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# FAMILY TRADITION: CUBAN POLICY REFORM AS RAUL CASTRO TAKES THE REIGNS

*Crystal Jamison*

**A**FTER nearly two years of serving as Cuba's leader, Raul Castro has implemented revolutionary changes for the country, yet maintained the ideals of his brother's communist policies. "Raulism" encompasses a series of economic reforms leading to improved living conditions and ramped up agricultural and industrial capabilities. This paper will evaluate the policies of the past, Raul's current administration, and the direction he plans to lead the country in. It will also discuss factors standing to propel and impede the success of the reforms, especially Cuba's relations with other countries, particularly within the western hemisphere. With Congress' support, it appears President Obama will ease the mandates of the United States' fifty year old economic trade embargo with the island; although complete removal of the ban seems improbable due to the continuation of the Communist government structure. While this will surge the island's economy, much more is needed to ensure the new economic structure prevails, such as a revamped currency system, dependence from foreign aid, and the support of Cubans who have been faithful to Fidel and his policies for more than half a century.

While the economic reforms are greatly improving the weathered county, Raul is not taking the measures necessary to ensure their continued success, including reestablishing trade with the United States and encouraging foreign investment.

## I. BRIEF HISTORY OF FIDEL'S COMMUNIST REVOLUTION

In his final days in office, Cuban President Fidel Castro, the founder of the Communist Revolution, struggled to ensure that the Cuba he had built would not fade upon his departure after fifty years in command. Delivering his last major policy speech in November of 2005, Fidel warned that his generation—the founders of the Communist revolution—was not going to last much longer and that the new generation's leaders could destroy the Cuba they had built.<sup>1</sup> In addressing the mortality of socialism, Fidel said "[t]his revolution can destroy itself. . .[w]e can de-

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1. Lexington Inst., *Issue #26: Will Raul Castro Reform Cuba's Economy?* (2007), [http://lexingtoninstitute.org/printer\\_1177.shtml](http://lexingtoninstitute.org/printer_1177.shtml).

stroy it, and the fault would be ours.”<sup>2</sup> It is highly unlikely Fidel even considered the next generation of leaders he had warned of would encompass his very own little brother, Raul Castro.

Over fifty years ago, Fidel and his brother led a ragtag rebel force to improbable victory, seizing control of the Cuban government from Fulgencio Batista. It was the beginning of his Communist revolution. He became prime minister of Cuba in 1959 and shortly thereafter canceled promised elections and suspended Cuba’s 1940 constitution, deeming it outdated.<sup>3</sup> Fidel “systematically and progressively destroyed the fundamental human rights of the people on the island.”<sup>4</sup> He proclaimed his goals as land reform, economic punishment against the United States for cutting the quota on sugar imports, and transformation of Cuba into a socialist state.<sup>5</sup>

During Castro’s first nine months in office, approximately 1500 decrees, laws, and edicts were passed.<sup>6</sup> With regard to land reform, Fidel broke up large property holdings and disbursed them to the poor. To do so, he enacted the Agrarian Reform Act, seizing all agricultural estates over 165 acres.<sup>7</sup> Additionally, the Urban Reform Law essentially made the government the primary landlord for all residential property by eliminating private sale and rental of homes, transferring property to homeless Cuban citizens, canceling mortgages, and making all rent and mortgage payments payable to the state.<sup>8</sup> Fidel punished not only the United States but his own people with the issue of Laws No. 851 and 890, which allowed him to seize all U.S. corporate property and virtually all Cuban businesses.<sup>9</sup> He paid no compensation for these government takings despite being required to do so by the laws. Fidel furthered his socialist agenda with the passage of Law No. 989, making it illegal for Cubans to leave Cuba and penalizing “those who fled after the revolution by authorizing state agencies to seize their property.”<sup>10</sup> The socialist transformation was solidified when the Constitution of 1976 was implemented, which confiscated or expropriated almost all property on Cuba.<sup>11</sup>

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2. *Id.*

3. PBS.Org, *Fidel Castro Timeline: Post-Revolution Cuba*, <http://www.pbs.org/wgbh/amex/castro/timeline/index.html> (last visited Mar. 5, 2009) [hereinafter *Timeline*].

4. Jose A. Ortiz, *The Illegal Expropriation of Property in Cuba: A Historical and Legal Analysis of the Takings and a Survey of Restitution Schemes for a Post-Socialist Cuba*, 22 LOY. L.A. INT’L & COMP. L. REV. 321, 322 (2000).

5. Bradley T. Gilmore, *U.S.-Cuba Compensation Policy*, 8 TEX. HISP. J.L. & POL’Y 79, 82 (2002).

6. Ted A. Henken, CUBA: A GLOBAL STUDY HANDBOOK 202 (2008).

7. Ortiz, *supra* note 4, at 329.

8. Eduardo Moises Penalver, *Redistributing Property: Natural Law, International Norms, and the Property Reforms of the Cuban Revolution*, 52 FLA. L. REV. 107, 126 (2000).

9. Ortiz, *supra* note 4, at 332.

10. Kern Alexander & Jon Mills, *Resolving Property Claims in a Post-Socialist Cuba*, 27 LAW & POL’Y INT’L BUS. 137, 165 (1995).

11. Ortiz, *supra* note 4, at 332-33.

Fidel's new Cuba was welcomed by some and distained by others. The new socialist policies forced many members of the elite and professional classes into exile. There were Government seizures of properties and business holdings, the suspension of elections, the militarization of society, control of the media, and the politicization of education.<sup>12</sup> His critics saw him as "a dictator whose totalitarian government systematically denied individual freedoms and civil liberties such as speech, movement[,] and assembly."<sup>13</sup> Nonetheless, supporters admired his ability to dramatically increase the nation's literacy rate and bring quality healthcare to almost all Cubans.<sup>14</sup>

In furthering his political agenda, Fidel developed the New Man theory, which held that Cubans would no longer work for personal profit, but for the good of all people. Income and benefits, such as education and medical services, were to be evenly distributed. Government agencies represented the people as a whole, without the presence of any political parties. He ensured loyalty to the regime by having the state control the press, developing neighborhood watch groups to monitor ideological purity, and basing work and government promotions on loyalty to Castro.<sup>15</sup>

The economic policies failed to realize the same success as his political changes. Fidel's attempt to diversify the Cuban economy, previously almost solely based on agricultural production, proved a disaster. Not only were the Cuban products meant to replace previously imported goods impractical and of poor quality, but diverting the workers efforts caused traditional agricultural production to decline and there was a nearly fifty percent decline in sugar output, the foundation of Cuba's economy.<sup>16</sup> With a renewed focus on agriculture and billions of dollars of financial aid from Cuba's ally, the Union of Soviet Socialist Republics (USSR), Cuba's economy recovered. But this reprieve did not last long either, for the country was struck with disaster once again when the USSR fell, sending the island in to an economic crisis.<sup>17</sup>

Fidel realized dire efforts had to be taken to save the country he had built. Believing a steady flow of hard currency from abroad would be the only way to save his regime, he decided to compromise what he had touted as sacred revolutionary principles.<sup>18</sup> His reform looked to two sources for the currency: large-scale foreign tourism and dollar remittances from the Cuban diaspora. In July 1993, Fidel began legalizing for-

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12. *Timeline*, *supra* note 3.

13. Associated Press, *Fidel Castro Resigns Cuban Presidency After Half-Century in Power*, FOXNEWS.COM, Feb. 19, 2008, <http://www.foxnews.com/story/0,2933,331149,00.html> [hereinafter *Castro Resigns*].

14. *Id.*

15. Mike Williams, *Cuba's Neighborhood Watch Groups Remain Active*, COX NEWS SERVICE, Mar. 9, 2008, [http://www.coxwashington.com/reporters/content/reporters/stories/2008/03/09/CUBA\\_COMMUNISTS09\\_COX.html](http://www.coxwashington.com/reporters/content/reporters/stories/2008/03/09/CUBA_COMMUNISTS09_COX.html).

