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## Cuba Revisited: From Revolution to Evolution

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## **Cuba Revisited: From Revolution to Evolution**

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Linda R. Crane \*

### **ABSTRACT**

The United States and the island-nation of Cuba have close ties geographically and geopolitically. Cuban society is facing a future of enormous potential growth that is full of possibility and relative optimism despite the presence of crushing poverty at every level. I have visited the island-nation four times to date and though I notice many noteworthy things each time, the one that continues to stand out the most is how much more Cubans are aware of their American neighbors than Americans are of our Cuban neighbors. Nearly every Cuban citizen I have ever met can engage me in discussions that reveal an understanding of detailed aspects of the dynamics of the relationship between our two countries. Ordinary citizens in Cuba can comfortably recount details of our historical relationship and

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\* Linda R. Crane, Professor of Law, The John Marshall Law School (Chicago, Illinois). Thank you to the following people: Charles Serrano, President of the Council of Latin American Relations of Chicago; Dr. Jose Cabanas, Chief of the Cuban Interests Section in the United States (Washington, D.C.); Rodney Gonzalez Maestry, Third Undersecretary of the Cuban Interests Section in the United States (Washington, D.C.); Dr. Soraya Castro Molina, Professor and Senior Researcher at the Institute for the Study of International Relations in Havana (Havana, Cuba); and Dr. Dorys Quintana Cruz, Executive Director of The Cuban Juridical Association (Havana, Cuba). I am extremely grateful to my student research assistants: Jeffery Gaster, Stefanie Day, Dibora Berhanu, Austin Kearney, and Johdannah Bangi. I am also extremely grateful to The John Marshall Law School, which has, since 1999, provided me with financial and institutional support, and encouragement for developing my professional research agenda of visiting and forming meaningful experiences and relationships throughout Cuba.

are starkly aware of the current US-Cuba policy and the many ways in which it affects their lives on a day-to-day basis.

In contrast, it has been my personal observation that the extent to which average Americans usually have only the vaguest understanding of the history of the relationship between Cuba and the United States is surpassed only by their total lack of any detailed knowledge about the present day relationship. I believe that Americans should begin to learn more about Cuba and the Cuban people, who are openly fond of Americans and everything American. Cuba's future trajectory as an economic force as a result of changes in the Cuban government's policy that now encourages private economic development and cultural pursuits is probably not totally dependent on a softening of the United States' Cuba policy, but its full potential will certainly be hindered by it. Since 1959 Cuba has been in a post-revolutionary period throughout which its relationship with the United States has been tenuous at its best. Still, since 1959 Cuba has had a great deal to show as evidence that the revolution has raised the standards of education and health care for those who were suffering without hope for either prior thereto. Now the literacy rate in Cuba is 100 percent through the tenth grade, and Cuba has one of the best health care systems in the Western Hemisphere.<sup>1</sup> On April 18, 2011, the Cuban government launched a systemic policy of promoting more than 300 new private sector initiatives that Cuban citizens are encouraged to pursue.<sup>2</sup> Whether the potential promise of these initiatives will be fully realized depends to a great extent on the willingness and ability of the United States to acknowledge the efforts of the Cuban government to evolve beyond the limitations of a post-

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<sup>1</sup> José R. Cabañas, Chief of Mission, Cuban Interests Section in Wash., D.C., Keynote Address at the Univ. of Ga. Dean Rusk Ctr. Conference: The Cuban Embargo: Policy Outlook After 50 Years, 2013 (Mar. 22, 2013).

<sup>2</sup> *Id.*

revolutionary regime and the importance of policy changes in both countries to the future of the Cuban people.<sup>3</sup>

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<sup>3</sup> Professor Linda R. Crane, Remarks at The John Marshall Law School Event: Cuba 50 Years Later: From Revolution to Evolution (Oct. 25, 2013).

## I. INTRODUCTION

This article analyzes the effect of the 1959 revolution on the development of the Cuban people and their preparedness for the current economic changes. I call this, “the evolution,” because my thesis is that without the revolution, the potential inclusiveness by every Cuban in future prosperity would be far less and possibly unchanged from pre-revolution levels.

Part Two of this article contains a brief history of Cuba since the revolution of 1959. Part Three will describe the history of the post-revolutionary relationship between the United States and Cuba. Part Four will discuss my experience as a panelist participating in the 2013 Latina & Latino Critical Legal Theory, Inc. (LatCrit) annual meeting in Chicago, Illinois. Part Five will describe the development of my professional and personal interests in Cuba and how it solidified my academic and research interests in Cuba. Part Six will discuss the recent changes in Cuba’s official economic policy and connects them to the early Castro policies. Part Seven is a summary and conclusion that will include a brief overview of subsequent articles that I am writing as part of this series to bring issues about Cuba into the sunlight.

## II. CUBA’S DEVELOPMENT PROCESS AND HISTORICAL BULLET POINTS

In 1492 Cristobal Colon, now known as Christopher Columbus, landed on the northeastern side of what we know as the Island of Cuba. From 1492 to 1898 the crown and government of Spain ruled and controlled this island. In 1898, at the end of the Spanish-American War, the US government and its leadership, which from 1782 to 1898 had thought of Cuba as rightfully a

part of the American Experiment, assumed economic and political control of Cuba that lasted until 1961.<sup>4</sup>

On July 26, 1952, Fidel Castro and other privileged young Cubans failed in an attempt to occupy the Moncado Barracks in Santiago del Cuba on the far eastern end of the island. They then spent the next six and a half years regrouping and expanding their support base before overthrowing the US-backed government of President Fulgencio Batista on January 1, 1959. July 26th is still a major holiday in Cuba and the movement that grew out of the failed coup of 1952 became known by the short-hand reference: “M-26-7.”

In 1962 the leadership of Cuba’s M-26-7 Movement took total control of Cuba and solidified the support of the Soviet Union and Russia. The Soviet Union provided extensive financial support to Cuba’s post-revolutionary government until 1990, shortly following the final collapse of the Soviet States in 1989.<sup>5</sup> After decades of favorable trade relations with socialist bloc countries, Cuba faced a far-reaching realignment in commercial relations. Soviet trade and aid, so vital to Cuban development strategies during the 1960s and 1970s, began to dwindle in the late 1980s and virtually ceased altogether by the early 1990s. For the first time since 1492, Cuba became a completely independent island-nation.<sup>6</sup>

In August of 1990, the Cuban government announced the implementation of the “Special Period,”<sup>7</sup> a series of contingency plans conceived originally for use during a time of war, and commenced a total re-organization of its government. What made the Special Period remarkable were a new series of

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<sup>4</sup> See generally SORAYA M. CASTRO MARINO & RONALD W. PRUESSEN, FIFTY YEARS OF REVOLUTION: PERSPECTIVES ON CUBA, THE UNITED STATES, AND THE WORLD (University Press of Florida 2012). Also available at <http://muse.jhu.edu/>.

<sup>5</sup> LOUIS PEREZ, JR., CUBA: BETWEEN REFORM & REVOLUTION, 381–83 (Oxford University Press, Inc. 3d ed. 2006).

<sup>6</sup> See generally LOUIS A. PEREZ JR., THE STRUCTURE OF CUBAN HISTORY (2013).

