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CUBAN LAW & LEGAL RESEARCH: A SNAPSHOT DURING THE DESHIELO

A Handout Prepared to Accompany Program D4
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FORWARD

Twelve members of the FCIL-SIS’ Latin American Law Interest Group\(^1\) compiled an extensive “Guide to Cuban Law and Legal Research,” which will be published in the forthcoming issue of the *International Journal of Legal Information (IJLI)* (Vol. 45, Issue 2, July 2017). This handout summarizes some of the information contained in the Guide, but also adds to it. As such, the handout should be considered a complement to the *IJLI* piece, and should be consulted in conjunction with it. Materials listed under the heading of “Core Resources” in the handout are materials that would provide foundational information on the associated subject; both English-language and Spanish-language items are included. Detailed bibliographies on these topics, and others, are provided in the *IJLI* Guide. Also of note is Clifford L. Staten’s excellent “Bibliographic Essay” in his book, *The History of Cuba* (2nd ed., Greenwood Press, 2015, pp. 183-188).

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**HISTORICAL OVERVIEW**

The Republic of Cuba is an island nation located 90 miles south of Key West, Florida, with a population of about 11.2 million people (2014, Oficina Nacional de Estadística e Información). Prior to the arrival of the Spanish in 1492, the island’s inhabitants were indigenous. Because of Cuba’s location and accessible harbors, the island developed into a strategic stop-over point for vessels travelling between Spain and its colonies in the Americas.

Although various industries and agricultural crops developed after the Spaniards’ arrival, it was the growth of the sugar industry in the 19th century that transformed Cuba into an economic powerhouse. Providing much of the labor for the industry were slaves, with more than 780,000 brought to the island between 1790 and 1867. Slavery was not abolished in Cuba until 1886, and by that time, the traditions of the multitude of Africans on the island had become permanently embedded in Cuban culture.

Cubans began clamoring in earnest for independence from Spain in the mid-19th century with the *Grito de Yara* (Cry of Yara) on October 10, 1868. The Spanish did not succumb, however, which resulted in the Ten Years’ War (1868-1878). The Cubans continued to demand their independence, and fought two subsequent wars with the Spanish (1879-1880, 1895-1898). José Martí, one of Cuba’s greatest intellectuals and now a revered national hero, was killed in military action against the Spanish on May 19, 1895. The United States subsequently intervened in Cuba after the sinking of the USS *Maine* in Havana harbor on February 15, 1898. The ensuing Spanish-American War was brief, culminating in the signing of the Treaty of Paris on December 10, 1898. Under the terms of that agreement, Spain relinquished its sovereignty over Cuba, and the island was placed into U.S. trusteeship on January 1, 1899.

Cuban independence thus began under U.S. protection and direction. During a three-year transition period (1899-1902), the U.S. government oversaw the drafting of a new constitution (1901) and the establishment of a new Cuban government. The 1901 Constitution was clearly favorable to U.S. interests, as it contained the Platt Amendment, which essentially allowed the United States to intervene in Cuban affairs. An agreement in 1903 (reaffirmed in 1934) granted the United States a perpetual land lease for a coaling station and naval base at Guantánamo Bay.

The United States formally withdrew from Cuba on May 20, 1902, however the United States intervened repeatedly prior to the abrogation of the Platt Amendment in 1934. The pre-1959 period also saw the rise

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2 Richard Gott, *Cuba: A New History* 59 (2005). “Cuba had become the greatest slave-importing colony in the history of the Spanish empire, and more than 780,000 slaves were brought there between 1790 and 1867.” See also Laird W. Bergard et al., *The Cuban Slave Market*, 1790-1880 (1995).


and fall of a small parade of presidents, along with a series of constitutions—none providing the framework for a stable, democratic state. In the years immediately preceding the Revolution, Cuba was in the hands of the corrupt and U.S.-backed dictator Fulgencio Batista y Zaldívar, and the island was a well-known haven for organized crime and gangs.

On January 1, 1959, Fidel Castro Ruz and his “26th of July Movement” ousted Batista, changing the course of Cuban history. Fidel and his inner circle immediately set out to create a revolutionary society, utilizing the Cuban legal system for this process. Aligning Cuba with the Soviet Union in the early 1960s, Castro outlined his vision for Cuba as a socialist, and ultimately communist nation, dedicated to the application of the concept of “socialist legality.” Relations between Cuba and the United States deteriorated rapidly, resulting in the formal break of diplomatic relations (Jan. 1961), the Bay of Pigs fiasco (April 1961), the U.S. trade embargo (comprehensive in Feb. 1962), and the Cuban missile crisis (Oct. 1962).

The demise of the Soviet bloc countries in the late 1980s, and the ensuing dissolution of the Soviet Union in 1991, placed Cuba under tremendous economic pressure as the island lost its primary financial support and trading partners. These events, coupled with the continuing U.S. embargo, propelled Cuba into a severe economic crisis that Fidel Castro himself labelled the “Special Period.” In response, the Cuban government began to implement pro-market reforms that included opening the country to tourism and foreign investment.