16. *Timeline*, *supra* note 3.

17. *Castro Resigns*, *supra* note 13.

18. Brian Latell, *AFTER FIDEL: THE INSIDE STORY OF CASTRO'S REGIME AND CUBA'S NEXT LEADER* 238 (2005).

eign currencies to provide an incentive for Cubans abroad to subsidize their relatives. While the influx of American dollars helped to some degree, foreign currency was heavily taxed and most of it had to be spent in government-run stores that charged exorbitant prices for food and other essentials. The large disparity in the value of the U.S. dollar compared to the Cuban peso caused a caste system to form: two parallel economies operating side by side.<sup>19</sup> Those with relatives abroad that were able and willing to send money prospered along with those employed in the tourist industry that were paid with dollars instead of the state positions receiving pesos. Racial discrimination reached all time highs since Afro-Cubans had little to no access to the higher valued currency due to job discrimination and fewer relatives abroad likely to send the foreign currency.<sup>20</sup>

Similarly, tourism quickly became one of the two principal revenue sources for the island, but not without severe consequences. Tensions amongst the supposedly egalitarian society of islanders grew as Fidel opened Cuba's doors to foreign tourists, as most of the island's own citizens were "banned from the beaches, bars, hotels, and restaurants set aside for foreign tourists and regime elites."<sup>21</sup>

Although the introduction of foreign currency and the accompanied tourism boom in the late 1990s helped the economy, it was not enough. In the latter portion of his reign, Cuba was faced with immense social unrest. "Crime, drug abuse, and prostitution [ ] soared, as many Cubans [saw] greater advantage in hustling foreigners for hard currency than in pursuing traditional careers. Doctors and physicists drive taxis. Unemployed scientists and engineers wait tables for tips. University enrollment is less than half what it was in 1990."<sup>22</sup> Hostility was further fueled by "[s]hortages of food and electricity, a deteriorating transportation and health system, and a drastic decline of basic services provided by the state."<sup>23</sup>

With the intense unrest apparent, Fidel grasped to reaffirm his economic policies in any way possible prior to the change of the guards. He called for an end to the black-market activity, demanding more control and policing.<sup>24</sup> "He threatened to close Cuba's remaining private restaurants and [even] to give a 'Christian burial' to private taxis" operating on the island.<sup>25</sup> Despite the transparency of his attempts to ensure the Cuba he built lived on, Fidel assured the world he would not step down until

19. *Id.* at 241.

20. *Id.* at 240.

21. *Id.*

22. *Id.*

23. Eric Driggs, *Deteriorating Living Conditions in Cuba* (Inst. for Cuban and Cuban-Am. Stud. U. Miami, Issue 59, 2004), [http://ctp.iccas.miami.edu/FOCUS\\_Web/Issue59.htm](http://ctp.iccas.miami.edu/FOCUS_Web/Issue59.htm).

24. Lexington Inst., *supra* note 1.

25. *Id.*

death. Unfortunately for Fidel and the loyal Fidel-ists, that did not turn out to be the case.

## II. RAUL AS INTERIM SUCCESSOR

On July 31, 2006, a statement was read on Cuban television explaining President Fidel Castro would be temporarily relinquishing power due to medical reasons.<sup>26</sup> It was his first time to renounce his powers as President since taking the office in 1959.<sup>27</sup> That statement also announced that Fidel's brother, Defense Minister Raul Castro, would assume control of government and the Cuban Communist Party (PCC).<sup>28</sup>

Prior to stepping down, many considered the most likely political scenario upon Fidel's departure would be Raul taking over as communist successor. Born in June of 1931, he was considered a member of the reform generation. The two brothers were extremely close: expelled from their first school together, fighting in Cuba's Sierra Maestra together, and ruling Cuba together for nearly fifty years following their victory over the forces of Fulgencio Batista.<sup>29</sup> Raul had long been involved in the PCC regime. In fact, Raul was the officially designated successor due to his role as First Vice President of the Council of State, a position his brother publicly endorsed.<sup>30</sup> Furthermore, Raul served as head of the Revolutionary Armed Forces (FAR), which controls Cuba's security apparatus, making him a very likely candidate.<sup>31</sup>

With this shared background and fervor for the Communist regime, it surprised many that the brothers' views on the country's economy varied so vastly. But, at that point in time the revolution was literally in ruins.<sup>32</sup> Raul was quick to make the economy his priority, even though he was only acting as interim leader. He abandoned his brother's call for the resurgence of his socialist policies. Just four days after his induction into power, Raul "implemented a series of continuity-based policies and free flowing economic reforms that [met] a reality test, while instituting a long modernization process."<sup>33</sup> He began reintroducing the very reforms

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26. CountryWatch.com, Cuba Country Review 21 (2007), <http://web.ebscohost.com.proxy.libraries.smu.edu/ehost/pdf?vid=6&hid=12&sid=53c54426-0786-4093-b2ac-46e6fa67c955%40sessionmgr9> [hereinafter CountryWatch.com].

27. *Id.*

28. Mark P. Sullivan, CRS Report for Congress, Cuba's Political Succession: From Fidel to Raul Castro (2007), <http://www.fas.org/sgp/crs/row/RS22742.pdf>.

29. Thomas Catan, *Who is Raul Castro, Cuba's New Leader?*, TIMESONLINE, Feb. 19, 2008, [http://www.timesonline.co.uk/tol/news/world/us\\_and\\_americas/article3396201.ece?token=null&offset=0](http://www.timesonline.co.uk/tol/news/world/us_and_americas/article3396201.ece?token=null&offset=0).

30. Sullivan, *supra* note 28.

31. *Id.*

32. LATELL, *supra* note 18, at 241.

33. Melissa Penn, *The Dynamic Debut of Raúl Castro: Picking up the Broken Pieces*, Council on Hemispheric Affairs, Nov. 4, 2008, available at <http://www.coha.org/2008/11/the-dynamic-debut-of-raul-castro-picking-up-the-broken-pieces-of-storm-battered-but-now-oil-rich-cuba-and-moving-ahead-with-mixed-prospects/>.

Fidel had killed off.<sup>34</sup>

Raul called for structural changes in order to increase efficiency and production.<sup>35</sup> In an effort to remedy Havana's chronic transportation problems, he began a process of introducing new buses into the system with the goal of purchasing a total of 8,000 buses to buoy the country's public transit.<sup>36</sup> He also recognized Cuban salaries were insufficient to satisfy basic needs.<sup>37</sup> This led Raul to see the reality that his brother's disdain for the black market activities was misplaced. He acknowledged that the people of his country had to resort to "indiscipline" because they couldn't make ends meet with the meager salaries of the current economy—they were not spurred by greed but rather just trying to get a day's pay for a day's work.<sup>38</sup> To curb the need for such indiscipline, Raul ordered the government to pay off its debts to small farmers.<sup>39</sup> In addition, he raised the prices the state pays producers for milk and meat.<sup>40</sup> Additionally, Raul established the salary system for the System for Prevention and Social Attention, which covers workers of the operational, clerical, service, technical, and management occupational categories.<sup>41</sup>

He encouraged private business in direct opposition to his brother. Rather than 'bury' private taxis, he ordered police to stop harassing them and allow them to operate without interference.<sup>42</sup> Entrepreneurs were encouraged to continue operating private restaurants.<sup>43</sup> Raul attempted to reverse a policy of squeezing out every bit of revenue from visitors, instead calling for foreign investment.<sup>44</sup> He ended abusive pricing at Cuba's airports in an attempt to make the island a more competitive tourism destination.<sup>45</sup> Customs regulations were relaxed to allow importation of home appliances, DVD players, VCRs, game consoles, auto parts, and televisions.<sup>46</sup>

Most importantly for future ramifications, he sought the input of the country in finding a solution. Raul summoned the party, state enterprises, research centers, and other institutions across the country to describe problems and solutions that would raise output, productivity, and living standards.<sup>47</sup> Now "thousands of officially-sanctioned meetings

34. Robert Windrem, *NBC: How would Raul Castro Govern?*, MSNBC, Feb. 19, 2008, available at <http://www.msnbc.msn.com/id/14126817/print/1/displaymode/1098>.

