

Loyola University Chicago, School of Law

**LAW eCommons**

---

Faculty Publications & Other Works

---

7-17-2017

**Cuban Law & Legal Research: A Snapshot During the Deshielo: A Handout Prepared to Accompany Program D4, American Association of Law Libraries Annual Meeting & Conference, Austin, Texas, July 17, 2017**

Julienne Grant

*Loyola University Chicago*, [jgrant6@luc.edu](mailto:jgrant6@luc.edu)

Marisol Floren-Romero

*Florida International University*

Follow this and additional works at: <https://lawcommons.luc.edu/facpubs>



Part of the [International Law Commons](#), and the [Legal Writing and Research Commons](#)

---

**Recommended Citation**

Grant, Julienne and Floren-Romero, Marisol, "Cuban Law & Legal Research: A Snapshot During the Deshielo: A Handout Prepared to Accompany Program D4, American Association of Law Libraries Annual Meeting & Conference, Austin, Texas, July 17, 2017" (2017). *Faculty Publications & Other Works*. 650. <https://lawcommons.luc.edu/facpubs/650>

This Article is brought to you for free and open access by LAW eCommons. It has been accepted for inclusion in Faculty Publications & Other Works by an authorized administrator of LAW eCommons. For more information, please contact [law-library@luc.edu](mailto:law-library@luc.edu).



## **CUBAN LAW & LEGAL RESEARCH: A SNAPSHOT DURING THE** **DESHIELO**

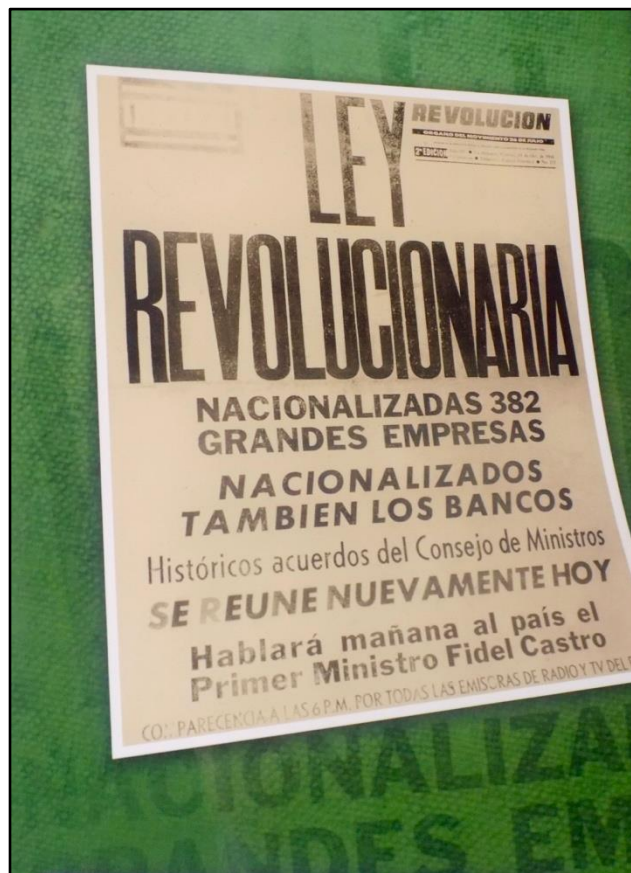
A Handout Prepared to Accompany Program D4  
American Association of Law Libraries Annual Meeting & Conference, Austin, Texas, July 17, 2017

Text & Charts Prepared By:  
Marisol Florén-Romero (Florida International University Law Library, [florenm@fiu.edu](mailto:florenm@fiu.edu))  
Julienne E. Grant (Loyola University Chicago School of Law Library, [jgrant6@luc.edu](mailto:jgrant6@luc.edu))

Photography and Layout: Julienne E. Grant

## **FORWARD**

Twelve members of the FCIL-SIS' Latin American Law Interest Group<sup>1</sup> 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).



---

<sup>1</sup> Julienne E. Grant (Loyola University Chicago), Steven Alexandre da Costa (Boston University), Lyonette Louis-Jacques (University of Chicago), Marisol Florén-Romero (Florida International University), Cate Kellett (Yale University), Jonathan Pratter (University of Texas at Austin), Teresa M. Miguel-Stearns (Yale University), Eduardo Colón, Sergio D. Stone (Stanford University), Jootaek Lee (Northeastern University), Irene Kraft (International Criminal Court), and Yasmin Morais (University of the District of Columbia).

**Contents**

**FORWARD .....1**

**HISTORICAL OVERVIEW.....3**

**GOVERNMENT STRUCTURE .....5**

**LEGAL SYSTEM .....7**

**THE SOCIALIST CONSTITUTION .....8**

**EXECUTIVE POWERS.....9**

**LEGISLATIVE POWERS .....10**

**THE JUDICIARY .....11**

**MAIN SOURCES OF LAW .....12**

**THE COMMUNIST PARTY OF CUBA (PCC) .....13**

**MASS ORGANIZATIONS .....15**

**LEGAL PROFESSION .....16**

**SECONDARY LEGAL PUBLICATIONS .....17**

**FOREIGN INVESTMENT & INTERNATIONAL COMMERCIAL ARBITRATION .....18**

**THE EMBARGO (EL BLOQUEO) .....20**

**NOTABLE WEB RESOURCES .....22**

**U.S. LIBRARY COLLECTIONS .....23**

**CHART NO. 1 THE COURT SYSTEM.....24**

**CHART NO. 2 THE CUBAN LEGAL SYSTEM - SOURCES OF LAW .....25**



## 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 19<sup>th</sup> 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.<sup>2</sup> 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-19<sup>th</sup> 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,<sup>3</sup> 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.<sup>4</sup> 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.<sup>5</sup>

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

---

<sup>2</sup> 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).

