

## The maternity right of the cooperative women in Cuba

### El derecho a la maternidad de las cooperativistas en Cuba



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**Received:** March 8<sup>th</sup>, 2019.

**Accepted:** June 4<sup>th</sup>, 2019.

#### ABSTRACT

The improvement of cooperative law is of transcendental significance in the process of developing forms of economic management in Cuba. In this sense, the present study offers a delimitation of the protection of the right to maternity of Cuban cooperative women, taking into account their legal regulation in the special social security regime and the governing documents of the Non-Agricultural Cooperatives (CNA), existing in the municipality of Pinar del Río. To this end, methods such as historical-legal analysis, legal-doctrinal analysis and documentary analysis were applied. Among the results obtained, it is found that, despite its regulation in the special generic regulation, there is no pronouncement within the eight cooperatives analyzed for the materialization of the enjoyment of this right.

**Keywords:** Cooperative women; nonagricultural cooperatives; Cuba; maternity right

#### RESUMEN

El perfeccionamiento del derecho cooperativo es de trascendental significación en el proceso de desarrollo de las formas de gestión de la economía en Cuba. En tal sentido, el presente estudio ofrece una delimitación de la protección del derecho a la maternidad de las cooperativistas cubanas, teniendo en cuenta su regulación jurídica en el régimen especial de seguridad social y los documentos rectores de las Cooperativas no Agropecuarias (CNA), existentes en el municipio Pinar del Río. Para ello, se aplicaron métodos tales como el histórico-jurídico, el análisis jurídico-doctrinal y el análisis documental. Dentro de los resultados obtenidos, se encuentra que, pese a su regulación en la normativa genérica especial, no existe pronunciamiento alguno al interior de las ocho cooperativas analizadas para la materialización del disfrute de dicho derecho.

**Palabras claves:** Cooperativistas; cooperativas no agropecuarias; Cuba; derecho a la maternidad

## INTRODUCTION

The improvement of the cooperative laws in Cuba constitutes an imperative for the theoretical studies of Social Sciences, and in particular of Legal Sciences. Its appropriate treatment will contribute to the Non Agro livestock Cooperatives (CNA) better work, in coherence with the Cuban Communist Party and Revolution's Guidelines of the Economic and Social Policy, approved by the VI Congress of Cuban Communist Party in April 2011, and updated by the VII Congress in 2017, as well as with the recent changes of the Cuban socioeconomic model and the present context on the constitutional reforms that has taken place during 2019.

In this process of modification, the gender studies associated with labour law are of great interest to achieve the maximum material and spiritual realization of women and men, requiring special attention - due to their innovative implementation in social practice - in the CNA and Self-Employment sectors.

Specifically, the progress of the right to maternity has become notable in recent years in the state sector of the economy, with the entry into force in 2017 of a new provision regulating the maternity of working women "Decree Law No. 339" (2016). With this normative body, the formal and material guarantees that stimulate the increase of fertility are increased, inasmuch as it allows the incorporation and reincorporation of the woman to her work place, the social benefit, the simultaneous collection of the social benefit with the salary, as well as the provision of time for dental care.

Taking this regulation as a reference, the way in which the aforementioned right is exercised for cooperative members constitutes a timely discussion aimed at gaining a deeper understanding of the

situation of women in a sector where men constitute the majority and at a time when, according to the Director General of the International Labour Organization, Galá (2019), the world of work will face great challenges this year, when the struggle for better working conditions has suffered a setback, due in part to international privatization policies and regional political and economic processes.

Therefore, the treatment of the entities that identify the work-maternity binomial is essential in the study, since the right to work in labor matters is a sine qua non requirement to the exercise and enjoyment of the right to maternity, coherently combined with the content of the social security system, established in Cuba, that favors its fulfillment.

Accordingly, it is considered that within the framework of work in the cooperative, offering guarantees to women for adequate maternity to facilitate their medical care, pre- and post-natal rest and the care of minor children is necessary, bearing in mind that since the emergence of the human species, it has constituted a means of survival, not only for the support of the family and the satisfaction of vital needs but to promote social progress and the development of humanity (Silva González & Pérez Véliz, 2019).