In 2008, Fidel Castro permanently relinquished his posts of President of the Councils of State and Ministers. As Cuba’s chief architect of the Revolution for almost 50 years, Fidel accomplished much in the areas of national education and healthcare, but his regime concurrently had a dismal human rights record. Since taking the reins from his older brother, Raúl Castro has stayed on course with the tenets of the Revolution, but he has also focused heavily on further liberalizing the Cuban economy. These efforts have included the creation of the Mariel Special Economic Development Zone (2013), the adoption of a new foreign investment law (2014), and reforms allowing various types of private businesses.

The presidency of Barack Obama (2009-2017) brought rapprochement between the United States and Cuba, with the formal re-establishment of diplomatic relations announced in July 2015, and the loosening of travel restrictions for U.S. citizens to visit the island. On June 16, 2017, however, President Donald J.

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7 See Id. at 10.
9 Id.; For an overview of the “Special Period,” see Cynthia Benzing, Cuba—Is the Special Period Really Over? 11 INT’L ADVANCES IN ECON. RES. 69 (2005).
Trump announced he was cancelling what he termed “the last administration’s completely one-sided deal with Cuba.” It remains to be seen how this policy reversal will affect U.S.-Cuba relations going forward.

Core Resources:


**GOVERNMENT STRUCTURE**

Article 1 of the 1976 Cuban Constitution (as amended to June 26, 2002) states that the Republic of Cuba is a “socialist state of workers.” Article 3 stipulates that state sovereignty resides in the people from whom all state power emanates; Assemblies of the People’s Power (municipal, provincial, and national), and state organs derived from them, directly and indirectly exercise this power. Article 104 further describes the role of People’s Councils (Consejos Populares) that operate at local community levels. The People’s Councils consist of locally-elected delegates, and may also include representatives of the mass organizations and important local institutions.

Cuba is divided into 15 provinces and the territory of the Isle of Youth (Isla de la Juventud). These are subdivided into 168 municipalities, including the “Special Municipality” of the Isle of Youth. Within the municipalities are designated electoral districts (circunscripciones electorales) that are based on population (200 minimum, but no more than 3,000 residents). People’s Councils must represent at least

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five districts, and each district elects one representative to its associated municipal assembly. In 2015, there were 12,589 municipal assembly delegates elected to serve in the 168 municipal assemblies.\textsuperscript{12}

There are 15 provincial assemblies in Cuba (the Isle of Youth has a municipal assembly, but not a provincial one). In 2013, there were 1,269 provincial assembly delegates elected.\textsuperscript{13} The National Assembly of People’s Power (Asamblea Nacional del Poder Popular) (ANPP) has 614 members that generally meet twice a year in Havana, but extraordinary sessions may be called. Powers and duties specific to each type of assembly are articulated in the Constitution. *Ley No. 72, Ley Electoral de 1992* (Gaceta Oficial, no. 9, Nov. 2, 1992) governs Cuban elections. National Assembly and provincial assembly delegates serve for five years, while municipal assembly representatives are elected every two and a half years. The next elections for municipal assembly delegates are slated for October 22, 2017. The date for elections of the provincial assembly representatives and the ANPP for the IX Legislatura (2018-2023) have not been announced as of this writing.\textsuperscript{14}

The Cuban federal government is not strictly organized into three branches, but various organs can be characterized as possessing executive, legislative, or judicial powers (all detailed in the sections below). Although the Communist Party of Cuba (*Partido Comunista de Cuba*) (PCC) is not formally part of the Cuban government, it clearly drives and contours domestic policy; it is Cuba’s only recognized political party. Raúl Castro, as President of the Councils of State and Ministers, is the Head of State and Head of Government. His second five-year term ends in February 2018, and he has indicated that he will not seek re-election.

Core Resources:


The ANPP’s website ([http://www.parlamentocubano.cu/](http://www.parlamentocubano.cu/)) (Spanish only) contains detailed information on the Cuban government and the various assemblies and People’s Councils under “Estado Cubano.”


**LEGAL SYSTEM**

Cuba was a Spanish colony until 1898 (when Spain lost Cuba, Puerto Rico, Guam, and the Philippines in the Spanish-American War). Its legal system still retains civil law attributes, as it is code-based. The Cuban Codes are listed below under “MAIN SOURCES OF LAW.” The system also exhibits socialist law influences, although it is not generally categorized as a socialist legal system. Cubans, however, consider the current Constitution (1976, as amended to June 26, 2002) to be socialist, and refer to it as such (“The Socialist Constitution”).

**Core Resources:**


THE SOCIALIST CONSTITUTION

The current Constitution was adopted by referendum on February 15, 1976, and was formally enacted on February 24, 1976. The document was modeled largely on Soviet and Eastern European models, but it retains a uniquely Cuban character. The 1976 Constitution has been amended three times—in 1978, 1992, and 2002. The document has a Preamble, 137 Articles (divided into 15 Chapters), and a “Special Provisions” section. Article 5 establishes that the Communist Party of Cuba (PCC) is the “superior leading force of the society and the State.” There are broad rights provisions articulated in the Constitution, however they are constrained; Article 62 specifies that no conferred right can be “contrary to the existence and objectives of the socialist State, or contrary to the decision of the Cuban people to build socialism and communism.” Article 137 describes the procedure for amending the Constitution. In terms of a legal hierarchy, the Constitution sits at the top.

Core Resources:

The best source for accessing the original and consolidated texts in Spanish and in English-language translation is HeinOnline’s World Constitutions Illustrated (WCI).