<sup>3</sup> Treaty of Paris, Spain-U.S., Dec. 10, 1898, 30 Stat. 1754.

<sup>4</sup> Army Appropriations Bill, 31 Stat. 895, 897 (1901). Proclamation on July 2, 1904, 33 Stat. 2248.

<sup>5</sup> Agreement for the Lease to the United States of Lands in Cuba for Coaling and Naval Stations, Cuba-U.S., Feb. 23, 1903. Continued by treaty on May 29, 1934, 48 Stat. 1682.



and fall of a small parade of presidents, along with a series of constitutions—none providing the framework for a stable, democratic state.<sup>6</sup> 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 “26<sup>th</sup> 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.”<sup>7</sup> 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.”<sup>8</sup> In response, the Cuban government began to implement pro-market reforms that included opening the country to tourism and foreign investment.<sup>9</sup>



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.<sup>10</sup> 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.

---

<sup>6</sup> DEBRA EVENSON, *LAW AND SOCIETY IN CONTEMPORARY CUBA 3* (Kluwer Law International 2003) (1994).

<sup>7</sup> See *Id.* at 10.

<sup>8</sup> *Cuba: The comandante’s last move*, THE ECONOMIST (Feb. 21, 2008), <http://www.economist.com/node/10727899>.

<sup>9</sup> *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).

<sup>10</sup> See David Blumenthal, “Cuba’s Health Care Legacy Should be Celebrated,” HUFFPOST THE BLOG (Nov. 29, 2016), [http://www.huffingtonpost.com/david-blumenthal/fidel-castros-health-care\\_b\\_13308526.html](http://www.huffingtonpost.com/david-blumenthal/fidel-castros-health-care_b_13308526.html); Salim Lamrani, *Fidel Castro, Hero of the Disinherited*, 8 INT’L J. CUBAN STUD. 151 (2016), at 157-159; “Cuba: Fidel Castro’s Record of Repression,” HUMAN RIGHTS WATCH (Nov. 26, 2016), <https://www.hrw.org/news/2016/11/26/cuba-fidel-castros-record-repression>.

Trump announced he was cancelling what he termed “the last administration’s completely one-sided deal with Cuba.”<sup>11</sup> It remains to be seen how this policy reversal will affect U.S.-Cuba relations going forward.

### Core Resources:

August, Arnold. *Cuba-U.S. Relations: Obama and Beyond*. Nova Scotia: Fernwood Books, 2017. Decidedly anti-U.S., but provides analysis of the Obama era and predictions regarding the post-Obama period.

Chomsky, Aviva, Barry Carr, and Pamela Maria Smorkaloff, eds. *The Cuba Reader: History, Culture, Politics*. The Latin American Readers. Durham, N.C.: Duke University Press Books, 2004.



Domínguez, Jorge. *Cuba: Order and Revolution*. Cambridge, Mass.: Belknap Press of Harvard University Press, 1978.

Domínguez, Jorge, Rafael M. Hernández, and Lorena G. Barbería, eds. *Debating U.S.-Cuban Relations: How Should We Now Play Ball?*. 2nd ed. Contemporary Inter-American Relations. New York: Routledge, 2017.

Henken, Ted A., Miriam Celaya, and Dimas Castellanos, eds. *Cuba*. Latin America In Focus. Santa Barbara, Cal.: ABC-CLIO, 2013.

Hudson, Rex A., ed. *Cuba: A Country Study*. Washington, D.C.: Federal Research Division, Library of Congress, 2002. Accessed June 25, 2017. <https://www.loc.gov/item/2002018893/>.

Sweig, Julia E. *Cuba: What Everyone Needs to Know*. 2nd ed. New York: Oxford University Press, 2013.

Szulc, Tad. *Fidel: A Critical Portrait*. New York: Wm. Morrow & Co., 1986.

## **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

---

<sup>11</sup> See Dan Merica, “Trump unveils new restrictions on travel, business with Cuba,” CNN POLITICS (June 17, 2017), <http://www.cnn.com/2017/06/16/politics/trump-cuba-policy/>.

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.<sup>12</sup>

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.<sup>13</sup> 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.<sup>14</sup>

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:

There is a useful chart of the Cuban government structure available at <http://educaciones.cubaeduca.cu/medias/pdf/2340.pdf>, with a translated version in English in *Cuba: A Legal Guide to Business* (José R. Cot & Rolando Anillo eds., 2016) at p. 28.

The Structure of the Cuban State: <http://www.granma.cu/granmad/secciones/elecciones/112.html> (explanation in English of the various government bodies). Source: *Granma* (archived page, March 11, 2014).

The ANPP's website (<http://www.parlamentocubano.cu/>) (Spanish only) contains detailed information on the Cuban government and the various assemblies and People's Councils under "*Estado Cubano*."