35. Sullivan, *supra* note 28.

36. Gregory Reihing, *As Revolution Reaches 50, Cuba Under Raul Castro Gradually Undertakes Reforms*, PBS.ORG, Jan. 1, 2009, available at [www.pbs.org/newshour/updates/north\\_america/jan-june09/cuba\\_01-01.html](http://www.pbs.org/newshour/updates/north_america/jan-june09/cuba_01-01.html).

37. Sullivan, *supra* note 28.

38. Lexington Inst., *supra* note 1.

39. Sullivan, *supra* note 28.

40. *Id.*

41. Resolution 60/2007 (Sept. 3, 2007).

42. Lexington Inst., *supra* note 1; Sullivan, *supra* note 28.

43. Lexington Inst., *supra* note 1.

44. *Id.*; Sullivan, *supra* note 28.

45. Lexington Inst., *supra* note 1.

46. *Id.*; Sullivan, *supra* note 28; Joint Resolution 1/2007 (Aug. 24, 2007) (Auto Parts).

47. Lexington Inst., *supra* note 1.

[have been] held in workplaces and local Communist party branches around the country.”<sup>48</sup> Cubans are encouraged to air their views and make suggestions—definitely not characteristic of a Communist regime.<sup>49</sup> Within the first two years of the initiative, his administration had carried out 215,687 consultations with the public and heard 1.3 million proposals, involving over five million people.<sup>50</sup> Studies indicate that complaints focused on low salaries, housing, and transportation problems.<sup>51</sup> Other studies indicate desires to legalize more private business.<sup>52</sup> A concern for the poor state of the education system was also expressed.<sup>53</sup> Raul began working on initiatives within these areas.

Although this may have surprised the world, it brought little surprise to the policy makers of Cuba. “Talk to anyone who worked with Raul Castro, or anyone clued in to the process that produced Cuba’s economic reforms in the early 1990’s, and you get the same story: that he supported those reforms and is not averse to the use of market mechanisms to improve Cuba’s economy.”<sup>54</sup> During Fidel’s reign, Raul had already begun using his power as head of the armed forces to revamp the Cuban economy following the collapse of the Soviet Union. Raul led limited market-driven initiatives and supported foreign investment through opening the economy to foreign tourism, to U.S. dollars, and to limited private enterprise.<sup>55</sup> He also allowed agricultural producers to sell some of their food to private markets to compensate for the loss of the foreign aid.<sup>56</sup>

Raul solidified the rumors of his intent to usher in economic change in a July 26, 2007 speech, a date marking the revolutionary anniversary commemorating the 1953 attack on a military facility in Santiago, Chile.<sup>57</sup> His efforts were long overdue. Cuba’s crippled economy was in desperate need of revitalization. The effect of the trade embargos and long-held Communist policies, coupled with the impact of the Soviet Union’s move toward democratization and withdrawal of financial support from Cuba in the 1990s, had become obvious.<sup>58</sup> He noted, “[n]o one, no individual or country, can afford to spend more than what they have. . . . To have more we have to begin producing more.”<sup>59</sup> He, with the help of the people, was prepared to collaborate in an attempt to figure out a method to stimulate the surge in production within the island.

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48. Sullivan, *supra* note 28.

49. *Id.*

50. Penn, *supra* note 33.

51. Francis Robles, *Cubans Urged to Vent Views*, MIAMI HERALD, Oct. 2, 2007.

52. *Id.*

53. Marc Lacey, *At a Fork in the Road, Cuba Follows Two Paths*, NY TIMES, July 31, 2008, available at <http://www.nytimes.com/2008/07/31/world/americas/31cuba.html>.

54. Lexington Inst., *supra* note 1.

55. Catan, *supra* note 29.

56. *Id.*

57. Sullivan, *supra* note 28.

58. Reihing, *supra* note 36.

59. *Raul Castro*, NY TIMES, Mar. 4, 2009, available at [http://topics.nytimes.com/top/reference/timestopics/people/c/raul\\_castro/index.html](http://topics.nytimes.com/top/reference/timestopics/people/c/raul_castro/index.html).

## III. RAUL'S NEW CUBA

While Raul's assumption of power was announced as temporary, rumors began circulating world wide as to the true state of Fidel's health. In Miami, spontaneous celebrations broke out amongst Cuban Americans as word traveled that Fidel had been hospitalized.<sup>60</sup> The information line of the county's emergency operations center became a "rumor hotline" fielding thousands of Castro-related calls.<sup>61</sup> As a Miami-Dade County spokeswoman reported, "'Eighty percent of the calls are about his health,' Martinez said. 'Is he alive? Is he dead?'"<sup>62</sup> The fact that Fidel's initial statement relinquishing power was not delivered personally drew much conjecture about the true extent of his illness.<sup>63</sup> The questions circled, "[w]hy isn't he at least doing an audiotape? He's reputed to have seven doubles. Why aren't they trotting out the doubles?"<sup>64</sup> Speculators were proven wrong however when photos of Fidel were published in the state-controlled *Juventud Rebelde* newspaper in August of 2006. He again quelled the rumors in September of 2007 by making his first television appearance since the illness. For over a year, the PCC maintained that Fidel's health was improving, even assuring that he was playing an active role by authoring essays in the state-run press.<sup>65</sup> But, it was not long until the severity of his illness came out.<sup>66</sup> Finally, on February 19, 2008, the ailing eighty-one year old announced he would not be accepting another term in office.<sup>67</sup> He had outlasted eleven U.S. Presidents, serving for nearly half a century.<sup>68</sup>

The National Assembly elected Raul president of Cuba by a unanimous vote on February 24, 2008.<sup>69</sup> Raul had led a successful interim administration. He had built a loyal and competent support base that he relied on heavily on.<sup>70</sup> After half a century of exposure to Fidel's autonomous style, many feared that Raul's strong dependence on his team proved that he could not lead on his own. As one critic stated, "[h]e has prospered by being his brother's brother, surrounded by those he sees as competent and loyal. He is the chairman of the board of this new team,

60. Abby Goodnough, *Joy in Miami Turns to Uncertainty over Castro's Fate*, NY TIMES, Aug. 1, 2006, available at <http://www.nytimes.com/2006/08/01/world/americas/01cnd-miami.html>.

61. Laura Parker, *Castro's Sister Dismisses Rumors*, USA TODAY, Aug. 4, 2006, available at [http://www.usatoday.com/news/nation/2006-08-03-castro-sister\\_x.htm](http://www.usatoday.com/news/nation/2006-08-03-castro-sister_x.htm).

62. *Id.*

63. *Cuba Country Review*, *supra* note 26, at 22.

64. Parker, *supra* note 61.

65. Sullivan, *supra* note 28.

66. *Cuba Country Review*, *supra* note 26, at 22.

67. U.S.: *No Quick Cuba Policy Change*, USA TODAY, Feb. 19, 2008, available at [http://www.usatoday.com/news/world/2008-02-19-bush-cuba\\_N.htm](http://www.usatoday.com/news/world/2008-02-19-bush-cuba_N.htm) [hereinafter *No Quick Change*].

68. Raul Castro, NY TIMES, Mar. 4, 2009, [http://topics.nytimes.com/top/reference/timestopics/people/c/raul\\_castro/index.html](http://topics.nytimes.com/top/reference/timestopics/people/c/raul_castro/index.html) [hereinafter *Raul Castro*].

69. Gregory Reihing, *As Revolution Reaches 50, Cuba Under Raul Castro Gradually Undertakes Reforms*, PBS, Jan. 1, 2009, available at [www.pbs.org/newshour/updates/north\\_america/jan-june09/cuba\\_01-01.html](http://www.pbs.org/newshour/updates/north_america/jan-june09/cuba_01-01.html).