A consolidated free version in Spanish is available at the Gaceta Oficial’s website (https://www.gacetaoficial.gob.cu/) under “Legislación Cubana.” There is also a consolidated Spanish-language version on the ANPP’s website (http://www.parlamentocubano.cu/) under “Labor Legislativa.” A consolidated English-language translation provided by Oxford University Press is available on the Constitute website (https://www.constituteproject.org/).


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15 EVONSON, supra note 6, at 9.
16 RUBENS MEDINA & CECILIA MEDINA-QUIROGA, NOMENCLATURE & HIERARCHY: BASIC LATIN AMERICAN LEGAL SOURCES 43-45 (1979). Note, however, that there is not a consensus among Cuban legal scholars on whether there is a strict hierarchy of Cuban legal instruments beyond the apex of the Constitution. See the discussion in Marisol Florén-Romero and Cate Kellett, “Legislation & Codes” in Guide to Cuban Law and Legal Research,” 45 INT’L J. LEGAL INFO. (no. 2, forthcoming July 2017) for further discussion on this topic.
EXECUTIVE POWERS

The Councils of State and Ministers are the executive bodies of the Cuban government. Raúl Castro is the President of both Councils. Miguel Díaz-Canel Bermúdez (born April 20, 1960) serves as First Vice-President of both Councils and is seemingly Mr. Castro’s heir apparent.

The 31-member Council of State (Consejo de Estado) is the executive body of the ANPP and represents it between sessions. Members of the Council of State are ANPP members and are elected by ANPP delegates before the beginning of each new five-year Legislatura (currently no. VIII, 2013-2018). The Council’s powers are articulated in Article 90 of the Constitution, but its internal procedures and workings are generally unknown. Although the Constitution mandates that the ANPP is the “supreme organ of State power” (per Article 69), the Council of State is considered to be the “real decision-making institution in the Cuban government.”

The Constitution empowers the Council to promulgate decree-laws (decretos-leyes) (Article 90) and agreements (acuerdos) (Article 93(j)), the latter being regulatory in nature (see Chart No. 2 below).

The Council of Ministers is essentially a Cabinet, and it is the highest executive and administrative body in the Cuban government. The Constitution (Articles 95 to 100) and Decreto-Ley No. 272, De la Organización y Funcionamiento del Consejo de Ministros (Gaceta Oficial, no. 33, Aug. 13, 2010) provide the legal framework for the Council. There are no numerical requirements or specified term lengths for members. The Council implements the ANPP’s laws, and the decree-laws of the Council of State, through decrees (decretos) and other administrative provisions (see Chart No. 2 below). The Council of Ministers has an Executive Committee per Article 97 of the Constitution.

Core Resources:


There are membership lists of both Councils on various websites (e.g., Granma, ANPP), but they are inconsistent. Neither Council has its own website, although the members of the Council of Ministers are posted on the Cuban government’s official site (http://www.cubagob.cu/). Some individual ministries have websites, with the Ministry of Foreign Affairs (Ministerio de Relaciones Exteriores) (MINREX) being the most populated with information available in English (http://www.minrex.gob.cu/en).

For a Cuban overview of the Councils, see the entries in EcuRed:
(Spanish only). EcuRed is Cuba’s version of Wikipedia.


**LEGISLATIVE POWERS**

People’s Assemblies convene at the municipal, provincial, and national levels, but only the ANPP has legislative power. The ANPP meets in Havana twice per year for about a week each session. Most of the 614 delegates retain their regular employment and are not compensated for ANPP membership. Elections for the ANPP take place every five years; the current session is the VIII Legislatura, ending in February 2018. An extraordinary session of the ANPP was convened on June 1, 2017, by the Council of State (per Articles 79 and 90(a) of the Constitution) to discuss the social and economic development plan and policy guidelines to 2021.¹⁸ According to the ANPP website, the National Assembly will meet next in ordinary session for the VIII Legislatura on July 14, 2017.¹⁹

Core Resources:

The ANPP’s website (http://www.parlamentocubano.cu/) (Spanish only) is well populated with information. It includes the names and photographs of the ANPP representatives, access to the ANPP’s laws (leyes) and agreements (acuerdos) by legislative session, and decree-laws (decretos-leyes) issued by the Council of State by legislative session.


See also the “Core Resources” under the “GOVERNMENT STRUCTURE” section above.

For historical Cuban legal materials, including codes and legislation, see LLMC-Digital, which is currently digitizing documents for its Cuban Legal Patrimony Project (Oct. 18, 2016 update at http://www.llmc.com/newsstory.aspx?news=76).

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THE JUDICIARY

Article 3 of the 1976 Cuban Constitution (as amended to June 26, 2002) establishes a three-tier court system, plus a system of military courts. The People’s Supreme Court (Tribunal Supremo Popular) (TSP) is the court of last resort. There are 16 People’s Provincial Courts, including the territory of the Isle of Youth. These courts exercise appellate jurisdiction over the rulings of the municipal courts (see Chart No. 1 below for a geographic overview of the Cuban court system).