<sup>7</sup> *Id.* at 381–87.

austerity measures and rationing schedules that were implemented by the government to meet the worsening economic crisis. Lasting throughout the 1990s, the Special Period was a time during which the country tried to weather the brunt of the loss of financial assistance from the Soviet Union which was so profound that Cuba's transportation system became dysfunctional. Cuba became isolated from the rest of the world as well, and there were rampant food shortages resulting in widespread fear of starvation. In fact, by the end of the Special Period, Cuba had lost between 33-40 percent of its Gross Domestic Production (GDP).<sup>8</sup>

In 1991 the government began issuing directives to all agencies, ministries, and institutional leaders to develop new resources, seek new technologies, and increase intellectual professional capacity and labor skills to bolster productivity.<sup>9</sup> Among other things, these directives resulted in the implementation of thousands of projects that were intended to promote economic growth through the creation of strategic partnerships with foreign investors.<sup>10</sup> Countries such as Canada and Australia, as well as others from Europe, Asia, and Latin America, responded to the invitations and injected foreign capital into Cuba, directed particularly to the tourist industry. However, interference by the Cuban government limited the success of these partnerships.<sup>11</sup>

The breakup of the Soviet Union resulted not only in the abrupt withdrawal of financial assistance to Cuba, but in the withdrawal of military assistance as well. Cuba's military, The Cuban Revolutionary Army, the

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<sup>8</sup> *Cuba: History*, MICH. ST. UNIV., <http://globaledge.msu.edu/countries/cuba/history> (last visited Mar. 11, 2014).

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> Interview with Charles A. Serrano, Chairperson, The Council for Latin Am. Relations (CLAR), in Chicago, Ill. (Oct. 2013).

long-time seat of power of Fidel Castro's brother and successor as President, also set out to protect its long-term viability during the Special Period. This effort has resulted in one of the most interesting institutions in Cuba today: The Military Investment Enterprise. Cuba's military has been a freestanding, self-sufficient agency since 1988. Even shortly before the breakup of the Soviet Union, in 1988 Raul Castro initiated a process of taking over operational control of various inefficient and under-productive sectors of the economy and industries, including many key systems such as transportation, shipping, tourism, construction, and communications.<sup>12</sup>

By all appearances, these non-military functions that operate as for-profit businesses, have been unexpectedly productive and efficient, and were the most successful of all of the initiatives that began during the Special Period. This is especially true when compared to the largely unsuccessful trial and error approach to managing most of the initiatives implemented during the Special Period that were riddled with accusations of widespread corruption, misuse of funds, and self-dealing by heads of governmental agencies.<sup>13</sup> Expanding its scope again, in 1987 the Cuban military turned its attention to the educational sector and initiated a mentoring and educational capacity-building program. Among other things, the program identified young men and women to go to other countries to earn graduate degrees in economics, finance, management, and engineering.<sup>14</sup> By 1995, it is estimated that between 250 and 300 military officers from Cuba had enrolled in such foreign university graduate programs in Canada and Europe.<sup>15</sup> By 2002, despite the world-wide repercussions of the events of 9/11, consecutive natural disasters, and the continued US-led policy to stifle Cuba's economic

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<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

development, the Cuban military had assumed operational control over numerous government ministries and key Cuban cooperatives.<sup>16</sup> The Cuban machine, a new hybrid—part military, part professional—organization, was now more formally known as Military Investment Enterprises.<sup>17</sup>

In 1996 President Fidel Castro began to actively pursue a policy of reaching out to other Caribbean nations and countries throughout Latin America. He shrewdly offered what Cuba had in large supply—political advice and human resources—to contribute to the development of stronger relationships, collaborations, and joint projects. In the years since, this policy has proved to be a wise investment of political resources and humanitarian capacity that has earned Cuba a solid reputation of leadership throughout its region. Most notably, because of Cuba’s famous surplus supply of medical doctors, Cuban-trained physicians have been deployed around the world during crises to provide emergency medical services and training that has been compared to the way the United States sends supplies.<sup>18</sup> By 2009 Cuba’s number one source of income (domestic or foreign) and its largest exported “commodity” were actually human resources in the form of Cuban professionals (especially physicians, as noted above).<sup>19</sup>

On December 14, 2004, along with Venezuela,<sup>20</sup> Cuba was one of the first two signers of the earliest document that established the organization

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> See *Generally* JOHN M. KIRK & H. MICHAEL ERISMAN, CUBAN MEDICAL INTERNATIONALISM: ORIGINS, EVOLUTION, AND GOALS (STUDIES OF THE AMERICAS) (Palgrave Macmillan, 2009).

<sup>19</sup> See *generally* Carlos Batista, *Doctors Reap in Billions as Cuba’s Top Export*, YAHOO! NEWS (Jun. 19, 2013), <http://uk.news.yahoo.com/doctors-reap-billions-cubas-top-export-165058312.html>.

<sup>20</sup> Venezuela’s president, Hugo Chavez, first proposed the creation of a formal alliance among Latin American and Caribbean countries on December 12, 2001, at the Third

that is now known by its Spanish acronym ALBA, the Bolivarian Alliance of the Peoples of Our America.<sup>21</sup> The name was chosen, in part, because the mission of the Alliance was to launch a new era of deliberate cooperation and solidarity between Latin American and Caribbean countries; additionally, the acronym is the Spanish word for “dawn.”<sup>22</sup> Cuba and Venezuela launched the alliance with an immensely creative and successful exchange of doctors for oil.<sup>23</sup>

In 2006 an exhausted President Fidel Castro, who was to turn 80 in August, suffered a fall in March that exacerbated other health problems requiring surgery. Fidel Castro’s brother, General Raul Castro, was installed as the temporary head of Cuba’s Council of State. In December 2006, it became clear President Fidel Castro would not resume his official duties. These developments prompted a series of events that transitioned all of the key leadership positions in the government from Fidel Castro to Raul Castro, who, in 2008, officially ascended to the Presidency.<sup>24</sup>

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Summit of Heads of State of South America and the Caribbean on Margarita Island. Maria Páez Victor, *ALBA: Latin America’s Groundbreaking Alliance of Solidarity and Mutual Aid*, RABBLE.CA (Aug. 8, 2013), <http://rabble.ca/news/2013/08/alba-latin-americas-groundbreaking-alliance-solidarity-and-mutual-aid>.

<sup>21</sup> The alliance member countries are Cuba, Bolivia, Ecuador, Nicaragua, San Vincent and The Grenadines, Antigua and Barbuda, and Venezuela. *Id.*

<sup>22</sup> Another naming objective was to bolster Simon Bolivar’s vision of strength through unity among Latin American countries. *Id.*

<sup>23</sup> Victor reports the following as some of the results of ALBA’s existence during its first decade: eliminated poverty for 11 million people; increased literacy rate from 84 to 96 percent; reduced infant mortality rates by 32 percent; and enrolled hundreds of student at the Latin American School of Medicine, Cuba, to develop sorely needed medical workers. *Id.* (citing interview by Matt Murray with Amenhotep Zambrano, Executive Secretary, ALBA, LIBERATION, *Stunning Achievements of Latin American Alliance ALBA Celebrated* (Feb. 20, 2011)).

<sup>24</sup> *Raul Castro Succeeds Fidel as President: Another Member of the Old Guard Takes No. 2 Position*, NAT’L BROAD. CO. (Feb. 24, 2008, 7:52 PM), [http://www.nbcnews.com/id/23321699/ns/world\\_news-americas/t/raul-castro-succeeds-fidel-president/](http://www.nbcnews.com/id/23321699/ns/world_news-americas/t/raul-castro-succeeds-fidel-president/).