<sup>12</sup> "Quedarán constituidas las Asambleas Municipales del Poder Popular," GRANMA (May 13, 2015), <http://www.granma.cu/cuba/2015-05-13/quedaran-constituidas-hoy-las-asambleas-municipales-del-poder-popular>.

<sup>13</sup> "Constituidas en Cuba, las Asambleas Provinciales del Poder Popular elegidas en comicios del 3 de febrero," CUBAINFORMACIÓN (Feb. 11, 2013), <http://www.cubainformacion.tv/index.php/politica/48182-constituidas-en-cuba-las-asambleas-provinciales-del-poder-popular-elegidas-en-comicios-del-3-de-febrero>.

<sup>14</sup> See "In October, Elections in Cuba Prior to Presidential Change," ONCUBA (June 19, 2017), <http://oncubamagazine.com/society/in-october-elections-in-cuba-prior-to-presidential-change/>.



Roman, Peter. "Electing Cuba's National Assembly Deputies: Proposals, Selections, Nominations, and Campaigns." *European Review of Latin American and Caribbean Studies*, no. 82 (April 2007): 69-87.

----- "Introduction: Overview of Cuban Political Institutions." *Socialism & Democracy* 30 (2016): 30-34. See also the April 1, 2017 post, <http://sdonline.org/70/introduction-overview-of-cuban-political-institutions1/> (essentially a reprint and brief update of the 2016 article).

----- *People's Power: Cuba's Experience with Representative Government*. Updated ed. Lanham, Maryland: Rowman & Littlefield, 2003.

Vallín, Wilfredo, & Ted A. Henken. *Cuba's System of Government: The National Assembly, the Council of State, and the Council of Ministers*. In *Cuba*, edited by Ted A. Henken et al., 100-105. Latin America In Focus. Santa Barbara, Cal.: ABC-CLIO, 2013.

## **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:

"Cuba." In *Foreign Law Guide*, edited by Marci Hoffman. BrillOnline Reference Works, 2017 (country section updated March 1, 2013).



Evenson, Debra. *Law and Society in Contemporary Cuba*. 2nd ed. The Hague: Kluwer Law International, 2003.

Matilla Correa, Andry. *Estudios Sobre Historia del Derecho en Cuba*. La Habana: Editorial de Ciencias Sociales, 2009.

Michalowski, Raymond. "Cuba." In *Legal Systems of the World*, edited by Herbert M. Kritzer, 395-401. Santa Barbara, Cal.: ABC-CLIO, 2002.

Pérez Gallardo, Leonardo B., coord. *El Derecho en Cuba*. Madrid: Editorial Reus, 2015. This is the most comprehensive and up-to-date commentary,

in Spanish, on the Cuban legal system and practice of law in Cuba.

Zatz, Marjorie S. *Producing Legality: Law and Socialism in Cuba*. New York: Routledge, 1994.

## **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.<sup>15</sup> 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.<sup>16</sup>



### **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/>).

Álvarez Tabio, Fernando. *Comentarios a la Constitución Socialista*. La Habana: Ediciones Jurídicas, 1981.

Azcuy, Hugo. *Análisis de la Constitución Cubana y Otros Ensayos*. La Habana: Instituto Cubano de Investigación Cultural Juan Marinelo. Panamá: Ruth Casa Editorial, 2010.

Bernal, Beatriz. *Cuba y sus Leyes: Estudios-Histórico Jurídicos*. México, D.F.: Universidad Nacional Autónoma de México, 2002.

Klein, L. B., “Socialist Constitution of Cuba (1976).” *Columbia Journal of Transnational Law* 17 (1978): 451-515.

---

<sup>15</sup> EVENSON, *supra* note 6, at 9.

<sup>16</sup> 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."<sup>17</sup> 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:

The various legal instruments that both Councils promulgate are published in the *Gaceta Oficial* (<https://www.gacetaoficial.gob.cu/>). The ANPP's website (<http://www.parlamentocubano.cu/>) contains the Council of State's decree-laws (1977-2015) under "*Labor Legislativo.*"

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*:  
[https://www.ecured.cu/EcuRed:Enciclopedia\\_cubana](https://www.ecured.cu/EcuRed:Enciclopedia_cubana)  
(Spanish only). *EcuRed* is Cuba's version of *Wikipedia*.



<sup>17</sup> Wilfredo Vallín & Ted A. Henken, *Politics and Government, in CUBA 85, 101-102* (Ted A. Henken et al. eds., 2013).

*Granma* (<http://en.granma.cu/>) and *Cubadebate* (<http://en.cubadebate.cu/>) cover the activities of both Councils (in Spanish and English). Other English-language sources for developments pertaining to the Cuban government include the *Latin American Herald Tribune* (<http://www.laht.com/>); *Havana Times* (<http://www.havanatimes.org/>); and *teleSUR* (<http://www.telesurtv.net/english/index.html>). The latter is partially funded by the Cuban government. *CUBANET*, based in Coral Gables, Florida, provides daily updates on Cuba in Spanish (<https://www.cubanet.org>), with the aim of promoting independent journalism in Cuba.

## **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.<sup>18</sup> According to the ANPP website, the National Assembly will meet next in ordinary session for the *VIII Legislatura* on July 14, 2017.<sup>19</sup>



### 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.

August, Arnold. *Cuba and its Neighbors: Democracy in Motion*. London: Zed Books, 2013.

