubanos en Guatemala y la ruptura de los acuerdos sanitarios' (*14yMedio*, 10 September 2020). See also Section 3 of this report on State responsibility.
[94] Abigail Marquez, 'Mexican Authorities Deny Asylum to Cuban Refugees Despite Evidence of Repression' (*CubaHeadlines*, 8 December 2024); Ibrahim Hernández Oramas, 'Casi 9.000 cubanos pidieron refugio en México en lo que va de 2024' (*CubaNet*, 11 July 2024).

seeking asylum in Mexico.[95] In **Venezuela**, there is evidence of at least a few Cuban doctors on medical missions seeking asylum[96]—as also highlighted by the CPD's reports.[97] In that same report, it emerged that Venezuela is significantly over-represented in terms of human rights violations testimonials collected (169 testimonials, out of 405 protected testimonials collected).

In **Uruguay**, it was reported[98] that a doctor sought asylum after completing his medical mission and being unwilling to return to Cuba (whilst another source mentions up to ten doctors).[99] Similarly, it has been reported that some Cuban doctors have either deserted and absconded, or sought asylum in **Bolivia**, to avoid returning to Cuba during or after their mission.[100]

Other examples of international protection sought on the basis of fear of persecution following desertion, though not necessarily in the medical context, emerged in **Canada**. In *X (Re)* (2016),[101] the appellant had joined a 'mission' of Cuban nationals and rotated in and out of Cuba. He was accused of violating procedure by becoming engaged to a Canadian woman, was suspended from the mission and demoted and was subsequently questioned about violating money transfer protocols and associating with Cuban defectors in Canada. The Canadian Immigration and Refugee Board set out to establish whether the barring of the appellant from returning to Cuba by the Cuban authorities for a period of eight years amounted to persecution and, despite acknowledging elements of punishment, concluded that he 'has not provided sufficient credible and trustworthy evidence to establish that the enhanced scrutiny he may face at the hands of the Cuban authorities would amount to persecution'.[102] Two years later, the Board was called upon to evaluate another claim, *X (Re)* (2018),[103] in which the appellant feared prosecution or punishment after defecting from an official mission in Canada. The Board found the appellant to be a defector who would face criminal charges related to his perceived political beliefs and behaviour upon return to Cuba, and that those charges could bring a penalty of eight years in prison. On that basis, the appeal set aside the decision of the Refugee Protection Division (RPD) and held that the applicant was indeed a refugee within the meaning of the Refugee Convention noting, *inter alia*, that 'the Appellant has clearly shown that he would face persecution due to his perceived "ideological deviation" which is without any doubt, political'.[104]

In addition, it was reported as early as 2000 that two doctors on a medical mission in **Zimbabwe** sought protection at the **Canadian and US embassies** in Harare, which referred them to the UN High Commissioner for Refugees.[105] Allegedly, the doctors disappeared the day of their hearing before a Zimbabwean asylum committee, and later accused Zimbabwean security officers of kidnapping them and helping Cuban diplomats try to force them on a flight to Havana. According to the media report, Cuba has denied any involvement in the alleged kidnapping, saying that the doctors betrayed their medical mission to aid Zimbabwe's health service.

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[95] Molly Hennessy-Fiske, 'Médicos y enfermeros cubanos trabajan en una clínica fronteriza durante la pandemia mientras buscan asilo' (*Los Angeles Times*, 26 May 2020).
[96] CubaSi (n 4).
[97] See above (n 2).
[98] 'Médico cubano pedirá asilo o residencia en Uruguay' (*Espectador.com*, 7 December 2006).
[99] Jorge Ciasullo, 'La controversia sobre los médicos cubanos. ¿Misión humanitaria o política?' (*Correo de los Viernes*, 11 July 2025).
[100] 'Médico cubano desertor en Bolivia busca asilo en otra nación' (*InfoBae*, 10 July 2006).
[101] *X (Re)* [2016] CanLII 105368 (CA IRB).
[102] ibid para 52.
[103] *X (Re)* [2018] CanLII 115255 (CA IRB).
[104] ibid para 20.
[105] 'Zim officials 'kidnapped asylum-seekers' (*Mail&Guardian*, 21 August 2000).

Europe

Whilst the number of asylum claims filed in the EU by Cuban nationals has steadily increased in the last 20 years,[106] with a predominance of asylum applications filed in Spain (~11,800 between 2008 and 2024, equal to more than 50% of the total number of applications for the same period, ~22,500), it is unclear whether there have been any asylum claims lodged by Cuban medical professionals who joined a medical mission in a Member State of the EU. This may also be due to the small number of Cuban doctors deployed in EU Member States, compared to the number of doctors deployed elsewhere in the world. What has emerged, however, is anecdotal evidence of asylum claims submitted in EU Member States by Cuban doctors after completing medical missions *elsewhere*.

In the early 2000s, it was reported that 16 Cuban doctors returning from a medical mission in **South Africa** to Cuba absconded and sought asylum in Spain.[107] More recently, in an administrative appeal heard in **the Netherlands**, the facts of the case involved a nurse sent by the Cuban Government to **Qatar**, who sought asylum on grounds of having been branded as 'anti-revolutionary' by the Cuban authorities, and therefore facing persecution upon return to Cuba, after having resigned from his employment in Qatar out of disagreement with the poor working conditions.[108]

In another case, though not specifically concerning medical missions, heard in t**he United Kingdom**, *Fernandez (Dissidents and Defectors) Cuba* CG,[109] the appellant sought protection after having worked in **Botswana** as a physics and chemistry teacher. He had a two-year employment contract with the Cuban Government and a three-year contract with the Botswana government. Similarly to the case of doctors discussed in this section, he alleged that his salary was paid by the Botswana Government into a Cuban Government account, and that only 25% of the salary was accessible to him. The Upper Tribunal found a real risk of serious harm for the appellant on return to Cuba on the basis that he would be regarded by the Cuban authorities as a defector, and despite the passage of time would still be of adverse interest to them because it would be known that he had helped others to defect.

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[106] Eurostat provides an overview of asylum claims filed by Cuban nationals for the period 2008 - 2024. While between 2008 and 2016 the number of Cuban applicants per year ranged from 230 to 655), by 2018 the number reached the thousands (1,170 in 2018; 2,030 in 2019; 2,185 in 2020; 1,750 in 2021) and significantly increased after 2022 (3,285 in 2022; 4.475 in 2023), before returning to pre-2022 levels in 2024 (2,310). See Eurostat, 'Asylum applicants by type, citizenship, age and sex – annual disaggregated data', available here. Below are some data points worth noting:

- The relative number of minors has remained consistent in the period 2013-2018 (between 6% and 10%) and in the period 2019-2024 (between 10% and 14%). The relative number of females has never exceeded 50%, being on average 40% between 2016 and 2024.
- The main countries of *filing* are Spain (~11,800 applications between 2008 and 2024, or ~52%), Italy (~2,100, ~9%), France (~2,000, ~9%), and Germany (~1,400, ~6%). Combined, these amount to ~77% of all Cuban asylum applications in the EU.
- The rate of positive *first instance* decisions for claimants aged 18-65 has declined from an average of 32% in the period 2012-2016 to an average of 12% in the period 2017-2024, with positive rates plummeting from 32% in 2015 and 23% in 2016 to 14% in 2017 and 9% in 2018.
- Amongst positive decisions for claimants aged 18-65, asylum has been recognised on average in 53% of cases, with a peak of 92% in 2020 (which is, however, also the lowest in terms of positive decisions, 8%). Notably, the average asylum recognition amongst positive decisions was lower in the period 2012-2017 (29%) compared to the period 2018-2024 (74%)—a trend opposite to the one described in the previous point (see rate of positive first instance decisions).

[107] Farhana Ismail, '16 Cuban doctors in SA scheme defect' (*IOL*, 2002).

[108] 201506502/1/V2.6 (2016) ECLI:NL:RVS:2016:891.

[109] *Fernandez (Dissidents and defectors)* [2011] UKUT 343.

Concluding notes

The pattern of defections and asylum claims by Cuban medical professionals underscores a critical intersection between State policy and individual rights. Across multiple jurisdictions, Cuban personnel who took part in government-sponsored missions have reported coercion, political persecution or fear of punishment upon return—sometimes leading to defection and/or the lodging of a protection claim. Although the number of cases is limited, the evidence relied upon by applicants, including confiscated passports, constant surveillance and threats of imprisonment, suggests the need for significant reform to mission procedures and regulation to ensure alignment with international human rights and labour standards. The few asylum applications which are accessible frequently invoke the Refugee Convention's 'political opinion' ground, reflecting the punitive framing of desertion and defection by Cuban authorities. These cases highlight not only the risks faced by defectors, but also the obligations and responsibilities of host countries entering into agreements without sufficient human rights safeguards.[110]

[110] See Section 3 of this report on State responsibility.

The International Human Rights and Labour Standards relevant to CFMMs

CFMMs should comply with the international human rights and labour standards enshrined in the international legal frameworks that Cuba and the host States have signed and ratified and/or that are binding on all States as a matter of customary international law. This section examines the four groups of situations or practices of concern on which the report focuses and distils the human rights and labour standards for those practices from relevant international and regional human rights and labour treaties, building on the analysis of relevant case law and general comments from those international bodies. It also explores the risk of trafficking as a separate issue and emphasises that there are many different degrees of exploitation that can occur along 'the spectrum of unfree labour'.

What are the international standards with which CFMMs should align?

This section maps the provisions of international and regional human rights law and international labour standards that address or relate to each of the practices of concern that on which this report focuses.[111] It is organised around the four broader groupings that these patterns fit into: working conditions; contractual (mal)practices; living conditions; and coercive practices. The mapping does not purport to be exhaustive and, given the volume of potentially relevant instruments and provisions, it takes the form of an outline rather than a comprehensive analysis. Included in this report are tables setting out in full the various human rights and labour standards identified as relevant for each group of practices.

Included in Figure 6 below is a table showing the ratification status of each of the instruments identified during this mapping for Cuba and each host State covered in the report, to provide a snapshot of each instrument's application in target countries. The ratification status of these instruments has significant implications for their applicability and enforceability. While non-ratification of a specific treaty does not automatically render its provisions inapplicable—particularly where those provisions reflect customary international law or are mirrored in other ratified instruments—it does limit the direct legal obligations that arise from that treaty for the non-ratifying State. Where a State has not ratified a particular instrument referenced in this analysis, the provisions cited may still be relevant as interpretive guidance or as reflections of emerging international standards, but as is discussed in more detail below, they cannot form the basis for direct treaty-based claims of State responsibility. This creates a complex legal landscape where the strength of applicable obligations varies considerably between different host States and Cuba itself, depending on their respective treaty commitments. A further complexity arises from the fact that Cuban doctors are migrant workers in host States, but their contract of employment is generally with the Cuban State (with very few exceptions). That may limit the applicability of some of the provisions presented in this analysis to Cuban doctors in these missions. This analysis therefore considers the ideal standards that should govern CFMMs under the full range of international instruments.

Working conditions

Starting with those practices identified which fall into the category of 'working conditions', a strong framework of international human rights law and labour standards protecting all workers against discrimination, abuse and exploitation in the workplace is relevant to the situation of doctors participating in the CFMM programme.

[111] See the full list of practices in Figure 1.

Forced participation in CFMM programme, labour exploitation and coercion to violate local laws and professional ethics duties

A number of international legal instruments establish clear protections relevant to the situation of Cuban doctors forced to participate in CFMMs as a precondition to practise medicine, or subjected to labour exploitation or coercion more generally. Common Article 1 of the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) affirms the right of individuals to freely pursue their economic, social and cultural development. Article 6 of ICESCR also safeguards the right to work that is freely chosen or accepted, underlining the fact that 'respect for the individual and his dignity is expressed through the freedom of the individual regarding the choice to work'.[112] Relatedly, Article 1 of the ILO's Employment Policy Convention (C122) requires States to pursue actively an employment policy which is 'designed to promote full, productive and freely chosen employment'. Articles 51–52 of the International Convention on the Protection of the Rights of All Migrant Workers (CPMW) also guarantee migrant workers in regular status the right to free choice of remunerated activity (subject to certain limitations and exclusions) and prohibit penalisation for premature termination of employment.[113]

More specifically, multiple international treaties prohibit forced or compulsory labour in terms that could apply directly to the CFMM regime. Article 8 of the ICCPR, Article 11 of the CPMW and regional human rights conventions[114] each proscribe forced labour, with narrow exceptions (e.g. in emergencies) that are in most instances unlikely to apply to the routine deployment of Cuban doctors.[115] In *Bernadette Faure v Australia*, the UN Human Rights Committee explained that the term 'forced or compulsory labour' in Article 8 of the ICCPR:

> … covers a range of conduct extending from, on the one hand, labour imposed on an individual by way of criminal sanction, notably in particularly coercive, exploitative or otherwise egregious conditions, though, on the other hand, to lesser forms of labour in circumstances where punishment as a comparable sanction is threatened if the labour directed is not performed.[116]

Taking the breadth of this definition into account, the prohibition on forced labour would have clear application in this regard, given the testimonies of Cuban doctors that the programme is a requirement for them to complete their access to the health profession in Cuba. Unlike ordinary professional service requirements or overseas postings, the assessment turns on the degree of coercion and control

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[112] Committee on Economic, Social and Cultural Rights, 'General Comment No 18' (6 February 2006) UN Doc E/C.12/GC/18, para 4.

[113] Article 3(b) of the CPMW excludes from the convention's definition of 'migrant worker' any persons 'sent or employed by a State or on its behalf outside its territory who participate in development programmes and other co-operation programmes, whose admission and status are regulated by agreement with the State of employment and who, in accordance with that agreement'. As such, whether Cuban doctors fall within the scope of the CPMW requires a case-by-case assessment.

[114] American Convention on Human Rights (adopted 22 November 1969, entered into force 18 July 1978) 1144 UNTS 123 (ACHR) art 6; Convention for the Protection of Human Rights and Fundamental Freedoms (adopted 4 November 1950, entered into force 3 September 1953) ETS 5 (ECHR) art 4; African Charter on Human and Peoples' Rights (adopted 27 June 1981, entered into force 21 October 1986) 21 ILM 58 (ACHPR) art 5.

[115] For example, Article 8(3)(c)(iii) carves out '[a]ny service exacted in cases of emergency or calamity threatening the life or well-being of the community' from the definition of forced or compulsory labour. Although this exception may apply in circumstances where Cuban doctors provide services in crises or emergency situations, these circumstances are very limited.

[116] *Bernadette Faure v Australia* Communication No 1036/2001 (31 October 2005) para 7.5.

involved—including restrictions on movement, threats of penalty or confiscation of documents—which, according to multiple accounts and as seen elsewhere in this report, are characteristic of the CFMM regime, as it currently operates. Further, as discussed in greater detail below, forced labour is also included within the definition of 'trafficking in persons' under Article 3 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (Palermo Protocol).

International labour standards also have broad application in this regard. The Forced Labour Convention (ILO C29) relevantly defines forced labour as any work exacted under menace of penalty and not voluntarily undertaken,[117] and requires States to take measures to suppress its use and criminalise it (Articles 1, 2, 25). The ILO's Committee of Experts on the Application of Conventions and Recommendations has specifically considered the application of this convention to the situation of Cuban doctors on a number of occasions,[118] expressing concerns and requesting further information from Cuba and several host States. The 2014 Protocol to the Forced Labour Convention (ILO P29) further obliges States to provide remedies and protections for victims and address systemic causes. The Abolition of Forced Labour Convention (ILO C105) explicitly condemns forced labour used for political coercion, economic mobilisation or as a means of labour discipline—characterisations potentially applicable in cases where doctors face threats, reprisals or restrictions on movement or family contact (discussed further below).

In addition, Article 7 of the ICCPR and Articles 1–2 of the Convention Against Torture (CAT), along with relevant regional human rights treaties,[119] prohibit any form of torture, cruel, inhuman or degrading treatment. These protections may be engaged in limited situations where coercive conditions, surveillance or reprisals are used to enforce participation in the CFMM programme or to pressure doctors into violating local laws or professional ethical duties, if such conditions cause serious physical or mental pain or suffering. Together, these instruments offer a strong normative framework for evaluating and condemning coercive labour-related practices.

Low salaries, unauthorised deductions, extended working hours and limited holidays

Several patterns relate generally to the conditions and rights, entitlements and benefits (or lack thereof) that Cuban doctors are afforded in employment and can be grouped together in this way. International human rights and labour law instruments consistently affirm the right to just and favourable conditions of work for all individuals. Specifically, Article 7 of ICESCR guarantees fair remuneration, safe and healthy working conditions and reasonable rest, including holidays with pay. Similar protections are echoed in regional human rights treaties.[120] These rights apply to 'all workers in all settings' without distinction.[121] There can be no doubt that this includes migrant workers: Articles 25 and 64 of the CPMW, Article 6 of the Migration for Employment Convention (Revised) (ILO C97) and Articles 1–2 and 12(g) of the Migrant Workers (Supplementary Provisions) Convention (ILO C143) reinforce the principle that migrant workers

[117] A similar carve-out for work or service exacted in cases of emergency, including natural disasters and violent epidemics, is also included in Article 2(2)(d), which may be enlivened in the case of Cuban doctors in very limited circumstances: see (n 115).

[118] See Committee of Experts on the Application of Conventions and Recommendations, Direct request (Brazil), adopted 2015, published 2016; Observation (Venezuela), adopted 2016, published 2017; Observation (Venezuela), adopted 2020, published 2021; Direct request (Cuba), adopted 2022, published 2023; Direct request (Cuba), adopted 2024, published 2025.

[119] ACHR art 5; ECHR art 3; ACHPR art 5.

[120] ACHR art 26 (by reference to arts 34(g) and 45 of the Charter of the Organisation of American States); ACHPR art 15.

[121] Committee on Economic, Social and Cultural Rights (CESCR), 'General Comment No 23' (27 April 2016) UN Doc E/C.12/GC/23, para 5.

must be treated fairly, humanely and equally with nationals in terms of remuneration and other working conditions—a sentiment also expressed by the Committee on Economic, Social and Cultural Rights.[122] This equal treatment requirement is explicitly mentioned in the Cuba-Portugal Agreement analysed in this report,[123] while other agreements remain silent on it.

Turning to look specifically at patterns identified in the working conditions of Cuban doctors, low salaries, particularly where they fall below a living wage or create inequality between local and migrant workers, contravene several binding standards. Article 7(a) of ICESCR mandates fair and equal wages sufficient for a decent living for workers and their families. The Minimum Wage Fixing Convention (ILO C131) obligates States to establish enforceable minimum wage systems based on the needs of workers and national economic conditions. Additionally, the Equal Remuneration Convention (ILO C100) requires equal remuneration for work of equal value, without discrimination. For migrant workers, both ILO C97 and Article 25 of the CPMW require equal treatment with nationals insofar as wages are concerned. Where salaries fall short of these benchmarks—as is reportedly common in the case of Cuban doctors—Cuba or the host States may be in breach of their obligations under these instruments.

Relatedly, compulsory wage deductions to finance Cuban trade unions or the communist party—particularly where consent is not freely given—may violate the Protection of Wages Convention (ILO C95). Article 8 allows deductions only when explicitly authorised by law, regulation or agreement, and requires that workers be informed of the conditions and extent of such deductions. Article 6 affirms the right of workers to freely dispose of their wages, and Article 9 prohibits deductions that effectively serve as indirect payments to secure or retain employment. The Committee on Economic, Social and Cultural Rights has also clarified that placing restrictions on the freedom of workers to dispose of their remuneration is contrary to Article 7(a) of ICESCR.[124] Moreover, deductions of this kind may interfere with rights to freedom of association and political expression by effectively compelling participants in the programme to support associations or ideologies with which they might not agree, especially when deductions are not voluntary or are linked to coercive practices. In the context of migrant workers, such deductions could also violate Articles 25 and 64 of the CPMW, which call for equitable and humane treatment and prohibit discrimination or exploitation in wage-related matters, and Article 9 of ILO C97, which requires States to permit migrant workers to transfer their earnings as desired.