Those who know the Castro brothers personally and/or have studied both of them commonly describe the difference in their approach to governance and establishing official policies by referring to a difference between their basic personalities. I have been told the same thing on several occasions about this, and it is stated thusly: that “Fidel is the revolutionary and Raul is the pragmatist.”<sup>25</sup> Accordingly, insiders in Cuba immediately expected that Raul’s presidency would look dramatically different than Fidel’s and that those changes would result in widespread changes throughout the island-nation and its economy.<sup>26</sup> Specifically, those who understood Raul’s role in creating and operating the Military Investment Enterprises, while heading the Cuban military -- which at this time still controls more than 80 percent of the Cuban economy and all of its major infrastructure systems and operations (e.g. transportation, hotels, etc.) -- also anticipated this change would include promoting a more pragmatic approach to resolving Cuba’s economic and cultural crises.<sup>27</sup>

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<sup>25</sup> Interviews by the author with Dr. Soraya Castro, Professor and Senior Researcher at the Institute for the Study of International Relations, in Havana, Cuba (Dec. 17, 2913)

<sup>26</sup> *Id.*

<sup>27</sup> MICHAEL ARANDA, THE EVOLUTION OF THE CUBAN MILITARY: A COMPARATIVE LOOK AT THE FAR WITH THE BUREAUCRATIC-AUTHORITARIAN MODEL OF SOUTH AMERICA. Published in “Cuba in Transition” ASCE 2010. Since 2001 I have had conversations with Cuban academics, economists, and diplomats about the population growth rate in Cuba. During these conversations, though the estimated dates of arrival varied slightly, there is no inconsistency in their view that Cuba will reach a point of having a negative population growth very soon due to the fact that there are more Cubans dying than being born. The estimated dates for reaching that point range from 2013 to 2030. The policy of easing travel restrictions that now allows regular repeated visits to Cuba by Cubans who have moved off of the island is seen as an important part of an effort to address some of the ramification of this problem. *See generally Cuba: Statistics*, UNICEF (Dec. 24, 2013), [http://www.unicef.org/infobycountry/cuba\\_statistics.html](http://www.unicef.org/infobycountry/cuba_statistics.html) (reporting that the birth rate in Cuba in 2012 was -0.2 percent).

By 2012 President Raul Castro had retired, fired, arrested, or replaced every director, minister, and vice minister of the Cuban government.<sup>28</sup> All major Cuban-owned businesses had been militarized or purchased from foreign investors.<sup>29</sup> From 2007 to 2010 the Attorney General and Justice Ministry commenced a total reorganization of the processes and laws for commercial transactions.<sup>30</sup> Lawyers are now said to be the highest paid professionals in the Cuban government.<sup>31</sup> In 2013 President Castro approved five-year term limits for all executives and ministers in the Cuban government, a policy first introduced in 2011.<sup>32</sup> He is currently serving the balance of the second of his two five-year terms pursuant to these new limits.<sup>33</sup>

The goals of the Raul Castro government are, broadly speaking, (1) to increase operational efficiencies, (2) to achieve greater energy independence, (3) to develop a sustainable agricultural infrastructure, and (4) to implement a broad range of new economic and social policies.<sup>34</sup> It is this last goal that has been the primary object of my attention and interest. I believe the implementation of the new policies signals the most significant development in the arc of the 55 years that have passed since the 1959

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<sup>28</sup> Serrano, *supra* note 11.

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> Shasta Darlington, *Raul Castro to lead Cuba's Communist Party*, CABLE NEWS NETWORK (Apr. 20, 2011, 7:16 AM), <http://www.cnn.com/2011/WORLD/americas/04/19/cuba.castro.party/>. See also Rory Carroll, *Raúl Castro Proposes 10-Year Term Limits for Cuba's Politicians*, GUARDIAN, Apr. 17, 2011, <http://www.theguardian.com/world/2011/apr/17/raul-castro-cuba-fixed-terms> (explaining additional motives and reasoning behind the changes to term limits).

<sup>33</sup> *Id.*

<sup>34</sup> Res. On the Guidelines of the Economic and Social Policy of the Party and the Revolution, Communist Party of Cuba, 6th Congress (incorporated April 18, 2011) (Cuba) [hereinafter *Guidelines*, but called “los lineamientos” in Cuba].

revolution and has a greater likelihood of success because of it and the steps taken by Fidel Castro in furtherance of his desire to educate theretofore uneducated Cubans and his desire to improve their health statistics.

On April 4, 2010, using his residual title of Army General, Raul Castro delivered an official statement during the Closing of the ninth Congress Union of Young Communists. He made it clear he believed that the future of the socialist objectives of the revolutionary government were still important but dependent upon economic factors and a change in Cuba's economic policy.<sup>35</sup>

President Castro's statements were followed quickly, in 2011, by the publication of a draft of 291 new government-approved guidelines for increasing private sector pursuit of entrepreneurial and cultural initiatives in Cuba. For the next two years dozens of meetings were held throughout the island-nation to disclose and debate and edit the draft guidelines and to seek input from citizens of every community and intellectuals prior to finalizing them.

On April 18, 2011, the final version of the list of new national economic and cultural activities that were officially encouraged by the Raul Castro government went into effect. Along the way, as a direct result of the input gathered during community meetings, the number of guidelines had then increased from 297 to 313. This was a momentous event that lays the groundwork for a total overhaul of the Cuban economic system from the bottom up. Insofar as the guidelines encourage the growth of entrepreneurial business growth, they also represent the path to additional

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<sup>35</sup> "Today, more than ever, the economic battle is the main task and the focus of the ideological work of the cadres, because the sustainability and preservation of our social system depend on that." Army General Raúl Castro Ruz, Closing Remarks of the Ninth Congress of the Cuban Young Communist League (Apr. 4, 2010), <http://www.cuba.cu/gobierno/documentos/2011/ing/1160711i.html>.

personal freedoms for Cuban citizens.<sup>36</sup> In addition to the enormous impact that these policies are already having, and will continue to have on Cuba's domestic economic activities, the policies also encourage individuals, agencies, institutions, and ministries to seek international partnerships, investments, and collaborations.<sup>37</sup>

### III. THE UNITED STATES AND CUBA

The United States and the island-nation of Cuba have close ties geographically and geopolitically.

Since 1959 Cuba has been in a post-revolutionary period during which its relationship with the United States has fluctuated between open hostility to quiet estrangement and during much of which the United States' Cuba policy has been and continues to be the highly aggressive one of covert regime change.<sup>38</sup> Shortly after the revolution of 1959, on July 8, 1963, the US government promulgated the Cuban Asset Control Regulations under the Trade with the Enemy Act.<sup>39</sup> These regulations apply to most individuals and entities subject to US jurisdiction and are administered by the Department of Treasury's Office of Foreign Asset Control (OFAC).<sup>40</sup>

Most interestingly to me, the United States' economic blockade against Cuba, which prevents U.S. citizens and corporations from trading with their Cuban counterparts, also contains specific language that says that those same limitations on trade are "unblocked" for Cubans who do not live in

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<sup>36</sup> *Guidelines*, *supra* note 34.

<sup>37</sup> Serrano, *supra* note 11.

<sup>38</sup> Javier Corrales, *Strong Societies, Weak Parties: Regime Change in Cuba and Venezuela in the 1950's and Today*, 43.2 LATIN AM. POL. & SOC'Y 81 (2001).

<sup>39</sup> DEPT. OF THE TREASURY: OFFICE OF FOREIGN ASSETS CONTROL, CUBA: WHAT YOU NEED TO KNOW ABOUT U.S. SANCTIONS, AT 4 *available at* <http://www.treasury.gov/resource-center/sanctions/Programs/Documents/cuba.pdf>.

<sup>40</sup> *See id.* at 4-11.

