

# The Cuban tourism sector: mitigating the risk of labour exploitation in a holiday paradise...

Dr Rosana Garcíandia    Dr Jean-Pierre Gauci

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Have you ever been to Cuba and enjoyed the hospitality and warmth of its people? If you have, you may have stayed in a European hotel branch in Havana or enjoyed the pleasures of the island in a foreign cruise, now that the presence of multinational corporations is part of the Cuban economic landscape. What you may be less aware of is the risk of labour exploitation associated with the tourism and hospitality sector in the island. Some of the waiters or kitchen personnel in those hotels, or workers of hotel suppliers, may undertake their work in exploitative or discriminatory conditions.

The tourism and hospitality sector is a key pillar of the Cuban economy, and one where foreign multinational corporations operate in partnership with State-owned companies to provide their services. This raises important questions about Cuba's obligations, and about the role that foreign companies and home States of those companies can play in respecting, protecting and promoting labour and human rights on the island. In its recently published [report](#), BIICL has studied the obligations of States and the responsibilities of companies to combat labour exploitation and related human rights abuses in the Cuban tourism and hospitality context. The report relies heavily on the core [International Labour Organization \(ILO\) Conventions](#) and UN and regional [human rights treaties](#) and the obligations they set out for States, as well as on the [UN Guiding Principles on Business and Human Rights](#) (UNGPs), which establish the responsibilities of corporations. Building on that legal framework and on consultations with a range of stakeholders, the project developed a set of recommendations for States, businesses and civil society to ensure respect for the rights of workers in the Cuban tourism sector.

It is worth noting that whilst some of the issues and considerations are particular to the Cuban context (especially given the heavy involvement of the State in the day-to-day operations of hotels and the employment of workers in Cuba), many of the human rights concerns raised in the report are equally applicable to the sector in other jurisdictions.

## Is Cuba doing enough?

On paper, Cuba has taken a very strong stand in support of relevant initiatives against labour exploitation and in favour of a framework for business accountability in international fora. It is a party to the UN [Palermo Protocol](#) on trafficking in persons and many other relevant international treaties, including all 8 core ILO Conventions. As a member of the UNHRC in 2011, it was one of the States endorsing the UNGPs. Cuba was also one of the States co-sponsoring an initiative [led by Ecuador and South Africa at the UN level to advance efforts for a binding treaty on business and human rights](#). It has also committed to 'promote (...) full and productive employment and decent work for all' under UN Sustainable Development Goal 8.

Yet, continued allegations of labour exploitation in the tourism and hospitality sector in Cuba raise concerns about how those international standards are complied with in practice, as the ILO and UN committees have emphasized in numerous decisions (see, for example, [here](#) and [here](#)). Situations of precarious working conditions, including low wages, lack of access to an independent judicial system to protect workers' rights and the inability to change jobs without government permission indicate significant room for improvement in Cuba's obligations under ILO conventions. Also worrying are allegations of racial discrimination in recruitment and employment. On this front, in 2018, the [UN Committee on the Elimination of All Forms of Racial Discrimination welcomed the ban on discrimination](#) introduced by the Cuban Labour Code, but recommended that Cuba intensify its efforts to adopt and implement measures to put an end to the structural discrimination that affects persons of African descent in the country. These efforts, the committee noted, should include '[e]liminating all obstacles that impede the effective enjoyment by this population of its economic, social and cultural rights, especially in the areas of work, housing, political participation and representation in decision-making positions'.

Our recommendations for Cuba focus on four areas of action. The first area concerns action to ensure that its laws, policies and

practices are aligned with international standards, and to ensure that State-owned companies (including those established as joint ventures with foreign companies) do not engage in, facilitate or otherwise allow labour exploitation or discrimination across their value chains. The second area concerns the protection of workers' trade union rights, a matter of grave concern in the Cuban context. A third line of action requires setting up a clear framework for businesses operating in the tourism and hospitality sector, both local and foreign. A fourth area involves discussing the issue openly, allocating funds to gather evidence on labour exploitation, discrimination, forced labour and trafficking in persons and engaging in a dialogue with international organisations, civil society and businesses about these issues.

## **What role for home States of foreign companies?**

Home States of foreign companies operating in Cuba also have obligations connected to the work of those companies abroad, based on their international commitments. As the UN Committee on Economic, Social and Cultural Rights has clarified in its [General Comment No 24](#), as parties to the International Covenant on Economic, Social and Cultural Rights, the States included in this study are required to adopt measures 'to ensure effective protection against Covenant rights violations linked to business activities' and to 'provide victims of such corporate abuses with access to effective remedies'. They have a 'positive duty to adopt a legal framework requiring business entities to exercise human rights due diligence in order to identify, prevent and mitigate the risks of violations of Covenant rights, to avoid such rights being abused, and to account for the negative impacts caused or contributed to by their decisions and operations and those of entities they control on the enjoyment of Covenant rights'. States' obligations in this regard are clearly articulated under Pillar 1 of the UNGPs.

States must take those steps not only to prevent human rights violations in their territory, but also violations linked to the operations of these companies abroad. Home States of companies operating in the Cuban tourism sector should adopt the necessary measures to require those companies to exercise human rights due diligence and ensure access to remedy, given the risks of labour exploitation in the tourism sector. The legal basis for this is constantly evolving, as the expansion and proliferation of the business and human rights international framework leads States and international organizations to enact mandatory human rights due diligence legislation. A promising development in this respect is the proposed [European Union Directive on corporate sustainability due diligence](#), which is currently under consideration and aims to foster sustainable and responsible corporate behaviour and to anchor human rights and environmental consideration in companies' operations and corporate governance.