The People’s Municipal Courts are courts of first instance and the lowest courts within the system. All courts operate in a collegiate form with professional and lay judges (per Article 124 of the Constitution). The Supreme Court comprises a Governing Council (Consejo de Gobierno del Tribunal Supremo Popular) (CGTSP) and six judicial chambers (salas) that hear civil and administrative matters; criminal, labor, economic, and military matters; and a special chamber for crimes against the security of the State. With the purpose of establishing a uniform interpretation and application of the law, the Cuban Constitution empowers the CGTSP to issue instructions (instrucciones), agreements (acuerdos), and opinions (dictámenes) that are binding on all courts (Article 121) (see Chart No. 2 below).

The main function of the Office of the Attorney General of the Republic (Fiscalía General de la República) (FGR) is to control and preserve legality, based on monitoring strict compliance with the Constitution, the laws, and other legal norms per Article 127 of the Constitution. There are provincial, municipal, and military offices of the state prosecutor. The system of courts and the FGR are subordinate to the ANPP and the Council of State (Articles 121 and 128).

Core Resources:

Recently re-launched is the portal of the People’s Supreme Court of Cuba (http://www.tsp.cu/es) (Spanish only). The website contains information on the structure of the courts and requirements for professional and lay judges. It provides access to the judgments of the TSP and decisions of the CGTSP in the Boletín del Tribunal Supremo Popular since 2010, and the Revista Justicia y Derecho since 2012.

Instructions (instrucciones), agreements (acuerdos), and opinions (dictámenes) of the CGTSP are published in the Boletín del Tribunal Supremo Popular, as well as in the Gaceta Oficial (https://www.gacetaoficial.gob.cu/).

The main page of the Ministry of Justice (https://www.minjus.gob.cu/news.php) (Spanish only) is well populated, providing links to various legal services, such as the Consultoría Jurídica Internacional and the Bufete Internacional, and to Cuban newspaper and legal websites. The page also offers access to the Ministry’s journals and other materials under “Publicaciones.”

The FGR website (http://www.fgr.cu/es) (Spanish only) describes the FGR’s mission and functions and provides access to applicable legal norms. Issues of FGR’s journal, Legalidad, Derecho y Sociedad are posted under “Publicaciones,” including a special June 2017 issue honoring the 40th anniversary of the
National Union of Cuban Jurists (Unión Nacional de Juristas de Cuba) (UNJC). A “Biblioteca Virtual” section contains links to various FGR pamphlets and bulletins.


MAIN SOURCES OF LAW

The ANPP enacts, modifies, or repeals laws per Article 75(b) of the Constitution. The Council of State has the authority to issue decree-laws, ratify international treaties, and issue instructions to the courts and the Office of the Attorney General per Article 90 (c),(h), and (i). The Council of Ministers issues decrees, regulations, and provisions of a general character per Article 98(k) (see Chart No. 2 below). Cuba’s nomenclature of regulatory instruments is found in the Constitution, primary legislation, and regulatory directives. The Constitution is the highest legal norm, but there is disagreement among scholars whether there is a clear hierarchy of laws below the apex of the Constitution.20


Instructions, agreements, and provisions issued by the Governing Council of the People’s Supreme Court are binding on all courts and are considered formal sources of law among the judiciary.

Core Resources:

The *Gaceta Oficial de la República de Cuba* is published in print and electronic format by the Ministry of Justice. The electronic version is accessible since 1991: [https://www.gacetaoficial.gob.cu](https://www.gacetaoficial.gob.cu) (Spanish only). Note that *Gaceta* issues are only available in RAR file formats, which must be first extracted to be opened and read.

Also accessible via the *Gaceta Oficial* website under “Legislación Cubana” are all the Cuban Codes, the procedural laws, and other selected legislation (Spanish only). HTML and PDF versions are posted, although they are not necessarily the same, and they are not necessarily the most current consolidated versions. See the forthcoming “Legislation and Codes” section of the *IJLI* Guide for information on the currency of the Codes and procedural laws available on this site.

Laws passed by the ANPP, agreements, and reports of the different legislative sessions are found on the website of the ANPP since 1976 ([http://www.parlamentocubano.cu/](http://www.parlamentocubano.cu/)) (Spanish only).

The Center for Cuban Studies in New York City published an English translation of the original 1975 Cuban Family Code. A digitized copy is available via the Digital Library of the Caribbean (dLOC): [http://ufdc.ufl.edu/AA00021904/00001/1j](http://ufdc.ufl.edu/AA00021904/00001/1j). This is the only identified English-language translation of a Cuban Code. A preliminary note indicates that it is the “official Cuban translation.”


Pérez Gallardo, Leonardo B., ed. *Comentarios al Código Civil Cubano*. La Habana: Editorial Felix Varela, 2013 -. Provides commentaries to the Cuban Civil Code in a multivolume publication. Six volumes have been published so far with commentaries to Articles 1 through 232 of the Code, covering sections on general provisions and property rights.


**THE COMMUNIST PARTY OF CUBA (PCC)**

The Preamble of the 1976 Constitution (as amended to June 26, 2002) outlines the key role of the PCC as the governing force of society and the State, guiding the efforts towards the construction of socialism and towards a communist society per Article 5. The PCC is the most influential organization at all levels in Cuba; it is a forum for discussion and debate over national policies, and determines the overall direction of society and the State.\(^\text{21}\) It is the only approved political party in Cuba.