70. Windrem, *supra* note 34.

more of an orchestrator.”<sup>71</sup> Raul’s ruling style was soon tested.

With the country on the brink of what seemed to be an economic epiphany, Raul suffered a major setback. Just months after officially taking the reigns, Cuba was struck by two Caribbean hurricanes, Ike and Gustav, devastating the island and its economic growth.<sup>72</sup> The tragedy only exacerbated a modern history of food shortages, which already forced Cuba to depend heavily on food imports to feed its people. Experts estimate the hurricanes caused \$3-5 billion in damages, with an especially hard impact on the country’s nickel and sugar industries as well as tourism industry.<sup>73</sup>

Despite the destruction, Raul remained unyielding in seeking reforms to rebuild his nation. He looked to the Chinese political-economic model in shaping his reforms.<sup>74</sup> The model focused on opening up Cuba’s economy without giving up rigid one-party political control.<sup>75</sup> Focus remained on three main areas: the agricultural sector, repairing the damaged infrastructure, and encouraging spending.

#### A. AGRICULTURAL SECTOR

Raul has long demonstrated support for opening up farmers’ markets, even leading efforts in the early 1990s to decentralize foreign trade to counter the economic losses resulting from the withdrawal of Soviet aid. He led the movement giving state and private enterprises, joint ventures, and international economic associations direct access to external markets.<sup>76</sup> The island has long suffered from food shortages for its 11,000 citizens, resulting in \$2 billion now spent on food imports.<sup>77</sup> In fact, in 2006, \$340 million in food and agricultural products were bought from the United States.<sup>78</sup> With Raul’s renewed focus on “meeting the basic needs of the population,” his initiatives to bring that number down grew even stronger.<sup>79</sup>

Most citizens blamed the major food scarcity on the excessive state intervention and control of the agricultural sector.<sup>80</sup> Since 1962, the state-run Union Nacioinal de Acopio (UNA) has served as the official link between producers and consumers farm production.<sup>81</sup> Cuban farmers are

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71. *Id.*

72. Penn, *supra* note 33.

73. *Id.*

74. LATELL, *supra* at 18.

75. *Raul Castro, supra* note 68.

76. CubaINdustria, Organizacions Rectoras de Normalizacion, [http://www.cubaindustria.com/English/comerext\\_infrageneral.htm](http://www.cubaindustria.com/English/comerext_infrageneral.htm).

77. Reihing, *supra* note 36.

78. U.S.-Cuba Trade & Econ. Council, Inc., *Economic Eye on Cuba: 2006 Export Statistics for Cuba* (2007) <http://www.cubatrade.org/CubaExportStatsA.pdf>.

79. Penn, *supra* note 33.

80. Alejandro L. Sarria, *The Future of Public Procurement Law in Cuba: Why the UNCITRAL Model Law is Havana’s Best Option*, 37 PUB. CON. L. J. 89 (2007).

81. Jose Alvarez, *Acopio: Cuba’s State Procurement and Distribution Agency 4*, (Univ. of Fla. Inst. Of Food & Agric. Scis., 2004), available at <http://edis.ifas.ufl.edu/FE484>.

required to deliver quotas of produce, which are subject to price controls, to a government collection point each week where officials gather the harvest.<sup>82</sup> UNA then takes the fruit and vegetables to produce warehouses or authorized distribution points.<sup>83</sup> The quota distribution scheme results in un-harvested crops estimated to be as high as 225 kilograms per hectare.<sup>84</sup> Furthermore, reports estimate “that food stored in Cuban warehouses for one to three months was found to suffer losses from rodents of about 1%.”<sup>85</sup>

With state-run distribution of agricultural goods, farmers have little incentive for further self-development. To encourage the sector, Raul has doubled and at times tripled the price the state will pay for farm products since taking office in 2006.<sup>86</sup> He is also providing farmers with the purchasing power to buy essential supplies so that crops don’t go uncultivated due to shortages in the rationed supplies, which are distributed through the government-regulated system.<sup>87</sup> He also gave farmers the freedom to use state issued CUC pesos to cover anticipated additional costs of production such as seeds, fertilizer, herbicides, tools, ropes, and gloves.<sup>88</sup>

He decided to put vacant farmlands back in private hands by issuing a decree giving private farmers and cooperatives the right to develop up to 100 acres of unused government-owned land.<sup>89</sup> Raul’s implementation of Law Decree 259 on July 18, 2008, not only carries significant benefits for the Cuban economy and the country’s farmers; it helps the world alike. Decree 259 is an agricultural sustainability development policy allowing Cuban farmers to expand and diversify production through means “rooted in an ecological rationality.”<sup>90</sup> It “was directed to the use of organic fertilizers, soil conservation procedures and the creation of local cooperatives, community environmental programs, land redistribution strategies, as well as a decentralization of government control.”<sup>91</sup> As a result of these initiatives, the balance in ownership of farmlands virtually inverted itself. Farmers now control eighty-five percent of the total farm acreage, while prior to Raul taking office the state maintained ownership of eighty percent.<sup>92</sup>

82. Sarria, *supra* note 80.

83. *Id.*

84. *Id.*

85. Alvarez, *supra* note 81.

86. Penn, *supra* note 33; Fiona Govan, *Raul Castro Lifts Ban on Cubans Building Their Own Homes*, TELEGRAPH, Jan. 5, 2009, <http://www.telegraph.co.uk/news/worldnews/centralamericaandthecaribbean/cuba/4126471/Raul-Castro-lifts-ban-on-Cubans-building-their-own-homes.html>.

87. Penn, *supra* note 33.

88. *Id.*

89. Reihing, *supra* note 69.

90. Penn, *supra* note 33.

91. *Id.*

92. *Id.*

## B. REBUILDING THE INFRASTRUCTURE

In January of 2009, Raul lifted the ban on Cubans building their own homes, mainly in response to the country's housing shortage crisis.<sup>93</sup> Until that point, the construction of homes was the responsibility of the government.<sup>94</sup> The government, however, failed the three years prior in fulfilling its annual goal of building 10,000 new homes.<sup>95</sup> Compounding the problem, the hurricanes had leveled over half-a-million homes.<sup>96</sup> It is estimated that between 500,000 and a million new homes are now needed to end the shortage.<sup>97</sup> Thus Cubans are now permitted to obtain the title to a state-owned home as well as to build their own homes using private means.<sup>98</sup> Strict guidelines remain in effect as to the dimensions of proposed new dwellings.<sup>99</sup> That does not mean that the shortage will soon cease either. There is a chronic shortage of building materials and materials such as sand, stone and iron are only available on the black market leaving state supplied cement the only viable alternative.<sup>100</sup> Fidel maintained such strong restrictions on private property policies because his fear that it reduced his political control over Cubans.<sup>101</sup> "It is hard for people to rebel against the government when it is the country's sole employer."<sup>102</sup> The private enterprise will hopefully eliminate chronic shortages the government cannot provide its people, but it does come with a price in the communist regime.<sup>103</sup> Raul has opted to forego the dangers with officials telling the Associated Press there will be several new housing reforms to follow.<sup>104</sup>

Despite the weakened socialist infrastructure, Cuba's healthcare system is in need of no reform. The socialized system is touted as one of the best health care systems in the Caribbean, with many qualified physicians and availability to all citizens.<sup>105</sup> As a result, life expectancy rates have risen tremendously for Cubans, with an estimate of eighty years for females and seventy-five years for men currently living.<sup>106</sup> This has not come without a price. The increase in life expectancy has led to Cuba's version of unfunded pension liabilities. In response, Raul was forced to

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93. Reihing, *supra* note 36.

94. Fiona Govan, *Raul Castro Lifts Ban on Cubans Building Their Own Homes*, TELEGRAPH, Jan. 5, 2009, <http://www.telegraph.co.uk/news/worldnews/centralamericaandthecaribbean/cuba/4126471/Raul-Castro-lifts-ban-on-Cubans-building-their-own-homes.html>.