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>).

---

<sup>18</sup> "Diputados Analizan Documentos del 7 mo. Congreso del Partido," GRANMA (May 31, 2017), <http://www.granma.cu/cuba/2017-05-31/diputados-analizan-documentos-del-7mo-congreso-del-partido-31-05-2017-08-05-53>.

<sup>19</sup> <http://www.parlamentocubano.cu/index.php/convocatoria-al-noveno-periodo-ordinario-de-sesiones-de-la-asamblea-nacional-del-poder-popular/> (June 24, 2017).



## **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 40<sup>th</sup> 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.

Evenson, Debra. *Law and Society in Contemporary Cuba*. 2nd ed. The Hague: Kluwer Law International, 2003.

Pérez Gallardo, Leonardo B., coord. *El Derecho en Cuba*. Madrid: Editorial Reus, 2015.

Salas, Luis. “The Judicial System of Postrevolutionary Cuba.” *Nova Law Journal* 8 (1983): 43-70.

Wise, Michael B. “Cuba and Judicial Review.” *Southwestern Journal of Law & Trade in the Americas* 7 (2000): 247-266.

Zatz, Marjorie S. *Producing Legality: Law and Socialism in Cuba*. New York: Routledge, 1994.

## **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.<sup>20</sup>

Cuba has enacted six codes and two procedural laws: Civil Code (*Ley No. 59, Código Civil*, July 16, 1987, amended to 2015); Family Code (*Ley No. 1289, Código de la Familia*, Feb. 14, 1975, amended to 1994); Code of Children and Youth (*Ley No. 16, Código de la Niñez y la Juventud*, June 26, 1978); Commercial Code (*Código Comercial, Real Decreto*, Jan. 28, 1886, amended to 2012); Criminal Code (*Ley No. 62, Código Penal*, Dec. 29, 1987, amended to 2013); Labor Code (*Ley No. 116, Código de Trabajo*, Dec. 20, 2013); and the Road Safety and Traffic Code (*Ley No. 109, Código de Seguridad Vial*, Aug. 1, 2010). The two main procedural laws are: Criminal Procedure Law (*Ley No. 5, Ley de Procedimiento Penal*, Aug. 13, 1977, amended to 2013); and Civil, Administrative, Labor and Economic Procedure Law (*Ley No. 7, Ley de Procedimiento Civil, Administrativo, Laboral y Económico*, Aug. 19, 1977, amended to 2006).



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.

---

<sup>20</sup> 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).

### 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> (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 *JLI* 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/>) (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>. 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. *Ley no. 59/1987 Código Civil de la República de Cuba: Anotado y Concordado*. La Habana: Ediciones ONBC, 2017. This is the most current annotated edition of the Cuban Civil Code (in Spanish).

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.

Rivero García, Danilo, and María Caridad Bertot Yero. *Código Penal de la República de Cuba, Ley no. 62/87: Anotado con las Disposiciones del CGTSP*. La Habana: Ediciones ONBC, 2013.



## **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.<sup>21</sup> It is the only approved political party in Cuba.

<sup>21</sup> Wilfredo Vallín & Ted A. Henken, *Politics and Government, in CUBA* 85, 108 (2013).

The PCC has about 700,000 members<sup>22</sup> 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,<sup>23</sup> 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 Casto outlined the vision, priorities, and strategic sectors of a national economic and social development plan through 2030.<sup>24</sup>

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](https://www.ecured.cu/Partido_Comunista_de_Cuba) (Spanish only).

Backer, Larry Catá. "The Cuban Communist Party at the Center of Political and Economic Reform: Current Status and Future Reform." *Northwestern Interdisciplinary Law Review* 8 (2015): 71-129.

<sup>22</sup> Mimi Whitfield, "Cuba's Communist Party meets at critical time for the country," *MIAMI HERALD* (April 15, 2016), <http://www.miamiherald.com/news/nation-world/world/americas/cuba/article72028182.html>.

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

<sup>24</sup> Duane W. Krohnke, "Raúl Castro Discusses Socio-Economic Issues in Report to Seventh Congress of the Communist Party of Cuba," *DWKCOMMENTARIES* (April 19, 2016), <https://dwkcommentaries.com/2016/04/19/raul-castro-discusses-socio-economic-issues-in-report-to-seventh-congress-of-the-communist-party-of-cuba/>.



LeoGrande, William M. "The Communist Party of Cuba since the First Congress." *Journal of Latin American Studies* 12 (1980): 397-419.

----- "The Cuban Nation's Single Party': The Cuban Communist Party Faces the Future." In *A Contemporary Cuban Reader: Reinventing the Revolution*, edited by Philip Brenner et al., 50-62. Lanham, Maryland: Rowman & Littlefield, 2008.

Partido Comunista de Cuba. *Conceptualización del Model Económico y Social Cubano de Desarrollo Socialista: Plan Nacional de Desarrollo Económico y Social Hasta 2030: Propuesta de Visión de la Nación, Ejes y Sectores Estratégicos*. Séptimo Congreso PCC (2016). Accessed June 25, 2017. <http://www.granma.cu/file/pdf/gaceta/Copia%20para%20el%20Sitio%20Web.pdf>.