The PCC has about 700,000 members and meets every five to seven years. At the top of its organizational structure are the Secretariat (Secretariado) (6 members), Central Committee (Comité Central) (142 members), and the elite Politburo (Buró Político) (17 members). Raúl Castro is currently the First Secretary of the PCC’s Central Committee and is the Party’s highest-ranking member. The PCC also has provincial and municipal committees.

There have been seven congresses of the PCC since 1975, when the First Congress of the PCC was convened in Havana. With the Fourth Congress in 1991 and thereafter, Cuba has had to implement new economic initiatives to offset a decrease in subsidies and trade due to the collapse of the Soviet Union and the Soviet bloc countries. At the Sixth Congress, convened in April 2011, the PCC approved a laundry list of economic guidelines (lineamientos). During the Seventh Congress of the PCC (April 2016), Raúl Castro outlined the vision, priorities, and strategic sectors of a national economic and social development plan through 2030.

Core Resources:

The PCC’s website (http://www.pcc.cu/) is heavily populated with information (Spanish only). The site provides an overview of the Party’s history, biographies of historically important individuals, and membership lists for the Secretariat, Central Committee, and Politburo. Documents from six PCC Congresses are available, as well as the Party’s statutes and regulations. Although current news is posted on the site, it is unclear when the full site was last updated.

Granma is the official voice of the PCC’s Central Committee (http://en.granma.cu) (Spanish and English). Juventud Rebelde (http://english.juventudrebelde.cu/) (Spanish and English) is the newspaper of the Union of Communist Youth (Unión de Jóvenes Comunistas) (UJC).

EcuRed has a lengthy entry on the PCC: https://www.ecured.cu/Partido_Comunista_de_Cuba (Spanish only).


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23 Fifth Congress of the PCC (1997), Sixth Congress of the PCC (2011), and Seventh Congress (April 2016).


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**MASS ORGANIZATIONS**

Mass organizations have served an important social function in Cuba’s political system, and they represent different sectors of the population. They are a means to inculcate values, mobilize the population in support of the State to socialize political decisions and build consensus. Mass organizations are entrusted with security, educational, and public health functions.

Among the largest and well-known mass organizations are: the Cuban Workers Federation (*Central de Trabajadores de Cuba*) (CTC); the Association of Small Farmers (*Asociación Nacional de Agricultores Pequeños*) (ANAP); the Federation of Cuban Women (*Federación de Mujeres Cubanas*) (FMC); the Federation of University Students (*Federación Estudiantil Universitaria*) (FEU); and the Committees for the Defense of the Revolution (*Comités de Defensa de la Revolución*) (CDR). Mass organizations also include professional organizations, such as the Union of Writers and Artists of Cuba (*Unión de Escritores y Artistas de Cuba*) (UNEAC), the National Union of Cuban Jurists (*Unión Nacional de Juristas de Cuba*) (UNJC), and the Union of Journalists (*Unión de Periodistas de Cuba*) (UPEC).

Core Resources:

Political and mass organizations and their roles are described on the website of the Communist Party of Cuba (http://www.pcc.cu/opm.php) under “Organizaciones Políticas y de Masas” (Spanish only).

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**LEGAL PROFESSION**

Lawyers work in various settings, although they are not allowed to be self-employed. Most lawyers and judges in Cuba are women. Many lawyers practice in collective law firms (bufetes colectivos) that are overseen by the National Organization of Collective Law Firms (Organización Nacional de Bufetes Colectivos) (ONBC). Any Cuban citizen may initially consult with an attorney without charge, but a contract must be signed to retain his or her services. Prices for various types of services are set by the government. Civil law notaries (notarios) also work in Cuba, but that profession is overseen by the Ministry of Justice. The National Union of Cuban Jurists (Unión Nacional de Juristas de Cuba) (UNJC) serves as a type of national bar association; the UNJC celebrated its 40th anniversary in June 2017. Some attorneys have been practicing independently in Cuba, such as Laritza Diversent of Cubalex (https://centrocubalex.com/), but they have been subject to government harassment and repression.

Core Resources:

The ONBC has a well-populated website (http://www.onbc.cu/) (Spanish only) that includes links to a small collection of digitized journal issues and legal texts under “Publicaciones.”

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27 “...about 70% of lawyers and law professors are women, and more than 70% of judges are women.” Keiko Rose, “Gender Equality in Cuba: Constitutional Promises v. Reality,” Law School International Immersion Program Papers, University of Chicago Law School, Chicago Unbound, No. 11 (2015) at 9, http://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=1014&context=international_immersion_program_papers.

The UNJC ([https://www.unjc.co.cu/](https://www.unjc.co.cu/)) (Spanish only), and its Scientific Societies (Sociedades Científicas) aim to contribute to the development of legal science and the practice of law. Each of the Scientific Societies has a webpage accessible from the main UNJC page: [https://www.unjc.co.cu/sociedades](https://www.unjc.co.cu/sociedades).


EcuRed ([https://www.ecured.cu/EcuRed:Enciclopedia_cubana](https://www.ecured.cu/EcuRed:Enciclopedia_cubana)) (Spanish only) has entries for the ONBC and UNJC, and several related to the notarial profession in Cuba (e.g., “Derecho Notarial”).