95. *Id.*

96. *Id.*

97. Reihing, *supra* note 36.

98. *Id.*; Govan, *supra* note 95.

99. Govan, *supra* note 95.

100. *Id.*

101. Catan, *supra* note 29.

102. *Id.*

103. *Id.*

104. Reihing, *supra* note 36.

105. *Cuba Country Review*, *supra* note 26.

106. *Id.* In fact, fewer infants die at birth in Havana than in Washington D.C. Jorge I. Dominguez, *Opinion: The Castro Regime at Age 50*, THE HARV. CRIMSON, Jan. 8, 2009, <http://www.thecrimson.com/article.aspx?ref=526066>.

enact a new social security law. Permitted retirement ages were increased from fifty-five for women to sixty and for men from sixty to sixty-five.<sup>107</sup> The problem has been felt universally but is felt harder in Cuba due to the lack of a reliable economic growth path for the country that is independent of external subsidies.<sup>108</sup> Despite economic difficulties, Raul raised the minimum pension for retired Cubans to the equivalent of \$8.33 per month, a decision made by the people.<sup>109</sup> The July 2008 National Assembly session enacted a preliminary bill but it was not enacted until a reported 99.1% of 3,057,568 assembly participants convened to discuss and approve it.<sup>110</sup>

Raul has acknowledged “shortcomings” in the country’s education system, which ranks fifty-first against the world.<sup>111</sup> Many teachers have sought other, higher paying jobs than the less than twenty dollars a month equivalent position, leaving the island with a deficit of 8,000 teachers.<sup>112</sup> In response, Raul announced new incentives to lure retired teachers back to classrooms, a vilification of his brother’s policy nearly a decade ago attempting to use high school graduates as makeshift teachers.<sup>113</sup> “Our schools have fallen in a hole,” said one twenty-year-old teaching veteran who left the classroom to work in a beauty salon where she would receive higher pay.<sup>114</sup> He also negotiated the Cooperation Agreement between the Governments of Honduras and Cuba, a cooperative effort to provide education and professional training through projects and programs in which public and private entities of both countries will participate.<sup>115</sup>

### C. ENCOURAGE SPENDING

Another initiative of reforms was passed in the spring of 2008 in an effort to boost the economy through encouraging spending. Effective April 1, 2008, Raul lifted the long-term ban on purchasing electronic goods including computers, mobile phones, microwave ovens, and car alarms.<sup>116</sup> Additionally, he brought an end to the “tourism apartheid” previously in effect.<sup>117</sup> Previously, car rentals and hotel stays were permitted only by foreigners.<sup>118</sup> The policy was meant to prevent the islanders from communicating with foreigners in a country where information

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107. Dominguez, *supra* note 107.

108. *Id.*

109. *Id.*

110. *Id.*

111. Lacey, *supra* note 53 (Raul’s acknowledgment); United Nations Development Program, *Human Development Index: Education*, 2007-08, available at <http://hdrstats.undp.org/indicators/7.html>.

112. Lacey, *supra* note 53.

113. *Id.*

114. *Id.*

115. Decree 121-2007 of 14 December 2007 (approving Accord 10-DT of 2 May 2007).

116. Reihing, *supra* note 36; Govan, *supra* note 94.

117. Manuel Roig-Franzia, *Cuba Repeals Ban on Its Citizens Staying in Hotels on Island*, WASH. POST, Apr. 1, 2008, available at <http://www.washingtonpost.com/wp-dyn/content/story/2008/03/31/ST2008033102779.html?sid=ST2008033102779>.

118. Govan, *supra* note 94.

is tightly controlled.<sup>119</sup> Raul lifted this ban effective April 1, 2008, ending the "tourism apartheid".<sup>120</sup> Although the people welcomed the removal of the strict restraints, it has had little impact. Few Cubans can afford visits to luxury hotels or car rentals on their meager average state salary of nineteen dollars a month.<sup>121</sup>

Despite the implementation of these policies, many feel the progress is too slow. Ninety percent of the economy is still dominated by the public sector.<sup>122</sup> A recent survey taken almost a year after Raul assumed complete control reveals ninety-two percent of Cubans feel unaffected by the policy changes Raul Castro has instituted.<sup>123</sup> The changes, however, have not gone completely unnoticed. Tony Zamora, a lawyer and frequent Cuban traveler as a veteran of the 1961 Bay of Pigs, said on his last trip he went to a place he frequents on his trips to buy a SIM card for his cell phone and "there were 42 people in line. I couldn't believe it."<sup>124</sup>

Though the changes may seem modest at this point, they are gradually leading to the decentralization of the government, something Cuba has not experienced in half a decade. There are also hints that the business sector is beginning to open. It is imperative that promoters of the economic reforms do not feel they have their job is complete based on the recent prosperity the Cuban economy is experiencing as much of it is attributable to other sources, especially within its energy sector. Revised reports show Cuba is now expected to have double the previously estimated offshore oil deposits, which would make it one of the twenty largest oil powers in the world.<sup>125</sup> This is certainly generating added excitement and interest. Likewise, with the financial aid of China, Cuba has been able to begin rebuilding a new and improved power grid after the devastation of the hurricanes. Over 180 hydroelectric power plants have been built in Cuba, restoring electricity to a majority of the adversely affected regions of the country and allowing operations to recommence.<sup>126</sup> While Cuba is currently reaping the benefit of these investments, the Chinese may pull out at any time on the construction of future plants. In order for the reform to succeed, Raul and his team must not lose momentum nor allow these outside sources to distract them from their economic agenda.

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119. Roig-Franzia, *supra* note 117.

120. *Id.*

121. *Id.*

122. Penn, *supra* note 33.

123. *Survey: Cubans Feel Little Change Under Raul Castro*, MIAMI HERALD, Jan. 16, 2009, <http://www.miamiherald.com/news/americas/cuba/v-print/story/856983.html>.

124. Reihing, *supra* note 36.

125. Penn, *supra* note 33.

126. *Id.*

## IV. POLITICAL FRONT

Unlike the monumental advances on the economic front, the tightly controlled political repression is not likely to experience any changes. There are two key components of the China Model. First, the government mimics successful elements of liberal economic policy by opening up much of the economy to foreign and domestic investment, allowing labor flexibility, keeping the tax and regulatory burden low, and creating a first-class infrastructure through a combination of private sector and state spending. The second part is to permit the ruling party to retain a firm grip on government, the courts, the army, the internal security apparatus, and the free flow of information.<sup>127</sup>

The economic growth allows the people to prosper and keeps them happy with the ruling regime despite the lack of democracy.

The system is characterized by a strong security mechanism and carries stiff repercussions for dissidents.<sup>128</sup> Raul, as previously deemed “the Prussian,” is known as a widely feared hard-liner, especially when it comes to persecution of such dissidents, and it is not anticipated that reputation will change any time soon.<sup>129</sup> Instead, Raul is predicted to be following the Chinese model of economic systems by opening up Cuba’s economy without giving up rigid one-party political control.<sup>130</sup> He is seen as “ruthless and compassionate, as an executioner and as an executive, as a rigid Communist and a practical manager of economic and security matters.”<sup>131</sup> Unfortunately, this makes it unlikely that the reports of human rights violations within the country will be met with any remedy in the near future.<sup>132</sup> Cuba is still holding 205 political prisoners, including twenty-three dissident journalists, despite a few signs of an ‘opening’ since President Raul Castro came to power.<sup>133</sup> This includes the majority of seventy-five dissidents arrested during a three-day span in March 2003 who were accused of either acting against the “integrity and sovereignty of the state” or of collaborating with foreign media for the purpose of “destabilizing the country.”<sup>134</sup> Most were convicted in one-day trials and handed sentences that could leave some in prison for the rest of their lives.<sup>135</sup> If these policies continue, it is unlikely other countries will take great interest in renewed Cuban economy. It was the dep-

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127. Rowan Callick, *The China Model*, THE AMERICAN, Nov.–Dec. 2007, <http://american.com/archive/2007/november-december-magazine-contents/the-china-model>.