It is a right with international recognition and transcendence, due to the meaning of its exercise and the experience of worker cooperatives. In 2005, the International Organization of Cooperatives in Industry and Services, a specialized entity of the International Cooperative Alliance in the area of worker cooperativism, established, within its internal rules of operation for this type of cooperatives (similar to the Cuban CNA), that of "protecting worker members with adequate welfare systems,

social security, occupational health and respect for the protection standards in force in the areas of maternity, child care and child workers" (García, 2017).

Thus, according to Chaves (2001), the dynamics in the cooperative must constitute a superior form of work and cannot be inferior in guarantees and achievements recognized by humanity and, especially, by the Labor Law to the salaried worker, dependent in the economic matter in the matter of maternity protection and occupational health, without this implying a simple egalitarianism and normative and prestational identity.

Accordingly, the objective of this study is to delimit the protection of the right to maternity of cooperativists in Cuba, taking into account its legal regulation in the special social security regime and the governing documents of the non-agricultural cooperatives existing in the municipality of Pinar del Río.

This region was selected on the basis of data provided in November 2018 by the Territorial Mercantile Registry of Pinar del Río. Its statistics show that there are a total of 8 CNAs, in which there are no maternity leave requests, but workers' sick leave. This information could be verified by reviewing notarial documents, such as the Public Deed of Foundation, the Deed of elevation to public of social agreements of the CNA of first degree and the acts modifying the statutes of these cooperatives.

In order to achieve the proposed objective, the research is structured on the basis of doctrinal, historical and legal considerations on the right to maternity of working women in Cuba, which makes it possible to analyze their legal protection in the CNA of the municipality of Pinar del Río.

## MATERIALS AND METHODS

The study developed is a qualitative empirical type, with a descriptive and correlational approach, which seeks not only to expose the characteristics, properties and manifestations of the protection of the cooperative's maternity, collecting, ordering and hierarchizing information, establishing relationships, but also, in the analysis of the interaction that certain variables or categories have in the object of study, manages to clarify the incidence of these in their normative manifestation and the regularities of behavior in practice.

In order to achieve the proposed objective, methods applicable to Legal Science were used, based on Pérez (2011), such as: legal-doctrinal analysis, historical-legal analysis and documentary analysis. Broadly speaking, the first two were transcendental for the analysis of the cooperative member's right to maternity, from the normative point of view, in the special legal regime of social security for the members of the cooperatives and, the third method made it possible to understand the treatment of said right in the practice of the eight existing CNA in the municipality of Pinar del Río.

The legal-doctrinal analysis made possible the realization of the conceptual theoretical framework of the research through the systematization of the doctrinal criteria that have sustained the protection of women's right to maternity, in printed and digital books, scientific articles and international treaties in this regard. This method has implicit rational procedures of analysis, synthesis, abstraction and generalization, which made it possible to break down the object of research into its parts, as well as to make an exegetical-analytical analysis of the current state of the special social security regime for cooperative members.

The historical-legal method allowed in turn the systematic and interpretative analysis of the historical evolution of the constitutional and special protection of the right of cooperativists to maternity, taking into account the historically established state sector of the economy, as well as the cooperative, from its emergence until today.

Documentary analysis made it possible to determine the treatment - from a practical point of view - of this right in the governing documents of the CNA of the municipality of Pinar del Río, namely Constitutive Statutes and Internal Regulations.

The bibliographic materials with which they worked address the national and foreign doctrine according to related research developed and the criteria of experts on the subject, contained mainly in publications on websites, scientific journals, printed and digital books. In addition, the regulation of 11 legal norms related to the object of investigation was taken into account: ten of them Cuban and one foreign.

## RESULTS AND DISCUSSION

### **Doctrinal, historical and legal considerations on the right to maternity of working women in Cuba**

Historically, the concept of maternity has been associated with a set of beliefs and meanings that evolve with the influence of not only cultural but also social factors, which have revolved around women, procreation and the raising of children, as aspects that meet and intertwine in interpretation (Molina, 2006).