**SECONDARY LEGAL PUBLICATIONS**

The 1959 Cuban Revolution dramatically affected Cuba’s publishing industry and media, which are now government controlled. The majority of law-focused serial publications and legal publishers active prior to the Revolution did not survive after 1959. Legal publishers currently active in Cuba include Editorial Félix Varela, Editora ONBC, and Editorial Ciencias Sociales. Some publishers in Spain and Mexico also offer titles on Cuban
law. For a comprehensive overview of Cuban secondary legal publications, see Sergio D. Stone’s “Secondary Sources” section in the forthcoming IJLI Guide.

Core Resource (Historical):


**FOREIGN INVESTMENT & INTERNATIONAL COMMERCIAL ARBITRATION**

The legal framework governing foreign investment in Cuba is *Ley No. 118, Ley de la Inversión Extranjera* (March 29, 2014), published in an extraordinary edition of the *Gaceta Oficial*, no. 20, April 16, 2014. The official text of the law, its regulation (*Decreto No. 325/2014*), and other complementary legislation can be found on the websites of several government entities. A feature of Law No. 118 is the creation of a Portfolio of Opportunities for Foreign Investment (*Cartera de Oportunidades de Inversión Extranjera*). Prior to the promulgation of Law No. 118, the Cuban government established the Mariel Special Economic Development Zone at the Port of Mariel, about 25 miles west of Havana, to promote foreign trade and investment.

Chapter XVII of Law No. 118 focuses on the resolution of conflicts arising out of the relationships between joint venture partners; between national and foreign investors that are parties to international economic partnership agreements; and between the partners of a wholly foreign-owned company. Conflicts are resolved as agreed in the constituent documents, with exceptions established by law, which are resolved through the economic chamber (*sala de lo económico*) of the corresponding Provincial People's Court, without prejudice to submitting them to arbitration under Cuban law.29

The international arbitration court in Cuba is the Cuban Court of International Commercial Arbitration (*Corte Cubana de Arbitraje Comercial Internacional*), which functions under the auspices of the Cuban Chamber of Commerce (*Cámara de Comercio de la República de Cuba*). The rules governing arbitration in Cuba are articulated in *Decreto-Ley no. 250/2007*, and in a set of complementary resolutions dictated by the president of the Chamber of Commerce.

**Core Resources:**

The Cuban Chamber of Commerce (CCRC) website (http://www.camaracuba.cu/index.php/en/) is available in English. It includes links to detailed information on foreign investment, including English-language translations of Law No. 118, the 2016 Portfolio of Opportunities, and a 2016 *Investor Guide*. The site also provides information on the Mariel Special Economic Development Zone and the Cuban Court of International Commercial Arbitration, which is attached to the CCRC.

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The website of the Mariel Special Economic Development Zone (ZED Mariel) (http://www.zedmariel.com/pages/eng/Informacion_General.php) is also available in English. It is well-populated with information and documents, including English-language translations of ZED Mariel’s associated legal framework.

Note: The Ministry of Foreign Affairs (MINREX) has a Center for the Promotion of Foreign Trade and Foreign Investment (Centro de Promoción del Comercio Exterior y la Inversión Extranjera en Cuba) (CEPEC). CEPEC does not have a working website as of this writing.


The Association for the Study of the Cuban Economy (ASCE), headquartered in Bethesda, Maryland, has a website that provides access to conference and occasional papers: http://www.ascecuba.org.

The U.S.-Cuba Trade and Economic Council, Inc. is based in New York City. Its well-populated website provides access to a variety of information for the U.S. business community, and it also hosts an active blog: http://www.cubatrade.org/.


Mejías Rodríguez, Carlos Alberto. Derecho Penal Económico. La Habana: Félix Varela, 2016, discusses economic crimes and criminal economic law.

Piñon, Jorge R., and Jonathan Benjamin-Alvarado. Extracting Cuba’s Oil and Gas: Challenges and Opportunities. In Cuba’s Energy Future:
There is a complex web of statutes, administrative regulations, and presidential executive orders that contour the embargo, which was originally imposed as a series of economic sanctions in the late 1950s and early 1960s. At the statutory base is the Trading with the Enemy Act of October 6, 1917, which grants the U.S. President the authority to apply economic sanctions to enemy countries or its allies during war or national emergency.\textsuperscript{30} The Cuban Democracy Act of 1992\textsuperscript{31} and the 1996 Helms-Burton Act\textsuperscript{32} further tightened and codified the economic sanctions against Cuba. The regulatory framework for the embargo is articulated in the Cuban Assets Control Regulations (U.S. Dept. of the Treasury) and Export Administrative Regulations (U.S. Dept. of Commerce). Congressional approval is required to completely repeal the economic sanctions against Cuba. There is a plethora of published literature pertaining to the embargo from economic, political, social, cultural, public health, and other perspectives.

In December 2015, the historic agreement between President Barack Obama and Raúl Castro to restore diplomatic relations between the two countries opened the door to “potential US investment in Cuba.”\textsuperscript{33} The U.S.-Cuba rapprochement accordingly brought significant changes to the embargo’s regulatory framework. In October 2016, the United States abstained for the first time in an annual U.N. General Assembly resolution vote condemning the U.S. embargo against Cuba.\textsuperscript{34} President Donald J. Trump, however, announced on June 16, 2017, that he was reversing some of the Obama administration’s economic initiatives with Cuba. As such, the scope of the embargo remains in flux.