Further, the extension of Cuban doctors' working hours beyond reasonable limits would violate Article 7(d) of ICESCR, which guarantees rest, leisure and reasonable limits on working time. The Committee on Economic, Social and Cultural Rights has suggested that the general daily limit of working time (without overtime) should be eight hours, and that weekly working hours should also be limited, with any exceptions strictly limited and subject to worker consultation.[125] The Forty-Hour Week Convention (ILO C47) sets out a normative benchmark for maximum working hours and obligates States to take steps to implement it without reducing living standards. Under Article 25 of the CPMW and ILO C97, migrant workers are to be afforded the same safeguards regarding hours of work and overtime as nationals. Furthermore, the Labour Clauses (Public Contracts) Convention (ILO C94) requires that public contracts[126] include clauses limiting hours of work in accordance with national standards.[127] Practices

[122] Ibid para 47(e).
[123] Portugal–Cuba, *Alteração e Aditamento ao Acordo de Cooperação Para a Prestaçao de Serviços Médicos* (30/04/2014) art 3.2(c).
[124] See CESCR (n 120) para 10.
[125] Ibid paras 35, 37.
[126] A definition likely to capture many of the bilateral agreements pursuant to which Cuban doctors are employed. See Labour Clauses (Public Contracts) Convention (ILO C94) art 1.
[127] Ibid art 2(2).

involving excessive hours, especially without compensatory rest or pay, are incompatible with these international commitments. It is noteworthy that the medical profession is one that is characterised by particularly long hours in many countries, including for local doctors.

Inadequate or absent holiday entitlements—another issue reportedly faced by many Cuban doctors—are also inconsistent with core international protections. Article 7(d) of ICESCR and the Holidays with Pay Convention (ILO C132) both guarantee the right to periodic holidays with pay, with ILO C132 requiring a minimum of three working weeks per year.[128] Migrant workers are specifically protected under Article 25 of the CPMW and ILO C97, both of which require equal treatment in terms of holidays and leave. A failure to provide adequate rest periods, paid leave or the improper withholding of holidays would therefore represent a breach of both human rights and labour law norms.

Violations of freedom of association

International legal frameworks strongly protect freedom of association and the right to freedom of peaceful assembly as fundamental human rights, applicable to all individuals without discrimination. Both Articles 21 and 22 of the ICCPR and provisions within relevant regional treaties[129] affirm that everyone has the right to freely associate with others and to peacefully assemble. These rights may be restricted only under narrowly defined conditions—such as when it is in the interest of national security, public safety or the rights of others—and such restrictions must be lawful, necessary and proportionate. This core principle places clear limits on State interference in the organisational rights of individuals, including Cuban medical personnel.

More specifically, and relevantly to the situation of Cuban doctors, the right to form and join trade unions is recognised and protected across both human rights treaties and labour conventions as a component of freedom of association. Article 22 of the ICCPR explicitly links freedom of association with trade union activity, while Article 8 of ICESCR enshrines strong protections for trade union rights. Moreover, the Freedom of Association and Protection of the Right to Organise Convention (ILO C87) and the Right to Organise and Collective Bargaining Convention (ILO C98), both fundamental conventions of the ILO, guarantee all workers the right to organise and engage in collective action, as well as protecting them from anti-union discrimination or employer interference. These protections extend to the full functioning of trade unions, including their right to establish federations and affiliate internationally and their ability to strike and engage in other forms of protest action. ILO C98 also mandates that workers not be dismissed or disadvantaged for union membership or lawful union activity. Thus, any State action that interferes with the ability of Cuban doctors to join trade unions, penalises them for union activity or coerces them into joining State-controlled associations, would be in violation of these provisions.

For migrant workers, including Cuban doctors participating in the CFMM programme,[130] international instruments reiterate and adapt these protections to the specific vulnerabilities of working across borders. Articles 26 and 40 of the CPMW, as well as the Migration for Employment Convention (Revised) (ILO C97) and the Migrant Workers (Supplementary Provisions) Convention (ILO C143), affirm the rights of migrant workers to freely join and take part in trade unions, to seek support from such organisations and to enjoy equal treatment in union participation as compared to nationals. The ILO's Committee on Freedom of Association has also interpreted the right of freedom of association in ILO C87 to include migrant workers.[131] States are thus obliged not only to refrain from impeding these rights, but also to

[128] Holidays with Pay Convention (ILO C132) art 3(3).
[129] ACHR arts 15–16; ECHR art 11; ACHPR arts 10–11.
[130] However, note n 113.
[131] Committee on Freedom of Association, Case No 2637 (Malaysia) Report No 353, para 1051.

ensure that migrant workers can access and exercise them on equal terms. Any restriction or retaliation by either Cuba or a host State that limits Cuban doctors' right to freely associate would conflict with this robust international framework, particularly where such restrictions aim to suppress independent organising or conceal exploitative conditions.

Racial discrimination

The principle of non-discrimination lies at the very core of international human rights law and applies to all individuals without distinction, including doctors participating in the CFMM programme. Core instruments, including Articles 2 and 26 of the ICCPR, Article 2 of ICESCR, Articles 1 and 7 of the CPMW and Articles 2 and 5 of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), require States to ensure equal enjoyment of rights without distinction of any kind, including on the basis of race, colour or national origin. These obligations are echoed in the relevant regional human rights treaties, all of which prohibit discrimination and mandate equal protection under the law.[132] This legal framework affirms that Cuban doctors should enjoy dignity, equality and freedom from racial discrimination at all times.

Beyond general equality provisions, several treaties provide more targeted protections against racial discrimination in employment that are directly relevant to the CFMM context. Article 5(e) of ICERD provides for the right of everyone, without distinction as to race, colour or national or ethnic origin, to enjoy economic, social and cultural rights, including the right to work and to do so under just and favourable conditions, and the right to form and join trade unions. It has been observed that these obligations are not fulfilled merely by a State providing for a legislative and regulatory framework against racial discrimination in employment, but also require effective monitoring of the implementation of non-discriminatory recruitment and employment policies in practice.[133] The Committee on Economic, Social and Cultural Rights has also confirmed that everyone, including workers from ethnic and other minorities and migrant workers, should enjoy the full benefit of the right to just and favourable conditions of work under Article 7 of ICESCR.[134]

Similar principles are reinforced by several international labour standards, including the Discrimination (Employment and Occupation) Convention (ILO C111), Articles 1–3 of which prohibit discrimination in employment on the grounds of race, colour or national origin and require States to take measures to promote equality of opportunity and treatment in respect of employment and occupation. The Violence and Harassment Convention (ILO C190) obliges States to prevent and respond to abuse in the world of work, in circumstances where migrant workers and other marginalised groups face disproportionate exposure. Moreover, the Termination of Employment Convention (ILO C158) explicitly protects against dismissals based on race or national origin. Together, these provisions create a robust legal framework that (if implemented effectively) should protect Cuban doctors from discriminatory treatment and affirm their rights to fair, dignified and non-discriminatory work.

Sexual harassment

International law also protects Cuban doctors from sexual harassment in the context of work. Common Article 3 of the ICCPR and ICESCR guarantees equal enjoyment of rights regardless of sex, while the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) obliges States to take measures to eliminate discrimination against women. Article 11 of CEDAW specifically addresses

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[132] ACHR art 1; ECHR art 14; ACHPR art 2.
[133] *Zapescu v Republic of Moldova* Communication No 60/2016 (31 May 2021) para 8.3.
[134] CESCR (n 122) para 5.

women's rights at work, encompassing protection from harassment and the provision of safe and equitable working conditions. The Violence and Harassment Convention (ILO C190) strengthens these protections by defining various types of violence in the workplace and requires States to prohibit such conduct, implement prevention measures and provide remedies. It applies to all workers regardless of contractual status (Article 2) and covers any violence or harassment occurring in the course of, linked with or arising out of work (Article 3). Collectively, these instruments obligate Cuba and host States to prevent and respond to any instances of sexual harassment affecting medical personnel.

Contractual malpractice

Turning next to practices of concern relating to contractual matters, issues arise for CFMM participants at all stages of the contract lifecycle—from recruitment to performance through to termination. There are numerous provisions of international human rights and labour law of relevance to such practices.

Inappropriate recruitment practices, lack of contract, lack of contractual transparency and lack of information about destination country

As detailed above, the right to engage in work that is freely chosen and accepted is a fundamental human right protected under various international instruments. Where Cuban doctors participating in the CFMM programme are subject to coercive conditions or other inappropriate practices during recruitment, are not provided with a contract or are not given adequate information about the terms of their contract or their working or living conditions in their destination country, they are unable to provide free and informed consent to participating in the CFMM. Their involvement in the programme therefore cannot properly be considered freely chosen and accepted. These practices may also amount to forced labour or human trafficking under the framework of international law discussed above and explored in greater detail in subsequent sections. In recognition of this, Article 2(d) of ILO P29 specifically emphasises the need to protect migrant workers from abusive and fraudulent recruitment practices.

Recruitment practices are regulated under international law, and irregularities in this area—such as the involvement of unauthorised intermediaries, the provision of fraudulent information, the use of coercive procedures or the making of improper financial deductions—raise serious concerns. Recognising these risks, Article 66 of the CPMW and Article 3 of Annex II of the Migration for Employment Convention (ILO C97) seek to restrict recruitment operations to public bodies or approved entities operating under clear authorisation and supervision. Article 7, along with Article 4 of Annex II of ILO C97 also provide that recruitment services rendered by public bodies should be free, and migrant workers should not bear the administrative costs of recruitment, introduction and placing. Article 9 of the Protection of Wages Convention (ILO C95) similarly prohibits wage deductions made to secure employment. If Cuban doctors are recruited into the CFMM programme through non-transparent means or are required to bear financial burdens involved with their placement, such recruitment frameworks may fall short of these legal standards.

International instruments also require that migrant workers receive a copy of their contract of employment prior to departure and be fully informed about the terms of their employment and the working and living conditions that they will face abroad. Article 6 of Annex II to ILO C97 requires States to ensure that migrant workers receive a copy of their contract of employment which contains provisions relating to their conditions of work and remuneration prior to departure, in addition to written information about the general living and working conditions in the destination country, an obligation that extends to receiving States in this case. Indeed, the right to freely chosen work cannot be meaningfully exercised without such transparency. The ILO's Committee of Experts on the Application of Conventions and Recommendations has considered issues relating to contractual transparency and a lack of information in relation to the

CFMM programme on a number of occasions.[135] Further, both Article 1 of ILO C97 and Article 65 of the CPMW require States to maintain appropriate services to provide advice, assistance and information to migrant workers, including in relation to conditions of life and work in destination countries. Where Cuban medical personnel are deployed without access to contracts prior to departure, are unaware of the terms of their employment or receive vague or misleading information about working and living conditions in destination countries, these practices may violate international standards.

Difficulty in modifying contractual terms and conditions for termination of contract

Related concerns may also arise in the performance of contracts, where Cuban doctors reportedly face difficulties modifying contractual terms or terminating their contracts. For similar reasons to those outlined above, restrictions such as these can impede the right to free choice of employment, as protected under international human rights and labour law. Where doctors are unable to leave their positions without facing penalties, retaliation or other forms of coercion, or are effectively prevented from renegotiating essential aspects of their terms and conditions of work, this may amount to a denial of free and informed consent. In certain circumstances, these practices may also give rise to situations of forced labour or human trafficking under the international legal frameworks described above, particularly where the individual's ability to withdraw their labour is curtailed through threat, pressure or deception.

These reported difficulties in modifying contractual terms or terminating employment must be understood in light of international legal protections. Article 51 of the CPMW provides that migrant workers in a regular situation may not lose their residence authorisation solely because they leave their job before the end of a work permit while, pursuant to Article 54, they are also entitled to seek alternative employment and to access protections against dismissal, unemployment benefits and public work schemes. Further, under the Termination of Employment Convention (ILO C158), workers are protected against arbitrary or unjust dismissal and must be afforded procedural safeguards, including the opportunity to respond to allegations (Article 7) and access to an impartial body to contest termination decisions (Article 8). ILO C158 also sets out entitlements upon termination, such as reasonable notice (Article 11), severance or social protection benefits (Article 12) and protection against dismissal for reasons such as illness, union activity or discrimination (Articles 5–6). Similarly, Article 12(2) of ILO C95 provides that workers must receive full payment of wages upon termination within a reasonable timeframe. Where Cuban doctors are unable to leave the CFMM programme without risking loss of legal status, penalties or retaliation or are denied access to fair procedures for modifying or ending their contracts, such arrangements may fall short of these standards.

Violation of the principle of non-waivability of labour rights

The principle of non-waivability is a foundational concept in international labour law. It reflects an understanding that certain labour rights—such as fair remuneration, decent working conditions and freedom of association—are universal and inalienable and must not be undermined by contract or coercion. In the context of the CFMM programme, concerns have been raised that Cuban medical personnel may be required to accept contractual terms that fall below minimum labour standards or that waive fundamental protections, in contravention of international legal protections. One manifestation of this principle is Article 25(2) of the CPMW, which expressly prohibits private employment contracts from derogating from the principle of equal treatment with nationals in respect of wages and conditions of

[135] See Committee of Experts on the Application of Conventions and Recommendations, Direct request (Brazil), adopted 2015, published 2016; Observation (Brazil), adopted 2018, published 2019; Observation (Venezuela), adopted 2020, published 2021; Direct request (Cuba), adopted 2022, published 2023; Direct request (Cuba), adopted 2024, published 2025.

work. Moreover, Article 82 of the CPMW confirms that all the rights set out in the convention are non-renounceable and cannot be derogated from by contract, and that no form of pressure may be applied to compel migrant workers to forgo them. Where Cuban doctors are compelled—either directly or indirectly—to accept poor working conditions, or are led to believe they have no recourse to challenge such terms, these arrangements may breach these core protections and the broader principle.

Living conditions

This subsection maps the framework of international human rights and labour law relevant to the conditions that Cuban doctors participating in the CFMM programme reportedly live in—that is, harmful practices and issues falling outside the scope of their employment.

Poor and unsafe living conditions (free accommodation and a stipend for food, transportation and utilities being part of the scheme)

A strong international legal framework affirms the right of all individuals, including migrant workers such as Cuban doctors on overseas missions, to a standard of living adequate for health and dignity. Articles 11 and 12 of ICESCR, Article 12 of CEDAW, Article 5(e)(iii) of ICERD, Article 27 of the Convention on the Rights of the Child (CRC) and Article 28 of the Convention on the Rights of Persons with Disabilities (CRPD) underscore that adequate housing, food and sanitation are essential components of this standard, both generally and for children and other vulnerable groups. Referring in particular to Article 11(1) of ICESCR, the Committee on Economic, Social and Cultural Rights has explained that the right to housing should not be understood strictly or narrowly, but instead 'the right to live somewhere in security, peace and dignity', and that to comply with this standard, housing 'must contain certain facilities essential for health, security, comfort and nutrition … safe drinking water, energy … sanitation'.[136] It has also been explained that the right to housing under Article 11 of ICESCR is 'inextricably linked to other human rights' and that States Parties must 'take whatever measures are necessary to achieve the full realization of this right'.[137]

Further, because accommodation is typically provided as part of the work agreement, international labour standards—including the Labour Clauses (Public Contracts) Convention (ILO C94), the Social Policy (Basic Aims and Standards) Convention (ILO C117) and the Occupational Safety and Health Convention (ILO C155)—are invoked. These provisions require that living conditions provided by employers meet minimum standards of living and reasonable standards of health, safety and welfare. Further protections under Articles 43 and 70 of the CPMW reinforce that migrant workers must be treated equitably in access to housing and environmental hygiene, with specific safeguards against exploitative or unsafe arrangements.

In cases where part of a worker's compensation is provided in kind—including the provision of food or accommodation allowances instead of monetary wages—additional protections are invoked. Articles 3–4 of the Protection of Wages Convention (ILO C95) limits wage substitution, permitting allowances in kind only when customary or justified by the nature of the work, and only if the value attributed is fair, reasonable and genuinely benefits the worker and their family members. Where accommodation and food provided in substitution for wages do not meet minimum standards, Article 7 of ICESCR, which requires fair remuneration sufficient for a decent living, and Article 11 of CEDAW and Article 5 of ICERD, which demand equality in benefits and treatment, including in wage structure and living conditions, may be invoked. If allowances provided to Cuban doctors become a vehicle to obscure or undercut their

[136] CESCR, 'General Comment No 4' (13 December 1991) UN Doc E/1992/23, paras 7, 8(b).
[137] *I.D.G v Spain* Communication No 2/2014 (17 June 2015) para 11.1.

proper wage entitlements, this may amount to a violation of international labour standards and human rights norms, particularly where the worker's freedom to dispose of their earnings, as guaranteed under Article 6 of ILO C95, is compromised.

Restrictions on movement and curfews and restrictions on socialising

These two issues are closely interlinked, as they both relate to practices that serve to constrain personal liberty and autonomy and therefore invoke similar legal protections. International law robustly protects the right to freedom of movement, viewing it as foundational to human dignity and autonomy. This is reflected primarily in Articles 9 and 12 of the ICCPR and regional human rights treaties,[138] which guarantee the fundamental right to move freely within a country. Article 39 of the CPMW also safeguards migrant workers against undue interference with their right to move freely within a host State. If Cuban doctors are subjected to restrictions on internal movement, including surveillance, curfews or confinement to accommodation, this may violate their right to liberty of movement. In particular, restrictions that are *de facto* punitive, coercive or aimed at controlling conduct unrelated to legitimate public aims (such as punishing dissent or controlling mobility to enforce labour conditions) will fall foul of these protections. Further, when these constraints are imposed in a context involving coercion or abuse of authority, they may also signal elements of trafficking or forced labour. Indeed, the ILO's Committee of Experts on the Application of Conventions and Recommendations has referred to reports of restrictions on freedom of movement when considering the application of ILO C29 to the situation of Cuban doctors on a number of occasions.[139]

International legal frameworks also clearly protect the rights to freedom of assembly and association, rights which may be infringed by the imposition of curfews and restrictions on socialising on Cuban medical personnel participating in the CFMM programme. Articles 21 and 22 of the ICCPR and regional human rights treaties[140] affirm the salience of these rights and provide that any limitations on these rights must be lawful, necessary and proportionate within a democratic society. These rights are also extended to migrant workers under Article 40 of the CPMW, and to children under Article 15 of the CRC, which may have relevance where the children of Cuban doctors are also subject to such restrictions. Beyond these fundamental civil rights, a complementary body of economic, social and cultural rights—including those articulated in Article 15 of ICESCR, Articles 13(c) and 14(2)(f) of CEDAW, and Articles 19 and 30 of the CRPD—guarantees individuals the freedom to participate in social and community life, to engage in recreational activities and to cultural expression. For Cuban doctors, who may face isolation or restrictions on movement and interaction, such constraints risk violating not only their civil liberties but also their rights to full participation in the social and cultural fabric of host States.

Violations of the right to privacy and communications

Where Cuban doctors participating in the CFMM programme are subject to surveillance, restricted communications or violations of privacy, a strong international legal framework of protections against arbitrary or unlawful interference with individuals' privacy, correspondence and communications is relevant. Article 17 of the ICCPR, along with regional human rights treaties,[141] affirm the right to privacy and the right to protection against arbitrary or unlawful intrusion on such. In this context, the Human

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[138] ACHR arts 7, 22; ECHR art 5; Protocol No 4 to the ECHR art 2; ACHPR arts 6, 12.

[139] See Committee of Experts on the Application of Conventions and Recommendations, Direct request (Brazil), adopted 2015, published 2016; Observation (Venezuela), adopted 2020, published 2021; Direct request (Cuba), adopted 2022, published 2023; Direct request (Cuba), adopted 2024, published 2025.

[140] ACHRart 16; ECHR art 11; ACHPR arts 10–11.

[141] ACHR art 11; ECHR art 8; ACHPR art 9.

