

Women Legislating vs. U.S. Democracy Promotion

By Arnold August, April 2012

Mariela Castro Espín is one of the people involved in the drafting of the new Family Code along with other women of the Federación de Mujeres Cubanas (FMC — Cuban Women's Federation). Mariela Castro provided some valuable insights in an interview she granted me. She counted on her very own experience and work, merging with the heritage handed down by her iconic mother, Vilma Espín (April 7, 1930–June 18, 2007). She was a defender of women's rights and families. Many women *mambisas* fought in the nineteenth-century Wars of Independence. They did likewise in the Sierra Maestra in 1957–58. However, in both periods, she acknowledged, machismo acted to a certain extent as a barrier. The further development of the women's role in the Revolution, according to Mariela Castro, was termed by Fidel Castro in the early years as “a revolution within the Revolution” because their very participation would force other changes and initiatives.

One such change was their active involvement in the drafting of the first Family Code (Código de la Familia) in the 1970s. In fact, it was an initiative of the FMC, headed by her mother, Vilma Espín, since the FMC's foundation in 1960 until her death in 2007. In 1974–75, coming out of the 1974 FMC Congress, this mass organization led the discussion on a widely published draft proposal in the work and educational centres, and in the neighbourhoods to collect the opinions of the population as to the content. People's Power was instituted in 1976; thus the new code was adopted by popular consensus in 1975 (Interview Castro Espín 2009).

Organizations have been working for several years to draft a new family code. First, there is the Asamblea Nacional del Poder Popular (ANPP — National Assembly of People's Power, or Parliament) and its Permanent Working Commission for the Focus on Youth, Children and the Equality of Women's Rights. Second, the FMC is implicated, as it was for the first family code. Third, Mariela Castro and the organization she heads, the Centro Nacional de Educación Sexual (CENESEX, Cuban National Centre for Sex Education), are also involved. One of the issues is the incorporation of opposition to discrimination against Cuba's LGBTI (lesbian, gay, bisexual, transsexual and intersex) community into the new legislation. This would include gender identity and same-sex marriage.

The U.S., with its democracy promotion program, is becoming involved in this effort in order to create division and recruit some individuals to discredit Cuba and the ANPP.

In response to a question in January 2012 on what she thinks about “the WikiLeaks report confirming that the United States government has designated \$300,000 for subversion of Cuba’s LGBTI project,” Mariela Castro answered:

In the first place, this explicit reaction by the United States government shows that the work being done in Cuba supporting the rights of lesbian, gay, bisexual, transsexual and intersex (LGBTI) persons preoccupies and occupies them, in terms of time and resources. Why? Because it shows the Cuban government’s political commitment to confronting homophobia and transphobia as discriminatory practices which are not consistent with the Cuban Revolution’s emancipation struggle.

What we are doing is refuting the same timeworn media campaigns attempting to discredit the spiritual core of our revolutionary project and exposing the resources expended by the United States to lie, defame, demonize and defeat this process of transformation and its leaders. They have devoted themselves to promoting a few commentators entirely lacking in authenticity, repeating their statements in the traditional media, on blogs and social networks, implementing a blatant disinformation campaign with a prefabricated script.

Very clear evidence has been revealed about the orders these mercenaries receive from the United States Interests Section in Havana. Some of this evidence was published by WikiLeaks. Many people who have witnessed concrete events, and later read the widely distributed news reports, can testify as to the way in which world opinion is crudely manipulated in the most influential media, such as CNN in Spanish, El País, Der Spiegel, Radio Nederland, among others.¹

The 1975 Family Code has to be updated.