\textsuperscript{30} Trading with the Enemy Act (TWEA), 50 U.S.C. § 4305 (2016).
\textsuperscript{32} Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (Helms-Burton Act), Pub. L. 104-114, 110 Stat. 785 (March 12, 1996). “To seek international sanctions against the Castro government in Cuba, to plan for support of a transition government leading to a democratically elected government in Cuba, and for other purposes.”
Core Resources (Current):

The U.S. Department of the Treasury’s Office of Foreign Assets Control (OFAC) administers and enforces the Cuban Assets Control Regulations. The U.S. Department of the Treasury’s “Cuba Sanctions” page (https://www.treasury.gov/resource-center/sanctions/Programs/pages/cuba.aspx) includes the most recent changes announced by President Trump. The site also provides an option to register for e-mail updates.


Bloomberg BNA’s International Trade Daily covers developments pertaining to the embargo.

Cuba vs. Bloqueo is a Cuban website (http://www.cubavsbloqueo.cu/en) (Spanish and English) focusing on efforts to end the U.S. trade embargo. The site includes a chronology of events and documents related to the sanctions regime. The 2016 Cuban Report is available in Spanish; the 2015 Report in English. The Report is an extensive analysis of the impact of the embargo on Cuba’s economy, supporting the need to repeal it. The site’s overall sponsorship is unclear.

The Cuban Ministry of Foreign Affairs (MINREX) website has a special section on the relationship between Cuba and the United States: http://cubaeuu.cubaminrex.cu (Spanish only).


**NOTABLE WEB RESOURCES**


Onlinenewspapers.com has a list of Cuban newspapers available on the Web: [http://www.onlinenewspapers.com/cuba.htm](http://www.onlinenewspapers.com/cuba.htm). The Cuban government controls all forms of media on the island, however some websites can nonetheless be useful for news and information. [Gramma](http://en.granma.cu); [Juventud Rebelde](http://english.juventudrebelde.cu); [Radio Rebelde](http://www.radiorebelde.cu/english/); and the [Cuban News Agency](http://www.cubanews.acn.cu) are examples of Cuban media that have English-language websites.

English-language websites that report on Cuba, but are not based in Cuba include: [Latin American Herald Tribune](http://www.laht.com) (Venezuela); [Havana Times](http://www.havanatimes.org) (Nicaragua); [Diario de Cuba](http://www.diariodecuba.com/english) (Spain); and [teleSUR](http://www.telesurtv.net/english/index.html), which is funded by the governments of Venezuela, Cuba, Ecuador, Nicaragua, Uruguay, and Bolivia, and is based in Caracas.


[Cubadebate](http://www.cubadebate.cu) is maintained by the Circle of Cuban Journalists against Terrorism (Círculo de Periodistas Cubanos contra el Terrorismo). The goal of the site is to provide an exchange for information on subversive and defamatory campaigns against Cuba, but the site is useful for news and opinion pieces. Some of the content is available in English: [http://en.cubadebate.cu](http://en.cubadebate.cu).

[CUBANET](https://www.cubanet.org) (Spanish only) is based in Coral Gables, Florida. It is notably regime-critical and supports independent journalism in Cuba. Free daily e-mail updates are available.

[Digital Library of the Caribbean](http://www.dloc.com) is a Web-based platform and database for materials related to Caribbean countries, including Cuba. There is an ongoing digitization initiative involving the Cuban National Library ([Biblioteca Nacional de Cuba José Martí](http://www.dloc.com)), the University of Florida, and LLMC-Digital for collections specific to Cuba, including those focusing on law.
EcuRed (https://www.ecured.cu/EcuRed:Enciclopedia_cubana) is Cuba’s version of Wikipedia and is only available in Spanish. Its sponsorship is unclear, but it is seemingly controlled by the Cuban government. Nonetheless, the entries can provide useful information on legal terms, specific legislation, legal sources, mass organizations, and government institutions.


Juriscuba (http://juriscuba.com/legislacion-2/leyes/) provides access to laws, decree-laws, decrees, and instructions of the Cuban Supreme Court’s Governing Council (CGTSP). Many of the links go directly to the cited Gaceta Oficial issue. It is unclear when the site, which attributes ownership to a Cuban attorney based in Mexico, was last updated.


U.S. LIBRARY COLLECTIONS

A number of U.S. libraries house significant print collections of primary and secondary materials related to Cuban law. These include the Law Library of Congress, the LA Law Library, and the law libraries of Florida International University, the University of Miami, the University of Florida, and Yale. The Florida International University Law Library houses the “Mario Díaz Cruz Collection” that contains the books of a Cuban attorney who practiced before the 1959 Revolution. The University of Miami’s Otto G. Richter Library houses the “Cuban Heritage Collection,” which contains about 1,000 titles.

For a comprehensive overview of U.S. and Canadian libraries that house rich collections of Cuban legal materials, see Yasmin Morais’ section, “Cuban Legal Materials in U.S. & Canadian Libraries” in the forthcoming IJLI Guide. It should be noted that the U.S. trade embargo has severely limited U.S. libraries’ access to Cuban materials generally. For a list of book vendors that offer purchase plans for Cuban materials, see the website of the Seminar on the Acquisition of Latin American Library Materials (SALALM): http://salalm.org/booksellers/vendorcontactinfo/ (select “Vendors by Country/Region of Coverage”).