Rights Committee has clarified that the concept of arbitrariness is included in recognition of the fact that even interference that is lawful can nevertheless be contrary to human rights and fundamental freedoms.[142] These protections are also specifically extended to migrant workers under Articles 13–14 of the CPMW, children under Article 16 of the CRC, and persons with disabilities under Articles 21–22 of the CRPD, ensuring their rights to private communication and the free flow of information. Moreover, the Violence and Harassment Convention (ILO C190) affirms that surveillance or restrictions on communications—particularly through monitoring, intimidation or harassment in employer-provided housing or during work-related activities—may constitute workplace violence or harassment that States are obliged to prevent and redress. Together, these frameworks assert that States and employers must not only refrain from violating privacy, but also proactively protect individuals against coercive restrictions on expression and communication.

Confiscation of passports and prohibition of travel

These two practices both may impede the right to leave any country and to return to one's country, thereby invoking similar protections and can be addressed together. Where Cuban doctors are prohibited from leaving their host State or denied re-entry without lawful justification, such measures may constitute a breach of Article 12(2) of the ICCPR, as well as similar protections under Article 8 of the CPMW and Article 18 of the CRPD. The Human Rights Committee has observed that the freedom to leave any country under Article 12(2) of the ICCPR 'may not be made dependent on any specific purpose or on the period of time the individual chooses to stay outside the country' and therefore covers travelling abroad as well as permanent emigration.[143] Any restriction on the right to leave or return under these instruments must meet strict criteria: it must be provided by law, necessary for legitimate aims, such as national security or public order, and proportionate. Further, Article 38 of the CPMW provides that host States must make every effort to authorise migrant workers and members of the families to be temporarily absent without it affecting their authorisation to stay or to work. Blanket prohibitions on travel that are punitive or politically motivated are unlikely to meet these standards.

Further, the confiscation of migrant workers' passports and identity documents without due process is explicitly prohibited under Article 21 of the CPMW. Such practices undermine personal autonomy, facilitate control over workers and may amount to violations of the right to property, as well as broader protections of liberty and security of the person under Article 9 of the ICCPR and Article 16 of the CPMW. Relatedly, Article 18(1)(d) of the CRPD requires that persons with a disability not be deprived of their ability to obtain, possess and utilise documentation of their nationality. Further, Article 12 of the Palermo Protocol specifically obliges States to safeguard the integrity and lawful use of identity documents, underscoring the role of documentation in protecting against exploitation. Moreover, arbitrary passport confiscation, especially when used to prevent individuals from leaving exploitative situations, is not only a rights violation but a potential indicator of forced labour or human trafficking under international law. When imposed through coercion, abuse of power or threats, constraints on movement of this kind may invoke the protective frameworks on forced labour and trafficking discussed in detail above and further expanded upon below.

Forced family separation (no children allowed on missions)

International human rights law firmly upholds the right to family unity and offers broad protections against arbitrary or unjustified separation of family members, including in the context of labour migration.

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[142] Human Rights Committee, 'General Comment No 16' (8 April 1988) UN Doc HRI/GEN/1/Rev.9, para 4.
[143] Human Rights Committee, 'General Comment No 27' (1 November 1999) UN Doc CCPR/C/21/Rev.1/Add.9, para 8.

Articles 17 and 23 of the ICCPR, Article 10 of ICESCR, Article 26 of the CRC and regional instruments[144] recognise the family as the fundamental unit of society, entitled to protection against unlawful interference by both the State and society. Specifically in relation to Article 23 of the ICCPR, it has been recognised that '[t]he right to found a family implies, in principle, the possibility to procreate and live together' and that this in turn 'implies the adoption of appropriate measures … to ensure the unity or reunification of families, particularly when their members are separated for political, economic or similar reasons'.[145] Forced separation from children—such as blanket bans on family accompaniment during overseas missions—may violate these standards, particularly where such separation is neither necessary nor justified by individual circumstances, as is most likely the case in regards to the CFMM programme. These provisions are supplemented by Articles 3, 9 and 10 of the CRC, which provide especially strong protections by requiring that the best interests of the child be a primary consideration in all decisions, and providing that children must not be separated from their parents against their will except through a lawful, individualised process. Similarly, Article 44 of the CPMW and Article 13 of the Migrant Workers (Supplementary Provisions) Convention (ILO C143) obligate States to facilitate family reunification for migrant workers and explicitly extend protection to spouses and dependent children. Where State actions prevent family unity without lawful justification and without procedural safeguards, this may amount to arbitrary interference with family life.

Visas tied to CFMM programme

While international law does not categorically prohibit the use of visas or residence permits that are tied to specific employment arrangements—such as participation in the CFMM programme—such schemes must be subject to safeguards to ensure they do not undermine fundamental rights. Articles 20 and 49–51 of the CPMW, along with Article 8 of ILO C97 and Article 8 of ILO C143, make clear that a migrant worker's legal status should not be automatically revoked due to loss of employment, and workers must be protected against expulsion or penalties solely for breaching contractual terms. Although tied visas may be permitted where a residence permit is expressly linked to a specific remunerated activity, States must still ensure the worker's right to seek alternative employment or retraining and access legal review mechanisms. The right of review in this context is also affirmed in Article 13 of the ICCPR. Further, where visa dependence creates or exacerbates coercive working conditions—such as preventing a doctor from exiting the program or deterring complaints—it may violate protections against forced labour or arbitrary expulsion, underscoring the need for procedural fairness, legal remedies and respect for human dignity in tied visa schemes.

(Other) Coercive practices

The final group of practices involves a series of coercive measures reportedly taken against Cuban doctors. Again, multiple instruments of international human rights law and international labour standards are relevant to such practices and create a strong protective framework against intimidatory and retributory conduct.

Surveillance by Cuban intelligence agents (doctors and families)

Reports of retaliatory surveillance of Cuban doctors and their families while participating in the CFMM programme raises serious concerns under multiple international legal frameworks. As discussed above, each of Article 17 of the ICCPR, Articles 13–14 of the CPMW, Article 16 of the CRC and Articles 21–22

[144] ACHR art 17; ACHPR art 18.
[145] Human Rights Committee, 'General Comment No 19' (27 July 1990) UN Doc CCPR/9/Add.1, para 5. See also *N.R. v Paraguay* Communication No 30/2017 (12 March 2020).

of the CRPD guarantee protection against such State actions by prohibiting arbitrary or unlawful interference with privacy, family life and correspondence. Specifically in relation to Article 17 of the ICCPR, the Human Rights Committee has observed that '[s]urveillance, whether electronic or otherwise, interceptions of telephonic, telegraphic and other forms of communication, wire-tapping and recording of conversations should be prohibited'.[146] These protections are further reinforced by regional treaties.[147] Where surveillance is used as a form of intimidation or coercion, particularly by State agents or with State acquiescence, it may also constitute a form of psychological ill-treatment or even torture as defined under Article 1 of the CAT. Moreover, given its connection to the employment context, such surveillance may fall within the scope of the Violence and Harassment Convention (ILO C190), particularly when it involves threats, intimidation or control over communications. Indeed, Article 4 of ILO C190 requires States to protect all workers from such practices, including during work-related travel or accommodation. Collectively, these standards emphasise that surveillance targeting Cuban doctors and their families for retaliatory purposes would violate international legal protections on privacy, dignity and freedom from coercion and abuse.

Regular threats and intimidation and retaliatory action if doctor deserts from programme

These two practices both involve threatened or actual retaliation and, therefore, invoke a similar suite of protections under international human rights and labour law. At the outset, it should be borne in mind that the right to free choice of work is a core human rights norm, protected under Article 6 of ICESCR. Not only would the use of threats, coercion and intimidation through retaliatory measures to compel individuals to remain in a particular employment context violate this protection, but such practices may also fall within the scope of the forced labour and human trafficking frameworks discussed above and explored in further detail in subsequent sections. Indeed, the ILO's Committee of Experts on the Application of Conventions and Recommendations has referred to reports of retaliatory action when considering the application of ILO C29 to the situation of Cuban doctors on a number of occasions.[148] This instrument and similar frameworks establish a clear obligation on States to protect individuals from being compelled to work under duress and from facing retaliatory measures for attempting to leave a particular role.

Further, when threats or retaliatory acts involve violence or degrading treatment—such as threats of imprisonment, arbitrary detention or physical harm—they may also breach core protections under human rights treaties. Notably, Articles 7, 9 and 11 of the ICCPR prohibit torture or cruel, inhuman or degrading treatment, arbitrary arrest or detention and imprisonment based on civil contract breaches, respectively. These guarantees are echoed in Article 5 of ICERD and Article 16 of the CPMW, as well as regional frameworks,[149] which likewise affirm the rights to liberty, security and protection from inhuman treatment. Further, threats or retaliatory measures that cause severe mental or physical pain or suffering will fall within the definition of torture under Article 1 of the CAT, enlivening the strong protective framework that instrument creates. Where retaliation extends to child family members, further protections under Articles 19 and 37 of the CRC may be engaged. Further, actual or threatened violence in the world of work (including in employer-provided accommodation) is categorically proscribed by ILO C190. If retaliation includes actual or threatened violence, State actors or institutions tolerating (or perpetrating) such acts

[146] Human Rights Committee, 'General Comment No 16' (8 April 1988) UN Doc HRI/GEN/1/Rev.9, para 8.
[147] ACHR art 11; ECHR art 8; ACHPR art 9.
[148] See Committee of Experts on the Application of Conventions and Recommendations, Observation (Venezuela), adopted 2020, published 2021; Direct request (Cuba), adopted 2022, published 2023; Direct request (Cuba), adopted 2024, published 2025.
[149] ACHR arts 5, 7; ECHR arts 3, 5; arts 5–6.

may be in violation of their obligations to prevent and punish such abuse, particularly where it is linked to suppressing dissent or punishing desertion.

Even when retaliation takes non-violent or indirect forms—for example, economic penalties, entry bans or other threats—such measures may still infringe on international rights. These include the right to freedom of expression and opinion under Article 19 of the ICCPR and regional human rights treaties,[150] as well as the right not to be coerced in belief or conduct under Article 18 of the ICCPR. In addition to proscribing physical violence, ILO C190 also covers psychological and economic threats arising from or linked to work, requiring States to ensure protection, remedies and preventive strategies are available in the employment context. In sum, international frameworks broadly prohibit not only overt violence but also coercive and punitive tactics that undermine human dignity and autonomy in the context of employment and migration.

Forced exile for doctors not completing their mission

A related, yet distinct, practice reportedly occurring in the context of the CFMM programme is forced exile for doctors who do not complete their mission or who wish to withdraw from the programme. The retaliatory practice of denying Cuban doctors the right to return to their home country after deserting overseas medical missions raises serious concerns under international law. Article 12(4) of the ICCPR explicitly protects against arbitrary deprivation of the right to enter one's own country, a principle echoed in several other instruments.[151] The Human Rights Committee has confirmed that '[i]n no case may a person be arbitrarily deprived of the right to enter his or her own country', also observing that 'there are few, if any, circumstances in which deprivation of [this right] could be reasonable'.[152] Such measures may also implicate protections under the CRC, particularly where separation from children results from punitive restrictions on return, contravening Articles 9 and 10 on family unity and reunification. Where threats of return or exile amount to coercion or are used to punish defection, they may intersect with the prohibition of cruel, inhuman or degrading treatment under the CAT and the protections against enforced disappearance and arbitrary expulsion in the International Convention for the Protection of All Persons from Enforced Disappearance. Further, Article 8 of the CPMW provides that migrant workers and members of their families shall have the right at any time to enter and remain in their State of origin, while Articles 20 and 22 strictly limit the grounds for expulsion and forbid it solely on the basis of loss of employment or failure to fulfil a contract, underscoring that desertion from a mission should not lawfully trigger exile. Across these instruments, a clear consensus emerges: forced exile is an extreme and generally impermissible measure under international human rights law, particularly when used as retribution for exercising rights to freedom of movement or choice of employment.

Medical missions through an anti-trafficking lens

As explored in detail in the project's literature review,[153] some academic studies have highlighted Cuba's medical diplomacy as both a source of soft power and a model of South-South cooperation,[154] whilst

[150] ACHR art 13; ECHR art 10; ACHPR art 9.
[151] ACHR art 22(5); Protocol No 4 to the ECHR art 3; ACHPR art 12(2); CRPD, art 18(1)(d).
[152] Human Rights Committee, 'General Comment No 27' (n 142) para 21.
[153] BIICL, Cuban Foreign Medical Missions: Literature Review, BIICL (2025).
[154] See, e.g. JM Feinsilver, 'La Diplomacia Medica Cubana: Cuando La Izquierda Lo Ha Hecho Bien' (2006) 6(4) Foreign Affairs 81–94; JM Kirk and C Walker, 'Cuban medical internationalism: The Ebola campaign of 2014–15' (2016) 8(1) International Journal of Cuban Studies 9; R Pineo, 'Cuban public healthcare: A model of success for developing nations' (2019) 35(1) Journal of Developing Societies 16; I Sebastiá, 'La diplomacia de los médicos cubanos' (*El Orden Mundial*, 2020); T Phillipsand A Giuffrid, '"Doctor Diplomacy": Cuba Seeks to Make its Mark in Europe Amid Covid-19 Crisis' (*The Guardian*, 2020); C Pérez Rodríguez, 'Impacto de la colaboración médica

others have argued that the humanitarian framing of these missions obscures problematic aspects of their implementation.[155] Where the majority of sources seem to converge—whether they praise or criticise Cuba's programme—is on the presence of elements of exploitation within the *de jure* and *de facto* frameworks of medical missions abroad.[156] As presented in Section 1 of this report, the main areas of concern identified in the available literature include working conditions, living conditions, contractual malpractice, and retaliatory practices. In the following sections, we will focus on the nature of these exploitative practices and whether, alone or in conjunction, they could amount to practices falling under the applicable legal definition of trafficking in persons.

The widespread concerns around exploitation in Cuba's medical missions have led human rights organisations, including most recently the UN Special Rapporteurs on Contemporary Forms of Slavery and the Special Rapporteur on Trafficking in Persons, Especially Women and Children, to criticise the missions as exploitative labour arrangements that infringe on fundamental freedoms.[157] In a similar vein, the US Department of State has, since its 2020 Trafficking in Persons (TIP) Report, assessed Cuba to have a policy or pattern of trafficking through its 'labour export' program.[158]

Whilst the language used to describe the nature of the exploitative practices in medical missions has varied over the years—including 'servitude', 'forced labour' and '(modern) slavery'—extensive reporting by NGOs, international bodies and human rights organisations has increasingly questioned whether aspects of CFMMs violate international law, particularly the prohibition of human trafficking (for the purpose of forced labour).

Applicable trafficking definition

Cuba

It must be noted at the outset that Cuba has not ratified the ICCPR, nor has it ratified the American Convention on Human Rights (ACHR)—the only Latin American country to not have done so since the

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internacionalista en la política exterior de la Revolución Cubana durante la pandemia de Covid-19' (2022) 3(6) Revista Científica Universitaria Ad Hoc; E Martínez Cruz et al, 'La cooperación internacional y el sistema de salud cubano desde una perspectiva social' (2022) 48(1) Revista Cubana de Salud Pública; H Yaffe, 'Cuban Medical Internationalism: A Paradigm for South-South Cooperation' (2023) 15(2) International Journal of Cuban Studies 203; D Marrazzo, 'Fuga dalla Calabria: 13 medici per 159 posti e i dottori cubani tengono in vita i reparti' (*Il Sole 24 Ore*, 2025).

[155] See, e.g. M Ceaser, 'Cuban doctors working abroad defect to the USA' (2007) 369(9569) The Lancet 1247; MC Werlau, 'Cuba-Venezuela health diplomacy: the politics of humanitarianism' (2010) Papers and Proceedings of the 20th Annual Conference of the Association for the Study of the Cuban Economy; MH Erisman, 'Brain drain politics: the Cuban medical professional parole programme' (2012) International Journal of Cuban Studies 269; N Casey, '"It Is Unspeakable": How Maduro Used Cuban Doctors to Coerce Venezuela Voters' (*The New York Times*, 2019); S Farber, 'Medici cubani all'estero: apparenza e realtà' (*MPS*, 2020); C Del Frate, 'Medici da Cuba in Calabria, «È schiavitù»: la denuncia deglieuroparlamentari' (*Corriere della Sera*, 2022); JB Torres, 'Esclavitud moderna y derechos laborales: las misiones médicas cubanas' (*Cielo Laboral*, 2023); MC Werlau, 'La "colaboración" médica internacional de Cuba: un gigantesco negocio de tráfico laboral con fachada altruista' in Claudia González y Sergio Angel, *Los mitos de la Revolución cubana* (Universidad Sergio Arboleda, 2023) 77; A Loeb, 'Medical Servitude: The Other Side of Cuban Medical Diplomacy' (2024) Harvard International Review.

[156] BIICL, Cuban Foreign Medical Missions: Literature Review, BIICL (2025). Section 2.

[157] See *inter alia* UN Doc AL CUB 6/2019 and UN Doc AL CUB 2/2023.

[158] See US Department of State, Office to Monitor and Combat Trafficking in Persons, 'Trafficking in Persons and Cuba's Labor Export Program' (2025). This assessment was also based on TIP reporting on these concerns since 2010.

Convention entered into force in 1978. Not having ratified the ACHR, Cuba is not under the jurisdiction of the Inter-American Court of Human Rights (IACtHR).

In line with its mandate in the context of the Organization of American States (OAS), the Inter-American Commission on Human Rights (IACHR, Commission) has issued—based on its mandate to promote respect for human rights in the Americas—several human rights reports on Cuba, including on the deaths of human rights defenders Oswaldo Payá and Harold Cepero, and has called for the release of individuals detained for peaceful protests. More recently, and in the specific context of Cuba's medical missions, the IACHR opened, as is general practice for other topics, a 'consultation questionnaire' in preparation for a thematic report on the human rights of Cuban health workers who participate and work in medical internationalisation missions deployed in the Americas.[159] The consultation remained open until January 2025 for input from civil society organisations, international organisations, national human rights institutions, academia and specialists. In May 2025, the IACHR issued another request for information—this time addressed to members of the OAS. In the letter, it asked for details, including whether they have an agreement with Cuba for medical missions, whether those workers have labour and union rights and information about any labour complaints. The Commission stated that it is planning to analyse the collected data and offer recommendations 'given the persistence of reports of rights violations'.[160] The letter, dated 24 May 2025, gave OAS Member States 30 days to respond and was met with strong reactions by the Cuban Government.[161]

In light of the international legal position of Cuba, the applicable legal definition of trafficking is the definition found in the Palermo Protocol, supplementing the UN Convention against Transnational Organized Crime, Article 3(a):

> Trafficking in persons shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

Having ratified the Protocol in 2013, Cuba is bound by its provisions—including the duty to prevent and combat trafficking in persons, to protect and assist the victims of such trafficking, and to promote cooperation among States Parties in order to meet those obligations. It should be noted at this stage that the Protocol's scope is significantly narrow. In addition to the three-part definition of human trafficking (act, means, purpose), Article 4 limits the scope of application to 'the prevention, investigation and prosecution of the offences established in […] this Protocol, where those offences are transnational in nature *and involve an organized criminal group*, as well as to the protection of victims of such offences' (emphasis added). Whilst the UNODC Legislative Guide for the Implementation of the Protocol has clarified that an 'organised criminal group' is defined as a structured group of three or more persons, existing for a period of time, acting in concert with the aim of committing one or more serious crimes,

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[159] See OAS, *Human Rights Situation of Cuban Health Personnel on Internationalization Missions* <https://www.oas.org/en/iachr/jsForm/?File=/en/iachr/reports/questionnaires.asp&Q=63>. The questionnaire is available at <https://airtable.com/appqnfBwpCNtdKSbM/pagUECcJRwk2G6x0N/form> (accessed 24 June 2025).

[160] AP, 'A letter demanding data on Cuban medical missions roils the Caribbean and the Americas' (2025).