From the doctrinal point of view, the definition of the concept of maternity is

broad, taking into account the multiplicity of criteria it has generated and the classifications assigned to it, so much so that there are several notions to determine it (Duarte Ther, 2004). According to Figueroa (1995), one can speak of genetic, gestational, affective, procreational or volitional, biological, legal maternity and beyond its determination, or, in keeping with this, one also debates the treatment that in each case corresponds to the woman legally, in the exercise of the right to maternity whether or not she is a worker.

Maternity is protected per se in the Universal Declaration of Human Rights, promoted by the United Nations in 1948. In this sense, article 25 in its two paragraphs states:

1. Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family (...) and the right to insurance in the event of unemployment, sickness, disability, widowhood, old age or other lack of means of subsistence in circumstances beyond his control.
2. Maternity and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, have the right to equal social protection.

In accordance with the Declaration, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights were adopted and opened for signature, ratification and accession at the United Nations General Assembly by Resolution 2200 A (XXI) of 16 December 1966, which entered into force on 3 January 1976. The latter states in Article 9 that: The States Parties to the present Covenant recognize the right of everyone to social security, including social

insurance. Also, article 10 states that States recognize that:

1. The family, which is the natural and fundamental element of society, should be afforded the widest possible protection and assistance, especially for its establishment and so long as it is responsible for the care and upbringing of dependent children.
2. Special protection should be accorded to mothers for a reasonable period of time before and after childbirth. During this period, working mothers should be granted paid leave or adequate social security benefits.

These regulations have not been alienated to Cuban social policy and have a long tradition. From a historical point of view, in the 1930s, Cuba was marked by popular movements and a succession of unstable administrations, which led the island to a Constituent Assembly at the beginning of the 1940s, the resulting Constitution being considered a model for Cuban constitutionalists that same year and progressive because of the accumulation of rights subject to protection, it even responded to the social constitutionalism of the time with a presence throughout Latin America. To such a point, Julio Fernández Bulté (2004) considered it as an advanced and progressive bourgeois democratic Constitution.

It expressed, in matters of the family, absolute equality for both spouses once the marriage is contracted, the full enjoyment of the civil capacity of the married woman without the need for a license or marital authorization to govern her property, freely exercise trade, industry, profession, trade or art and dispose of the product of her work.

It also declared work to be an inalienable right of the individual in article 60 and in paragraph 43 it emphasized the responsibility of the State in the protection of maternity. It is significant, moreover, that it determined the equality of women vis-à-vis men with regard to the enjoyment of full civil capacity by married women. Such a provision empowered women to fully administer their property, to engage in trade and industry, profession, craft or art and to enjoy the product of their work without the need for marital leave.

Another provision for the protection of women concerns the obligation to provide maintenance for the minor child and his mother. The aforementioned constitutional text of (1940) provided that alimony would take precedence over any other payment obligation of the divorced father. She adds that she could not oppose the payment of the same, the quality of unembargable property, that is to say, that whatever property is necessary to complete the payment of the pension, would act against it the necessary procedure so that the divorced mother would have the established as a pension.

In terms of work, the aforementioned legal text establishes that there will be no differentiation between married and single women, the latter having, depending on the social context of the time, greater opportunities to compete in the labour market. Since then, it has become apparent that the former would have the possibility of gaining access to employment, staying, promoting or terminating the employment relationship. As for the protection of working mothers, this should be extended to female employees. The legal norm taxatively established the rights of pregnant women, determining that they could not be separated from their employment nor could they be forced to work in work with

considerable physical effort within the three months prior to childbirth.

She enjoyed 12 weeks of leave, 6 weeks before childbirth and 6 weeks after the birth of the daughter or son, which were paid in the same proportion as her salary. It did not affect her salary or the complementary effects of the employment contract. It also provided for a daily rest period of one hour, divided into two 30-minute breaks to breastfeed the baby.