128. Penn, *supra* note 33.

129. *Raul Castro*, *supra* note 68.

130. *Id.*

131. *Id.*

132. See *Cuba: Fidel Castro's Abusive Machinery Remains Intact*, HUMAN RIGHTS WATCH, Feb. 18, 2008, <http://www.hrw.org/en/news/2008/02/18/cuba-fidel-castro-s-abusive-machinery-remains-intact?print>

133. Reporters Without Borders, *As UN Conducts Universal Periodic Review, 205 Political Prisoners, Including 23 Journalists, Await Release*, REF WORLD, Feb. 3, 2009, available at <http://www.unhcr.org/refworld/docid/498ab62fa.html>.

134. Carlos Lauria et al., *Cuba's Long Black Spring*, CPJ, Mar. 18, 2008, <http://cpj.org/reports/2008/03/cuba-press-crackdown.php>.

135. *Id.*

rivation of social liberties in the first place which sparked the United States to sanction Cuba with such harsh economic penalties.

Raul has shown some signs of hope. "According to the non-governmental Cuban Commission of Human Rights and National Reconciliation (CCDHRN), Cuba had 316 political prisoners when Raul Castro first took power on a provisional basis in July 2006. . . . By early 2008, when Raúl Castro formally assumed the presidency, that number had declined to 234."<sup>136</sup> Only four days after officially taking office on February 29, 2008, he authorized the signing of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.<sup>137</sup> These United Nations human rights treaties assure the issuance of basic civil rights. The guarantees of the Covenant on Civil and Political Rights include: freedom of religion, equal protection under the law, self-determination, peaceful assembly, right to privacy, and the right to exit the country.<sup>138</sup> The Covenant on Economic, Social and Cultural Rights, on the other hand, promises citizens "the right to employment, fair wages, trade union guarantees, access to social security, education, and the 'highest attainable standard of physical and mental health.'"<sup>139</sup> Now, a year after the ceremonial signing of these pacts, Cuba has yet to complete the ratification and implementation of its guarantees. It should be noted that Raul did oversee the ratification of the United Nations Convention against Corruption, previously signed by the country before he took office, an ambitious international resolution to prevent and combat corruption.<sup>140</sup>

## V. RECIPE FOR SUCCESS. . .OR DISASTER: FACTORS DETERMINATIVE OF THE REFORM'S SUCCESS

Despite the meager chances of political change, many wonder if Raul could be the new hope for Cuba's economy. While there appears to have been a smooth transition between the Castro regimes, several outside factors are at play in determining Cuba's ability to see the new reforms through. The age of "Raulism" will depend greatly on the people of Cuba's reactions to transition, ability to cope with the slowing global economy, gaining dependence from foreign aid, and success in establishing bilateral relations with other countries, especially the United States.

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136. STAFF TRIP REPORT TO THE COMM. ON FOREIGN RELATIONS, 111TH CONG., Changing Cuba Policy—In the United States National Interest (Comm. Print 111-5), 4, available at <http://lugar.senate.gov/sfrc/pdf/Cuba.pdf> [hereinafter Staff Trip Report].

137. Posting of Ed Cupling to Media Mouse, <http://www.mediamouse.org/news/2008/02/national-and-international-hea-36.php> (Feb. 29, 2008 at 12:19 pm).

138. Penn, *supra* note 33.

139. *Id.*

140. The Act was signed Dec. 9, 2005 and ratified Feb. 9, 2007. See United Nations Convention Against Corruption, Dec. 14, 2005, Doc. A/58/422, available at <http://www.unodc.org/unodc/en/treaties/CAC/signatories.html>.

## A. CUBANS ADJUSTING

It was easy to see even in the beginning stages of his reign that Raul's leadership style was far different than that of Fidel. As Brian Latell, author of the brothers' biography *After Fidel*, described Fidel as being the visionary, but hopelessly disorganized, while "Raul has provided the organizational glue."<sup>141</sup> As a child, Fidel lobbied their parents to send him to the largest and most prestigious collegiate prep school on the island, Belen, so that he could be in the country's capital.<sup>142</sup> Fidel succeeded in almost everything Belen offered, especially in debate and oratory, competitive sports, and mountaineering.<sup>143</sup> Raul arrived at Belen later in the same year Fidel left, but everything Fidel had done brilliantly, he did badly. Raul was not athletic, demonstrated none of the leadership qualities the Jesuits encouraged, was a terrible student and extremely withdrawn. He was expelled within his first year and went on to continue his education at a small military school.

Just as during their school years, Fidel's time in power was marked with vibrant speeches, utilizing political rhetoric to persuade his followers as well as enemies.<sup>144</sup> He seemed to never tire from his podium while speaking at public events, delivering speeches lasting up to seven hours at a time.<sup>145</sup> He was unusually charismatic and reveled in the limelight.<sup>146</sup> Fidel was a pioneer at mastering the global medium of television in the 1960s, long before others.<sup>147</sup> He also delegated little authority and relied on himself to make the decisions.<sup>148</sup> On the other hand, Raul maintained a low profile. He gave less than a handful of speeches during his year and a half serving as interim president.<sup>149</sup> Fidel's predecessor takes a more pragmatic approach and utilizes the opinions of others, even consulting them for advice.<sup>150</sup> During his stint as interim president, Raul worked closely with a half-dozen experienced government officials in making decisions to bounce ideas off of one another and gain other perspectives—something unheard of to Fidel.<sup>151</sup>

That does not mean Raul is not tough or extremely well capable of handling the clout after having controlled the three most powerful institutions in Cuba—the military, the security services and the Communist party.<sup>152</sup> In fact he earned himself the nickname "The Prussian" for his cold, efficient style in serving as his brother's enforcer.<sup>153</sup> He even sent

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141. Catan, *supra* note 29.

142. Latell, *supra* note 18.

143. *Id.* at 62.

144. Sullivan, *supra* note 28.

145. Catan, *supra* note 29.

146. *Id.*

147. *Id.*

148. *Id.*

149. Sullivan, *supra* note 28.

150. *Id.*

151. Catan, *supra* note 29.

152. *Id.*

153. *Id.*

close friends to the firing squad.<sup>154</sup> As Samuel Farber, a political scientist who grew up in Cuba said, "Raul has a reputation for being more politically repressive than Fidel, but he is also more organized, more practical and more of an executive than Fidel."<sup>155</sup>

So what impact will these differences in personalities carry for the island? Some feel it means Raul will have to gain the peoples' support in other ways. Raul "lacks charisma, which Fidel has in abundance, and so he has to deliver' on proposed reforms."<sup>156</sup> His open policy towards collaboration is likely to generate a more accurate consensus of what concerns the citizens of Cuba really have, thus gaining him favor.

Despite the stark variance in the brothers' outlook on their country's economy, the political succession from Fidel to Raul has been characterized by a political stability that is surprising to many. Even Raul himself predicted that unrest would accompany the change. Upon Fidel stepping down, Raul mobilized thousands of reservists and military troops to quell a potential U.S. invasion.<sup>157</sup> He also reportedly dispatched undercover security throughout the capital only to find the precaution unnecessary as the Cubans went on with their day-to-day life.<sup>158</sup> These measures proved superfluous. The transition has not even prompted unrest among the ruling elite, causing schisms to form and endangering Raul's new position.<sup>159</sup>

This unexpected acceptance could be due, in part, to the PCC's efforts to bolster the idea that Fidel is still in charge. Raul is said to sit next to an empty chair in parliament, ostensibly reserved for Fidel.<sup>160</sup> His speeches are submitted to Fidel for approval, even when he is diverging from the established Communist policies.<sup>161</sup> Raul praises his brother from the lectern—despite admitting some of his Socialist experiments have gone off course, beginning and ending each speech with an update of everything he has learned from his older brother.<sup>162</sup> Any policy change is hand-delivered to Fidel's sick bed.<sup>163</sup> While Fidel has not been seen in public for over two years, he continues to air his views through other mediums such as the state-run newspaper.<sup>164</sup>

Without Fidel, some believe the new leaders' efforts to listen to the concerns of the Cuban people and provide economic reform are the only reasons Cuba has accepted their new leader. "People here are Fidelistas, but not necessarily Socialistas," said an analyst in Havana who requested to remain anonymous.<sup>165</sup> He continued to say, "(without Fidel) Raul will

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154. *Id.*

155. *Times Topics*, *supra* note 67.