[161] See EM Lederer, 'Cuban diplomat defends foreign medical missions under pressure from US' (*ABC News*, 2025). See also Section D of this report.

and acting intending to obtain, directly or indirectly, any financial or other material benefit,[162] it has not explicitly acknowledged—rather, it seems to exclude the possibility—that a Government, or a part of the Government, could be classified as an 'organised criminal group'.

Cuba is further bound by the provisions contained in ILO C29 and its 1957 Abolition of Forced Labour Convention, as detailed in Section 2(a) of the BIICL report. The former defines forced or compulsory labour as 'all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily' (Article 2). The latter binds states to 'not make use of any form of forced or compulsory labour—[…] (b) as a method of mobilising and using labour for purposes of economic development' (Article 1(b)). In a series of Direct Requests, and as early as 2015, the ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) noted the situation of Cuban doctors participating in international medical missions.[163] In its Direct Request on the subject matter adopted in 2022, the CEACR requested the Cuban Government to provide specific information: '(i) the number of doctors who have made complaints concerning abusive practices and the measures taken in this regard; (ii) the number of doctors who have requested the early termination of their services abroad; and (iii) whether the penalties envisaged in section 135(1) of the Criminal Code have been applied to doctors who have decided to leave their mission in a foreign country and, if so, in which cases'.[164] In its subsequent Direct Request, adopted in 2024, it noted that the Government's response had not been received yet.[165]

Whilst the ILO's requests have framed its concerns in terms of 'forced labour'—flowing from its ILO C29 formulation—the recognition offered in its ILO P29 of the connection between forced labour and human trafficking (as defined in the Protocol) is significant. This being said, it is important to note that Cuba has not yet ratified the 2014 Protocol, and thus only remains bound by the provisions of the 1930 Convention.

Receiving countries

From the outset, it must be emphasised that receiving countries' absence from the preliminary phases of recruitment and/or the existence of bilateral (of multilateral) agreements does not relieve such countries from responsibilities vis-à-vis Cuban workers. Whilst undertaking an analysis of the applicable definition of trafficking in all receiving countries is beyond the scope of this section, the table below attempts to summarise the status of ratification of the main instruments concerned with 'exploitation' in an extended selection of receiving countries.

[162] UNODC, 'Legislative Guide for the Implementation of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime' (2000) UNGA Res 55/25, Annex II.

[163] See ILO Committee, Direct Request (CEACR) - adopted 2014, published 104th ILC session (2015); Direct Request (CEACR) - adopted 2014, published 104th ILC session (2015); Direct Request (CEACR) - adopted 2017, published 107th ILC session (2018); Direct Request (CEACR) - adopted 2022, published 111st ILC session (2023); Direct Request (CEACR) - adopted 2024, published 113rd ILC session (2025).

[164] ILO Committee, Direct Request (CEACR) - adopted 2022, published 111st ILC session (2023).

[165] ILO Committee, Direct Request (CEACR) - adopted 2024, published 113rd ILC session (2025).

	UNODC Protocol	ICCPR	ILO C029	ILO C105	ILO P029	Regional instrument(s)[166]
Algeria	✔	✔	✔	✔	✘	✔ (ACHPR)
Angola	✔	✔	✔	✔	✘	✔ (ACHPR)
Argentina	✔	✔	✔	✔	✔	✔ (ACHR)
Belize	✔	✔	✔	✔	✘	✘
Bolivia	✔	✔	✔	✔	✘	✔ (ACHR)
Botswana	✔	✔	✔	✔	✘	✔ (ACHPR)
Brazil	✔	✔	✔	✔	✘	✔ (ACHR)
Burkina Faso	✔	✔	✔	✔	✘	✔ (ACHPR)
Burundi	✔	✔	✔	✔	✘	✔ (ACHPR)
Chad	✔	✔	✔	✔	✘	✔ (ACHPR)
Chile	✔	✔	✔	✔	✔	✔ (ACHR)
China	✔	✘	✔	✔	✘	✘
Colombia	✔	✔	✔	✔	✘	✔ (ACHR)
Costa Rica	✔	✔	✔	✔	✔	✔ (ACHR)
Djibouti	✔	✔	✔	✔	✔	✔ (ACHPR)
Ecuador	✔	✔	✔	✔	✘	✔ (ACHR)
El Salvador	✔	✔	✔	✔	✘	✔ (ACHR)
Italy	✔	✔	✔	✔	✘	✔ (ECHR, COE, EU)
Malta	✔	✔	✔	✔	✔	✔ (ECHR, COE, EU)
Mexico	✔	✔	✔	✔	✔	✔ (ACHR)
Mozambique	✔	✔	✔	✔	✔	✔ (ACHPR)
Namibia	✔	✔	✔	✔	✔	✔ (ACHPR)
Nicaragua	✔	✔	✔	✔	✘	✔ (ACHR)
Niger	✔	✔	✔	✔	✔	✔ (ACHPR)
Nigeria	✔	✔	✔	✔	✘	✔ (ACHPR)
Pakistan	✔	✔	✔	✔	✔[167]	✘

[168] Whilst some instruments make explicit reference to the Palermo Protocol (e.g., COE Convention and ASEAN Convention in their preambles), other instruments have 'integrated' the UNODC trafficking definition, directly or indirectly, including through the jurisprudence of their judicial bodies: indirectly—as the European Court of Human Rights, which relies on the COE definition, which in turn is 'regionalising' the UNODC definition—or directly, as more recently seen in a landmark judgment by the African Court of Human and People's Rights in *Centre for Human Rights (CHR), Institute for human Rights and Development in Africa (IHRDA) & Legal and Human rights Centre (LHRC) vs United Republic of Tanzania* (Application No 019/2018, 5 February 2025) paras 265–269, and in the landmark judgment by the Inter American Court of Human Rights in *Caso Trabajadores de la Hacienda Brazil Verde vs. Brasil* (Judgment) Ser C No 318 (20 October 2016) para 284.

[168] Whilst some instruments make explicit reference to the Palermo Protocol (e.g., COE Convention and ASEAN Convention in their preambles), other instruments have 'integrated' the UNODC trafficking definition, directly or indirectly, including through the jurisprudence of their judicial bodies: indirectly—as the European Court of Human Rights, which relies on the COE definition, which in turn is 'regionalising' the UNODC definition—or directly, as more recently seen in a landmark judgment by the African Court of Human and People's Rights in *Centre for Human Rights (CHR), Institute for human Rights and Development in Africa (IHRDA) & Legal and Human rights Centre (LHRC) vs United Republic of Tanzania* (Application No 019/2018, 5 February 2025) paras 265–269, and in the landmark judgment by the Inter American Court of Human Rights in *Caso Trabajadores de la Hacienda Brazil Verde vs. Brasil* (Judgment) Ser C No 318 (20 October 2016) para 284.

Panama	✔	✔	✔	✔	✔	✔ (ACHR)
Paraguay	✔	✔	✔	✔	✘	✔ (ACHR)
Peru	✔	✔	✔	✔	✔	✔ (ACHR)
Portugal	✔	✔	✔	✔	✔	✔ (ECHR, COE, EU)
Rwanda	✔	✔	✔	✔	✘	✔ (ACHPR)
Sierra Leone	✔	✔	✔	✔	✔	✔ (ACHPR)
South Africa	✔	✔	✔	✔	✘	✔ (ACHPR)
Switzerland	✔	✔	✔	✔	✔	✔ (ECHR, COE)
Turkey	✔	✔	✔	✔	✘	✔ (ECHR, COE)
Uganda	✔	✔	✔	✔	✘	✔ (ACHPR)
Ukraine	✔	✔	✔	✔	✘	✔ (ECHR, COE)
Uruguay	✔	✔	✔	✔	✘	✔ (ACHR)
Venezuela	✔	✔	✔	✔	✘	✔ (ACHR)
Vietnam	✔	✔	✔	✔	✘	✔ (ASEAN)
Zambia	✔	✔	✔	✔	✘	✔ (ACHPR)
Zimbabwe	✔	✔	✔	✔	✔	✔ (ACHPR)

Figure 2: Ratification status by receiving countries

All selected receiving countries are bound by the provisions of the Protocol and of ILO Conventions C29 and C105. The vast majority are bound by the ICCPR and by at least one regional instrument which contains a clause on the prohibition of forced labour. Some receiving countries, notably European countries, are also bound by trafficking-specific legal instruments such as the Council of Europe Anti-Trafficking Convention and the EU Directive on Combating Trafficking.

In terms of definitions, all regional instruments draw on the Protocol's definition of human trafficking—often times going beyond it, including by being able to overcome the limited scope of applicability of the Protocol.[168] The definition of human trafficking offered in Article 3(a) of the Protocol, in other words, has become the blueprint for the understanding of human trafficking in domestic legislation, other regional instruments of human rights protection, as well as—from an interpretative standpoint—UN treaty bodies, including the Human Rights Committee. We will therefore use the Protocol's definition to assess whether the patterns identified in our research satisfy the three elements of the trafficking definition.

Understanding the patterns in light of the applicable definitions of human trafficking and forced labour

Article 3(a) of the Palermo Protocol defines trafficking as follows: 'Trafficking in persons shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of

[168] Whilst some instruments make explicit reference to the Palermo Protocol (e.g., COE Convention and ASEAN Convention in their preambles), other instruments have 'integrated' the UNODC trafficking definition, directly or indirectly, including through the jurisprudence of their judicial bodies: indirectly—as the European Court of Human Rights, which relies on the COE definition, which in turn is 'regionalising' the UNODC definition—or directly, as more recently seen in a landmark judgment by the African Court of Human and People's Rights in *Centre for Human Rights (CHR), Institute for human Rights and Development in Africa (IHRDA) & Legal and Human rights Centre (LHRC) vs United Republic of Tanzania* (Application No 019/2018, 5 February 2025) paras 265–269, and in the landmark judgment by the Inter American Court of Human Rights in *Caso Trabajadores de la Hacienda Brazil Verde vs. Brasil* (Judgment) Ser C No 318 (20 October 2016) para 284.

force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.'

Act

The relevant act in the definition is 'the recruitment, transportation, transfer, harbouring or receipt of persons […]'.

Cuba

As affirmed by the UNODC:

> In a general sense, "recruitment" refers to the act of drawing a person into a process and can involve a multitude of methods, including orally, through advertisements, or online through the internet. In transnational cases, recruitment can involve activities in the country of origin, of transit or of destination, for example, involving legal or semi-legal private recruitment agencies. […] "Transportation" would cover the acts by a carrier by land, sea, or air by any means or kinds of transportation. Transportation may occur over short or long distances, within one country or across national borders. […] "Transfer", too, can refer to transportation of a person but can also mean the handing over of effective control over a person to another. This is particularly important in certain cultural environments where control over individuals (mostly family members) may be transferred to other people.[169]

Our literature review reveals evidence of patterns of systematic **recruitment**, as well as of **transportation and transfer** of Cuban healthcare professionals from Cuba to receiving countries.

In its response to the UN Special Rapporteur's 2023 letter, the Cuban Permanent Mission stressed that the selection and recruitment of healthcare professionals for medical missions is completed through an individual employment contract with a Cuban State entity in charge of healthcare services provision.[170] Recruitment is performed as part of bilateral (or multilateral) agreements signed by the Cuban Government, increasingly facilitated by Cuban State entities, such as the *Unidad Central de Cooperación Médica* (UCCM) and the *Comercializadora de Servicios Médicos Cubanos S.A.* (CSMC S.A.), and a 'foreign' counterpart.

Upon being *recruited*, workers are *transported*—understood as 'physically moved'— across borders to receiving countries, and they are often arguably *transferred*—understood as 'handed over'—to authorities in receiving countries (including, e.g. through the signing of a contract with such 'foreign' authorities). Whilst each agreement differs on the party with *responsibility* to arrange travel logistics, such logistics either fall on a Cuban actor or the receiving country's authorities (see Section 1(c) on bilateral agreements).

[169] UNODC (n 161) 29.
[170] Permanent Mission of Cuba to the UN Office in Geneva, 'Reply to the Communication AL CUB 2/2023 – Nota No. 39/2024' (19 January 2024) 8.

Receiving countries

Generally, the role of receiving countries in the *recruitment* of health professionals is unclear—e.g. most agreements merely mention that the Cuban Ministry of Health or the Cuban entity CSMC S.A. recruits and deploys professionals requested by the receiving State, and/or replaces them when needed (i.e. in case of death, illness, or defection of a worker), with no mention of the involvement of receiving countries in such process. However, in at least three agreements (namely, with the Region of Calabria, South Africa and the Argentinian Provincia Rio Negro), there is evidence that the receiving State and/or State authority is also, at least in part, involved in the recruitment.

The strongest example of co-recruitment is found in the agreement with the Region of Calabria. Whilst the agreement stipulates that Cuban healthcare professionals are 'appointed by CSMC S.A.' and cannot 'be hired individually within healthcare facilities of the Calabria Region' (*Accordo di Cooperazione*, Article 3.2(m)), the *Primo Contratto Collettivo* suggest that Calabrian authorities are also involved in the recruitment of Cuban workers, with CSMC S.A. 'facilitating' such recruitment. The *Contratto Collettivo* states that CSMC S.A. 'identifie[s] medical professionals deemed suitable' (para. d), and 'carr[ies] out a careful selection of its specialised medical personnel' (para. h), and it also stipulates that the framework agreement provides for the 'recruitment of medical professionals by Regional Health Service Companies' (para. e) and that the Calabria Region 'has appointed [...] a special commission charged with carrying out the technical evaluation of the CVs of Cuban health professionals provided by CSMC S.A.' (para. i). Article 3(h) of the agreement also mentions that recruitment will take place in compliance with local regulations (listed in the article), and Article 4(b) provides that '[t]he Cuban State, through CSMC S.A., will facilitate the temporary recruitment in Italy of Cuban doctors' (emphasis added).

Whilst the engagement of receiving countries in the (co-)*recruitment* of workers is not particularly clear in the agreements, the most explicit *act* that receiving countries engage in is the *receipt* of persons, though *harbouring* may also be relevant in certain circumstances.[171] As elaborated on by UNODC:

> "Receipt" of a person is the correlative of "transfer" and may refer to the arrival of the person, the meeting of a person at an agreed place, or the gaining of control over a person. It can also include receiving persons into employment or for the purposes of employment, including forced labour. Receipt can also apply to situations in which there was no preceding process, such as inter-generational bonded labour or where a working environment changes from acceptable to coercively exploitative.[172]

In particular, it is relevant to emphasise the meaning of receipt as 'receiving persons into employment or for the purposes of employment', which is part of the bilateral (or multilateral) agreements entered into by countries of destination. As for *recruitment*, the act of *receipt* or *harbouring* needs to be assessed in light of whether any *means* have been used to achieve the consent of a person.

Means

The means in the definition is: '[…] by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving

[171] '"Harbouring" […] may refer […] to accommodating a person at the point of departure, transit, or destination, before or at the place of exploitation, or it may refer to steps take to conceal a person's whereabouts [or it] can […] be understood to mean holding a person', as provided in UNODC (n 161) 30.
[172] UNODC (n 161) 30.

or receiving of payments or benefits to achieve the consent of a person having control over another person […]'.

Cuba

Un/consensual recruitment

It must be acknowledged at the outset that the Cuban Government has repeatedly emphasised the voluntary or consensual nature of doctors' participation in medical missions.[173] However, Article 3(b) of the Protocol states that: 'The consent of a victim of trafficking in persons to the intended exploitation […] shall be irrelevant where any of the means […] have been used'. It is essential, therefore, to understand the *conditions* in which consent is obtained, and whether any of the *means* enshrined in the trafficking definition are used to gain such consent. The same is also true for the ILO definition of forced labour, where the presence of the 'menace of any penalty'—a constitutive element of the definition—vitiates consent given to perform any form of (exploitative) labour.

Elements of **deception** have been reported in the literature, especially with regards to the recruitment process, as well as by civil society reports revealing that many doctors were either not shown contracts at recruitment stage, shown contracts only upon arrival in the host country, or had their contracts amended without informed consent.[174] There have also been allegations of the use of double contracts, with the employee signing two different contracts, one with the host State and one with Cuba, or of contracts that are then not enforced. According to the ILO, '[d]eceptive recruitment practices can include false promises regarding working conditions and wages, but also regarding the type of work, housing and living conditions, acquisition of regular migration status, job location, or the identity of the employer'.[175]

Our literature review and the communications from UN Special Rapporteurs directed at the Cuban Government also have identified evidence of the existence of a series of mechanisms on the spectrum of **coercion**—including, but not limited to, threats of denunciation[176] (e.g., refusal as betrayal)—which act alongside elements of deception (see above) and of **abuse of a position of vulnerability**, understood as a 'situation in which the person involved has no real and acceptable alternative but to submit to the abuse',[177] in light on the evidence that many participants are economically dependent on the missions due to poverty or limited domestic opportunities and that those who refuse to participate are exposed to threats of demotion, loss of employment, or inability to work in the Cuban healthcare sector.[178]

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[173] See the Government's observations in response to the ILO Committee's Direct Requests, especially in Direct Request (CEACR) - adopted 2022, published 111st ILC session (2023).
[174] Outreach Aid to the Americas, 'Cuba's International Medical Missions: A Critical Resource and Advocacy Guide' (2021) 14; Prisoners Defenders (2020) (n 5) and Prisoners Defenders, (2024) (n 82).
[175] ILO, Indicators of Forced Labour (2012) 7. It is worth mentioning that a revised edition of the indicators was published in November 2025.
[176] ILO, 'Operational Indicators of Trafficking in Human Beings. Results from a Delphi Survey Implemented by the ILO and the European Commission' (2009) 4.
[177] UNODC, 'Legislative Guide for the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children' (2020). See also this interpretation being referred to in case-law, including: Argentina, *Case N 2338* (2011); *SM v Croatia* [GC] (ECtHR, 2020).
[178] See BIICL, "Cuban Foreign Medical Missions: Literature Review" (2025), Section 1. See also ILO (n 27); L Alves, 'Cuba's Doctors-Abroad Programme Comes Under Fire' (2019) 394 The Lancet 1132; ILO CEACR, 'CEACR Observation, Forced Labour Convention No. 29, Venezuela' (2016); UN Doc AL CUB 6/2019.

Un/consensual transportation and transfer

It also appears from the literature review that transportation and transfer are vitiated by elements of **deception** and **coercion**, specifically with reference to the information about missions not being communicated to doctors in advance (including around their destination)[179] and the confiscation of passports upon arrival, coupled with surveillance and intimidation by Cuban agents (or agents authorised by the Cuban authorities).[180]

Receiving countries

Un/consensual receipt

The evidence gathered with regards to the role of countries of destination points to **abuse of power or of a position of vulnerability** as the main *means* element to maintain 'receipt' of Cuban doctors. This includes in particular the co-constructed ties that doctors have to *remain* in employment in destination countries on the basis of their contract and/or the penalties that would result from them defecting the mission—and mirrors the element highlighted before under '*Transportation and transfer*'—as well as indicators including difficulty to live in an unknown area, economic reasons, and relationship with (and/or dependency on) authorities.[181]

Purpose

The requisite purpose is defined as: '[…] for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.'