Subsequently, within the framework of compliance with the Constitution, known as the Basic Law of 1959 (in force until 1976), Law No. 1263 was passed in January 1974, the Working Women's Maternity Law, which protected women and their offspring in the medical work order, as well as the responsibility of the labor entity to ensure that this was complied with. She had regular medical care during pregnancy, and was granted paid leave from 6 weeks prior to childbirth to 12 weeks thereafter.

In the case of multiple pregnancies, paid leave prior to childbirth is extended to 8 weeks and the break is from 32 weeks. She is also entitled to additional paid leave to facilitate the medical care of her child and the mother is authorized to attend a childcare consultation with her child one day a month, without loss of pay.

Heir to the preceding Constitutions, the Constitution of the Republic of Cuba of 1976, within the Political, Social and Economic Foundations of the State, in its article 9, provides that the State, as the power of the people and in the service of the people, shall guarantee full employment. The text establishes that there shall be no man or woman, in a position to work, who does not have the opportunity to obtain employment with which he can contribute to the ends of

society and to the satisfaction of his own needs.

This Constitution elevates the right of women to paid maternity leave to constitutional rank, recognizing through article 47 that: "Through the social security system, the State guarantees adequate protection to all workers who are disabled due to age, disability or illness.

The year in which the constitutional text was promulgated (1976) coincided precisely with the 16th anniversary of the creation of one of the most important social organizations for women in Cuba: the Federation of Cuban Women (FMC), with the aim of guiding and channeling the defense of women's rights, with one of its main achievements being to have contributed to raising awareness among the family and women themselves of the need to take up work.

With regard to the regulation of women's access to work in Cuba, there have only been two Labour Codes, unlike other areas of law. The first was adopted in the 1980s, when Act No. 49 was adopted by the National Assembly of People's Power (ANPP) on 27 December 1984.

The basis for the approval of this legal norm is to be found in the Economic and Socialist Guidelines approved at the Second Congress of the Communist Party of Cuba (PCC) and the agreements of Congresses XIV and XV of the Confederation of Cuban Workers, cited in the third part of the expository.

The second and current Code was approved on December 20, 2014, also by the ANPP, in Law No. 116. In this sense, Viamontes (2005) frames the provisions of the superior organs of the PCC and the agreements of the congresses of the Central de Trabajadores de Cuba and its

unions, as material sources of Cuban labor law.

The Congress of the Party is the supreme forum where objectives and lines of work to be carried out in a five-year period are established for the country. For this reason, in 1984, as in 2011, following the PCC Congresses II and VI, respectively, legislative changes were brought about in the island's work environment, allowing other forms of the economy than the socialist state economy such as the CNA and the Self-Employment sector.

Law No. 49 of the year (1984) devoted its chapter VIII to regulating women's work, the result of two decades of FMC work. The first aspect that regulated women's access to employment was that, in view of the existence of one of the vacant posts declared preferably for women and the fact that one of the candidates was a woman, she should be granted the post.

It also established that labour administrations would not employ women who were pregnant or willing to have children in work that could affect pregnancy and/or affect their gynecological apparatus and reproductive function. In order to do so, there had to be a list of jobs in which women could not be placed in workplaces, which was drawn up centrally taking as a reference the international treaties signed by Cuba.

Lastly, the chapter on the protection of women established the leave to which a pregnant worker or a worker with children under one year of age is entitled - paid maternity leave and other complementary leave, for example, for breastfeeding - and the exemption from overtime, double shifts or secondment outside the locality.

This body of law, based on the principle of the reservation of the law, entrusted the special rule with the regulation of the

procedures necessary for the effective enjoyment of these rights, which will be referred to in the section on maternity law.

It must be stated that there is consensus in the doctrine that the socio-economic crisis that originated in Cuba in the early 1990s was largely due to the collapse of the Soviet Union and the socialist world in Eastern Europe, and to the tightening of the blockade imposed by the government of the United States of America (Mesa Lago, 2004; Noguera, 2004; Peñate & Lugo, 1997).