Cuba, giving Cuban-Americans a monopoly for conducting private business transactions with Cuba!<sup>41</sup> Among other things, the OFAC regulations control the purposes for which Americans may travel between the United States and Cuba through the granting of specified travel licenses.<sup>42</sup> Furthermore, the OFAC monitors which imports, exports, and transactions may take place between US and Cuban entities.<sup>43</sup> As a general rule, however, OFAC does not allow American companies to import Cuban-made products into the United States because that would send money into the Cuban economy. In addition to the embargo, an even bigger problem for Cuba is the fact that the United States insists on keeping Cuba on the list of terrorist nations despite extensive evidence to the contrary according to the conclusions of a special committee convened by the United States.<sup>44</sup>

It is widely believed throughout Cuba that it was Richard Nixon who first called Fidel Castro a Communist. According to the legend, rather than meet with Castro in person, President Eisenhower sent Vice President Nixon to meet with Castro during his trip to the United States following his successful overthrow of the American-backed Batista regime.<sup>45</sup> Castro reportedly told Nixon he was willing to work with the United States in a fully cooperative manner in exchange for financial assistance in order to meet the island-nation's financial needs and the goals of the United States.<sup>46</sup> Castro is said to have insisted that he be allowed, however, to honor two of

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<sup>41</sup> *Id.* at 17-18.

<sup>42</sup> *Id.* at 4-11

<sup>43</sup> *Id.* at 12-18.

<sup>44</sup> THE U.S. DEFENSE, INTELLIGENCE AND NATIONAL SECURITY COMMUNITY: CUBA POSES NO THREAT, NEW AMERICA FOUND. / US-CUBA POLICY INITIATIVE, available at [http://democracyinamericas.org/pdfs/National\\_Security.pdf](http://democracyinamericas.org/pdfs/National_Security.pdf).

<sup>45</sup> Cabañas, *supra* note 1.

<sup>46</sup> Meeting with Dr. Juan Triana Cordori, Professor Titular of the Centro de Estudios de la Economía Cubana, in Chicago, Illinois (May 21, 2014).

the promises that he had made to the Cuban people in exchange for their support: the first was his promise of free health care for every Cuban citizen; and the second was his promise of free education for everyone.<sup>47</sup> The story continues that these requests led Nixon to report, when debriefed by Eisenhower, that Castro was “a Communist!”<sup>48</sup> Castro, it is said, read in a US news story that the United States would not work with him because he was a Communist, and, therefore, decided that perhaps a Communist country would be willing to provide Cuba with the financial assistance that it desperately needed.<sup>49</sup> While this version of events may vary from time to time, the basic facts seem to hold up. These accounts were substantiated by Nixon himself, who, in his book, *Six Crises*, wrote a confidential memorandum following his April 1959 meeting with Castro in which he wrote “*I was convinced Castro was ‘either incredibly naïve about Communism or under Communist discipline’ and that we would have to treat him and deal with him accordingly.*”<sup>50</sup>

#### IV. MY LATCRIT EXPERIENCE

In October of 2013, I had the opportunity to present some of my research on modern-day Cuba during the annual fall meeting of Latina & Latino

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<sup>47</sup> See Aviva Chomsky, “*The Threat of a Good Example*”: *Health and Revolution in Cuba*, available at <http://www3.uakron.edu/worldciv/pascher/cuba.html>; see also Ricardo Alarcon De Quesada, *Cuba: Education and Revolution*, THE MONTHLY REVIEW, Vol. 63, Issue 03 (July-August 2011), available at <https://monthlyreview.org/author/ricardoalarcon>.

<sup>48</sup> Meeting with Dr. Juan Triana Cordori, *supra* note 46.

<sup>49</sup> See Diaz-Verson, *supra* note 38.

<sup>50</sup> See RICHARD M. NIXON, SIX CRISES 351-52 (Garden City: Doubleday, 1962). See also Salvador Diaz-Verson, *When Castro Became a Communist: The Impact on U.S.-Cuba Policy*, in Vol. 1, OCCASIONAL PAPER SERIES 1 (1997); Edward Gonzalez, *The United States and Castro: Breaking the Deadlock*, FOREIGN AFFAIRS, Jul. 1972, available at <http://www.foregnaffairs.com/articles/24363/edward-gonzalez/the-united-states-and-castro-breaking-the-deadlock>.

Critical Legal Theory, Inc. (LatCrit) in Chicago, Illinois as a member of a panel on emerging international issues.<sup>51</sup> Although I have been visiting Cuba since 2001 for the purpose of engaging in professional research and to develop relationships with Cuban academics and other intellectuals, I had only recently begun organizing my research results into separate theses, projects, and publications as I identify logical lines between my interests and those of law review editors who have encouraged me to focus on discreet writing projects.

So, despite 12 years of research borne out of an interest that has become a definite passion, my October 2013 presentation at LatCrit was only the third time I ever discussed my impressions of Cuba to anyone outside of my closest friends and my research assistants. The other two times were in fulfillment of the terms of my OFAC general license to travel to Cuba to conduct professional research which includes a “publication” requirement that can be satisfied with at least a verbal account of the results of the visit. My first such presentation was in 2001 when I was debriefed after my first mission to Cuba by the Board of Managers of the Chicago Bar Association; and the second was a presentation of my work to a group of my John Marshall Law School students and faculty colleagues in February of 2013 after I returned from my January 2013 mission. The LatCrit presentation was certainly going to be the first time that I would share my research and perspectives with a broader audience, as well as the first time my research would be shared on a program that also included a presentation by someone else who was presenting on a Cuba-related topic.

I did not think about it very much beforehand, actually, but I found it to be particularly interesting to listen to the other speaker describe her

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<sup>51</sup> See Information on LatCrit at [http://www.laterit.org/media/medialibrary/2013/10/LatCrit2013\\_Conference\\_Program\\_FinalR.pdf](http://www.laterit.org/media/medialibrary/2013/10/LatCrit2013_Conference_Program_FinalR.pdf)

impressions of Cuba during her recent first-time visit to Havana. While listening to her presentation, I realized there was a bit of a disconnect between her conclusions about some of the changes occurring in Cuba today and my own. Specifically, I was surprised to hear that my co-presenter was disturbed by the possibility that Cuba may be on a path towards becoming more open to capitalism or a free-enterprise economy in the future. In contrast, I am very enthusiastic about the same possibility and find the thought of it very exciting. I have been thinking about our different reactions ever since. Not the least of my reasons for enthusiasm for the change in direction of the Cuban economy is my belief that capitalist economic systems lead eventually to more democratic governmental systems. I wasn't particularly bothered by the fact that my young colleague and I reached different conclusions. In fact, anyone who has traveled to Cuba more than once during the last decade will be in general agreement about two things: (1) change in Cuba is so palpable that one almost thinks they are seeing it occur in real time, and (2) there is a lot of room for reasonable people to disagree because there is nothing simple about Cuba.

#### V. FROM REVOLUTION: HOW MY EXPERIENCES IN CUBA HAVE SHAPED MY RESEARCH

My first and most lasting impression of Cuba has not changed: namely, that the Cuban people have two traits that remind me of two of the best characteristics of Americans: they are inherently optimistic and they are very proud. I had never seen such economic poverty unaccompanied by a poverty of spirit and optimism.

My interest in Cuba galvanized into a passion as a result of the convergence of my return from my first visit to Cuba two weeks before the events of September 11, 2001. Both experiences affected me greatly. Like many Americans, I felt much less sure-footed and confident about the future as a result of the terrorist attacks. But then I recalled being so impressed by the Cuban people who, though poor, emanated confidence from within,

steadfast pride, and an optimism about the future that belied their circumstances insofar as they had no material possessions nor relative power on the world stage. I have long since felt grateful for the timing of my first trip to Cuba and oddly indebted to the Cubans for welcoming me and showing me how to be graceful under pressure. My exposure to Cuba and Cubans in August of 2001 was an experience that helped me to realize that I too had the skills I needed to cope with the aftermath of 9/11.