The trafficking definition does not define exploitation nor forced labour, but it is helpful to recall UNODC's issue paper on the concept of exploitation.[182] The issue paper explicitly states that, in light of the definition gap in the Protocol, one of 'the principal difficult[ies] lies in establishing the line that divides bad working conditions (that would be more appropriately addressed under other legislation such as labour law) from exploitation of workers that is of sufficient severity to be brought within […] the definition of trafficking'.[183] It also adds that '[c]ultural and other context-specific factors can play a role in shaping perceptions of what constitutes exploitative conduct for the purposes of establishing trafficking'.[184] According to the issue paper, 'commonly cited indicators of forced labour associated with trafficking included no or low payment; inhuman living conditions; excessive working hours; failure to meet basic needs; extreme debt or debt bondage; and evidence of injuries or abuse'.[185]

Because of the connection between the Protocol and the ILO legal framework, and due to the definitional silences of the Protocol, it is also helpful to recall the ILO's definition: 'all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily'. According to the ILO, indicators of forced labour include: abuse of vulnerability, deception,

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[179] UN Doc AL CUB 2/2023.
[180] Prisoners Defenders (2020) (n. 5). 17. On confiscation of documents as coercion, see also Greece, Decision No. 755/2017.
[181] ILO (n 27). In Argentina, Case N 2338 (2011), the judge characterises the 'reception and welcome' phase—when the individual arrives and realises the exploitative situation—with control mechanisms including deception and dependency.
[182] UNODC, 'Issue Paper. The Concept of 'Exploitation' in the Trafficking in Persons Protocol' (2015).
[183] Ibid 10.
[184] Ibid 12.
[185] Ibid 109.

restriction of movement, intimidation and threats, and retention of identity documents—which have already been identified in Section C2—and isolation, physical and sexual violence, withholding of wages, debt bondage, abusive working and living conditions and excessive overtime.[186]

While the notion of 'profit' as a requirement to establish 'exploitation' does not feature in the Protocol—it was proposed in the *travaux* but not accepted—some of the elements of the ILO definition of forced labour implicitly refer to the idea of 'economic advantage' (e.g., withholding of wages and debt bondage).

Cuba: withholding of (part of) wages

It is reported that Cuban personnel on medical missions receive low compensation for their work, as **large parts of the fee paid by host countries** are **retained by the Cuban Government**.[187] In most cases, Cuban workers are not paid directly by the host State but, rather, the receiving government pays the fee to a Cuban State entity or the Cuban Ministry of Health, which then pays the workers' monthly salaries. When salaries are paid directly, the UN Special Rapporteur and NGOs have reported that workers are required to transfer large parts of the sum, reportedly between 50% and 90%, to the Cuban Government.[188] Several NGOs also reported that healthcare workers' salaries are subject to monthly deductions because they are required to donate to Cuban organisations such as the Syndicate of Health Workers[189] and/or the Cuban Communist Party.[190] In addition, the relatively frequent practice of keeping aside a 'bonus wage' during medical missions[191] has been characterised as withholding or confiscation of wages,[192] as the sum can be accessed at the end of the worker's medical mission only if they complete it successfully and return to Cuba,[193] and is otherwise kept by the Cuban Government.[194]

[186] ILO, 'ILO Indicators of Forced Labour' (2012).

[187] See inter alia SA Blue, 'Cuban Medical Internationalism: Domestic and International Impacts' (2010) 9(1) Journal of Latin American Geography 31, 35; O Gómez Dantés, 'The Dark Side of Cuba's Health System: Free Speech, Rights of Patients and Labor Rights of Physicians' (2018) 4 Health Systems & Reform 175, 178; SM Campos-Alves et al, 'Profesionales Medicos Cubanos para la Atencion Primaria de Salud: El Caso de Portugal' (2022) 24(5) Revista de Salud Publica 1, 5; UN Doc AL CUB 6/2019; Prisoners Defenders (2022) (n 82).

[188] See UN Doc AL CUB 6/2019, 2; Free Society Project/Cuba Archive and Outreach Aid to the Americas, 'The Systematic Violation of the Convention Against Torture of Cuba's "Internationalist" Medical Missions: Submission to the Committee Against Torture' (2022) 17–18; Prisoners Defenders (2020) (n 5) 8. See also UN Doc AL CUB 2/2023, 3. Such practice has been reported in Saudi Arabia, Seychelles, Italy, Ghana, Uruguay, Guatemala, and Qatar by NGOs and the UN Special Rapporteur: see UN Doc AL CUB 2/2023; Free Society Project/Cuba Archive and Outreach Aid to the Americas (n 188) 17–18; Prisoners Defenders (2020) (n 5) 8.

[189] Free Society Project/Cuba Archive and Outreach Aid to the Americas (n 188) 16, 18; Prisoners Defenders (2020) (n 5) 7.

[190] UN Doc AL CUB 6/2019, 2.

[191] Prisoners Defenders (2020) (n 7) 7; Free Society Project/Cuba Archive and Outreach Aid to the Americas (n 188) 17.

[192] Outreach Aid to the Americas, 'Cuba's International Medical Missions: A Critical Resource and Advocacy Guide' (2021) 14; Free Society Project/Cuba Archive, 'Overview of Trafficking in Persons in Cuba's Medical Brigades' (2023) 17.

[193] Free Society Project/Cuba Archive and Outreach Aid to the Americas (n 188) 5, 17; Gómez Dantés (n 187) 178–179; Blue (n 187) 35–36.

[194] Prisoners Defenders (2020) (n 5) 7.

Receiving countries: abusive working conditions

The literature indicates a relatively high consensus around the **lack of transparency of working contracts** and the existence of **unreasonable working hours and conditions**, including **excessive overtime**—with reports indicating weekly working hours in excess of 60 hours, with minimal rest or vacation, in breach of ILO labour standards. Many sources also document the poor and unsafe living and working conditions and hardships faced during medical missions, many of which attributable to the 'host' country.[195] Whilst some scholars have argued against the characterisation of these practices as exploitative in light of the *comparatively* better conditions on medical missions than in the Cuban healthcare sector (e.g. Kirk's statement that salaries 'are better than those in Cuba'),[196] the baseline is arguably not that of workers' treatment in Cuba—but, rather, the applicable international and domestic employment standards.

A note on the medical missions' political (and developmental) elements

Having discussed in relative detail the arguably exploitative economic elements of and working conditions in medical missions, it is also important to stress the nature of medical missions from a political perspective. Feinsilver, for example, observed how 'Cuba's rewards are symbolic and material capital[: t]here is enormous prestige and influence in determining the direction of public health systems in the countries in which Cuba practices medical diplomacy',[197] with a form of soft power to develop alliances with other States worldwide.[198] As discussed in Subsection (iv) below, the position of the Cuban Government and of some critical literature has highlighted precisely how the medical missions cannot be detached from their political dimension—as well as from that of the Cuban Government.

Whilst the trafficking definition is arguably not helpful in capturing the economic and political dimensions of medical missions, it must be emphasised that the Abolition of Forced Labour Convention No 105 specifically prohibits the use of forced labour for the purposes of economic development.

The position of the Cuban Government and critical literature

In one of the most recent replies by the Cuban Government, specifically to the inquiry opened by the IACtHR, Cuban President Miguel Díaz-Canel criticised what he described as a campaign against the Caribbean country, stating that: 'There is no doubt that [the] campaign to block Cuban cooperation has [a] clear objective[] to close off any avenue of income for the country, even in an activity as noble and necessary to other nations as healthcare services'.[199]

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[195] Ibid 17; Free Society Project/Cuba Archive and Outreach Aid to the Americas (n 188) 12–20; 'The Hidden World of the Doctors Cuba Sends Overseas' (*BBC News*, 14 May 2019); Free Society Project/Cuba Archive (n 192) 17; P Pattisson, 'Cuba's Secret Deal with Qatar to Take up to 90% of Doctors' Wages' (*The Guardian*, 8 November 2019); Maria C Werlau, 'Cuba's Health-Care Diplomacy: The Business of Humanitarianism' (2013) 175(6) World Affairs 57, 64; J Kirk, 'Healthcare Without Borders: Understanding Cuban Medical' Internationalism (University Press of Florida, 2015) 279–280.

[196] Kirk (n 195) 280.

[197] R Baggott and G Lambie, 'Hard Currency, Solidarity, and Soft Power: The Motives, Implications, and Lessons of Cuban Health Internationalism' (2019) 49 International Journal of Health Services 165.

[198] Ibid 166–167.

[199] AP, 'A letter demanding data on Cuban medical missions roils the Caribbean and the Americas' (2025). Similar points are echoed in the response of the Cuban Permanent Mission to the UN in Geneva to UN Doc AL CUB 2/2023, available here.

In a similar vein, Yaffe claimed that allegations of human trafficking are part of a US-driven campaign to discredit Cuba and its medical missions.[200] Latner also made a similar claim, analysing how recent US foreign policy has aimed to undermine Cuba's humanitarian image on the international stage.[201] However, neither refute the evidence collected nor the reports presented to substantiate claims of human rights abuses and labour exploitation in the program.

Some scholars further question the claim that Cuban workers' low salaries on medical missions, including as a result of 'wage keeping', constitute an element of exploitation. Latner, for example, emphasises that doctors on overseas missions receive 'several times their base salary in Cuba, which continues to be paid to their families while they are away', [202] and Gorry points to the fact that whilst it is true that the Cuban Government retains half or more of the funds paid by the host State, that money is used to ensure 'the Cuban health system's own sustainability'[203]—a system that is accessible in Cuba for free. Other scholars have also questioned the allegation of coercion in the recruitment process, arguing that a significant ratio of Cuban healthcare workers voluntarily join medical missions out of a strong sense of moral obligation.[204]

Concluding remarks

The UN Special Rapporteurs on Contemporary Forms of Slavery and Trafficking in Persons have expressed concerns that the nature of and conditions during medical missions meet the definitions of forced labour and human trafficking—as emphasised in their communications with the Cuban Government in 2019, 2020 and 2023. In 2021, the European Parliament also passed a resolution condemning the medical missions' practices as 'modern slavery',[205] and Brazil interrupted its agreement with Cuba on similar grounds—arguing that remaining party to medical missions' agreements would have amounted to complicity in forced labour.[206] On the other side of the spectrum, the Cuban Government has strongly denied any element of coercion, let alone exploitation, in the context of medical missions—a position which has also been sustained by a number of scholars (see Section D).

The patterns that have emerged from our literature review seem to confirm that Cuban doctors are, in many cases, subjected to practices that may amount to exploitation and even forced labour. Whilst the nature of the medical missions' practices seems to fall outside of the scope of application of the Palermo Protocol—which is limited to trafficking in the context of *organised criminal groups*—the analysis of the *structures* leading to the arguable exploitation of Cuban doctors reveals that the *elements* of the trafficking definition (act, means, purpose) are, at least in some circumstances, met. This holds true for the actions of both Cuba and of 'host' States.

With regards to Cuba, it is meaningful to recall the words of Cuban President Miguel Díaz-Canel in response to the accusations of exploitation—namely, that such accusations were aimed at 'clos[ing] off any avenue of income for the country, even in an activity as noble and necessary to other nations as

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[200] Yaffe (n 154) 229.
[201] TA Latner, 'The Campaign to Discredit Cuban Medical Internationalism' (2020) 52(3) NACLA Report on the Americas 332, 333.
[202] Ibid 335–336.
[203] C Gorry, 'Six Decades of Cuban Global Health Cooperation' (2019) 21(4) MEDICC Review 83, 88.
[204] Yaffe (n 154) 228–230.
[205] European Parliament Resolution of 10 June 2021 on the Human Rights and Political Situation in Cuba (2021/2745(RSP)). See also W Fautré, 'The aura of the 'famous' Cuban doctors smashed in the European Parliament' (2023) Human Rights Without Frontiers.
[206] J Carrasco, 'Más Médicos: "Nuestro salario era bajo, pero era mejor que en Cuba", la decepción de médicos cubanos ante la retirada de su país del programa médico en Brasil' (*BBC News*, 22 November 2018).

healthcare services'.[207] It thus appears clear that medical missions are perceived and framed by Cuba as humanitarian missions *and* as 'revenue' missions through labour externalisation. Specifically for the latter, this seems to conflict with Cuba's obligations under the Abolition of Forced Labour Convention No 105, which prohibits forced labour imposed by State authorities for the purposes of economic development. This has been the stance, for example, with regards to North Korea's externalisation policies, whereby thousands of citizens were sent abroad to work in 'foreign' countries and under conditions of forced labour (e.g. strict surveillance, withholding of wages, limited communication with the outside world, punishment or retaliation for defections).[208]

With regards to 'host countries', it must be noted that their absence from the preliminary phases of recruitment and the existence of bilaterial (of multilateral) agreements does not relieve them from their responsibilities vis-à-vis Cuban workers. Their responsibilities could be engaged for their *direct* involvement, including under the scope of human rights, trafficking-specific and labour international instruments, but also for their *indirect* involvement, namely through the Articles on Responsibility of States for Internationally Wrongful Acts (ARSIWA).

Spectrum of unfree labour

As Jean Allain has described, 'exploitation should be understood as a continuum where, at minimum, it is manifest in violations of International Labour Standards, but then grows in intensity, both in the unfair advantage gained and the proportional harm caused, to become a servitude; or even more intense to manifest itself as slavery'.[209] The concept of 'exploitation' is undefined under international law but typically refers to a wide range of practices that fall foul of the standards of decent work set by the ILO. However, within this wide range of actions, the degree of harm and the legal consequences vary significantly as depicted in the figure below.

Figure 3: Spectrum of Unfree Labour

The spectrum of exploitation aims to emphasise that exploitation may manifest in the context of CFMMs, in varying degrees of unfair treatment in a labour context, from isolated breaches of specific rights, or a more systemic exploitation, to severe and extreme forms of exploitation at the end of the spectrum. This is important for three reasons: first, it demonstrates that even where a form of exploitation does not amount to extreme exploitation, it nonetheless entails legal consequences and may result in State responsibility; second, it allows for a more nuanced response, selecting the appropriate action for each form of exploitation; third, each form of exploitation overlaps to some extent and may lead to, or even facilitate, a more serious form of exploitation, and therefore action in response to less severe forms of exploitation can prevent the occurrence of more serious exploitation.

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[207] AP, 'A letter demanding data on Cuban medical missions roils the Caribbean and the Americas' (2025).
[208] HRW, 'North Korea's Forced Labor Enterprise: A State-Sponsored Marketplace in Human Trafficking' (2015). See also, more recently: 'DPR Korea: Forced labour is institutionalized and dangerous, warns UN rights office' (*UN News*, 16 July 2024); OHCHR, 'Forced labour by the Democratic People's Republic of Korea' (2024) especially section vi 'Overseas labour'.
[209] Jean Allain, *Slavery in International Law: Of Human Exploitation and Trafficking* (Martinus Nijhoff 2013) 4.

This section provides an overview of the different degrees of exploitation that may arise in the context of CFMMs, associated with the patterns that the report looks at. The definitions of the various degrees of exploitation have been drawn from extensive research of primary and secondary sources, as cited in the respective subsections, and are used to categorise the different forms of exploitation that may occur in CFMMs.

From decent work to systemic or structural exploitation

Decent work is defined by the ILO as 'work that is productive and delivers a fair income, security in the workplace and social protection for families, better prospects for personal development and social integration, freedom for people to express their concerns, organize and participate in the decisions that affect their lives and equality of opportunity and treatment for all women and men'.[210] The key elements of the ILO Decent Work agenda are: employment opportunities; adequate earnings and productive work; decent working time; combining work with family and personal life; stability and security of work; equal opportunities; safe working environment; social security; and social dialogue and workers' representation.

Decent work can be restricted by breaches of workers' labour and human rights. Many of those breaches are often addressed via administrative penalties, such as fines, rather than criminal sanctions.[211] While being at the less severe end of the spectrum, isolated or non-systematic breaches of workers' rights may facilitate severe and/or extreme forms of exploitation. As indicated in Section 2(a) of this report, some of the reported working conditions of Cuban doctors as part of foreign medical missions, including low salaries, employer deductions from salaries, extended working hours, inadequate holiday allowance and contractual malpractice, amount to breaches of international labour standards. Equally, several of the reported living conditions of doctors in CFMMs may amount to violations of civil and political or economic, social and cultural rights. Although these conditions usually do not entail menace of penalty, they are considered exploitative. For example, the UN Special Rapporteur on Contemporary Forms of Slavery, Its Causes and Consequences has raised concerns with the monitoring of workers' movements outside the workplace by the Cuban Government.[212] Importantly, some of the breaches of workers' rights, in particular restrictions on their freedoms of movement and association, could facilitate both severe and/or extreme exploitation, given that they subject the workers to a significant degree of control by Cuban authorities, and do not provide a way out of exploitation if it occurs.

When these practices do not amount to severe exploitation (i.e. servitude or forced labour (as defined below)) but nonetheless occur in a systematic manner and abuse structural inequalities or workers' vulnerabilities, this can be categorised as **systemic or structural exploitation** and will require a different type of response.[213] A Cuban doctor who lives in a financially precarious situation and is offered

[210] ILO, *Decent Work* <https://www.ilo.org/topics-and-sectors/decent-work>.
[211] Allain (n 208) 206.
[212] See UN Special Rapporteur on Contemporary Forms of Slavery, Its Causes and Consequences (UNSR on Slavery), 'Letter to Cuban Government' (2 November 2023) UN Doc AL CUB 2/2023, 1–2.
[213] This definition is derived from the following sources: Nancy Fraser, 'From Exploitation to Expropriation: Historic Geographies of Racialized Capitalism' (2018) 94 Economic Geography 1; Judy Fudge, '(Re)Conceptualising Unfree Labour: Local Labour Control Regimes and Constrains on Workers' Freedoms' (2019) 10 Global Labour Journal 108; Maria Grazia Giammarinaro, 'Understanding Severe Exploitation Requires a Human Rights and Gender-Sensitive Intersectional Approach' (2022) 4 Frontier in Human Dynamics 1; Prabha Kotiswaran, *Revisiting the Law and Governance of Trafficking, Forced Labour, and Modern Slavery* (CUP 2017); Labour Exploitation Advisory Group, ' "So I decided to Carry On …": The Continuum of Exploitation in Practice' (Report, 2024); Virginia Mantouvalou, 'Legal Construction of Structures of Exploitation' in Hugh Collins, Gillian Lester and Virginia Mantouvalou (eds),

employment on terms that are in principle fair, but turn out to be unfair in practice, with breaches of rights that are anchored in the vulnerable situation of that doctor (e.g., withholding of wages, extended working hours and some restrictions to their freedom of movement), would consitute systemic exploitation. Even if the conditions were clearly unfair at the outset, the worker may voluntarily agree. This would not constitute forced labour as the worker has agreed to the conditions of employment. However, the worker's precarious financial situation has been exploited to gain an advantage by the employer offering less than favourable employment conditions to a worker who would have otherwise been in the worse position of unemployment. Indeed, this form of structural exploitation has been reported in CFMMs. As noted in Section 3 of this report, several reports emphasise that Cuban medical professionals' economic vulnerabilities lead them to join CFMMs. The UN Special Rapporteur on Contemporary Forms of Slavery, Its Causes and Consequences, for instance, has raised concerns that Cuban medical professionals feel pressured into joining CFMMs due to factors such as poverty or limited employment opportunities in Cuba.[214] In these circumstances, the Cuban medical professionals' economic vulnerabilities facilitate their joining of CFMMs, but they have not necessarily been coerced or deceived into entering into the labour arrangement.

However, the distinction between this type of structural exploitation, on the one hand, and severe exploitation, on the other hand, is not always clear-cut and the structural exploitation of a worker may lead to a situation in which a worker is coerced into a labour relationship under the menace of penalty, such that the worker is subjected to forced labour, a form of severe exploitation.

Severe and extreme forms of exploitation

Severe exploitation encompasses exploitative practices that are severe but do not necessarily amount to a violation of a *jus cogens* norm. This is what distinguishes severe exploitation from extreme exploitation, the latter of which involves violations of *jus cogens* norms. Severe exploitation includes forced labour, servitude and institutions or practices like slavery.[215]

Philosophical Foundations of Labour Law (OUP 2018) 188; Susan Marks, 'Exploitation as an International Legal Concept' in Jill Barrett and Jean-Pierre Gauci (eds), *British Contributions to International Law, 1915–2015* (Brill 2020) 2178; Letizia Palumbo, *Taking Vulnerabilities to Labour Exploitation Seriously: A Critical Analysis of legal and Policy Approaches and Instruments in Europe* (Springer 2024) ch 2; The Freedom Story, 'Understanding Trafficking as a Spectrum' (30 March 2022) <https://thefreedomstory.org/understanding-trafficking-as-a-spectrum/>; UNGA, 'Note by the Secretary-General: Trafficking in Persons, especially Women and Children' (17 July 2020) UN Doc A/75/169, para 14; UNGA, 'Contemporary Forms of Slavery, including Its Causes and Consequences: Note by the Secretary-General' (10 July 2018) UN Doc A/73/139, paras 7–11; UNGA, 'Current and Emerging Forms of Slavery: Report of the Special Rapporteur on Contemporary Forms of Slavery, including Its Causes and Consequences' (25 July 2019) UN Doc A/HRC/42/44; UNGA, 'Contemporary Forms of Slavery Affecting Persons Belonging to the Ethnic, Religious and Linguistic Minority Communities: Report of the Special Rapporteur on Contemporary Forms of Slavery, including Its Causes and Consequences' (19 July 2022) UN Doc A/HRC/51/26.