156. Reihing, *supra* note 36.

157. Sullivan, *supra* note 28.

158. *Id.*

159. *Id.*

160. Reihing, *supra* note 36.

161. Lacey, *supra* note 53.

162. *Id.*; Reihing, *supra* note 36.

163. Lacey, *supra* note 53.

164. *Id.*

165. Catan, *supra* note 29.

have to renegotiate an agreement with the Cuban people.”<sup>166</sup> But science shows otherwise. The CIA actually conducted an exercise in the first decade following the 1959 Cuban Revolution to distinguish between “Fidelistas” and “Raulistas”.<sup>167</sup> One U.S. Intelligence official reported, “A graphic representation of who is close to Fidel and who is close to Raul . . . can’t be done. The circles so closely meet they are essentially the same.”<sup>168</sup> Still there is a possibility this study is antiquated and feelings have shifted as Raul begins to develop and promote his differing policies. There will also likely be strong reluctance on behalf of the United States to lift the trade embargo so long as Fidel’s presence is strong in Cuba.<sup>169</sup> Any attempts by President Obama to ease relations with Cuba will be countered with the reaction of the large population of Americans with Cuban descent who remain hostile about the real property on the island that was confiscated by the Communist Castro Regime.<sup>170</sup>

While some believe that as long as Fidel is alive, he will continue interfering with Raul’s actions and very little will be gained, others argue Raul is actually already practicing an “anti-Fidel” agenda only permitted due to Fidel’s poor health.<sup>171</sup> It is unclear whether the truth will ever come out.

#### B. DUEL CURRENCY

A major impediment Raul himself acknowledges is the dual currency system—the marginal national peso and the CUC peso, or convertible pesos equivalent to the U.S. dollar.<sup>172</sup> The Cuban Peso (CUP) is the Cuban currency to be used by Cubans in Cuba since 1914. The Cuban Convertible Peso (CUC), known as the “Tourist Dollar,” is legally the equivalent to a synthetic dollar. The CUC was introduced in an attempt to draw money functions away from the U.S. dollar, whose usage had almost overtaken the peso since 1993 when the Cuban government decriminalized the holding of U.S. dollars.<sup>173</sup> Cuba also legalized the use of the Euro in 2002.<sup>174</sup> As a result, the island developed a balkanized monetary system consisting of a socialist peso-based economy, a marketized dollar economy, and—to a much lesser extent—a Euro-economy.<sup>175</sup> This system of duality creates two problems: inequality amongst Cuban citizens and a barrier to foreign investors. “People who have access to U.S. dol-

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166. *Id.*

167. Windrem, *supra* note 34.

168. *Id.*

169. Reihing, *supra* note 36.

170. Daniel A. Espino, *Step-down Restitution: A Proposal for an Equitable Resolution to Confiscated Cuban Property*, 32 NOVA L. REV. 423 (2008).

171. Reihing, *supra* note 36.

172. Penn, *supra* note 33.

173. Galindo at 508.

174. *Id.*

175. Jose M. Gabilondo, *Sending the right signals: using rent-seeking theory to analyze the Cuban Central Bank*, 27 HOUS. J. INT’L L. 483 (2005).

lars and Euros through employment in the tourist sector or from relatives abroad live far better than ordinary Cubans.”<sup>176</sup> State workers and pensioners are paid with local currency, but must buy most goods and services in convertible pesos, worth an estimated twenty-four times more.<sup>177</sup> Petitions have been submitted to the National Assembly demanding the abolition of the convertible peso.<sup>178</sup>

While the centralized peso has helped to insulate the island from the fluctuations in the global economy, Cuba needs to embrace one currency system in order to facilitate the foreign investment necessary for the new model economy and to ensure equality among its citizens. Rumors have been circulating for over a year that Raul plans to do away with the dual currency system. “Cuba will reform its monetary system as quickly as possible,” said the head of the Cuban parliament’s economic commission, Osvaldo Martinez.<sup>179</sup> “The government’s policy is to eliminate the dual currency, which to some extent hurts the country’s self-esteem, but we need a minimum quantity of monetary reserves for a normal exchange rate, prices and wages reform and greater economic efficiency,” he said.

Having a single, dominant national currency would improve the Cuban government’s signaling capabilities by creating an intelligible medium—a single currency—through which foreign investors could analyze potential foreign investments.<sup>180</sup> One option would be dollarization, or the adoption of the United States dollar as the country’s national currency. This option is very unlikely under the socialist regime because the transfer of Cuba’s monetary sovereignty to U.S. monetary authorities, whose rate setting policies would then determine the island’s interest rates, would render Cuba’s monetary apparatus irrelevant.<sup>181</sup> Cuba would sacrifice all seigniorage, the money earned by the sovereign from issuing currency, generated from the issuance of pesos and convertible pesos, and would also sacrifice the arbitrage profits that the government could earn by collecting dollars for goods produced by peso-paid Cuban workers.<sup>182</sup> A more probable option is de-dollarization or increased “pesoization,”

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176. William M. LeoGrande, *Engaging Cuba: A Roadmap*, 25 *WORLD POLICY J.* 87 (2008/09).

177. The Problem of Dual Currency, [http://flamurcuba.org/artman2/publish/Con\\_la\\_misma\\_moneda/The\\_Problem\\_of\\_Dual\\_Currency.shtml](http://flamurcuba.org/artman2/publish/Con_la_misma_moneda/The_Problem_of_Dual_Currency.shtml); Alfonso Chardy, *Cuban Colada: Miami Cuban Credits End of Dual Currency System Idea to Farm Women’s Group*, *MIAMI HERALD*, Feb. 29, 2008, available at [http://miamiherald.typepad.com/cuban\\_colada/2008/02/cuban-in-miami.html](http://miamiherald.typepad.com/cuban_colada/2008/02/cuban-in-miami.html) (since the Cuban Peso is not exchanged outside Cuba, the exchange rate for such is difficult to confirm).

178. Chardy, *supra* note 177.

179. AFP, *Cuba to eliminate dual peso currency system “as quickly as possible”*, *HAVANA JOURNAL*, May 25, 2008, available at <http://havanajournal.com/business/entry/cuba-to-eliminate-dual-peso-currency-system-as-quickly-as-possible>.

180. Gabilondo, *supra* note 175.

181. Juscelino F. Colares, Note, *Formal Legal Theory and the Surrender of Political Control Over Monetary Policy: What Can Ulysses’ Journal to Ithaca Teach Argentina About Appropriate Legal Form?*, 36 *CORNELL INT’L L.J.* 151, 171 (2003).

182. Archibald R. M. Ritter, *Unifying Cuba’s Dual Monetary and Exchange Rate Systems* 17 (2003) (unpublished manuscript, on file with the Carleton University Library).

which gives officials more formal control over the money supply and signaling.<sup>183</sup> In fact steps toward de-dollarization have already begun. In 2004, the Central Bank eliminated the use of the dollar as medium of exchange, imposing ten percent surtax on converting dollars into convertible pesos.<sup>184</sup> In March 2005, the Central Bank devalued the exchange rate for CUC against the CUP.<sup>185</sup> Shortly thereafter, the Central Bank abandoned parity between the U.S. dollar and the nonconvertible peso effective April 9, 2005.<sup>186</sup> A major impediment remains in that the Cuban government retains the peso because it lacks sufficient foreign reserves to back and circulate only CUCs.