Following my first visit to Cuba in 2001, I did not return until January of 2013; but I went to Cuba three times in 2013! Returning to Cuba several times during a single year gave me the opportunity to observe and experience the rapidity of the changes occurring there. These changes are so noticeable that experiencing them is almost like watching time-lapsed photography come to life. Still other changes were noticeable after a twelve-year absence.

For instance, when I first went to Cuba in 2001, Cuban citizens were not allowed to check into hotels where foreigners were staying. Cubans were only allowed to check into those hotels with their families only during times that were set aside just for Cuban guests. By 2013, that had changed dramatically and the hotels were occupied by Cuban citizens and foreign visitors at the same time enjoying all of the amenities of the properties. Even though in 2001 I had been pleasantly surprised by the greater-than-expected degree of personal freedom of movement I observed in every city that I visited from one end of the island (Santiago del Cuba) to the other (Havana), the rapidity in the growth of such freedoms between then and today is astounding.

I do not doubt that there is much truth to the accounts of oppression and repression at the hands of the Castro government. Nevertheless, it is clear to me that the increases in personal freedoms that I have observed throughout Cuba and the new widespread opportunities to engage in private business and cultural initiatives would not be possible without the support of President Raul Castro's government—a fact for which it deserves credit. Of

course, the 313 new economic guidelines are the clearest evidence of the government's policy of economic change powered by private development and entrepreneurship,<sup>52</sup> yet it is impossible to discuss them in a vacuum as though they appeared, fully formed, out of the ether at this precise moment with no connection to the last 55 years of the revolution.

It is because history remains stagnant that my view of the changes occurring today is a long one. When looking back at the arc of the Castro brothers' post-revolutionary government, through my long lens, one inquiry that springs forward and begs for attention is *whether the revolution was an end in itself or rather a necessary means to an end.*

I have landed rather firmly at the conclusion that it was the latter: it was a means to an end. My belief is not based on a preference for whether it would be a means to an end or an end of itself but based on what appears to me to be the purpose behind the methods and the policies that the government has put into place since 1959.

Recall that the difference between the two Castro brothers is usually described this way: Fidel Castro was and is the revolutionary, and Raul Castro was and is the pragmatist.<sup>53</sup> People who report this do so as a result of observing the brothers noticing differences that fit the conclusions that one is one way the other another. Query: Wouldn't each brother have always known that about himself and each other? It's not something they

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<sup>52</sup> See *Cuban Banks Begin Offering Loans to Private Businesses*, BBC NEWS, Dec. 20, 2012, <http://www.bbc.com/news/world-latin-america-16277157>; see also Arturo Lopez-Levy, *Change in post-Fidel Cuba: Political Liberalization, Economic Reform and Lessons for U.S. Policy*, NEW AMERICA FOUND., May 2011, available at [http://newamerica.net/sites/newamerica.net/files/policydocs/naf\\_all\\_cuba\\_reform\\_final.pdf](http://newamerica.net/sites/newamerica.net/files/policydocs/naf_all_cuba_reform_final.pdf). Cuba's increase in private enterprises helps to decrease the high activity of black market businesses that have existed for decades. See generally AVIVA CHOMSKY, *A HISTORY OF THE CUBAN REVOLUTION* (2011) (describing the effects of the Cuban revolution and the implementation of economic and social policies).

<sup>53</sup> Interview with Dr. Soraya Castro, *supra* note 25.

discovered after decades of governing together. They were always brothers and close in age, after all. Is it not likely that the two brothers envisioned these roles for themselves from the onset of their revolutionary aspirations extending back to at least 1952? Who would have known better than the brothers themselves what their respective talents were? What is the significance of calling Raul a pragmatist if not to describe his destiny to take Cuba to the next level of its revolutionary to evolutionary trajectory that was initiated by his brother, the revolutionary? Aren't we witnessing the execution of a long term plan and course of action? I think so.

Put another way, despite the differences in the description of the Castro brothers as either revolutionary or pragmatic, Fidel and Raul share a vision for the continuation of the pursuit of the revolutionary ideals of Socialism for Cuba.<sup>54</sup> Assuming that the recently announced changes in Cuban economic policy were always their goal, it would not have happened without the benefit of having both a revolutionary and a pragmatist working

<sup>54</sup> Revolution is a sense of history is changing everything that must be changed; is full equality and freedom; is being treated and treat others as human beings is emancipate ourselves and our own efforts; is to challenge powerful forces dominant within and outside the social field and national; is defending values that are believed the cost of any sacrifice; it is modesty, selflessness, altruism, solidarity and heroism; is fighting with audacity, intelligence and realism; is never lying or violating ethical principles is deep conviction that there is no force in the world capable of crushing force of truth and ideas. Revolution is unity, that is independence, is fighting for our dreams of justice for Cuba and the world, which is the basis of our patriotism, our socialism and our internationalism.

Fidel Castro Ruz President of the Republic of Cuba, Speech at Revolution Square, Havana, Cuba (May 1, 2000). "The economic battle is today, more than ever, the main task and work center ideological cadres, because it depends on sustainability and preservation of our social system." Raúl Castro Ruz, Army General, Closing of IX Congress Union of Young Communists (Apr. 4, 2010). *Printed in Guidelines, supra* note 34, at opening phrases, *available at* <http://www.cuba.cu/gobierno/documentos/2011/ing/1160711i.html>.

in tandem. By necessity, their first objective had to be to assume power over the fate of the Cuban people in order to prepare them for their shared vision of the future by first educating them and providing them with health care and employment—goals that were nothing short of revolutionary in 1959, even suspicious in the eyes of Richard Nixon! Fidel’s promise to assure every Cuban citizen a free education, health care, and freedom from racial and class-based hindrances<sup>55</sup> makes more sense as a way of preparing a healthy and educated population to pursue future opportunities for prosperity than as a way to enforce endless oppression and poverty. It makes even more sense as the indispensable first step toward creating a more inclusive, more level playing field for full participation by every

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<sup>55</sup> Articles 41, 42, and 43 of the Cuban Constitution read:

EQUALITY

ARTICLE 41. All citizens have equal rights and are subject to equal duties.

ARTICLE 42. Discrimination because of race, skin color, sex, national origin, religious beliefs and any other form of discrimination harmful to human dignity is forbidden and will be punished by law.

The institutions of the state educate everyone from the earliest possible age in the principle of equality among human beings.

ARTICLE 43. The state consecrates the right achieved by the Revolution that all citizens, regardless of race, skin color, sex, religious belief, national origin and any situation that may be harmful to human dignity:

- have access, in keeping with their merits and abilities, to all state, public administration, and production services positions and jobs;
- can reach any rank in the Revolutionary Armed Forces and in Security and internal order, in keeping with their merits and abilities;
- be given equal pay for equal work;
- have a right to education at all national educational institutions, ranging from elementary schools to the universities, which are the same for all;
- be given health care in all medical institutions;
- live in any sector, zone or area and stay in any hotel;
- be served at all restaurants and other public service establishments;
- use, without any separations, all means of transportation by sea, land and air;
- enjoy the same resorts, beaches, parks, social centers and other centers of culture, sports, recreation and rest.

Cuban citizen when the time came to introduce a new economic policy populated with several hundred specific guidelines encouraging individual entrepreneurial creativity and, yes, competition.