[214] UNSR on Slavery (n 213) 2. See also Stéphanie Panichelli-Batalla, 'Castro's Legacy: Cuban Doctors Still Go Abroad, But It's No Longer Driven by International Solidarity' (*The Conversation*, 30 November 2016) <https://theconversation.com/castros-legacy-cuban-doctors-still-go-abroad-but-its-no-longer-driven-by-international-solidarity-65181>.

[215] This definition is derived from the following sources: Allain (n 208); Pasquale De Sena, 'Slaveries and New Slaveries: Which Role for Human Dignity?' (2019) 64 Questions of International Law: Zoom-In 7; EU Agency for Fundamental Rights, 'Severe Labour Exploitation: Workers Moving within or into the European Union: States' Obligations and Victims' Rights' (Report, 2015); Janie Chuang, 'The Challenges and Perils of Reframing Trafficking as "Modern-Day" Slavery' (2015) 5 Anti-Trafficking Review 146; Kotiswaran (n 6); Labour Exploitation Advisory Group (n 6); Palumbo (n 6) chs 1–2; Allain, *The Legal Understanding of Slavery: From the Historical to the Contemporary* (OUP 2013); Anti-Slavery International (n 213); UNGA, 'Promotion and Protection of All Human Rights, Civil, Political, Economic, Social and Cultural Rights, including the Right to Development: Report of the Special

Servitude is not defined under international law but is generally considered to encompass the four institutions and practices similar to slavery enumerated in Article 1 of the Supplementary Slavery Convention—debt bondage, serfdom, servile forms of marriage and the sale or adoption of children for exploitation—given that persons subject to these practices are deemed to have 'servile status' under Article 7. While servitude represents a severe form of exploitation, it does not have the same degree of severity as slavery, given that servitude does not require *de jure* or *de facto* possession of a person.[216] Yet servitude is also distinguishable from forced labour insofar as the former 'consists in the feeling of the victims that their condition is unchangeable and that the situation is not likely to improve',[217] whereas the latter turns on the menace of penalty and involuntariness. As described in Section 2(a), reports of CFMMs indicate that Cuban medical professionals working on CFMMs face compulsory wage deductions to finance Cuban trade unions or the Communist Party, in violation of international standards. While this situation is not *per se* debt bondage, compulsory deductions from wages are akin to debt bondage, as they require medical professionals to work to make payments to the Cuban Government. Consequently, there is a fine line between compulsory deductions from wages (a breach of labour rights) and forms of servitude (severe exploitation), underscoring that exploitation exists on a spectrum. As suggested in this report, one area for reform of agreements between Cuba and host States of Cuban doctors relates to the payment of wages and wage deductions.

Forced or compulsory labour is 'all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily'.[218] The requirement of 'under the menace of penalty' is a broad notion that 'can consist in the real and actual presence of a threat, which can assume different forms and degrees, of which the most extreme are those that imply coercion, physical violence, isolation or confinement, of the threat to kill the victim or his next of kin',[219] but also includes *de facto* penalties, such as the non-payment of wages, in circumstances where those wages are required to be paid to the worker. [220] The third element of the definition—involuntariness—requires the free and informed consent of the worker to enter into the labour relationship and to leave at any time.[221] Involuntariness may encompass situations where a worker's vulnerability means that they are unable to voluntarily enter into the employment relationship.[222] As observed in Section 2(a) of this report, Cuban law imposes substantial penalties on workers who leave their posts or who do not return to Cuba following completion of their mission. Article 176 of the Cuban Penal Code envisages up to eight years' imprisonment on professionals who abandon their posts or fail to return after completing a mission. Article 24.1 of the Cuban Migration Law (Law 1312) bars these individuals from re-entering Cuba, labelling them as 'deserters' or 'traitors'. Additionally, *de facto* travel

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Rapporteur on Contemporary Forms of Slavery, including Its Causes and Consequences' (28 July 2008) UN Doc A/HRC/9/20, paras 12–17.

[216] See, e.g. *Siliadin v France* App No 73316/01 (ECtHR, 26 July 2005) paras 122–124; cf *Rantsev v Cyprus and Russia* Application No 25965/04 (ECtHR, 7 January 2010) para 280.

[217] *CN and V v France* App No 67724/09 (ECtHR, 11 October 2012) para 91. See also Jean Allain, 'One the Curious Disappearance of Human Servitude from General International Law' (2009) 11 Journal of the History of International Law 303.

[218] Convention No 29 concerning Forced or Compulsory Labour, as modified by the Final Articles Revision Convention (adopted 28 June 1930, entered into force 1 May 1932) 39 UNTS 55, art 2(1). See also Protocol of 2014 to the Forced Labour Convention (adopted 28 May 2014, entered into force 9 November 2016) 3175 UNTS 201, preamble para 5.

[219] *Ituango Massacres v Colombia* (IACtHR Ser C No 148, 1 July 2006) 79. See also *Siliadin v France* (n 216).

[220] ILO, 'Standards on Forced Labour. The New Protocol and Recommendation at a Glance' (2016) 5; *CN and V v France* (n 217) para 77; *Chowdury and Others v Greece* App No 21884/15 (ECtHR, 30 March 2017); *Tibet Menteş v Turkey* App Nos 57818/10 and 4 others (ECtHR, 24 October 2018).

[221] ILO (n 220).

[222] *Chowdury and Others v Greece* (n 220) para 96.

bans have been reported on the family members of those working abroad or those who defect, and parents who terminate contracts can be prevented from reuniting with their children for up to eight years. The UN Special Rapporteur on Contemporary Forms of Slavery, Its Causes and Consequences has highlighted that these retaliatory practices amount to violations of international prohibitions of forced labour.[223]

Extreme exploitation encompasses exploitative practices that amount to violations of *jus cogens* norms. These include slavery and torture.[224] *Jus cogens* norms are 'accepted and recognised by the international community of States as a whole as a norm from which no derogation is permitted and which can be modified only by a subsequent norm of general international law having the same character'.[225] *Jus cogens* norms are binding on all States and are owed to the international community as a whole (*erga omnes*).[226] They are relevant to the discussion of exploitation in the context of CFMMs as they entail specific legal consequences.[227] Moreover, *jus cogens* norms also entail specific consequences for the law of State responsibility, including a prohibition on the invocation of any circumstances precluding wrongfulness,[228] and the obligation of all States not to recognise as lawful a situation created by a breach of such norms, nor render aid or assistance in maintaining that situation. Slavery and torture are *jus cogens* norms relevant to CFMMs.[229]

Slavery is prohibited under several international instruments and is a *jus cogens* norm.[230] It is defined as 'the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised'.[231] It is this element of ownership that distinguishes slavery from lesser forms of control over a person, with both *de jure* possession and *de facto* exercise of powers of ownership sufficient to meet the definition.[232] Conversely, servitude and forced labour require control as opposed to ownership or possession, meaning that the definition of slavery imposes a higher threshold and sits at the extreme end of the labour exploitation spectrum. Notwithstanding this distinction, however, it is not always easy to clearly distinguish between the *de facto* exercise of powers of ownership (amounting to slavery) and

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[223] See UNSR on Slavery (n 212) 2.

[224] This definition is derived from the following sources: Allain (n 208); Allain (n 217); Jean Allain and Robin Hickey, 'Property and the Definition of Slavery' (2012) 61 ICLQ 915; EU Agency for Fundamental Rights, 'Severe Labour Exploitation: Workers Moving within or into the European Union: States' Obligations and Victims' Rights' (Report, 2015); Chuang (n 217); Kotiswaran (n 215); Palumbo (n 215) chs 1–2; Jean Allain and Kevin Bales, 'Slavery and Its Definition' (2012) 14(2) Global Dialogue 1.

[225] International Law Commission, 'Draft Conclusions on Identification and Legal Consequences of Peremptory Norms of General International Law (*jus cogens*), with Commentaries' (2022) UNYBILC vol II, Part Two, draft conclusion 2.

[226] Ibid draft conclusion 17.

[227] Ibid draft conclusion 13.

[228] Ibid draft conclusion 18.

[229] ARSIWA art 41.2.

[230] Universal Declaration of Human Rights (10 December 1948) GA Res 217 A(III), art 4; Slavery Convention (adopted 25 September 1926, entered into force 9 March 1927) 60 UNTS 254 (Slavery Convention) art 1(1); Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (adopted 7 September 1956, entered into force 30 April 1957) 266 UNTS 3 (Supplementary Slavery Convention) arts 1–3 ; International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR) art 8(1)–(2); American Convention on Human Rights (adopted 22 November 1969, entered into force 18 July 1978) 1144 UNTS 144 (ACHR) art 6(1); International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (adopted 18 December 1990, entered into force 1 July 2003) 2220 UNTS 3 (CPMW) art 11.

[231] Slavery Convention (n 230) art 1(1).

[232] *Rantsev v Cyprus and Russia* (n 217) para 280; *J and Others v Austria* App No 58216/12 (ECtHR, 17 January 2017) para 16 (Concurring Opinion of Judge Pinto de Albuquerque, joined by Judge Tsotsoria).

lesser forms of control over persons (amounting to severe exploitation). For example, the IACtHR has interpreted the prohibition of slavery in the ACHR broadly to encompass situations of severe exploitation where the requisite element of ownership or possession is lacking. In *Trabajadores de la Hacienda Brazil Verde v Brazil*, 85 workers at a privately-owned estate claimed to be victims of slavery under Article 6 of the ACHR. The IACtHR found a breach of Article 6 affirming that deception, fraud, control of movement and physical and psychological forms of coercion against these workers in situations of vulnerability amounted to a 'situation of slavery', despite the fact that such a situation did not entail that victims could be regarded as being property of an owner.[233] The conditions to which the workers were subject in this case coincide with some of the patterns identified as concerning in the context of CFMMs, as described in Section 2(a) of this report: withholding of passports; surveillance; family separation and retaliatory measures. Consequently, notwithstanding the lack of *de jure* ownership or *de facto* possession of Cuban doctors by either the host State or Cuba, these conditions may indeed amount to a 'situation of slavery'. Agreements between Cuba and host States should expressly provide that Cuban doctors retain their passports and other identity documents, and that their immigration status in the receiving State is not tied exclusively to the CFMM program. Implementation of these best practices would assist in ensuring that Cuban doctors do not end up in situations of slavery.

A second *jus cogens* norm that may be relevant to exploitation during CFMMs is the prohibition of **torture**. Torture is prohibited under several international instruments as well as under customary international law. It is defined as:

> any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.[234]

This definition imposes a high threshold for an action or omission to constitute torture. First, it must attain a minimum level of severity to constitute 'severe pain or suffering', which must be greater than cruel, inhuman or degrading treatment or punishment.[235] Second, it must be done for a purpose, including obtaining information, punishment, intimidation, coercion or discrimination. Third, the severe pain or suffering must be done by, or with the instigation, consent or acquiescence of a public official or other person acting in an official capacity, meaning that severe pain and suffering inflicted by non-State actors does not constitute torture unless, for example, the State has a due diligence obligation to prevent torture, such that the State's failure to do so constitutes *de facto* consent or acquiescence to the severe pain and suffering.[236]

In the context of CFMMs, forced participation in the program may, under the most severe circumstances, amount to a violation of the prohibition of torture, should the minimum level of severity be attained. The Cuban Penal Code and the Cuban Migration Law envisage consequences for workers who leave their posts or who do not return to Cuba following completion of their mission. The threat of imprisonment or

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[233] *Trabajadores de la Hacienda Brazil Verde vs Brazil* Ser C No 318 (IACtHR, 20 October 2016) para 304.
[234] Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (adopted 10 December 1984, entered into force 26 June 1987) 1465 UNTS 112 (CAT) art 1(1); see also ACHR art 5.
[235] CAT art 16.
[236] CAT Committee, 'General Comment No 2: Implementation of Article 2 by States Parties' (24 January 2008) UN Doc CAT/C/GC/2, paras 17–19.

a ban on re-entering one's own country could lead to severe mental anguish that attains the minimum level of severity to constitute torture. Similarly, the enforced separation of workers from their children for up to eight years could result in such severe emotional distress to attain this minimum level of severity. While this would ultimately depend on the circumstances of each individual case, it is possible that in some cases these practices may not only amount to forced labour, or even slavery, but may also contravene the prohibition of torture.

The relationship between the spectrum and trafficking

Section 2(b) of this report addresses whether aspects of CFMMs may violate the prohibition of human trafficking under international law, as set out in Article 3(a) of the Palermo Protocol. This section builds on that analysis and explains why trafficking is placed on the spectrum of exploitation above severe and extreme exploitation.

The definition of trafficking requires that it be undertaken 'for the purpose of exploitation' and defines exploitation as including 'at a minimum, the exploitation or the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs'.[237] This aspect of the definition makes clear that trafficking may be undertaken for the purpose of either extreme exploitation (e.g. slavery) or severe exploitation (e.g. servitude or forced labour). Trafficking is therefore best placed on the spectrum of exploitation as a cross-cutting issue that typically occurs alongside either extreme exploitation and/or severe exploitation but is not a necessary condition of either form of exploitation. This is because it is a distinct yet related form of exploitation that *may* occur either prior to or after the occurrence of the extreme or severe exploitation. This is evident in the analysis in Section 2(b), which demonstrates that the patterns of recruitment, transportation and transfer of Cuban healthcare professionals from Cuba to receiving countries, through deception, coercion and/or abuse of a position of vulnerability by Cuba, have occurred for the purpose of forced labour.

Yet trafficking does not *always* lead to extreme or severe exploitation. Indeed, trafficking may occur in the absence of extreme or severe exploitation.[238] This is because the third element of the definition of trafficking—'for the purpose of exploitation'—does not require that the exploitation, in fact, occurs; rather, it requires an *intention* for it to occur. So much was recognised by former Judge Pinto de Albuquerque of the European Court of Human Rights in *J v Austria*, where he cautioned against the notion of 'exploitation creep' by explaining that 'not all forced labour is trafficking, just as not all trafficking is slavery'.[239] Accordingly, just like trafficking may occur in the absence of extreme or severe exploitation, so too may extreme or severe exploitation occur in the absence of trafficking.[240] Trafficking therefore occupies a unique place on the spectrum of exploitation.

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[237] Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (adopted 15 November 2000, entered into force 25 December 2003) 2237 UNTS 319, art 3(a).

[238] See, e.g. UNGA, 'Report of the Special Rapporteur on Contemporary Forms of Slavery, including Its Causes and Consequences' (27 July 2018) UN Doc A/HRC/39/52, para 16.

[239] See *J and Others v Austria* (n 232) para 40 (Concurring Opinion of Judge Pinto de Albuquerque, joined by Judge Tsotsoria).

[240] Jean Allain, '*Rantsev v Cyprus and Russia*: The European Court of Human Rights and Trafficking as Slavery' (2010) 10 Human Rights Law Review 546.

The State responsibility perspective: a call for compliance with human rights standards

The international law of State responsibility, enshrined in ARSIWA, establishes the architecture for the international responsibility of States when they do not comply with their international obligations. With respect to CFMMs, those obligations are established in the human and labour rights treaties analysed in Section 2 of this report.

The State responsibility framework operationalises a powerful set of avenues for accountability. The framework can serve as a trigger or an incentive for States to incorporate changes or to implement initiatives that will help them fulfil their obligations and ultimately avoid being responsible for an internationally wrongful act. As a last resort mechanism, if a State does not comply with its obligations and all requirements are met, another State will be able to invoke the latter's international responsibility for breaching international rules, claiming cessation, guarantees of non-repetition and all forms of restitution. It is in this dual spirit that this report examines CFMMs through the lens of the international law of State responsibility, building on the relevant legal frameworks, to emphasise the need to ensure that CFMMs are aligned with and respect international human rights and labour standards.

For ARSIWA to be invoked, the following elements need to occur:

- the breach of an international obligation, through an action or omission, by the injuring State[241] (see Section 2 for the mapping of those obligations for CFMM);
- that the breach is attributable to the injuring State (Articles 4–11 of ARSIWA); and
- that the injuring State cannot justify the breach via any of the circumstances precluding wrongfulness.

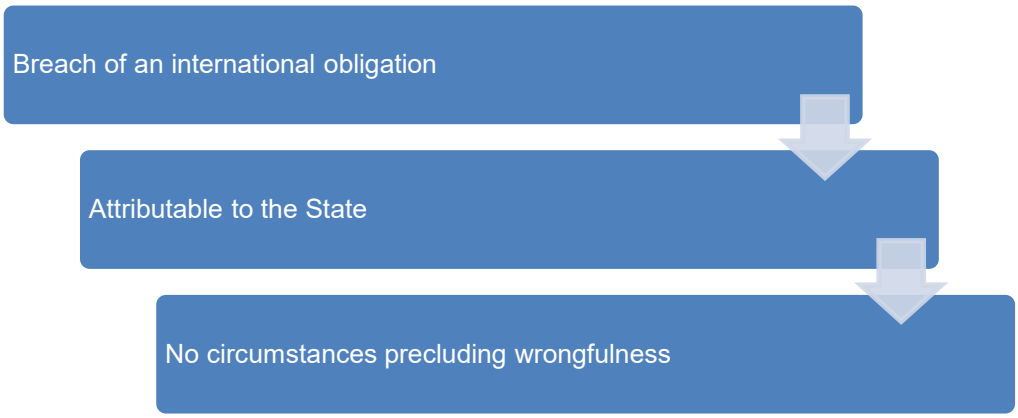

Figure 4: Elements of State Responsibility

If these three elements occur, in addition to the mechanisms that treaties discussed in Section 2 articulate for non-compliance situations,[242] other States can invoke the international responsibility of the injuring

[241] United States Diplomatic and Consular Staff in Tehran (United States of America v Iran) (Judgment) [1980 ICJ Rep 3, para 61.

[242] These include treaty-specific periodic reviews, the overarching Universal Periodic Review, individual communications and inter-State communications before UN treaty bodies.

State before an international court or in fora outside the courtroom (e.g. negotiation, special procedures or human rights treaty bodies).

Individual sanctions, a response that some States and international organisations adopt vis-à-vis specific human rights violations, also build on the notion of accountability. It is, however, important to emphasise that: first, although sometimes individual action can lead to State responsibility, the focus of individual sanctions is and should be on individual responsibility and not on State responsibility; second, given the systemic nature of the risks identified in CFMMs, individual sanctions have limited potential in this context; and, third, sanction regimes must be in accordance with international law, the UN Charter and the norms and principles governing peaceful relations among States[243] and incorporate the necessary guarantees for the individuals subjected to them.[244]

It is only other States, not individuals, NGOs or international organisations, who can invoke the responsibility of the injuring State, either as directly injured States (Article 42 of ARSIWA), or based on the fact that the obligation breached was owed to a group of States (*erga omnes partes*) or to the whole international community (*erga omnes*) (Article 48 of ARSIWA). The latter option is reserved for obligations that would be at the most serious end of the 'spectrum of unfree labour' (see Section 2(c) of the report). It is worth noting, however, that these stakeholders (individuals, NGOs or international organisations) can play a vital role in supporting State efforts to initiate proceedings, as occurred in *The Gambia v Myanmar*, with the support of the Organisation of Islamic Cooperation. On 11 November 2019, The Gambia filed a case before the International Court of Justice on behalf of the 57 members of the Organisation of Islamic Cooperation.[245]

Who is breaching the rules: Cuba or the host country?