The States where foreign companies operating in the Cuban tourism sector are headquartered (Spain, Canada and France are home States to the biggest companies operating in Cuba) are also part of multilateral institutions where they can use their leverage in line with [Guiding Principle 10](#) of the UNGPs. The [European Union](#), the [World Tourism Organization](#) and the [ILO](#) could channel States' efforts to promote a shared understanding of the relevance of corporate respect for human rights in the tourism and hospitality sector, as well as strengthening training and capacity-building efforts. States' participation in human rights and labour discussions at international and regional fora has the potential to secure enhanced protection against exploitation in the tourism sector, by using peer pressure, negotiation of enhanced standards and other international mechanisms at their disposal.

Our recommendations focus on home States' role in ensuring that their laws, policies and practices are aligned with international standards and establishing effective frameworks for their companies. That may require considering a 'smart mix of measures' to foster business respect for human rights, adopting mandatory human rights due diligence, using multinational fora as platforms for influence, and engaging in discussions with companies to help them overcome challenges. Ongoing legislative changes are creating a new environment for companies, and those companies are going to need the support of home States. Home States need to listen to companies about the challenges they face in contexts such as the Cuban one, and to provide companies with technical support to ensure that they are able to comply with international standards.

## **Can companies make a difference? Do they have a responsibility?**

As companies become more aware of their responsibilities, and as the binding nature of their obligations is [incrementally reinforced by domestic legislation and case law](#), many companies are adopting measures to prevent and manage human rights risks in their value chains. This study has analysed the public human rights commitments of a set of multinational companies operating in Cuba. The selection of companies has been based on three criteria: a) that the company is foreign (that is, not Cuban); b) that it operates in one of the sectors covered by the study (travel, accommodation, etc.); and c) that it has significant operations in Cuba or in connection with Cuba.

Most of the analysed companies, particularly in the accommodation sector, have a human rights due diligence process in place and use strong human rights language in their public statements. Some companies include explicit references in their public human rights statements or codes to the human rights standards that suppliers must comply with. Many of these companies are also members of sustainable tourism networks, although those efforts continue to put more emphasis on the environmental sustainability

of their business model than on human rights. Right to remedy is contemplated in some of their human rights policies or human rights statements, although it is often not described as such and the extent to which remedy has been made accessible or is effectively called upon cannot be accurately assessed through mere analysis of those documents. Some of the companies analysed do not provide much information about their human rights due diligence processes, human rights policies and grievance mechanisms for labour exploitation and other human rights abuses. This is particularly the case for some travel platforms. However, this may be a result of the sensitivities of the context, bearing in mind that in some instances disclosure of such information might cause concerns for workers' safety.

Taking a step beyond the public statements of these companies, in consultation with stakeholders, this study has explored the efforts of, and challenges faced by, companies in implementing those policies in practice in the Cuban tourism and hospitality context, as well as promising practices which have worked well in other contexts and could be effectively applied in the Cuban context. As an example, the model contractual clauses developed by the [American Bar Association](#) are identified as a promising practice that could be helpful in addressing challenges associated with the enforcement of codes of conduct for suppliers. More challenges and promising practices are discussed in the [report](#).

Our recommendations to companies focus on their responsibilities under the UNGPs, and on the need for approaches that are tailored to the specific features of the Cuban context. Companies should consider these specific features when designing their human rights policies and human rights due diligence processes. They should also carry out meaningful and effective consultations with workers and stakeholders. Communication is a key pillar of the actions that companies should take: they should ensure effective communication of their efforts to respect human rights and develop training for workers, contractors and partners. They should also set up effective and accessible grievance mechanisms.

In terms of leverage, companies that have been operating in Cuba for a significant period of time may be best positioned to use their leverage with the Cuban government, State-owned companies and the sector-specific trade union. Finally, engagement is also very important for companies, not only with Cuban authorities but with any collective and coordinated action against labour exploitation. If all companies operating in the tourism and related sectors in Cuba exercise collective action, the potential for leverage will increase significantly.

## What role for civil society?

Beyond what States and companies can do, and despite significant restrictions on effective organising by workers, civil society continues to play a key role in tackling labour exploitation in the Cuban tourism sector. Raising awareness on the situation of workers continues to be necessary, as does gathering more information about the dynamics of the tourism sector in Cuba and collecting further evidence about discrimination patterns and sexual violence (amongst other concerns). It is also important to continue advancing our understanding of the efforts of, and challenges faced by, companies in this context.

When we travel somewhere like Cuba to enjoy a holiday and to get to know the culture, food and way of living, we are often very pleased by the quality of the services we receive and the warmth and kindness of the people we meet. However, some of those people are subjected to harsh and exploitative working conditions and may fear the consequences of speaking up. International standards on labour and human rights require States and companies to ensure that this changes. At the same time, gaps continue to exist in understandings of how this can be tackled. The role of civil society continues to be crucial in advancing the protection against labour exploitation. BIICL's recommendations provide a roadmap for States, companies and civil society organisations to begin or continue to engage in initiatives and take actions that will strengthen the protection of workers in the Cuban tourism and hospitality sector.

The full BIICL report and its recommendations can be read [here](#)

### Authors:

[Dr Rosana Garciandia](#), Research Fellow in Labour Exploitation and Human Rights, British Institute of International and Comparative Law (BIICL)

[Dr Jean-Pierre Gauci](#), Arthur Watts Senior Research Fellow in Public International Law and Director of Teaching and Training, British Institute of International and Comparative Law (BIICL)

URL: <https://www.biicl.org/blog/54/the-cuban-tourism-sector-mitigating-the-risk-of-labour-exploitation-in-a-holiday-paradise>

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