Specifically, starting in 1992, with the so-called Special Period and the impact of external and internal factors that influenced the labor relations of the country, the recognition of some family and private businesses was broadened. In this period, according to Ferragut and Pizá (2016) are the origins of self-employment.

With the difficult economic conditions, both the ways and the types of income obtained through them, which in some cases did not even come from work, were diversified, such as, for example, family remittances. The population decided to take measures to meet their needs: sale of products, sale of homemade food, use of company resources.

These labour relations did not have a labour law system, but they were reflected in the tax system, since self-employed workers or those with family assistance were required to pay a fixed monthly instalment (Díaz, 2016).

That same year, the 1976 Constitution was reformed as part of the process of perfecting the social and political institutions of the Prieto society in the Island, 2000; the State was defined in article 1 as a workers' socialist. The articles concerning the right to work were

not modified in that process, nor in the one carried out in 2002.

For the year 2010 and with the approval of the Guidelines of the VI Congress of the PCC, the economic actors in Cuba once again diversified; according to Alemán Santana, Saroza Monteagudo and Pérez (2015): As an urgent need, it appeared that strategies, policies, methods, mechanisms and forms of organization and functioning of the economy and of all social life should be adjusted to exogenous and endogenous circumstances. For this reason, all the forces of the country are engaged, at this historical moment, in the colossal and very complex process of updating the model of socialist construction.

According to Rodríguez y Páez (2016), "on December 11, 2012, an experimental legal package came into force, which has served as a platform to organize the pilot experiences of the non-agricultural cooperatives (...) that have been operating in the country since 2013" (p.2). 10), and which are based on specific legislation, namely: Decree-Law 305 "On Non-Agricultural Cooperatives", Decree-Law 306 "On the Special Social Security Regime for Members of Non-Agricultural Cooperatives" and Decree No. 309 "Regulation of Non-Agricultural Cooperatives".

In this regard, article 2 of the current Act No. 116, Labour Code, regulates the fundamental principles governing the right to work, stating in general terms that the right to work is a social power and duty of the citizen who is able to work has the possibility of obtaining employment, taking into account the requirements of the economy and his or her choice, both in the State and non-State sectors; as well as the employment and social security rights conferred on women to protect their maternity and facilitate their medical care, pre- and post-natal rest and care of minor

children. Accordingly, these and other rights are recognized in chapter IV, which devotes five articles, from 59 to 62, to the protection of female workers.

Generally speaking, this Code does not differ in the protection of female workers in relation to Act No. 49 of 1984, but only adds in its Regulations the periods that may be counted as part of the Regulations for determining the fulfilment of the 75 days of commitment required to grant her the financial benefit of paid maternity leave.

The spirit of the previous regulations aimed at recognizing the right to maternity of working women, through social security, is recognized in the Constitution of the Republic of Cuba, ratified by popular referendum on February 24, 2019 and recently promulgated on April 10, 2019 by the National Assembly of People's Power of the Republic of Cuba, which in article 68 states: "The person who works has the right to social security. The State, through the social security system, guarantees them adequate protection when they are unable to work because of their age, maternity, paternity, disability or illness.

From a historical and legal point of view, the protection of the worker's right to maternity is considered to have been progressive. This evolution is framed from the Triumph of the Cuban Revolution in 1959, with the approval of the Fundamental Law of that same date, to the current Constitution of the Republic, promulgated sixty years later. This assertion is based on the fact that pregnant women with a labour affiliation can now enjoy the necessary social security guarantees during pregnancy and after childbirth.



## Maternity Protection in Non-Agricultural Cooperatives

In accordance with the Cuban Constitution of 1976 and the recently ratified Constitution of the Republic of 2019, the Social Security Act No. 105 of 2008 recognizes, in article 11 (e), monetary benefits for working women in the exercise of maternity, regulating in the first of the special provisions that the granting of such benefits is governed by specific legislation for all sectors of the economy, which means that the CNA will have its own system and that of Self-Employment as well.