The international obligations with which Cuba has to comply in the context of CFMMs have been presented in Section 2 of this report. Those are distilled from the human and labour rights treaties that it has ratified, which establish obligations relevant to the protection of doctors on CFMMs. These include ICERD, CEDAW, CAT, CRC, the Convention on the Protection of all Persons from Enforced Disappearance, ICRPD, the Palermo Protocol and various ILO Conventions.[246] It has also signed, but not ratified, the ICCPR, the ICESCR and the CEDAW Protocol, which impose the obligation not to undertake any action that contravenes the object and purpose of those treaties. As a member of the ILO, Cuba also has the obligation to respect, protect and promote the principles concerning fundamental rights contained in certain ILO Conventions, even if it has not ratified all of them. The table below summarises ratifications of the relevant treaties by Cuba.

[243] UNGA Res 74/154 (18 December 2019) UN Doc A/RES/74/154, para 4.
[244] UN Special Rapporteur on the Negative Impact of Unilateral Coercive Measures on the Enjoyment of Human Rights, 'Guiding Principles on Sanctions, Business and Human Rights' (February 2025) <https://www.ohchr.org/sites/default/files/documents/issues/ucm/events/international-conf-sanctions-business-hr/gps-sanctions-business-hr.pdf>.
[245] The Gambia alleged that Myanmar failed to fulfil its obligations to prevent and punish acts of genocide committed against the Rohingya in Rakhine State as required under the 1948 Convention on the Prevention and Punishment of Genocide.
[246] ILO Conventions C19, C29, C52, C87, C94, C95, C97, C98, C100, C105, C111, C131, and C155.

Ratification status		Patterns			
Treaty	Status (Cuba)	Working Conditions	(Other) Coercive Practices	Contractual Obligations	Living Conditions
CERD	✔	✔	✘	✘	✘
ICCPR	✘[247]	✔	✔	✘	✔
Optional Protocol to the ICCPR	✘	✔	✔	✘	✔
ICESCR	✘[248]	✔	✘	✘	✔
Optional Protocol to the ICESCR	✘	✔	✘	✘	✔
CEDAW	✔	✔	✘	✘	✘
Optional Protocol to the CEDAW	✘[249]	✘	✔	✘	✘
CAT	✔	✘	✔	✘	✘
CRC	✔	✘	✔	✘	✔
CPMW	✘	✔	✔	✔	✔
ICPPED	✔	✘	✔	✘	✘
CRPD	✔	✔	✔	✘	✔
Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children	✔	✔	✔	✔	✔
American Convention on Human Rights	✘	✔	✔	✘	✔
European Convention on Human Rights	✘	✔	✔	✘	✔
African Charter on Human and Peoples' Rights	✘	✔	✔	✘	✔
Equality of Treatment (Accident Compensation)	✔	✔	✘	✘	✘

[247] Signed with declaration, no ratification, 2008.
[248] Signed with declaration, no ratification, 2008.
[249] Signed with relevant declaration, no ratification, 2000.

Convention (ILO C19)					
Forced Labour Convention (ILO C29)	✔	✔	✘	✘	✘
Forty-Hour Week Convention (ILO C47)	✘	✔	✘	✘	✘
Holidays with Pay Convention (ILO C52) [revised in 1970 by C132, no longer open for ratification]	✔	✔	✘	✘	✘
Freedom of Association and Protection of the Right to Organise Convention (ILO C87)	✔	✔	✔	✔	✘
Labour Clauses (Public Contracts) Convention (ILO C94)	✔	✔	✘	✔	✘
Protection of Wages Convention (ILO C95)	✔	✔	✘	✘	✘
Migration for Employment Convention (Revised) (ILO C97)	✔	✔	✔	✔	✘
Right to Organise and Collective Bargaining Convention (ILO C98)	✔	✔	✘	✘	✘
Equal Remuneration Convention (ILO C100)	✔	✔	✘	✘	✘
Abolition of Forced Labour Convention (ILO C105)	✔	✔	✘	✘	✘
Discrimination (Employment and Occupation) Convention (ILO C111)	✔	✔	✘	✘	✘
Social Policy (Basic Aims and	✘	✔	✘	✘	✔

Standards) Convention (C117)					
Equality of Treatment (Social Security) Convention (ILO C118)	✗	✓	✗	✗	✗
Minimum Wage Fixing Convention (ILO C131)	✓	✓	✗	✗	✗
Holidays with Pay Convention (Revised) (ILO C132)	✗	✓	✗	✗	✗
Migrant Workers (Supplementary Provisions) Convention (ILO C143)	✗	✓	✓	✓	✗
Occupational Safety and Health Convention (ILO C155)	✓	✓	✓	✓	✓
Termination of Employment Convention (ILO C158)	✗	✗	✓	✗	✗
Violence and Harassment Convention (ILO C190)	✗	✓	✓	✗	✗
Protocol of 2014 to the Forced Labour Convention (ILO P29)	✗	✓	✓	✓	✓

Figure 5: Relevant instruments by patterns of concern and status of ratification by Cuba

On the basis of the primary obligations that all those conventions establish, set up in Section 2 of this report, Cuba could be held responsible for breaches of those treaties in the context of Cuban Foreign Medical Missions, if those breaches are actions or omissions attributable to the Cuban State. The general rule is that Cuban doctors are employed by the Cuban Government, and therefore most violations of labour rights and many of the human rights concerns can be attributed most directly to the Cuban State.

Host States also have obligations towards Cuban doctors and can also be internationally responsible under the terms of ARSIWA. Brazil, Honduras and Guatemala, the host countries on which this report focuses most strongly, have ratified most of the key human and labour rights treaties establishing obligations relevant to the protection of doctors on CFMMs. These include the ICCPR, ICESCR, ICERD, CEDAW, CAT, CRC, the Convention on the Protection of all Persons from Enforced Disappearance,

ICRPD, the Palermo Protocol and various ILO Conventions. The table below presents the ratification of relevant treaties by Brazil, Guatemala and Honduras.

Ratification Status			
Treaty	Brazil	Guatemala	Honduras
CERD	✔	✔	✔
ICCPR	✔	✔	✔
Optional Protocol to the ICCPR	✔	✔	✔
ICESCR	✔	✔	✔
Optional Protocol to the ICESCR	✘	✘	✔
CEDAW	✔	✔	✔
Optional Protocol to the CEDAW	✔	✔	✘
CAT	✔	✔	✔
CRC	✔	✔	✔
CPMW	✘	✔	✔
ICPPED	✔	✘	✔
CRPD	✔	✔	✔
Palermo Protocol	✔	✔	✔
ACHR	✘	✔	✔
ECHR	✘	✘	✘
ACHPR	✘	✘	✘
Equality of Treatment (Accident Compensation) Convention (ILO C19)	✔	✔	✘
Forced Labour Convention (ILO C29)	✔	✔	✔
Forty-Hour Week Convention (ILO C47)	✘	✘	✘
Holidays with Pay Convention (ILO C52) [revised in 1970 by C132, no longer open for ratification]	✔	✘	✘
Freedom of Association and Protection of the Right to Organise Convention (ILO C87)	✘	✔	✔
Labour Clauses (Public Contracts) Convention (ILO C94)	✔	✔	✘
Protection of Wages Convention (ILO C95)	✔	✔	✔
Migration for Employment Convention (Revised) (ILO C97)	✔	✔	✘
Right to Organise and Collective Bargaining Convention (ILO C98)	✔	✔	✔
Equal Remuneration Convention (ILO C100)	✔	✔	✔
Abolition of Forced Labour Convention (ILO C105)	✔	✔	✔
Discrimination (Employment and Occupation) Convention (ILO C111)	✔	✔	✔
Social Policy (Basic Aims and Standards) Convention (C117)	✔	✔	✘
Equality of Treatment (Social Security) Convention (ILO C118)	Ratification partial, 1969 (Acceptance	Ratification partial, 1963 (Acceptance	✘

	of branches (a) to (g))	of branch (c))	
Minimum Wage Fixing Convention (ILO C131)	✔	✔	✘
Holidays with Pay Convention (Revised) (ILO C132)	Ratification partial, 1998 (Length of holiday specified: 30 calendar days)	✘	✘
Migrant Workers (Supplementary Provisions) Convention (ILO C143)	✘	✘	✘
Occupational Safety and Health Convention (ILO C155)	✔	✘	✘
Termination of Employment Convention (ILO C158)	✘	✘	✘
Violence and Harassment Convention (ILO C190)	✘	✘	✘
Protocol of 2014 to the Forced Labour Convention (ILO P29)	✘	✘	✘

Figure 6: Ratification status of key instruments by Brazil, Guatemala and Honduras

The first important consideration looking at host States is that the obligations set out in the relevant legal frameworks analysed in Section 2 of this report include ensuring that foreign workers in the territory of the State are treated in accordance with those international human rights and labour standards. The most common scenario is that of the contractual relationship being established between the doctors and a Cuban public body. In this scenario, host States still have obligations to run labour inspections, to protect freedom of association, to guarantee decent salaries, to prevent and prosecute confiscation of passports and to punish any conduct amounting to trafficking or exploitation, be that conducted by a private entity or a State organ. Not doing so could amount to aiding or assisting Cuba in violating an international rule. Under Article 16 of ARSIWA, 'a State which aids or assists another State in the commission of an internationally wrongful act by the latter is internationally responsible for doing so if: (a) that State does so with knowledge of the circumstances of the internationally wrongful act; and (b) the act would be internationally wrongful if committed by that State'.

Other scenarios include contracting Cuban doctors as freelancers, as in Calabria (Italy), or considering that Cuban healthcare professionals as employees of the receiving State's Ministry, as in Rio Negro (Argentina), with clear references to labour legislation.[250] In this scenario, it is the obligation of the host State to ensure that its self-enforced contractual practices, working conditions and living conditions are in line with international standards, and that there is no room for retaliatory practices.

Attribution and circumstances precluding wrongfulness

The main rule for **attribution** in this context is Article 4 of ARSIWA, which establishes that '(t)he conduct of any State organ shall be considered an act of that State under international law, whether the organ exercises legislative, executive, judicial or any other functions, whatever position it holds in the

[250] Rio Negro Province–Cuba, *Contrato de Prestación de Servicios de Asesoria entre el Ministerio de Salud y Desarollo Social y la Unidad Central de Cooperación Medica (contrato no ARG/2001)* para. 8.

organization of the State'. As indicated in Section 3(c) of this report, the signatories of the agreements vary on the Cuban side. They are generally signed either by the Cuban Ministry of Public Health or the Cuban entity *Comercializadora de Servicios Médicos Cubanos* (C.S.M.C.). But on some occasions, they have been contracted by other Cuban entities, such as the *Unidad Central de Cooperación Médica*[251] or the Cuban Ministry of Foreign Trade and Foreign Investment.[252] All those bodies fall under the definition of 'organ of the State' as required by Article 4 of ARSIWA, and their actions or omissions agreeing and implementing those agreements are, therefore, attributable to the Cuban State. The same applies to the bodies signing the agreements with Cuba, which fall under the definition of 'organ of the state' of Article 4. Some bilateral agreements are signed between Cuba and regional governments in the host country. It is noteworthy that any responsibility arising from breaches committed by those regional governments will still be attributable to the host State under Article 4 of ARSIWA, as it establishes that '[t]he conduct of any State organ shall be considered an act of that State under international law, (…) whatever its character as an organ of the central Government or of a territorial unit of the State'.

Other rules of attribution could become relevant for some of the patterns identified in this report,[253] particularly those related to surveillance or retaliatory measures, as the action could be performed by private actors fulfilling public functions, the public functions being enforcement and implementation of aspects of CFMMs,[254] or by State officials contravening instructions.[255] In both instances, the connection to the State is sufficient so that the breach is attributable to the Cuban State, although evidence gathering may be a challenge.

The analysis of possible **circumstances precluding wrongfulness** in the context of CFMMs leads to the conclusion that no circumstances precluding wrongfulness would be arguable for Cuba and host States not to comply with international obligations, in line with the restrictive interpretation that has been given to those circumstances in international law more generally.

While unlikely, a possible circumstance that either Cuba or host countries could potentially explore, under Article 24 of ARSIWA, is justifying any breaches to protect the population in the host country from a health emergency. Article 24 establishes that '(t)he wrongfulness of an act of a State not in conformity with an international obligation of that State is precluded if the author of the act in question has no other reasonable way, in a situation of distress, of saving the author's life or the lives of other persons entrusted

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[251] Rio Negro Province (Argentina)–Cuba, *Contrato de Prestación de Servicios de Asesoria entre el Ministerio de Salud y Desarollo social y la Unidad Central de Cooperación Médica (contrato no ARG/2001)* (signed on 21/09/2000, approved by Decree No 507 on 21/05/2007).

[252] Algeria–Cuba, *Accord Cadre Relatif a la Coopération dans le Domaine de la Santé (signed on 10/05/2016, approved by Presidential Decree No 19-339 on 10/12/2019).*

[253] A clarification is pertinent concerning Art 6 of the ARSIWA, which provides that the 'The conduct of an organ placed at the disposal of a State by another State shall be considered an act of the former State under international law if the organ is acting in the exercise of elements of the governmental authority of the State at whose disposal it is placed'. This provision provides a basis for the responsibility of the host State for wrongful acts that a Cuban doctor undertaking public medical functions on behalf of the host State could incur. Since this report does not focus on that kind of situation and instead looks at possible wrongful acts related to allegations of exploitation of those doctors, this provision is not relevant for the patterns analysed in this report.

[254] Art 5 of the ARSIWA provides that: The conduct of a person or entity which is not an organ of the State under article 4 but which is empowered by the law of that State to exercise elements of the governmental authority shall be considered an act of the State under international law, provided the person or entity is acting in that capacity in the particular instance.

[255] Art 7 of the ARSIWA provides that: The conduct of an organ of a State or of a person or entity empowered to exercise elements of the governmental authority shall be considered an act of the State under international law if the organ, person or entity acts in that capacity, even if it exceeds its authority or contravenes instructions.

to the author's care'. In a health emergency context, such as the COVID-19 pandemic, the protection of the lives of beneficiaries of the CFMM in a destination country would be the responsibility of that country. This justification, therefore, does not work for Cuba. Even for the host country, trying to justify exploitative conditions for doctors under Article 24 seems quite a stretch, as it would require the challenging task of proving that exploiting doctors was the only way to deal with such a health crisis.

Consequences of State responsibility

In cases where Cuba or host States are breaching international law, their international responsibility could be invoked to claim the cessation of the most serious human and labour rights violations in CFMMs. It can also lead to guarantees of non-repetition (Article 30 of ARSIWA), and various forms of reparation, including compensation for material and moral damage,[256] changes in legislation and formal apologies by the Cuban authorities (Article 34 of ARSIWA). This mechanism could be triggered for violations of obligations identified in Section 2 of this report. Given the nature of those obligations and the fact that the rights violated would be the rights of Cuban citizens, the most plausible scenario is one where a State party to the relevant treaty decides to invoke Cuba's or host States' international responsibility for an internationally wrongful act. This can occur in international courts, as well as in alternative fora, such as UN treaty bodies or special procedures.[257] This action could be led by one or more States Parties, considering the growing trend towards collective claims in international litigation.[258]

The State responsibility framework is also a tool to engage in dialogue with those States to ensure reforms that align the programme with international labour and human rights standards. Its rationale can help inform collaboration with Cuba and host States about how to ensure that the programme aligns with applicable international human and labour rights standards. UN human rights treaty bodies, Special Rapporteurs and ILO representatives would be ideally placed to lead on this type of dialogue, ensuring institutional support to Cuba and host States, a cooperative spirit and a neutral and law-based approach to such efforts.

This section examines, through the lens of the law of State responsibility, the main aspects of CFMMs that, based on our literature review and analysis of bilateral agreements, raise concerns or could be better aligned with international standards. Some of those aspects relate to the content of bilateral agreements, whereas others relate to policies, initiatives or lack thereof, at the implementation level. The identification of these practices is the basis for our recommendations.

A general concern is the lack of reference to international human rights and labour standards in bilateral agreements. The fact that they are not explicitly mentioned in those agreements does not render them less enforceable. Yet an explicit reference to those international commitments can help ensure that the implementation of the agreements is more aligned with international standards. If a structured dialogue on CFMMs with Cuba and host States were to be established under the leadership of the UN or another international organisation, this could be one of the baseline aspects to consider.

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[256] Moral damage includes individual pain and suffering (ILC Commentary to the Articles, Commentary to Article 31, para 6), which can be part of the injury caused to Cuban doctors suffering a situation of exploitation.
[257] Regional human rights courts and commissions follow their own State responsibility rules, but the international law of State responsibility remains relevant to their decisions, as a general rule of international law.
[258] R Garciandia and JP Gauci, 'Inter-State Communications before UN Human Rights Treaty Bodies: Testing the Waters for Collective Communications' (2024) 13 International Human Rights Law Review 160.

Working conditions

Concerns around the forced nature of the participation of Cuban doctors in CFMMS point towards the potential international responsibility of Cuba for breaching ILO C29 and the 1957 Abolition of Forced Labour Convention. This led the ILO Committee of Experts on the Application of Conventions and Recommendations (CEAR) to request in 2022 specific information from the Cuban Government. If those concerns are confirmed, those conventions could be the basis for the invocation of Cuba's responsibility for breaches related to the restriction of access to free labour. The same would apply to the violation of other provisions concerning salaries, unauthorised deductions, working hours or holidays. Any working conditions amounting to labour exploitation should cease and may trigger the State responsibility avenue. Particularly relevant is the protection of freedom of association, as it articulates workers' ability to stand up for their rights collectively without threats or retaliatory reactions.

Some of the bilateral agreements examined in this report include details about Cuban workers' working hours, shift schedules, and on-call shifts. This is a promising practice that a structured dialogue with Cuba and host countries should encourage. However, enforcement mechanisms must be in place to ensure that these provisions are effectively implemented. The host States' role in enforcement is particularly important and requires effective inspections in all areas of the country to ensure that the working conditions of doctors working in remote places are as secure as those of doctors working in more accessible areas.

Clauses included in some of the examined bilateral agreements indicate certain promising practices, which could pave the way for medical missions that are more protective of doctors' rights. However, to date, these remain the exception and are usually not accompanied by sufficient enforcement mechanisms. A promising practice on equality is found in the 2014 Portugal–Cuba Agreement, which requires Portugal to '[e]nsure Cuban professionals receive the same working conditions and responsibilities as their Portuguese counterparts'.[259] A clause of this kind can be the basis for policies or initiatives that guarantee better conditions for Cuban doctors in the destination country, comparable to those of local doctors. Other promising practices in bilateral agreements concern trade union rights. Cuba's agreement with Portugal states that the receiving entity will pay the 'monthly fees to the Portuguese Medical Order',[260] and the 2001 Agreement with South Africa requires Cuban doctors to 'register with the Health Professions Council of South Africa before commencing clinical work',[261] suggesting that Cuban doctors are part of the local medical association. This can facilitate access to information about human and labour rights and avenues for their protection.

A free civic space is a requirement for the enjoyment of human rights, and in this context can be an instrument to ensure that the rights of doctors in CFMMs are protected. This is illustrated by the very important role that civil society organisations have played supporting Cuban doctors in countries like Brazil, where most of the promising initiatives supporting doctors who are part of these missions come from the civil society space. Indirectly, host States' policies and initiatives that nurture and support a free civic space are contributing to the protection of human rights, including the rights of Cuban doctors in medical missions.

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[259] Portugal–Cuba, *Alteração e Aditamento ao Acordo de Cooperação Para a Prestaçao de Serviços Médicos* (30/04/2014) art 3.2(c).
[260] Ibid art 3.2(b).
[261] South Africa–Cuba, *Agreement on Cooperation in the Field of Health* (30/03/2001) annexure A, art 5.