Recall also that while he was still head of the Cuban Revolutionary Army Military Investment Enterprises, Raul devoted his energy not to building a powerful military presence but to using military resources to conduct his successful experiment of running the vast majority of the Cuban economy using western-style business operations and methods. Through that experiment, the Raul Castro military gained extensive experience running a big business that must have proved valuable for designing the template for privately run businesses and the guidelines for potential entrepreneurs.

In my assessment of the foregoing (or as my friend and colleague, Professor Tayyab Mahmud of Seattle University Law School, would say, “By my lights . . .”), the brothers Castro are now executing the next stage of a long-term plan intended to lead to self-sufficiency for the Cuban people—who are now well educated and healthy enough to provide the manpower needed to drive a more robust economy.

Having survived the Special Period that was triggered by their sudden abandonment by one outside benefactor (Russia) only to gain the tenuous help of another (Venezuela), neither the government nor the people of Cuba want to be in such a vulnerable position again. Since 2010, under the new economic guidelines, the Cuban government has issued more than six hundred thousand licenses for new businesses to aspiring entrepreneurs.<sup>56</sup>

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<sup>56</sup> “In all more than 430,000 private employment licenses have been issued since the reforms began in 2010, and 436,342 independent workers are currently operating. . . Some were already working independent before the reforms began.” Anne-Marie Garcia, *Cuba Oks More Private Businesses, New Regulations*, Associated Press, (Sept. 26, 2013, 2:42

Still, some observers both praise the new private business initiatives while stubbornly refusing to acknowledge that these initiatives would be impossible without the approval of Castro government. This is a fact that should be acknowledged and preserved for historical accuracy.

Future students of the history of the Cuban Revolution of 1959 should learn that it successfully culminated in economic policies in 2011, and that they resulted in the concomitant opportunities to engage in private enterprise and greater personal freedoms on a far more inclusive basis, but began with the fulfillment of Fidel Castro's promise of education and health care for everyone without cost.

What are some of those successes? Although the literacy rate in Cuba was 74-76 percent in 1959, in 2014 the literacy rate is 100 percent through the 10th grade. This reflects the change in education policy that resulted in mandatory education for a lot of poor peasants and descendants of slaves who lived in remote parts of the island and who made up 24-26 percent of those who were illiterate before the revolution and who otherwise would still be illiterate.

According to UNICEF (United Nations Children's Emergency Fund) data for 2008-2012, Cuba now has one of the best healthcare systems in the world as reflected by the health indicators of its population.<sup>57</sup> Cuba has the lowest infant mortality and morbidity rate in the Western Hemisphere and, arguably, the world.<sup>58</sup> Cuba exports doctors to countries in crisis the way the United States exports equipment and supplies.<sup>59</sup>

I have included a portion of available UNICEF data below for illustration because the data are objective evidence of the success of post-revolution Cuba's commitment to improving the health indices and education levels of

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PM), <http://news.yahoo.com/cuba-oks-more-private-businesses-regulations-172013858—finance.html>.

<sup>57</sup> UNICEF, *supra* note 27.

<sup>58</sup> *Id.*

<sup>59</sup> KIRK & ERISMAN, *Supra* note 18.

Cuban citizens—throughout the island-nation across genders and all demographics—much more eloquently and convincingly than I can by paraphrasing them.

<b>UNICEF Cuba Country Data</b> <sup>60</sup>				
<b>Basic Indicators</b>				
<b>Description</b>	<b>Year</b>	<b>Percent</b>	<b>Years</b>	<b>Definitions</b>
Life expectancy at birth	2012		79.1	<b>Life expectancy at birth -</b> The number of years newborn children would live if subject to the mortality risks.
Total adult literacy rates	2008-2012	99.8		<b>Adult literacy rate -</b> Percentage of persons aged 15 and over who can read and write.
Primary school net enrollment ratio	2008-2011	98.4		<b>Net primary school enrolment/attendance -</b> Derived from net primary school enrolment rates as reported by UNESCO/UIS (UNESCO Institute of Statistics) and from national household survey reports of attendance at primary school.

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<sup>60</sup> UNICEF, *supra* note 27.

<b>Nutrition</b>			
<u>Description</u>	<u>Year</u>	<u>Percent</u>	<u>Definitions</u>
Low birth weight	2008-2012	5.2	<b>Low birth weight</b> - Less than 2,500 grams.
<b>Health</b>			
<u>Description</u>	<u>Year</u>	<u>Percent</u>	<u>Definitions</u>
Use of improved drinking water sources - total	2011	93.8	n/a
Use of improved drinking water sources - urban	2011	96.2	n/a
Use of improved drinking water sources - rural	2011	86.4	n/a
Use of improved sanitation facilities - total	2011	92.1	n/a
Use of improved drinking water sources – urban	2011	93.7	n/a
Use of improved drinking water sources - rural	2011	87.3	n/a

<u>Description</u>	<u>Year</u>	<u>Percent</u>	<u>Definitions</u>	
Routine EPI vaccines financed by government	2012	99	<p><b>Government funding of vaccines -</b> Percentage of vaccines routinely administered in a country to protect children that are financed by the national government (including loans).</p> <p><b>EPI - Expanded Program on Immunization:</b> The immunizations in this program include those against TB, DPT, polio and measles, as well as protecting babies against neonatal tetanus by vaccination of pregnant women. Other vaccines (e.g. against hepatitis B or yellow fever) may be included in the program in some countries.</p>	
<b>Education</b>				
<u>Description</u>	<u>Year</u>	<u>Percent</u>	<u>Number</u>	<u>Definitions</u>
Youth (15-24 years) literacy rate (male)	2008-2012	100		n/a
Youth (15-24 years) literacy rate (female)	2008-2012	100		n/a
Number per 100 population (mobile phones)	2012		14.9	n/a
Number per 100 population (Internet users)	2012		25.6	n/a
Pre-primary school participation, gross enrollment ratio (male)	2008-2012	104.2		n/a

<u>Description</u>	<u>Year</u>	<u>Percent</u>	<u>Number</u>	<u>Definitions</u>
Pre-primary school participation, gross enrollment ratio (female)	2008-2012	103.8		n/a
Primary school participation, gross enrollment ratio (male)	2008-2012	101.9		<b>Gross primary or secondary school enrolment ratio</b> - The number of children enrolled in a level (primary or secondary), regardless of age, divided by the population of the age group that officially corresponds to the same level.
Primary school participation, gross enrollment ratio (female)	2008-2012	100.1		<b>Gross primary or secondary school enrolment ratio</b> - The number of children enrolled in a level (primary or secondary), regardless of age, divided by the population of the age group that officially corresponds to the same level.

<u>Description</u>	<u>Year</u>	<u>Percent</u>	<u>Number</u>	<u>Definitions</u>
Primary school participation, net enrollment ratio (male)	2008-2012	98.4		<b>Net primary school enrolment ratio</b> - The number of children enrolled in primary school who belong to the age group that officially corresponds to primary schooling, divided by the total population of the same age group.
Primary school participation, net enrollment ratio (female)	2008-2012	98.3		<b>Net primary school enrolment ratio</b> - The number of children enrolled in primary school who belong to the age group that officially corresponds to primary schooling, divided by the total population of the same age group.
Primary school participation, survival rate to late primary grade, admin. data	2008-2012	95		n/a
Secondary school participation, net enrollment ratio (male)	2008-2012	86.5		n/a
Secondary school participation, net enrollment ratio (female)	2008-2012	86.7		n/a

<b>Demographic Indicators</b>			
<u>Description</u>	<u>Year</u>	<u>Percent</u>	<u>Definitions</u>
Population annual growth rate	2012-2030	-0.2	n/a
<b>Women</b>			
<u>Description</u>	<u>Year</u>	<u>Percent</u>	<u>Definitions</u>
Life expectancy (females as a percentage of males)	2012	105.2	<b>Life expectancy at birth</b> - The number of years newborn children would live if subject to the mortality risks prevailing for the cross-section of population at the time of their birth.
Adult literacy rate (females as a percentage of males)	2008-2012	100	<b>Adult literacy rate</b> - Percentage of persons aged 15 and over who can read and write.
Enrollment ratios (females as a percentage of males), Primary GER	2008-2012	98.2	<b>Gross enrolment ratios: females as percentage of males</b> - Girls' gross enrolment ratio (GER) divided by that of boys, as a percentage. The gross enrolment ratio is the number of children enrolled in a schooling level (primary or secondary); regardless of age, divided by the population of the age group that officially corresponds to that level.