Partido Comunista de Cuba. *Sistema Político Cubano: atribuciones, funciones y tareas de órganos del poder popular*. México, D.F.: Editora Política, 2007.

Vallín, Wilfredo, & Ted A. Henken. *The Cuban Communist Party (PCC)*. In *Cuba*, edited by Ted A. Henken et al., 105-108. Latin America In Focus. Santa Barbara, Cal.: ABC-CLIO, 2013.

## **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.<sup>25</sup> Mass organizations are entrusted with security, educational, and public health functions.<sup>26</sup>

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).

<sup>25</sup> Juan Valdés Paz, "Sistema Político y Socialismo en Cuba," 8 POLÍTICA Y CULTURA, 281 (1997).

<sup>26</sup> REX A. HUDSON, CUBA: A COUNTRY STUDY (Library of Congress, 2002) at 124, <https://www.loc.gov/item/2002018893/>.

*Trabajadores* is the official organ of the Cuban Workers Federation: <http://www.trabajadores.cu> (Spanish only).

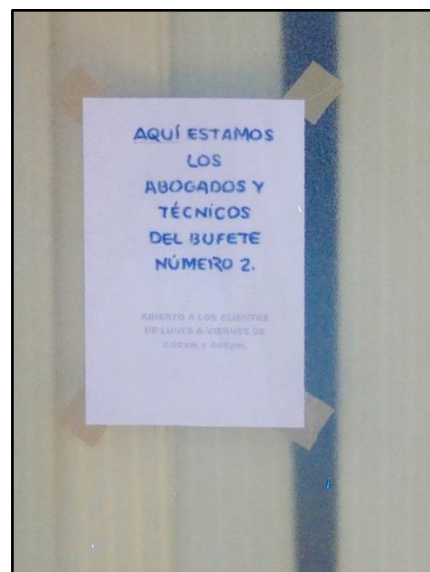
*Granma* reports on the various activities of mass organizations: <http://en.granma.cu/> (Spanish and English).

See *EcuRed* ([https://www.ecured.cu/EcuRed:Enciclopedia\\_cubana](https://www.ecured.cu/EcuRed:Enciclopedia_cubana)) (Spanish only) for descriptions of each of the mass organizations, searching by name.

Vallín, Wilfredo, & Ted A. Henken. *Mass Organizations*. In *Cuba*, edited by Ted A. Henken et al., 88-93. Latin America In Focus. Santa Barbara, Cal.: ABC-CLIO, 2013.

## **LEGAL PROFESSION**

Lawyers work in various settings, although they are not allowed to be self-employed. Most lawyers and judges in Cuba are women.<sup>27</sup> 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 40<sup>th</sup> 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.<sup>28</sup>



### **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*.”

---

<sup>27</sup> “...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](http://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=1014&context=international_immersion_program_papers).

<sup>28</sup> See, e.g., “The Cuban justice system is seriously corrupt,” DIARIO DE CUBA (May 26, 2016), [http://www.diariodecuba.com/cuba/1464289414\\_22659.html](http://www.diariodecuba.com/cuba/1464289414_22659.html); Urgent Action: Human Rights Lawyers Under Threat (CUBA: UA261/16), AMNESTY INT’L (Nov. 18, 2016), [https://www.amnestyusa.org/files/uaa26116\\_1.pdf](https://www.amnestyusa.org/files/uaa26116_1.pdf). Laritza Diversent recently sought asylum in the United States and is now living in Memphis, Tennessee. See Nora Gámez Torres, “Cuban activists denounce new methods of repression,” MIAMI HERALD (May 15, 2017), <http://www.miamiherald.com/news/nation-world/world/americas/cuba/article150602062.html>.





The UNJC (<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 web page accessible from the main UNJC page: <https://www.unjc.co.cu/sociedades>.

Cuban notaries operate under the auspices of the Direction of Notaries (*Dirección de Notarías*) of the Ministry of Justice: [https://www.minjus.gob.cu/viewpage.php?page\\_id=38](https://www.minjus.gob.cu/viewpage.php?page_id=38).

*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*”).

Clark, Gerard. “The Legal Profession in Cuba.” *Suffolk Transnational Law Review* 23 (Summer 2000): 413-436.

Evenson, Debra. *Law and Society in Contemporary Cuba*. 2nd ed. The Hague: Kluwer Law International, 2003. See ch. 4, “Development of the Legal Profession and the Practice of Law.”

*Legalidad, Derecho y Sociedad*. Edición Especial, no. 2 (2017). Accessed June 25, 2017. [http://www.fgr.cu/sites/default/files/20170619/Publicaciones/revista\\_para\\_los\\_juristas\\_1.pdf](http://www.fgr.cu/sites/default/files/20170619/Publicaciones/revista_para_los_juristas_1.pdf). (special issue commemorating the 8th Congress and 40<sup>th</sup> anniversary of the UNJC).

Michalowski, Raymond. *All or Nothing: An Inquiry Into the (Im)possibility of Cause Lawyering Under Cuban Socialism*. In *Cause Lawyering: Political Commitments and Professional Responsibilities*, edited by Austin Sarat and Stuart Scheingold, 523- 545. New York: Oxford University Press, 1998.