It should be emphasized that the 2009 Framework Law for Latin American Cooperatives (International Cooperative Alliance for the Americas, 2009) does not explicitly regulate this right, which is based on national legislation. In fact, the Cuban social security policy and Decree Law No. 306 of (2012), of the Special Social Security Regime of the members of the CNA, in its second numeral poses: Article 2: The special social security regime established by this Decree-Law protects cooperative members in cases of illness and accident of common or professional origin, maternity, total disability, old age and, in case of death, protects their family.

Article 23 also establishes the conditions under which the payment of social security contributions is exempted, including maternity:

Article 23: The cooperative member is exempted from the payment of the social security contribution and remains affiliated to the system, if the following causes are present:

- a) The maternity of the cooperative member during the period in which

she is enjoying the economic and social benefit;

Article 26: For the purposes of granting the right to paid maternity leave and to the pensions established in this Decree-Law, the following shall be equated as contribution time:

- a) The period in which the cooperative member enjoys maternity benefits;

Notwithstanding the foregoing, it should be noted that article 32 of the said Decree-Law refers the cooperative member to the legislation of the salaried worker with respect to the protection of the right to maternity, in spite of being different regimes, and this legislation does not regulate the content of this right.

Article 32: The cooperative member's right to maternity protection is governed by the legislation that regulates the maternity protection of salaried workers.

On the other hand, article 33 refers to the maternity benefits guaranteed to the cooperative member, taking into account the period of work in the CNA.

Article 33: For the purpose of calculating the maternity benefits to which the cooperative member is entitled, the contribution base for which she contributed to the social security budget in the twelve months prior to the commencement of the enjoyment of the benefit is considered. If within this period the cooperative member had the status of wage earner, the wages received are included in the calculation base.

If the member has been employed for less than twelve months, the monetary benefit is calculated on the basis of the income for which she is contributing on the date on which she is entitled to receive the benefit.

Chapter VIII is devoted to the Procedure for Processing Subsidies, Maternity Benefits and Pensions. Article 48 recognizes that it is the Administrative Body of the Cooperative that is responsible for the administrative management of this special social security system, which includes among its sections:

- a) Request the municipal branch of the National Social Security Institute to issue orders for the payment of economic and social benefits in cases of maternity leave;

In this connection, article 49 states that the Director of the Municipal Branch of the National Social Security Institute, in addition to the functions established in the corresponding legislation, is responsible for issuing orders for the payment of economic and social benefits in cases of maternity leave.

When analyzing the Model Statutes of the Ministry of Justice of the Republic of Cuba, what it does is to refer to Decree Law No. 306 (2012), establishing that:

The administrative body of the cooperative shall specify with each member the Special Social Security Regime, which shall be affiliated in accordance with the scale established by Decree-Law 306, "On the Social Security of Non-Agricultural Cooperatives" for the purpose of the withholdings it shall make for the contribution of tax obligations.

In the same case, there is the Guide to Statutes, considering in Section VI: Social Security, article 53 that:

The Administrative Body of the cooperative shall specify, with each member, the Special Social Security Regime to which it shall be affiliated in accordance with the scale established by

Decree-Law 306, "On the Social Security of Non-Agricultural Cooperatives" for the purpose of the withholdings it shall make for the contribution of tax obligations.

Based on the legal regulation of the right to maternity of Cuban women cooperativists and analyzing the national character of cooperative legislation, it is necessary to particularize the legal norm to the social context of a municipality. Pinar del Río was selected because it has the highest number of CNAs in this western province, in addition to the diversity of mercantile subjects that it holds: societies and companies.

According to the Territorial Mercantile Registry of the referred municipality, among the subjects that may be registered in accordance with Decree No. Law 226 of 2002, are the CNA, the State Enterprises in the process of improvement and the Branches of Mercantile Corporations with totally Cuban capital.

In order to review the documentation relating to these latter subjects, the files of the cooperatives were reviewed, that is, the 12 files containing registrations and updates of the CNA in the Mercantile Registry.

According to recent data from November 2018, there are a total of 12 CNA in Pinar del Río: eight in the municipality of Pinar del Río, two in the municipality of Viñales, one in San Luis and another in Sandino.