The Family Code, known as Law 1289, was adopted on February 14, 1975, by the president of the Republic, Osvaldo Dorticos Torrado, and Prime Minister Fidel Castro on behalf of the Council of Ministers. It was to go into

effect on March 8, 1975, International Women's Day. It is this legislation, along with some modifications, that still applies at the time of writing. However, given that the new Family Code is being prepared for legislation, only a very brief summary is provided. The 1975 legislation is based on the socialist principles of equality made possible because of the elimination of private property over the main means of production, even though obsolete norms still subsist from the bourgeois past. It is furthermore founded on the socialist concept of the family, intimately interrelating social and personal interests, and the family as the basic cell of society (*célula elemental de la sociedad*). The Family Code includes marriage, divorce, marital property relationships, recognition of children, obligations for the care and education of children, adoption and tutelage. For example, marriage is constituted on the basis of equal rights and duties of both partners (Article 24). The spouses must share the same home, be faithful to one another, help, consider and respect each other (Article 25). Both spouses are obligated to care for the family they have created and cooperate with each other in the education, formation and guidance of their children in line with the principles of socialist morality. As well, each, to the extent of his or her capabilities and possibilities, must participate in governing the home and cooperate toward its best possible care (Article 26). The spouses are obligated to contribute to satisfying the needs, faculties and economic capacities. Nevertheless, if one of the spouses contributes only through his or her work in the home and child care, the other spouse must provide full economic support; in this case as well, he or she is not relieved of the obligations of cooperating in housework and child care (Article 27). Both spouses have the right to exercise their professions or crafts. They must provide each other with reciprocal cooperation and aid to this effect, as well as to carry out studies or upgrade their training. In all cases, they will take care to organize their home life so that such activities are coordinated with the fulfillment of the obligations imposed by this code (Article 28).²

According to Mariela Castro, the 1975 code reflected the advances that society was able to reach at that time. Mariela Castro's mother proposed that the Family Code consider marriage as a union between two persons, rather than a man and a woman. This was not accepted. In order to pursue her ideals, her mother, as head of the FMC, spearheaded the formation of the Grupo Nacional

de Educación Sexual (National Group for Sexual Education). This later (in 1989) became CENESEX, which is headed by Mariela Castro. In 1976, the Cuban ANPP and its working commissions were established, and there is a commission now known as the Permanent Working Commission for the Focus on Youth, Children and the Equality of Women's Rights. Since its founding, her mother, as deputy, was president of this commission, which was closely linked to the National Group for Sexual Education (currently CENESEX). As a result, CENESEX works with the FMC and this Permanent Working Commission, both authorized to draft the new family code. To that effect, between 2004 and 2006, CENESEX presented their views to these bodies regarding homophobia and transsexuals, exchanging opinions on these subjects. CENESEX was advised by the Partido Comunista de Cuba (PCC — Communist Party of Cuba) to educate the population and make them aware of these issues. Therefore, CENESEX took advantage of the means offered to carry out their campaign regarding free-choice sexual orientation and gender identity, with the goal of contributing to have this accepted in the new family code. At the March 2009 FMC Congress, the need for the draft bill on the new family code was brought to the fore with much insistence based on a draft document. Mariela Castro also said that she has followed the advice of her father, Raúl Castro, who suggested that she should “strive to educate, to do all the preparatory work before, so that you have more possibilities that the people will approve the project. If not, you are going to lose.” The draft bill had not yet been placed on the ANPP's agenda, she was told, because the priority is to deal with economic problems. “I understand this. We all know that we have to improve our structure, that the legislation must be updated.” Her approach was to say, we can wait, but “We are not going to deal with the delay with our arms folded. We are going to continue working so that, by the time the draft bill is presented, we will have advanced in making the population more conscious.”³

At the very centre of this ongoing effort in drafting the new family code proposal for presentation to the ANPP is its Permanent Working Commission for the Focus on Youth, Children and the Equality of Women's Rights. Its president, Elsa Rojas Hernández, divulged in an interview that the commission, whose new composition was formed after the 2008 elections, is integrated by 34 members. Of these, more than 76 percent are women. At the time of its establishment, the average age of all members was just over 39. Deputies between 17 and 30 years of age comprised more than 23 percent. The Commission's vice-president and secretary are women. When the commission was formed, they were 34 and

26 years old, respectively. *De base* deputies coming from the municipal delegates composed 35.2 percent of the total number.⁴



Deputy Elsa Rojas Hernández, president of the Permanent Working Commission for the Focus on Youth, Children and the Equality of Women's Rights and member of the National Secretariat of the FMC.