Core Resource (Historical)


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Chart No. 1 The Court System

Sources:
- Ley No. 82, Ley de Tribunales Populares [LTP 1997] [Law No. 82, Law of the People's Courts], July 11, 1997, Gaceta Oficial Extraordinaria [GOE], No. 8, July 14, 1997
- Graphic design by Raul Aviles.
## Chart No. 2
### The Cuban Legal System - Sources of Law

<table>
<thead>
<tr>
<th>Source of Law</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>National Assembly of Peoples’ Power</strong></td>
<td></td>
</tr>
<tr>
<td>Laws (Leyes)</td>
<td>CONST. art. 75(b): approve, modify or repeal laws.</td>
</tr>
<tr>
<td>Agreements (Acuerdos)</td>
<td>CONST. art. 76: laws and agreements are adopted by simple majority of votes.</td>
</tr>
<tr>
<td><strong>Council of State</strong></td>
<td></td>
</tr>
<tr>
<td>Decree-Laws (Decretos-Leyes)</td>
<td>CONST. art. 90(c): issues decree-laws between periods of sessions of the National Assembly</td>
</tr>
<tr>
<td>of the People’s Power</td>
<td>or State.</td>
</tr>
<tr>
<td>International Treaties (Tratados Internacionales)</td>
<td>CONST. arts. 11, 12(b), 12(f), 23, 90(m), and 98(ch): ratifies international treaties approved and submitted by the Council of Ministers. CÓD. CIV. art. 20. Decree-Law No. 191, March 8, 1999, on International Treaties.</td>
</tr>
<tr>
<td>Agreements (Acuerdos)</td>
<td>CONST. art. 93(j): sign decree-laws and other agreements of the Council of State.</td>
</tr>
<tr>
<td>Instructions (Instrucciones)</td>
<td>CONST. art. 90(h): issues instructions of a general character to the tribunals through the Governing Council of the People’s Supreme Court. CONST. art. 90(i): issues instructions to the Office of the Attorney General of the Republic.</td>
</tr>
<tr>
<td><strong>Council of Ministers</strong></td>
<td></td>
</tr>
<tr>
<td>Decrees (Decretos) &amp; Provisions (Disposiciones)</td>
<td>CONST. art 98(k): issues decrees and other provisions (disposiciones)</td>
</tr>
<tr>
<td>Regulations (Reglamentos)</td>
<td>CONST. 98(j): when necessary, issues the corresponding regulations to laws or decree-laws enacted by the National Assembly or issued by the Council of State.</td>
</tr>
<tr>
<td>Agreements (Acuerdos)</td>
<td>Decree-Law No. 272, July 16, 2010, arts. 12(j), 12(k), 20(a), 20(d), 20(e), 21(b), and 30: the Council of Ministers issues its decisions through decrees, regulations and agreements.</td>
</tr>
<tr>
<td>Presidential Decrees (Decretos Presidenciales), Resolutions (Resoluciones) &amp; Instructions (Instrucciones)</td>
<td>Decree-Law No. 272, July 16, 2010, art. 31: the President of the Council transmits his decisions by means of presidential decree, resolutions and instructions.</td>
</tr>
<tr>
<td><strong>Members of the Council of Ministers</strong></td>
<td></td>
</tr>
<tr>
<td>Resolutions (Resoluciones) &amp; Provisions (Disposiciones)</td>
<td>CONST. art. 100(a): conduct the affairs and tasks of the ministries or agencies under their care, issuing the necessary resolutions and provisions.</td>
</tr>
</tbody>
</table>
Regulations (Reglamentos) | CONST. art. 100(b): issue, when it is not the express attribution of another State organ, the regulations that are required to execute and apply the laws and decree-laws that concern them.

Circulars (Circulares) | Decree-Law No. 272, July 16, 2010, art. 32: The vice-presidents and other members of the Council of Ministers in fulfilling the powers delegated by the President of the Council, enact resolutions. They can also transmit circulars.

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1 Cuba’s nomenclature of regulatory instruments is found in the Constitution, primary legislation, and regulatory directives. This chart aims to bring some clarity to the complex types of sources of law and the corresponding issuing bodies. Article 77 of the Constitution mandates that laws, decree-laws, decrees, and resolutions, regulations, and other general provisions (disposiciones generales) of the national organs of the State are to be published in the Gaceta Oficial (Official Gazette of Cuba).

2 Decreto Ley No. 191, De los Tratados Internacionales [DLTI] [Decree Law No. 191, On International Treaties], March 8, 1999, Gaceta Oficial [GO], No. 12, March 12, 1999. See also MAELIA ESTHER PÉREZ SILVEIRA, Artículo 20, en COMENTARIOS AL CÓDIGO CIVIL CUBANO, 327 (Leonardo B. Pérez Gallardo, dir., 2013) discussing international treaties as a source of law and their place within the system of Cuban norms.

3 The definition of the term “disposiciones generales” is provided in the second paragraph of article 1 of Decreto No. 62, Sobre Normas para la Publicación en la Gaceta Oficial [DNPGO] [Decree No. 62, On Rules for Publication in the Official Gazette], Jan. 30, 1980, “It is understood that a provision is of a general character when it should be applied outside of the State body where it is issued by other government entities or companies or agencies thereof or is of interest to social and mass organizations of the population.” (English translation by Marisol Florén-Romero).