Michalowski, Raymond J. “Between Citizens and the Socialist State: the Negotiation of Law Practice in Socialist Cuba.” *Law & Society Review* 29 (1995): 65-102.

Pérez Díaz, Olga Lidia, and Notarías Especialistas de la Dirección de Notarías, *¿Qué Debemos Conocer del Servicio Notarial en Cuba?*. Ministerio de Justicia Dirección de Notarías, n.d. Accessed June 25, 2017. [https://www.minjus.gob.cu/downloads/notaria/servicio\\_notarial.pdf](https://www.minjus.gob.cu/downloads/notaria/servicio_notarial.pdf).

Quintana, Victoria. “Heirs of Martí: The Story of Cuban Lawyers.” *University of Miami International & Comparative Law Review* 17 (2009): 254-260.

## **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 *IJI* Guide.

Core Resource (Historical):

Bishop, Crawford M., and Anyda Marchant. *A Guide to the Law and Legal Literature of Cuba, the Dominican Republic, and Haiti*. Washington, D.C.: The Library of Congress, 1944. Accessed June 25, 2017. <http://ufdc.ufl.edu/AA00001333/00001>.

## **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.<sup>29</sup>

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.

---

<sup>29</sup> YANET SOUTO FERNÁNDEZ, "Inversiones Extranjeras," in *EL DERECHO EN CUBA* (Pérez Gallardo, coord., 2015), at 261.

The website of the Mariel Special Economic Development Zone (ZED Mariel) ([http://www.zedmariel.com/pages/eng/Informacion\\_General.php](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.

Sources discussing current developments pertaining to foreign investment and trade in Cuba in English include *On Cuba*, <http://oncubamagazine.com/en/>; *Cuba Trade Magazine*,

<http://www.cubatrademagazine.com/>; *Cubadebate*, <http://en.cubadebate.cu>; and *Cuba Business Report*, <http://www.cubabusinessreport.com/>.



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/>.

*Cuba Foreign Trade: Journal of the Cuban Chamber of Commerce*, issue no. 1, 2015, is a special edition covering Law No. 118 on Foreign Investment. English edition. Accessed June 25, 2017. <http://www.camaracuba.cu/phocadownload/Publicaciones/Rev-CFT-Digital-1-2015-Ingles.pdf>.



Cot, José R., and Rolando Anillo, eds. *Cuba: A Legal Guide to Business*. Eagan, Minn.: Thomson Reuters, 2016.

Dávalos Fernández, Rodolfo, and Marta Moreno Cruz. *Estudios sobre Arbitraje en Cuba*. La Habana: Ediciones ONBC, 2017.

Feinberg, Richard E. *Open for Business: Building the New Cuban Economy*. Washington, D.C.: Brookings Institution Press, 2016.

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*:

*Strategic Approaches to Cooperation*, edited by Jonathan Benjamin-Alvarado, 21-47. Washington, D.C.: Brookings Institution Press, 2010.

Velázquez Pérez, Rafael-Andrés. *Inversiones Extranjeras Sostenibles: Un Análisis Alternativo del Derecho Internacional de Inversiones Enfocado sobre Cuba*. Barcelona: Bosch Editor, 2015.

## **THE EMBARGO (EL BLOQUEO)**



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.<sup>30</sup> The Cuban Democracy Act of 1992<sup>31</sup> and the 1996 Helms-Burton Act<sup>32</sup> 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.”<sup>33</sup> 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.<sup>34</sup> 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.

---

<sup>30</sup> Trading with the Enemy Act (TWEA), 50 U.S.C. § 4305 (2016).

<sup>31</sup> Cuban Democracy Act of 1992, Pub. L. No. 102-484, 106 Stat. 2575 (Oct. 23, 1992).

<sup>32</sup> 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.”

<sup>33</sup> Ted A. Henken & Archibald R.M. Ritter, *Overcoming Cuba’s Internal Embargo*, 114 CURRENT HISTORY: A JOURNAL OF CONTEMPORARY WORLD AFFAIRS 73, 73 (Feb. 2015), [http://www.currenthistory.com/Henken-Ritter\\_CurrentHistory.pdf](http://www.currenthistory.com/Henken-Ritter_CurrentHistory.pdf).

<sup>34</sup> See G.A. Res. A/RES/71/5 (Oct. 26, 2016). In prior years, since 1991, the United States voted against the annual U.N. resolution. See Somini Sengupta & Rick Gladstone, “U.S. Abstains in U.N. Vote Condemning Cuban Embargo” N.Y. TIMES, Oct. 26, 2016, <https://www.nytimes.com/2016/10/27/world/americas/united-nations-cuba-embargo.html>.



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.

The U.S. Department of Commerce’s Bureau of Industry and Security maintains a page on Cuba with respect to the Export Administrative Regulations: <https://www.bis.doc.gov/index.php/policy-guidance/country-guidance/sanctioned-destinations/cuba>. The U.S. Department of State also has a “Cuba Sanctions” page: <https://www.state.gov/e/eb/tfs/spi/cuba/>.

President Donald J. Trump, *National Security Memorandum on Strengthening the Policy of the United States Toward Cuba* (June 16, 2017), <https://www.whitehouse.gov/the-press-office/2017/06/16/national-security-presidential-memorandum-strengthening-policy-united>.



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://cubaeeuu.cubaminrex.cu> (Spanish only).