Contractual (mal)practice

A concerning contractual (mal)practice is that of 'dual contracts'. Journalists have reported that in some countries, Cuban doctors sign a contract with the host State authorities (national or regional), and another one with a Cuban public body. Information available indicates that the agreement between doctors and the Cuban authorities tends to have fewer protective provisions and often includes conditions that will impact the provisions of the agreement between the doctors and the host State. For example, the agreement with the host State may set the salary that is to be paid to the doctor, which may be above the national minimum wage. However, the agreement with Cuba would then require the payment of a significant part of that salary to the Cuban State, making working conditions exploitative. This practice of 'dual contracts' creates a complex contractual situation in which the international responsibility of Cuba and the host State could be invoked. Cuba could be responsible for the exploitative working conditions of doctors; the host State could be responsible for failing to conduct the necessary labour inspections and ensure that the conditions of employment included in the agreement were not implemented; it could also incur international responsibility for enabling or allowing Cuba's violations of its international obligations, under Article 16 of ARSIWA.

An in-principle promising practice regarding contracts is that found in the 2022 cooperation agreements with the Calabria Region, which are the most detailed regarding Cuban workers' contractual relations with the receiving authorities. Indeed, the *Contratto Quadro Internazionale* mentions a 'work contract [being] concluded' with Cuban healthcare professionals. It also states that Cuban workers will 'adher[e] to the directives of the responsible authorities of the host institutions, [commit] to perform their activities according to the standards, protocols, and regulations applicable in the Republic of Italy',[262] thus suggesting a relationship of authority between the worker and the host institution, as well as binding terms related to the healthcare professional's duties and responsibilities.[263] However, as indicated above, there are reports of double contracts, where in some cases the employee signs two different contracts, one with the host State and one with Cuba, or of contracts that are then not enforced. Labour inspections should be in place to ensure that such practices are identified and prosecuted, or otherwise there could be room for the invocation of the responsibility of Cuba and host States.

Even if only one contract is in place, NGOs have reported that Cuban workers are often not provided with copies of their employment contracts and, if they are, they may not be given sufficient time to read and familiarise themselves with the contracts before signing. If proven, this (mal)practice should cease as it represents a restriction on free labour, it increases the risk of exploitation and contributes to the forced nature of the employment relationship. Also relevant to the forced nature of participation in CFMMs, Cuba (or host States) should ensure that there is room for employees to modify contractual terms and terminate their contracts without penalty or threats. Otherwise, this may also be the basis for State responsibility.

As anticipated in the example above, another concerning reported pattern is the withholding of wages, with a significant portion of the fee paid by host countries being retained by the Cuban Government, and with doctors having to navigate the uncertainty of not knowing which percentage of their wage will be withheld every month, as this changes constantly. Those practices should cease, and transparency in contracts should be a priority to provide guarantees of non-repetition and ensure that Cuba and host countries do not incur international responsibility. This element should also be part of a structured

[262] Calabria Region–Cuba, *Contratto quadro internazionale per la somministrazione di personale medico* (approved by DCA No 87 on 17/08/2022) art 2.1.
[263] A sample contract was also annexed to another cooperation agreement (primo contratto collettivo) which is also positive in terms of transparency.

dialogue on CFMMs with Cuba and host countries. Steps have been taken in this regard as part of the *Agreement on Cooperation in the Field of Health* with South Africa, which mentions that the receiving State provides 'the salary to be paid to the doctor[s]'.[264] While this is, in principle, a good practice, it does not contain any provision ensuring that such salary is paid directly and in full to the Cuban healthcare workers, and that does not make any explicit reference to whether that salary remains in the doctor's account or an amount is subsequently transferred from the doctor's account to the Cuban authorities. Risk mitigation measures should be in place to ensure that such practice is meaningful in practice.

Living conditions

As analysed in Section 2, any violations of international human rights standards related to the living conditions of doctors who participate in the CFMM programme should cease, and Cuba and host countries should ensure that conditions within the programme do not amount to poor and unsafe living conditions, that there are no restrictions on movement and on socialising, no violations of the right to privacy and communications, no confiscation of passports or prohibition of travel and that Cuban workers face no threats, abuses and violence during their mission. ARSIWA offers an avenue for accountability of Cuba and host countries, if those violations materialise. Family separation is also a problematic aspect of CFMMs. The programme should allow for children to be with their parents during missions, and ensure adequate living conditions for those children, including the right to education.

Some of the analysed bilateral agreements between Cuba and host countries include clauses that could contribute to an enhanced protection of the living conditions of Cuban doctors participating in CFMMs. Yet some of them are limited, and the most promising ones remain an exception and lack enforcement. A structural dialogue with Cuba and host countries should include an examination of these practices and a discussion on how to ensure the effective enforcement of those contributing to the protection of the rights of Cuban doctors. Some of those clauses are referred to below.

On confiscation of passports, the 2001 *Agreement on Cooperation in the Field of Health* with South Africa requires Cuba to 'assist identified medical doctors […] with the obtaining of passports'.[265] However, this seems to be for the purpose of exiting Cuba and obtaining the relevant authorisation to enter and stay in South Africa. The agreement does not include any other provision ensuring that Cuban workers keep their passports during the mission. The 2012 *Acuerdo Subsidiario de Cooperación* with Guatemala declares that the 'Ministry of Public Health will give an ID card to each collaborator'. However, this ID card is aimed at 'identif[ying] them in the activities they perform',[266] so it is most likely a professional identification and does not allow travel. Overall, the few provisions addressing Cuban workers' passports or identification do not protect the workers from having their documents taken away upon arrival in the receiving country, as reported by a number of NGOs.

Agreements tend to refer to the right to health of Cuban doctors participating in CFMMs. Specialised agreements are particularly detailed regarding the healthcare and safety of Cuban professionals during their mission. 25 specialised bilateral agreements include provisions relating to Cuban workers' healthcare during their mission in the host State. 13 of these agreements include provisions relating to the receiving State's responsibility to '[cover] the costs and [facilitate] the process' for Cuban workers' return to Cuba in case of serious illness or accident.[267] 13 bilateral agreements also cover repatriation

[264] South Africa–Cuba, *Agreement on Cooperation in the Field of Health* (30/03/2001) annexure A, art 4(i).
[265] South Africa–Cuba, *Agreement on Cooperation in the Field of Health* (30/03/2001) annexure A, art 6(c).
[266] Guatemala–Cuba, *Acuerdo Subsidiario de Cooperación* (4/10/2012) art 3(e).
[267] Algeria–Cuba, *Convention pour la mise en œuvre des modalités de coopération dans le domaine de la santé* (30/01/2018, ratified by Presidential Decree No 20/115 on 6/05/2020) art 4.2(n); Bolivia–Cuba, *Acuerdo de*

costs in case of death of a Cuban worker during their mission abroad,[268] which may also cover 'sanitary service' and funeral expenses.[269] The 2001 cooperation agreement with South Africa goes further and provides for the payment of Cuban workers' travelling expenses in case of 'illness or death of his or her immediate family member (spouse, children, father, mother) in Cuba'.[270] These provisions tend to focus on the costs of healthcare and don't include guarantees on the type/quality of care provided or ensuring how workers access healthcare during their missions. While they are a positive reference, no reference is made to other rights of those doctors, in particular labour rights, access to justice and freedom of movement. In fact, harsh working conditions may affect Cuban doctors' physical and mental health, and that is not considered explicitly. Two agreements mention human rights. However, one refers to the patients' human rights[271] while the other mentions the 'respect for workers' [...] human rights'.[272] More explicit references should be made to other rights and to how their limited enjoyment may affect the right to health, and enforcement mechanisms should be in place to ensure compliance with those clauses. Along the same lines, the inclusion of a required general medical examination of workers upon arrival is a promising practice. As positive as that examination may be, it seems rather limited as part of Cuban doctors' welcome package, which could include training on their human and labour rights. It is, however, important to design such training to include mitigation measures for the risk that it becomes a 'ticking-the-box' exercise by Cuba or the host State.

An in-principle promising practice is that of the 2008 agreement with Qatar, which provided Cuban workers with 'secure housing' and 'security services at that housing'.[273] Four specialised agreements also provide that the execution of the cooperation may be suspended in case of 'concerns for the safety and

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Cooperación entre el Ministerio de Salud Pública de la República de Cuba y el Ministerio de Salud del Estado Plurinacional de Bolivia (9/06/2015) art III(n); Botswana–Cuba, *Memorandum of Understanding/Agreement for the Provision of Medical Services* (30/08/2012) art 5.2(i); Ecuador–Cuba, *Convenio interministerial de cooperación y servicios médicos profesionales* (11/10/2012) art 3(8); Guatemala–Cuba, *Acuerdo de Cooperación en Materia de Salud* (20/11/2002) art VIII; Guatemala–Cuba, *Acuerdo Subsidiario de Cooperación* (4/10/2012) art 3(g); Mali–Cuba, *Accord de coopération* (19/10/2006) art 5(k); Mexico City–Cuba, *Acuerdo de Cooperación Bienal* (23/04/2020) art IV(4); Mexico City–Cuba, *Acuerdo de Cooperación Bienal* (16/12/2020) art IV(4); South Africa–Cuba, *Agreement on Cooperation in the Field of Health* (30/03/2001) annexure A, art 4(c); Uruguay–Cuba, *Acuerdo Complementario de Cooperación para dar Continuidad al Centro Oftalmológico 'José Martí'* (28/06/2013) art 5(k); Uruguay–Cuba, *Acuerdo Complementario de Cooperación para dar Continuidad al Centro Oftalmológico 'José Martí'* (12/10/2016) art 5(k); Uruguay–Cuba, *Convenio para la Prestación de Servicios en la Esfera de la Salud* (28/11/2018) art III(r).

[268] Algeria–Cuba, *Convention pour la mise en œuvre des modalités de coopération dans le domaine de la santé* (30/01/2018, ratified by Presidential Decree No 20/115 on 6/05/2020) art 4.2(n); Botswana–Cuba, *Memorandum of Understanding/Agreement for the Provision of Medical Services* (30/08/2012) art 5.2(i); Ecuador–Cuba, *Convenio interministerial de cooperación y servicios médicos profesionales* (11/10/2012) art 3(8); Guatemala–Cuba, *Acuerdo de Cooperación en Materia de Salud* (20/11/2002) art VIII; Guatemala–Cuba, *Acuerdo Subsidiario de Cooperación* (4/10/2012) art 3(h); Mali–Cuba, *Accord de coopération* (19/10/2006) art 5(j); Mexico City–Cuba, *Acuerdo de Cooperación Bienal* (23/04/2020) art IV(4); Mexico City–Cuba, *Acuerdo de Cooperación Bienal* (16/12/2020) art IV(4); Qatar–Cuba, *Agreement for the Provision of Medical Services* (22/04/2008) art 4(2)(f); South Africa–Cuba, *Agreement on Cooperation in the Field of Health* (30/03/2001) annexure A, art 4(e); Uruguay–Cuba, *Convenio para la Prestación de Servicios en la Esfera de la Salud* (28/11/2018) art III(r).

[269] Uruguay–Cuba, *Acuerdo Complementario de Cooperación para dar Continuidad al Centro Oftalmológico 'José Martí'* (28/06/2013) art 5(j); Uruguay–Cuba, *Acuerdo Complementario de Cooperación para dar Continuidad al Centro Oftalmológico 'José Martí'* (12/10/2016) art 5(j).

[270] South Africa–Cuba, *Agreement on Cooperation in the Field of Health* (30/03/2001) annexure A, art 4(c).

[271] Honduras–Cuba, *Convenio de Cooperación en Materia de Salud* (24/11/2016) clause 6(1).

[272] Calabria Region–Cuba, *Primo contratto collettivo* (approved by DCA No 161 on 16/11/2022) art 3(i).

[273] Qatar–Cuba, *Agreement for the Provision of Medical Services* (22/04/2008) arts 4(2)(d), 4(2)(e).

physical integrity of the Cuban healthcare professional'.[274] However, they do not clarify how such concerns are to be raised and how the experiences and views of the doctors involved will be taken into account. Importantly, they do not mention any procedure for Cuban workers to raise concerns for their safety and physical integrity during a mission.

Key to living conditions of Cuban doctors, 9 specialised agreements mention that workers receive an allowance or stipend during their mission to cover all or part of their expenses during their stay. The cooperation agreement with the Argentinian province of Rio Negro, for example, mentions the 'payment of a subsistence allowance' to workers,[275] whereas the agreement with Ecuador refers to the provision of a 'travel allowance' to workers.[276] While these are all promising practices, it could be established that the stipend or travel allowance received by Cuban doctors is equivalent to the amount that the salary of a local doctor represents in terms of such allowance.

While human rights monitoring mechanisms would be a suitable avenue to monitor whether Cuba and host States comply with bilateral agreements and international standards in relation to living conditions and all other aspects covered in this report, a structured dialogue could discuss with Cuba and host States the establishment of an ad hoc monitoring commission, supervised by the UN Office of the High Commissioner for Human Rights, that periodically monitors compliance with those agreements and their alignment with international human and labour rights standards.

(Other) Coercive practices

Surveillance, retaliatory measures and exile for doctors not completing their mission are allegations of patterns that, if confirmed, should cease immediately as they constitute serious violations of international human rights and labour standards. These violations could trigger State responsibility, both for Cuba and for host States, as explained above.

In addition to this, it is concerning that two of the bilateral agreements analysed in this report address the case of workers who decide to leave the mission in terms that make the situation of Cuban doctors vulnerable to trafficking and exploitation. In the 2012 *Acuerdo Subsidiario de Cooperación*, Guatemalan authorities commit 'not [to] employ under any form, doctors or technicians who have deserted the Cuban Internationalist Medical Mission, in the places where the aid workers of the Cuban Medical Brigade are located'.[277] Along the same lines, the 2016 agreement with Honduras states that workers of the CFMM who 'entered the country under the terms of this agreement' and who 'for some reason' leave the mission, 'would automatically lose all the migratory privileges', will no longer 'be able to practice their profession in the country, whether in the public or private sector institutions', and will be removed from the country.[278] Furthermore, Honduras commits not to 'contract health professionals from Cuba, of any speciality, who apply for work personally/individually'.[279] These practices create additional difficulties if a Cuban doctor in the programme is exploited and tries to escape that exploitation. Tied visas and these kinds of

[274] Calabria Region–Cuba, *Accordo di cooperazione per la fornitura di servizi medici e sanitari* (August 2022) art 10.2; Mexico City–Cuba, *Acuerdo de Cooperación Bienal* (23/04/2020) art X.IV(2); Mexico City–Cuba Acuerdo de Cooperación Bienal (16/12/2020) art X.IV(2); Uruguay–Cuba, *Supplemento No 1 al Convenio para la Prestación de Servicios en la Esfera de la Salud* (20/12/2017) art 6.

[275] Rio Negro Province–Cuba, *Contrato de prestación de servicios de asesoria entre el ministerio de salud y desarollo social y la Unidad Central de Cooperación Médica (contrato no ARG/2001)* (21/09/2000) art 2(e).

[276] Ecuador–Cuba, *Convenio Interministerial de Cooperación y Servicios Médicos Profesionales* (11/10/2012) art 3(2).

[277] Guatemala–Cuba, *Acuerdo Subsidiario de Cooperación* (04/10/2012) art 3(l).

[278] Honduras–Cuba, *Convenio de Cooperación en Materia de Salud* (24/11/2016) art 6(6).

[279] Ibid art 6(7).

agreements aggravate the exploitative situation and generate a risk of trafficking by pushing the person to irregular routes. If a structured dialogue on CFMMs with Cuba and host States were to be established, this would be an important element for consideration. Connected to this, making recognition of foreign qualifications more accessible and less cumbersome for Cuban doctors would facilitate a way out of exploitative situations.

Recommendations

To Cuba

- Participating in a structured dialogue with host countries and the UN to examine ways to enhance CFMMs' alignment with international human and labour rights standards. The agenda for such dialogue could include, inter alia, the following points:
    - Bilateral agreements' explicit mentions of labour and human rights standards;
    - CFMMs' compliance with those standards;
    - Attention to particularly concerning practices alleged, including withholding of wages, retaliatory practices, tied visas and cumbersome processes for the recognition of foreign qualifications; and
    - Examining the possibility of establishing an independent ad hoc monitoring commission that periodically monitors compliance with those agreements and their alignment with international human and labour rights standards.
- Including explicit references to human and labour rights in bilateral agreements.
- Respecting working hours and wage standards, including adherence to local laws and practices; amending bilateral agreements to be more specific about working hours and wages.
- Paying salaries into doctors' bank accounts (following the recommendation of the Organization for Security and Co-operation in Europe in the context of domestic work in diplomatic households); ceasing and refraining from withholding wages.
- Paying monthly fees to a local medical association, to contribute to freedom of association, instead of requiring payment to a Cuban trade union, and preventing any retaliation associated with doctors' participation in those associations.
- Establishing a clear procedure to raise concerns for safety, physical integrity and human and labour rights that is independently assessed, and providing services/support as necessary.
- Agreements to include details on the nature of the contractual relations with the receiving authorities, including the particular status of the doctors involved and the monitoring of adherence to the agreement's protection provisions.
- Ensuring a safe way out of missions by not including tied visas or similar clauses in bilateral agreements and amending domestic laws to remove the penalty for 'desertion'.
- Ensuring freedom of movement or autonomy during doctors' stay in the host country
- Ensuring that confiscation of passports is prohibited by any agency involved on behalf of Cuba or the host country.
- Ceasing and refraining from any surveillance and other retaliatory practices against doctors involved in the programme.

To Host Countries

- Participating in a structured dialogue with Cuba and the UN to examine ways to enhance CFMMs' alignment with international human and labour rights standards. The agenda for such dialogue could include, inter alia, the following points:
    - Bilateral agreements' explicit mention of labour and human rights standards;
    - CFMMs' compliance with those standards;
    - Attention to particularly concerning practices alleged, including withholding of wages, retaliatory practices, tied visas and cumbersome processes for the recognition of foreign qualifications;
    - Examining the possibility of establishing an independent ad hoc monitoring commission that periodically monitors compliance with those agreements and their alignment with international human and labour rights standards.

- Including explicit references to human and labour rights in bilateral agreements.
- Respecting working hours and wage standards, including adherence to local laws and practices; amending bilateral agreements to be more specific about working hours and wages.
- Setting up a requirement for Cuban doctors to register with the local health professional association, mitigating retaliation risks.
- Allocating resources to labour inspections for CFMMs, ensuring that the heightened risk of exploitation is reflected in such monitoring.
- Publishing information about CFMMs in a transparent way, ensuring adequate monitoring of such missions and the conditions of employment (including by local health organisations).
- Ensuring that Cuban professionals receive the same working conditions and responsibilities as their local counterparts.
- Establishing a clear procedure to raise concerns for safety, physical integrity and human and labour rights that is independently assessed, and providing services/support as necessary.
- Providing Cuban doctors with human rights training upon arrival, including on redress and access to protection in case of exploitation.
- Ensuring the independent monitoring of missions.
- Agreements to include contract details of the contractual relations with the receiving authorities.
- Ensuring a safe way out of missions, by not including tied visas or similar clauses in bilateral agreements, and making humanitarian visas or protection available to CFMM doctors.
- Ensuring that confiscation of passports is identified and prosecuted.
- Ensuring that surveillance and other retaliatory practices are prosecuted.
- Facilitating and protecting a dynamic and free civic space, in which civil society organisations and trade unions are allowed to operate freely.
- Facilitating access to information and simplifying the validation of university certificates (usually expensive and excessively burdensome).
- Ensuring equal enforcement of labour protection and inspection in all regions, including less accessible areas and in settings affecting foreign workers.

To Civil Society

- Developing advocacy strategies tailored to the severity of the problem according to the spectrum of exploitation, allowing for a constructive dialogue whilst providing tools and resources.
- Using leverage to bring actors together, including UN special rapporteurs, the Inter-American Commission for Human Rights, civil society organisations and donors.
- Continuing gathering information on experiences and promising practices, including through engagement with local medical associations.
- Undertaking initiatives that facilitate the creation of a space for the voices of Cuban doctors to be heard in a respectful, safe and non-politicised environment.
- Advocating for the simplification of recognition of qualifications, and non-tied visas.
- Advocacy anchored in international human rights and labour standards, and building on promising practices.
- Advocating for a free civic space, in which civil society organisations and trade unions are empowered to operate freely.

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