<u>Description</u>	<u>Year</u>	<u>Percent</u>	<u>Definitions</u>
Enrollment ratios (females as a percentage of males) Secondary GER	2008-2012	98.8	<b>Gross enrolment ratios: females as percentage of males</b> - Girls' gross enrolment ratio divided by that of boys, as a percentage. The gross enrolment ratio is the number of children enrolled in a schooling level (primary or secondary); regardless of age, divided by the population of the age group that officially corresponds to that level.
Survival rate to the last grade of primary (females as a percentage of males)	2008-2012	102.2	n/a
Contraceptive prevalence	2008-2012	74.3	<b>Contraceptive prevalence</b> - Percentage of women in union aged 15-49 years currently using contraception.

These UNICEF data are objective proof that the Castro governments have successfully achieved the most ambitious objectives of the revolution by improving the health and education of those who were most needy and vulnerable prior to the revolution.<sup>61</sup> As official governmental policy, these

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<sup>61</sup> See Aviva Chomsky, "*The Threat of a Good Example*": *Health and Revolution in Cuba*, available at <http://www3.uakron.edu/worldciv/pascher/cuba.html>. See also Ricardo Alarcon De Quesada, *Cuba: Education and Revolution*, THE MONTHLY REVIEW, Vol. 63, Issue 03 (Jul.-Aug. 2011), available at <https://monthlyreview.org/author/ricardo-alarcon>. (Discussing the goals of education post revolution and the processes implemented to achieving those goals).

objectives were laudable and deserving of encouragement; the successful achievement of such goals is much more so. To have done so while the target of a policy of covert regime change and an orchestrated, multi-faceted economic blockade instituted by a neighboring world superpower makes it even more impressive.

In most countries, the elite classes are elite precisely because they are not only wealthier, but also healthier and better educated. That was certainly the case in Cuba before the revolution. Today in Cuba, everyone is educated and healthy. But everyone is also extremely poor.

I can say for certain, without fear of contradiction, that the new private economic initiatives are very popular in Cuba and that there is widespread support and excitement about them. Through these initiatives, Cuban businesses will build private capital. I am an unapologetic capitalist and believer in the inexorable way in which capitalism propels a society towards democracy. Consequently, I believe the United States better serves its own interest in moving Cuba away from Communism by encouraging its current focus on developing its private business sector. The United States should aid Cuba in managing its challenges, rather than doing nothing. For instance, there are many areas in which Cuba undoubtedly needs assistance as it confronts the challenges of building and managing essential new private business and legal infrastructures that were unnecessary in a state-run economy. This is an extremely large task that is difficult at best and made much more difficult by such challenging collateral goals as maintaining paths for inclusion and fairness in the near and long terms.

The new initiatives have generated a lot of excitement by the Cuban people because, without them, there is no plan for ending the crushing poverty that permeates their lives that persists despite the fact they are well educated and healthy. The Cuban people are very excited about the arrival

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of these changes and what they portend for the future. I have been told<sup>62</sup> that at least one of the new initiatives added during the review period before the initiatives became official in 2011 began as the idea of a single individual who expressed it at a local neighborhood meeting! It is important to understand that the Cuban government is not asking outsiders for input into its decision about whether or not it should pursue its plans to grow the Cuban economy. That decision has already been made following extensive debates and collaboration among the Cuban people who have embraced the recommendations and who long for the opportunity to live more prosperous lives.

In sum, I am an unabashed capitalist sympathizer as well as a supporter of the people of Cuba. My enthusiasm for the trend toward private business development in Cuba is energizing; and I am not particularly daunted by the challenge of US recalcitrance or by the looming prospect of the return of racism and exclusion.

I have no qualms about stating my unequivocal support because of my sense of duty to lend a hand to relieve some of the severe poverty in Cuba that we, as Americans, ordinarily work hard to relieve around the world every day. I am embarrassed by the fact that so much of the poverty affecting Cuban people today, only 90 miles off of the coast of the United States, is a deliberate result of US policy.

As much as I would like the United States to end the economic blockade against Cuba, because of the Helms-Burton Act that would require Congressional approval, that is unlikely. President Obama does, however, have the authority to remove Cuba from the list of terrorist countries—a step that would allow Cubans and the Cuban government to have the ability

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<sup>62</sup> Interview with Rodney Gonzalez Maestry, Third Under Secretary, Cuba Interests Section, in Washington D.C. (Nov. 18, 2013).

to engage in routine financial and economic activities that are necessary to run households and businesses—and he should do so.

## VI. TO EVOLUTION

### *A. 2011 Adoption of the Economic and Social Policy Guidelines*

In April 2011 Raul Castro, after reaffirming his commitment to the ideals of the revolution and the principle of socialism, announced that it was time for new economic policies that would overcome difficulties of preserving the conquests of the revolution.<sup>63</sup> To encourage private initiative in specific aspects of the business and cultural sectors, he delivered a draft of 291 new Economic and Social Policy Guidelines.<sup>64</sup> On April 18, 2011, after incorporating the input gathered over the course of two years from individual Cuban citizens and institutions from one end of the island to the other, the Raul Castro-led government officially enacted the final version of the new economic and social policy guidelines for implementation throughout the private and public sectors in Cuba.<sup>65</sup>

Consequently, the current official policy of the Cuban government now includes 311 specific statements to the Cuban people that encourage them to pursue private initiatives through business enterprises, entrepreneurship, and free exchange with each other and, arguably, with international parties as well.<sup>66</sup> These initiatives signal a broad change in the type and scope of rights for private citizens in Cuba to pursue entrepreneurship and business development.<sup>67</sup> This pursuit of personal growth in Cuba through a larger

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<sup>63</sup> See Cabañas, *supra* note 1.

<sup>64</sup> *Id.*

<sup>65</sup> See *Guidelines*, *supra* note 34.

<sup>66</sup> *Id.*

<sup>67</sup> *Id.*

variety of approved activities looks a lot like American-style private enterprise systems. Moreover, it will be open to all Cubans, not just the wealthy elite as it was prior to the revolution. The realization of the full potential of these new increased economic freedoms for the Cuban people depends less on the ability of the United States to acknowledge the efforts of the Cuban government to evolve beyond the limitations of a post-revolutionary regime, and more on the Cuban government's ability to provide the resources, business environment, and judicial/legal system that will support its new entrepreneur class and meet the expectations of its international joint venture partners.