LeoGrande, William M., and Richard S. Newfarmer, “The real economic impact of Trump’s sanctions on Cuba,” *ORDER FROM CHAOS*, June 21, 2017. Accessed June 25, 2017. <https://www.brookings.edu/blog/order-from-chaos/2017/06/21/the-real-economic-impact-of-trumps-sanctions-on-cuba-travel/>.



Muse, Robert L. “The U.S. Embargo and Other Laws Regarding Cuba.” In *Cuba: A Legal Guide to Business*, edited by José R. Cot and Rolando Anillo, 29-52. Eagan, Minn.: Thomson Reuters, 2016.

Quinter, Peter A., “An Analysis of the Recent Legal Developments in the Enforcement of the U.S. Trade Embargo Against Cuba.” In *Cuba: A Legal Guide to*



*Business*, edited by José R. Cot and Rolando Anillo, 53-73. Eagan, Minn.: Thomson Reuters, 2016. Does not incorporate the new Trump policy initiatives, but useful nonetheless.

Sullivan, Mark P. "Cuba: U.S. Policy in the 115<sup>th</sup> Congress." *CRS Report* (June 29, 2017). Accessed July 10, 2017.

<https://fas.org/sgp/crs/row/R44822.pdf>.

## **NOTABLE WEB RESOURCES**

Google Cuba: <https://www.google.com.cu>.  
Google launched its first servers in Cuba in April.



*Onlinenewspapers.com* has a list of Cuban newspapers available on the Web:

<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. *Granma* (<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* (Venezuela) (<http://www.laht.com>); *Havana Times* (Nicaragua) (<http://www.havanatimes.org>); *Diario de Cuba* (Spain) (<http://www.diariodecuba.com/english>); 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.

*Translating Cuba* (<http://translatingcuba.com>) is an extremely useful resource for non-Spanish speakers. The site posts English-language translations of blog entries and other current writings from a broad spectrum of Cuba-based independent journalists. The *14ymedio* blog, administered by well-known Cuba-based writer Yoani Sánchez, has an English-language edition: <http://www.14ymedio.com/englishedition>.

*Cubadebate* (<http://www.cubadebate.cu>) is maintained by the Circle of Cuban Journalists against Terrorism (*Círculo de Periodistas Cubanas 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>.

*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* (dLOC) (<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*), 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](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.<sup>35</sup> Nonetheless, the entries can provide useful information on legal terms, specific legislation, legal sources, mass organizations, and government institutions.

*Guide to Law Online: Nations: Cuba* (Law Library of Congress) (<https://www.loc.gov/law/help/guide/nations/cuba.php>) lists links to Cuban laws, legal and government institutions, legal research guides, and other general resources about Cuba.

*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.

Library *LibGuides*: "Researching Cuban Law" (Loyola University Chicago):

<http://lawlibguides.luc.edu/c.php?g=610830>; "Cuban Legal System: Contemporary Issues" (Santa Clara University): <http://lawguides.scu.edu/cuba#s-lg-box-68697>;

"U.S.-Cuba Relations" (Northwestern): <http://libguides.northwestern.edu/usclubrelations>; "Gov Docs:

Cuba and Cuban Relations" (University of South Alabama): <http://libguides.southalabama.edu/cuba>;

"The Cuban Revolution: Roots, Repercussions, Resistance: Cuban Archives at Yale" (Yale):

<http://guides.library.yale.edu/c.php?g=296251&p=1976776>.