When analyzing the notarial documents (Public Deed of Foundation and Deed of elevation to public of social agreements of the Non-Agricultural Cooperative of first degree) and the acts modifying the statutes of the CNA, it was determined that in the Statutes issued by the General Assembly of the Cooperative the global procedure of the mega-normatives is assumed, but it is not specified for each

cooperative and that the generic clauses, in article 15, refer to article 28 of Decree-Law No. 1 of the CNA. 309 of 2012, by granting the possibility of "requesting permission or license for exclusion from the activities of the cooperative for justified reasons; enjoying social security rights".

Based on the documentary review of the constitutive acts and statutes of the cooperatives: Cielo Azul (Cafeteria), Estrella Roja (Repair of footwear), Combinado Industrial (Work with wood, metal and other materials), El clavel (Restaurant-cafeteria), Taller de Electrónica" Hermanos Cruz" (Repair of electrical appliances), Casa Colonial (Restaurant), and Ornitológica de Pinar del Río (Breeding and sale of birds, food, and accessories), an assessment was made that yielded the following results:

- According to the composition, there are 115 members in total, 85 men (representing 75.7%) and 30 women (25.3%); therefore, men constitute the majority in cooperatives.
- With regard to the enjoyment of the right to maternity by cooperative members, there has been no record of any request for maternity leave in cooperatives since their establishment, most of which were created in 2013.
- From the normative point of view, for the treatment of the right to maternity there is a generic formulation in all the statutes and, in this sense, in the case of the social security that guarantees it, they refer to Decree Law No. 306: "On the Social Security of Non-Agricultural Cooperatives".

The analysis of the eight previous NACs of Pinar del Río selected, shows that the current gender approach to motherhood does not conform to the principle of equity

in terms of composition and management positions, where men have priority in such functions.

Although in some of them the social purpose may be more representative for the profession or trade that women have historically been assigned, they are at a disadvantage for the enjoyment of the right to maternity, and this has even resulted in one of the causes of termination of the employment relationship by women. Added to this is the absence of a specific regulation that distinguishes and guarantees the particular regime for the protection of the right to maternity of cooperative members in Cuba.

In conclusion, it can be stated that, from the historical point of view, the situation of women in Cuba, which was discriminated against in relation to men in terms of access to work and maternity during the colonial period, has changed significantly from the neocolonial period -from the decade of the last century '30- to the present day, where the State as part of its economic and social policy has legally guaranteed women the right to work and, in this regard, social security in the exercise of maternity as a human right of a social type, with guarantees that allow its enforceability through several legal bodies of great normative importance, among which are the ratified Constitution of the Republic of February 2019 and the current Labor Code of 2014 that dedicates chapter IV to establish the protection of the worker.

In the case of Non-Agricultural Cooperatives as a new form of economic management, in accordance with the provisions of Decree-Law No. E.03. 306 (2012), of the Special Social Security Regime for members, although it is true that the second article of the law establishes that the objective of the rule is the protection of the cooperative member

for the exercise of maternity, article 32 states that such protection is governed by the legislation that regulates the maternity protection of salaried workers, lacking its own content that endorses the economic and social benefits and referring to the state legal regime regulated in Decree-Law No. 339 of (2016). In spite of this, the exoneration of the payment of social security is recognized while it enjoys economic and social benefits.

From a practical point of view, within the eight non-agricultural cooperatives in the municipality of Pinar del Río, social security issues are assumed and, specifically for maternity cases, in accordance with the regulation of the special generic law, since there is no pronouncement that reflects the autonomy of the cooperative for the

materialization of the enjoyment of this right, neither in the constitutive acts nor in the internal regulations of each of them, despite the fact that 25.3% of the members of the cooperatives are currently women.

In line with what has been proposed and at the same time as the process of regulatory reform that is taking place in Cuba with the implementation of the new Constitution of the Republic, Cooperative Law has the challenge of perfecting the special legal social security regime for cooperatives, so that it conceives maternity protection as a prerogative that favours cooperative women and at the same time effectively guarantees the economic and social benefits to which they are entitled.

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