The composition of the commission provides a snapshot of how the ANPP, elected after the combined work of the candidacies commissions and the mass organizations in the nomination process, makes it possible to have such a working commission made-to-measure for its mandate.

Rojas Hernández was asked if the much higher proportion of women in the ANPP, compared to the municipal echelon, is due to remnants of *machismo* in the population. In the municipal phase of the elections, I pointed out in my question that the population directly nominates and elects delegates to the municipal assemblies. However, on the national level for the ANPP elections, the candidacies commissions and the mass organizations are composed of activists who may be more open-minded. She agreed, but added that women “limit themselves” (*se autolimitan*) because they are overburdened with household chores and children. They find themselves in this situation in many cases because they “have not succeeded in achieving the support of the family in the accomplishment and development of all the duties in the house and the domestic life.”⁵

The commission, in addition to its current preoccupation with the new family code, has traditionally played an important role in the ANPP regarding its focus on youth and the family. For example, during the previous mandate before the 2008 elections, one of the commission members at the time, Deputy Irma Schweret, whose interest is social work, took the floor during an ANPP plenary session. She made a proposal that was discussed in her commission. Following the successful tour of the prisons by singer-composer Silvio Rodríguez, she suggested in the ANPP that a similar circuit, this time by athletes such as baseball players, be carried out in special schools dedicated to youth with adaptation and behavioural problems. For the most part, these troubled youth

come from dysfunctional families. Her proposal was taken up by President Alarcón de Quesada and the appropriate institutes and ministries dedicated to sports and culture. The project was carried out. As Deputy Irma Sehweret (the mother of one of the Cuban Five, René González) concluded in the interview, she later had the satisfaction of touring these schools and listening to the encouraging comments by the youth regarding the visits of these athletes.⁶

ANPP Working Commission President Rojas Hernández, who is being tested by replacing the late Vilma Espín in this post, insisted that there is an urgent need for a new family code. “Life has changed so much since 1975,” she said in a July 2008 interview.⁷ In another interview six months later, Rojas Hernández said that they have come up with about fifteen versions of the draft project for the new family code. Mariela Castro and CENESEX’s proposals on marriage being redefined as between two people (instead of between a man and women as in the Constitution) and recognition of sexual orientation and gender identity have been raised. Rojas Hernández said that this is a “thorny (*espinoso*) issue,” “machismo still being very much engrained in Cuban society.”⁸

In another interview, this one by email, Rojas Hernández explained the procedure by which the legislation is being drafted to be placed on the ANPP agenda eventually. Her commission and the FMC, making use of Article 88, clauses d and e, have been working over the last fifteen years to develop projects.⁹

In these two clauses, the Cuban Constitution provides the right, respectively, of the ANPP commissions and the mass organizations (in this case, the FMC) to “propose laws.”¹⁰

While the commission and the FMC are spearheading the drawing up of the draft law, Rojas Hernández wrote, they work and consult with two juridical societies; the Ministries of Justice, of Education, of Labour and Social Security, and of Public Health; the People’s Supreme Court; the Attorney-General; University of Havana specialists; and others. Rojas Hernández listed a sample of 24 articles that they would like to have included in the draft bill. For example, for the first time, there is special attention dedicated to opposing violence within the family. The new bill will include the right of human-assisted reproduction (*reproducción humana asistida*). They plan to stabilize in the law the shared responsibility and care between both parents of children when circumstances require. For the first time, the new law is expected to establish the rights of children in family relations. They propose that a new section be introduced, which protects people on the basis of their sexual orientation and gender identity. This would include recognizing the right of all individuals to develop their real sexual

orientation and gender identity, free from any inhuman, humiliating and violent treatment. Those involved in the drafting of this law are putting forward the recognition of same-sex marriage with all the juridical advantages provided to other couples. The draft writers are also reaffirming and expanding the vision of the social character of the family based on sentiments of love and solidarity necessary for human relations within the society they are building.¹¹