The Cuban government has stated that the implementation of these new initiatives will be executed through the socialist planning system that has been the dominant strategy in Cuba.<sup>68</sup> Yet, in order to achieve the initiative's goal of a revived economy, the Cuban government has recognized the need to increase the amount of private enterprise that exists in order to increase the productivity of the country.<sup>69</sup> The guidelines are predominantly centered on economic reformation, including the restructuring of payroll and employment policies, the increasing of labor productivity with more accountability and salary bonuses, and the reduction of Cuba's dependence on foreign imports.<sup>70</sup>

In addition to the economic reforms, the Cuban government created social policy reforms that are intended to maintain the achievements of the revolution including access to healthcare, education, and social security.<sup>71</sup> The Cuban government seeks to recover the role of labor as the fundamental means of contributing to the development of the social

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<sup>68</sup> *See id.*

<sup>69</sup> *Id.*

<sup>70</sup> *Id.*

<sup>71</sup> *Id.*

reforms, while again maintaining the socialist regulatory policies that it used over the decades.<sup>72</sup> This expansion of private enterprise has begun to create conflict between small business owners and the Cuban government, and it will be interesting to witness how the socialist values of Cuba will interplay with the influx of capitalistic enterprises that will emerge through the government's encouragement. Needless to say, Cuba's economic and social culture will be transformed over the next decade, which brings even greater significance to the lack of awareness about Cuba that exists in America today.

I am currently writing another article in which I will publish the complete text of Cuba's new economic policies including the 2010 draft, the input gathered from Cuban citizens during the two-year editing process, and the final enacted version. I am including a very short summary of them here.

#### **Summary of New Cuban Economic Guidelines**

##### **("los lineamientos"):**

##### **A. Drafting History:**

- First draft was written and approved in November 2010.
- Sixth Communist Party Congress convened in April 2011 to discuss and debate the guidelines.
- Second draft was written and approved in May 2011.
- Two-thirds of the guidelines were modified, integrated or eliminated in the second draft, and 36 new guidelines were added.
- Majority of new guidelines were in the Macro Economics and the Agricultural Industry sections.
- Total guidelines in Draft I: 291
- Total guidelines in Draft II: 311

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<sup>72</sup> *Id.*

**B. General Themes of the guidelines:**

- To increase use unproductive land by 50 percent
- To regain lost capital available to industry
- To cut excessively high payrolls and restructure payroll and employment policies
- To raise labor productivity with a combination of harsher discipline and more salary bonuses
- To increase exports in a wider array of products
- To reduce dependence on imports

**C. Various Initiatives:**

- Economic Management Model—the socialist planning system will remain as the dominant strategy in Cuba.
- The creation of supply markets selling at wholesale prices, without subsidies for cooperatives, lessors, farmers, and self-employed workers. The number of employees will be determined by the private enterprise.
- Macroeconomic Policies—the taxation system will change in favor of a more progressive structure. The central authority will remain in control of price levels and structure.
- Social Policy—the rations book will no longer be used as the method of distribution.

**D. Agricultural Policies**

- Modify the production system to allow a more streamlined and efficient collection process.
- Develop a training program to provide education in the fields of veterinary, industrial technology, economics, administration, and others.

**E. Transport Policy**

- Allow the sales of privately-owned automobiles between individuals.
- Craft a Construction, Housing, and Hydraulic Resource Policy
- Allow the sales of private homes between individuals<sup>73</sup>

VII. CONCLUSION AND PRELIMINARY RECOMMENDATIONS

***“Sunlight is said to be the best of disinfectants; electric light the most efficient policeman”<sup>74</sup>***

It is time to remove the shroud of silence about Cuba in the United States. A recent poll conducted by the Atlantic Council revealed far greater support than was expected, including among Cuban Americans over the age of 65 who live in Miami, for the United States to normalize relations with Cuba.

This is the first of a series of articles that I am writing about Cuba, including but not limited to US-Cuba policy. These articles will cover a broad range of topics beginning with this article that reviews both the development of my professional research in and about Cuba as well as the arc of events in Cuba since the 1959 overthrow of the US-backed Batista government through the most recent rollout of changes in the state-sponsored guidelines for private economic opportunities and cultural pursuits.

Subsequent articles will review questions and hopefully stimulate discussions about the following topics:

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<sup>73</sup> The final language of these initiatives reflects a great deal of public input collected over a two-year period.

<sup>74</sup> Louis Brandeis, *What Publicity Can Do*, HARPER'S WEEKLY, Published 1913.

1. Race and skin color—bias in Cuba;
2. The development of judicial and legal infrastructure that can support the inevitable demand of a private enterprise system where disputes between parties to business transactions will occur and need to be resolved—often in situations in which neither party is a wrongdoer; and
3. The development of procedural mechanisms through which Cuban officials can manage large-scale inquiries by the international business community seeking opportunities in Cuba.

Most Americans know very little or nothing about Cuba, despite the fact that it is situated only 90 miles off of the coast of Florida. In addition to the official policy of regime change in the United States towards Cuba, there seems to be a separate covert operation to keep the American public in the dark about Cuba through radio silence. The extent of the silence that has descended over Cuba and Cuban history in the United States is so thorough that the average US citizen is surprised when they meet someone who knows something about it. I am often surprised by how many people don't know that the 1959 revolution in Cuba ousted an oppressive, dictatorial government that was notoriously brutal, classist, and racist against legions of poor, uneducated Cuban peasants whose status would have probably remained unchanged for the last five and a half decades otherwise.

Like China and Russia, Cuba is poised to become another example of a new hybrid society where Communist and socialist government structures continue to retain political power while pursuing economic growth through private and public enterprises that are more commonly associated with capitalist economic systems and democracies.

The most significant of these changes are occurring due to an impetus from within Cuba itself, both at the insistence of Cuban society and from within the government—rather than from outside forces. By continuing to ignore Cuba when other countries do not, the United States runs the risk of becoming irrelevant to Cuba's future development, and the opportunity

costs for US businesses will become even more enormous than they are already.

I have attended meetings in Chicago, Washington, D.C., and Havana where I have engaged in discussions about how the United States' posture towards Cuba is outdated. This seems likely given the robust response by other countries to Cuba's invitation to do business there. The most often expressed concern is about the risk that the United States will become less relevant to the Cuba equation over time. The severe restrictions that prevent American businesses that would otherwise pursue business opportunities in Cuba from doing so have enormous opportunity costs—especially given the close proximity of the two countries relative to other international business destinations (e.g., extremely low transportation costs, etc.).

In the United States, Americans, if they talk about Cuba at all, simply speculate about what will happen “when Cuba opens up;” this reflects a myopic assumption that the future of Cuba depends entirely upon a removal of the United States' economic blockade against Cuba.<sup>75</sup>

Recent changes in Cuba are the result of decades of planning by Fidel and Raul Castro, who appear to have leveraged their respective personalities and skill sets to achieve a shared vision of objectives and aspirations for the Cuban people. At the outset, of course, they faced an enormous task of uplifting so many people who had languished in permanent poverty prior to the revolution. Because the early objectives of attending to the educational and health care needs of the entire population have been achieved, the

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<sup>75</sup> See DEPT. OF THE TREASURY: OFFICE OF FOREIGN ASSETS CONTROL, CUBA: WHAT YOU NEED TO KNOW ABOUT U.S. SANCTIONS, *available at* <http://www.treasury.gov/resource-center/sanctions/Programs/Documents/cuba.pdf> (pin cite needed); Tim Bearden, *Helms Burton Act: Resurrecting the Iron Curtain*, THE COUNCIL ON HEMISPHERIC AFFAIRS, Jun. 10, 2011, <http://www.coha.org/helms-burton-act-resurrecting-the-iron-curtain/>.

number of Cuban citizens who are now prepared to participate in the next phase of the Castro brothers' long-term plan—one of developing Cuba's private economic sector—is far more diverse in terms of race, gender, and location on the island than it would have been if the revolution had not occurred.