## 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.

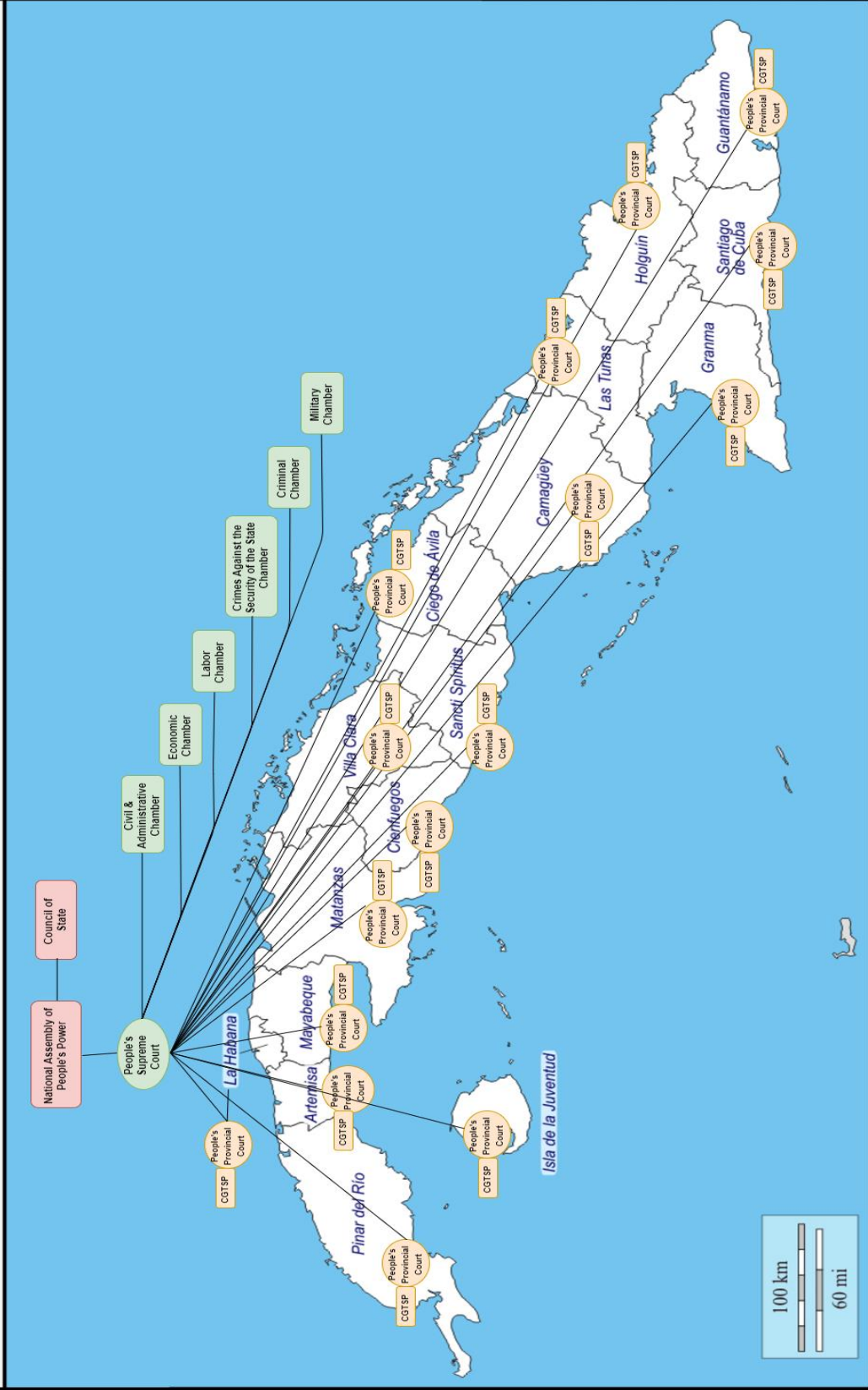
For a comprehensive overview of U.S. and Canadian libraries that house rich collections of Cuban legal materials, see Yasmin Morais' section, "Cuban Legal Materials in U.S. & Canadian Libraries" in the forthcoming *JLLI* Guide. It should be noted that the U.S. trade embargo has severely limited U.S. 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)

Pérez, Louis A. *A Guide to Cuban Collections in the United States*. New York: Greenwood Press, 1991.

<sup>35</sup> See Rich Potter, "Cuba's EcuRed: a socialist Wikipedia?," *TRANSD[E]UCE* (Dec. 30, 2010), <https://transdeuce.wordpress.com/2010/12/30/cubas-ecured-a-socialist-wikipedia/>.

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
- Cuba / República De Cuba Boundaries, Provinces, Names. Digital image: D-maps.com. Web. 1 June 2017. [uri:http://d-maps.com/carte.php?num\\_car=5156&lang=en](http://d-maps.com/carte.php?num_car=5156&lang=en)
- Graphic design by Raul Aviles.

**Chart No. 2**  
**The Cuban Legal System - Sources of Law<sup>i</sup>**

<b>National Assembly of Peoples' Power</b>	
Laws ( <i>Leyes</i> )	CONST. art. 75(b): approve, modify or repeal laws.
Agreements ( <i>Acuerdos</i> )	CONST. art. 76: laws and agreements are adopted by simple majority of votes.
<b>Council of State</b>	
Decree-Laws ( <i>Decretos-Leyes</i> )	CONST. art. 90(c): issues decree-laws between periods of sessions of the National Assembly of the People's Power.
International Treaties ( <i>Tratados Internacionales</i> )	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. <sup>ii</sup>
Agreements ( <i>Acuerdos</i> )	CONST. art. 93(j): sign decree-laws and other agreements of the Council of State.
Instructions ( <i>Instrucciones</i> )	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.
<b>Council of Ministers</b>	
Decrees ( <i>Decretos</i> ) & Provisions ( <i>Disposiciones</i> )	CONST. art 98(k): issues decrees and other provisions ( <i>disposiciones</i> ) <sup>iii</sup>
Regulations ( <i>Reglamentos</i> )	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.
Agreements ( <i>Acuerdos</i> )	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 <sup>iv</sup>
Presidential Decrees ( <i>Decretos Presidenciales</i> ), Resolutions ( <i>Resoluciones</i> ) & Instructions ( <i>Instrucciones</i> )	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.
<b>Members of the Council of Ministers</b>	
Resolutions ( <i>Resoluciones</i> ) & Provisions ( <i>Disposiciones</i> )	CONST. art. 100(a): conduct the affairs and tasks of the ministries or agencies under their care, issuing the necessary resolutions and provisions.

Regulations ( <i>Reglamentos</i> )	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 ( <i>Circulares</i> )	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.

<sup>i</sup> 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).

<sup>ii</sup> *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*, in *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.

<sup>iii</sup> 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).

<sup>iv</sup> *Decreto Ley No.272, De la Organización y Funcionamiento del Consejo de Ministros* [DOFCM] [Decree Law No. 272, On the Organization and Functioning of the Council of Ministers], July 16, 2010, *Gaceta Oficial* [GO], No.33, August 13, 2010.