At the time of the interview with Mariela Castro in 2009, the draft bill had not been placed on the ANPP's agenda because, as quoted above, updating the socialist economy was taking priority. Since 2009, this has been borne out as the real principal concern at all levels. However, in a January 2012 public interview, she said that, according to the Ministry of Justice, the discussion of the new draft family code "is included in the legislative plan for 2012."¹²

I have noticed that some foreign media, including accredited correspondents in Havana and dissidents, are putting the finger on the supposed *machismo* existing in the Cuban ANPP and the PCC. They are both allegedly resisting the changes and unable to arrive at a consensus. In the same interview, Mariela Castro points out as mentioned above that a WikiLeaks report confirms that the U.S. government has designated \$300,000 for the subversion of the LGBTI (lesbian, gay, bisexual, transsexual and intersex) movement in Cuba.¹³

The fact remains that women in the FMC and the ANPP commission are the ones drafting the bill while CENESEX, among other tasks, covers the flank against U.S.-inspired interference. Before presenting legislation to an ANPP plenary session, the Cuban system of democracy is known for the desire to reach a consensus, if not on all details at least on the fundamental orientation. Every indication is that this new legislation is on its way. The biggest danger, in my view, is not *machismo*. It festers rather in the attempts by powerful foreign media, along with dissidents of the "left" and right, to push women's rights, gay rights and youth movements in Cuba toward provoking an incident with the ANPP, ridiculing it and undermining its credibility. The U.S. has not invested \$300,000 for nothing. At the heart of the foreign media and dissident campaign is a move to relegate to a completely obscure level — if not fully censored — the role that women themselves have been and are playing in drafting legislation on women and the family since the 1974–75 epoch of Vilma Espín to date. The overall U.S. democracy promotion goal is to further their pursuit of sowing discord among the population, especially the youth, against the "dictatorship" and in favour of U.S.-backed regime change.

In addition to the U.S. plan, the United Kingdom's BBC is also involved. For example, its Havana correspondent, Fernando Ravsberg, censored the history of the people's role in legislating as outlined above by snorting that the draft Family Code "for years has been lying in the drawers of the Cuban parliament."¹⁴ A year earlier, in a September 2011 interview with Mariela Castro, Ravsberg's questions related mainly to highlighting differences in Cuban society, with the intention of leading readers to adopt a negative impression of the ANPP.¹⁵ Unlike the interview that I held with Mariela Castro, the BBC correspondent showed no interest on how the new (and previous first Family Code's) drafting has been taking place since 1974 with the implication of women from the FMC and at the grass roots.

This is not to say that *machismo* does not exist in Cuba. Rojas Hernández and Mariela Castro indicated that it still subsists. In addition, according to a February 2012 *Granma* report, in 2003, *Decree-Law 234* on maternity leave for women workers was adopted, but its application illustrates that *machismo* persists. It was the first piece of gender-based legislation. Its complementary provision Number 22/2003 granted similar rights to fathers as mothers to enjoy paternity leave and look after their children during the first year of life. However, according to the report, these measures "still encounter prejudice, stereotyping and resistance in Cuban society as a result of the entrenchment of socio-cultural practices based on *machismo*." Furthermore, the PCC daily states, "Cuban society is still under the influence of a patriarchal model, which has historically reserved for women the role of child caring and education, while men are the economic supporters or breadwinners and the family authority or head." This is indicated by the startling fact, according to the same article, that since the 2003 decree-law came into effect, only 100 men have taken advantage of this opportunity.¹⁶

Maritza Rodríguez Lara, an FMC National Secretariat member and activist in community health problems, is of the opinion that, in current Cuban society, both parents reproduce female and male roles, inherited from generation to generation. In the *Granma* report, she is quoted as saying:

This cultural problem is based on the same conceptions in which children are educated from infancy and reproduce patterns and roles within the family. Historically, once a woman reaches reproductive age, she is socially required to become a mother, without respecting the fact that this decision is a prerogative of both members of the couple. From the time infant girls learn to play, they do so with

dolls. They are the ones who pick them up, play with them and feed them; thus they are trained for the role. Society is constantly measuring them on this basis.¹⁷

Therefore, the *Granma* journalist concludes on this issue, “*Machismo* is not a behavior exclusive to men; women are also responsible for its social entrenchment.”¹⁸

The moral of this episode is that decrees and decree-laws on these issues are not sufficient. Essential educational and preparatory work is necessary. For example, these tasks are carried out by the FMC, CENESEX and ANPP working commission in the course of working on their draft family code. The issue is not to plunge into premature pieces of legislation, but rather to take the time required by society and among deputies. If changes are necessary to the Constitution to allow for radical changes in how Cuba of the 2010s sees relationships between people, then this document will also be amended. A very lively debate took place on January 28, 2012, at the PCC National Conference in a commission partly dedicated to this issue of family, sexual orientation and gender identity. Alarcón, as a delegate, clearly explained in this discussion that one cannot amend the Constitution daily, piece by piece, article by article, from one ANPP session to the next. Rather, while the changes are going on in society and in legislation, their influence on the needs for constitutional amendments is accumulated. At an appropriate time, he said, all the necessary amendments will be debated and proposed in parliament, the latter having the constitutional right to make amendments.¹⁹

Both the work to advance the new family code, on the one hand, and the U.S. interference through its dissident allies and their democracy promotion program, on the other hand, are ongoing. This article will be updated with important new developments.

¹ Castro Espín, Mariela. 2012. “The United States Government Is Preoccupied With the LGBT Movement in Cuba.” Interview with Aday del Sol Reyes. *Granma International* (January 29), Year 47, No. 5.

² *Gaceta Oficial de la República de Cuba*. 1975. “Código de la familia: poder ejecutivo consejo de ministros.” (February 14, 1975). At <<http://www.gacetaoficial.cu/html/codigo%20de%20lafamilia.html>>.

³ Castro Espín. 2009. Interview with author (May 9), Queen’s University, Kingston, Ontario.

⁴ Rojas Hernández, Elsa. 2008. Interview with author (July 16), Havana.

⁵ Ibid.

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- ⁶ Llord, Magalys, and Irma Schweret. 2008. Interview with author (January 24), Havana.
- ⁷ Ibid.
- ⁸ Rojas Hernández. 2009a. Email interview with author (January 6), Havana.
- ⁹ ———. 2009b. Interview with author (July 21), Havana.
- ¹⁰ Constitución de la República de Cuba. 2003. Ministry of Foreign Affairs of Cuba (CubaMinRex). At <http://www.cubaminrex.cu/english/LookCuba/Articles/AboutCuba/Constitution/inicio.html#4>.
- ¹¹ Rojas Hernández. 2009b, op. cit.
- ¹² Castro Espín. 2012, op. cit.
- ¹³ Ibid.
- ¹⁴ Ravsberg, Fernando. 2012. “Does Everybody Count in Cuba?” Havana Times (September 6). At <http://www.havanatimes.org/?p=78040>.
- ¹⁵ ———. 2011. “Prejudices Prevent Recognition of LGBT Rights.” Havana Times (September 6). At <http://www.havanatimes.org/?p=50300>.
- ¹⁶ Fariñas Acosta, Lisandra. 2012. “Responsible Motherhood and Fatherhood: Space for Two... Still to Be Achieved.” *Granma Internacional* (February 9). At <http://www.gramma.cu/ingles/cuba-i/9feb-FATHERHOOD.html>.
- ¹⁷ Ibid.
- ¹⁸ Ibid.
- ¹⁹ Alarcón de Quesada, Ricardo. 2012. Notes taken by author from Cuban Television (January 18).