Despite the push to restore the peso as the primary currency, Raul is making efforts to ensure foreign investors are not discouraged. On July 16, 2003, the Central Bank decided to call in all foreign exchange held by Cuban banking institutions and to impose licensing requirements on their acquisition and use of foreign exchange.<sup>187</sup> Upset by the currency controls imposed through this measure, foreign banks refused to honor confirmations of letters of credit issued by Cuban banks.<sup>188</sup> In response, Raul took unprecedented measures to maintain foreign investors, swiftly enacting Resolution 68.<sup>189</sup> The resolution was a state promise not to interfere with a pre-existing contract, a reassurance to foreign lenders the new measure would not block payment by Cuban banks to the confirming banks.<sup>190</sup>

### C. ECONOMIC TROUBLES

The continued success of the economy following the reformations will depend largely on the ability to act upon foreign investment opportunities. Raul is facing an uphill battle. Not only is he trying to uproot fifty years of practices, his reform is not isolated from the plague of problems faced by the rest of the world. Cuba has been somewhat isolated from the lull in the global economy due to the socialist scheme but not completely protected. This vulnerability is apparent by Raul's move to slow his economic changes in mid-July of 2008 in response to the dwindling world market.<sup>191</sup>

Having felt the impact first-hand, he is mindful of the turmoil faced by Cuba's Communist comrade Russia in the 1990s due to their reforms, as

183. Gabilondo, *supra* note 175.

184. Banco Central de Cuba Resolution No. 80/2004 (Oct. 23, 2004).

185. Acuerdo No. 13/2005, Comité de Política Monetaria, Banco Central de Cuba (Mar. 17, 2005), available at [http://www.bc.gov.cu/English/Laws/Agreement\\_13\\_05.pdf](http://www.bc.gov.cu/English/Laws/Agreement_13_05.pdf).

186. Acuerdo No. 15/2005, Comité de Política Monetaria, Banco Central de Cuba (Mar. 24, 2005), available at [http://www.bc.gov.cu/English/Laws/Agreement\\_15\\_05.pdf](http://www.bc.gov.cu/English/Laws/Agreement_15_05.pdf).

187. Banco Central de Cuba Resolution No. 65/2003 (July 16, 2003).

188. Mark Frank, *Cuba Forex Controls Have Business Sector in Uproar*, HAVANA J., Aug. 4, 2003, available at [http://havanajournal.com/business\\_comments/P819\\_0\\_4\\_0/](http://havanajournal.com/business_comments/P819_0_4_0/).

189. Banco Central de Cuba Resolution No. 68/2003 (July 23, 2003).

190. See Frank, *supra* note 188.

191. Reihing, *supra* note 36.

well as the harsh socioeconomic impact the former Soviet Union's policy changes carried for his own country. He knows that throwing open the country to foreign capital after half a century of socialist reforms is not an appropriate plan of action.<sup>192</sup> Instead, he desires to gradually open up the system and its "excessive number of prohibitions."<sup>193</sup> But he is not taking the lessons of history to heart to the extent that is necessary. Raul is leaving his country vulnerable through the strong reliance on other countries' support for economic stability, not unlike the conditions present when the Soviet Union fell. After the fall, Cuba was faced with fuel deliveries and other essentials not arriving on time, if at all.<sup>194</sup> Street crime reached all time highs. Hungry Cubans waited in interminable ration lines.<sup>195</sup> It is crucial that Raul establish economic independence from countries like Venezuela and China to ensure the reformed island can stand on its own.

Cuba has developed a strong reliance on Venezuelan business ventures in every sector from oil, metal production, farm equipment, and health-care support.<sup>196</sup> There is no doubt this was in part due to President Hugo Chavez's incredible fondness of Fidel Castro, whom he looked upon as a "father".<sup>197</sup> The close relationship prompted him to underwrite the Cuban economy, providing around \$2 billion in annual aid.<sup>198</sup> With his "father" gone and his replacement invoking such bold policy changes, it is unclear whether Chavez's generosity will continue. This deep-seeded dependence on Venezuela takes power out of the hands of Raul and creates a strong risk of others crippling the growth of the Cuban economy. It is all too familiar to the turmoil of the former Soviet Union's withdrawal of financial support from the Cuban regime just over a decade ago.

In an even more striking resemblance to the Soviet Union/Cuba relationship, China is serving as the economic backer behind Cuba's developing renewable energy sector. With China's support, Cuba plans to open twenty-one power stations within the next five years, adding to its newly founded station at Sancti Spiritus, which was funded by the Chinese.<sup>199</sup> While the backing has aided significantly in getting the country back on its feet in a time of need following the storms, Raul must remember that support is not in his control. The Chinese hold a powerful hand as the economic shuffle progresses.

#### D. BILATERAL RELATIONS

With that caveat, it remains crucial the country is able to establish, or re-establish, bilateral relations with global markets. Due in part to the

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192. Catan, *supra* note 29.

193. *Id.*

194. Latell, *supra* note 18.

195. *Id.*

196. Reihing, *supra* note 36.

197. Catan, *supra* note 29.

198. *Id.*

199. Penn, *supra* note 33.

severed relations attributable to Fidel, as well as the novelty and uncertainty concerning the new regime, many problems lie ahead in making this a reality, namely attracting investors and rebuilding an amiable relationship with the United States.

Investors are leery of the stability and threat of corruption in conducting business with Raul's new Cuba. "The system [still] lacks the institutional mechanisms to manage the domestic bidding process and has limited national experience conducting international bids."<sup>200</sup> The Cuban government established the Cuban Central Bank in 1997.<sup>201</sup> Studies show, however, that the Bank is not free from government control and hence, does not send a favorable investment signal to potential investors.<sup>202</sup> Investors lack enough information about Cuba's creditworthiness to make investment decisions, especially regarding uncollateralized investments.<sup>203</sup>

"No other departure from his brother's legacy would be as monumental for Raul as supporting a rapprochement with Washington."<sup>204</sup> The economic embargo has been the centerpiece of American policy towards Cuba since its imposition in 1960.<sup>205</sup> Prior its implementation, the United States was one of Cuba's biggest trading partners. The embargo began as a ban on U.S. exports to Cuba except for food and medicine. It was extended on February 7, 1962, by President Kennedy to ban *all* imports from Cuba to the United States, including the Cuban cigars for which Kennedy had a special fondness.<sup>206</sup> Currently, Cuban-Americans can send up to \$300 in cash every three months to relatives still on the island and are only allowed to visit once every three years.<sup>207</sup> The embargo is dual-track: while isolating Cuba through comprehensive economic sanctions, including restrictions on trade and financial restrictions, the United States provides support to the Cuban people through such measures as funding for democracy and human rights projects, and U.S. government sponsored broadcasting on the island.<sup>208</sup> Still, in Fidel's opinion, the embargo is "criminal," costing his country tens of billions of dollars.<sup>209</sup>

Under the Bush administration, the U.S. government strengthened the then thirty-eight year old embargo, passing the Cuban Liberty and Dem-

200. Sarria, *supra* note 80, at 8.

201. See Banco Central de Cuba, <http://www.bc.gov.cu/english/home.asp>

202. Gabilondo, *supra* note 175.

203. Archibald R. M. Ritter, Unifying Cuba's Dual Monetary and Exchange Rate Systems 17 (2003) (unpublished manuscript, on file with the Carleton University Library).

204. Latell, *supra* note 18.

205. *No Quick Change*, *supra* note 67.

206. Martin Crutsinger, *Cuban Trade embargo Not expected to be Lifted*, USA TODAY, Feb. 20, 2008, available at [http://www.usatoday.com/news/washington/2008-02-20-946619999\\_x.htm](http://www.usatoday.com/news/washington/2008-02-20-946619999_x.htm).

207. Chris Umpierre, *For Cubans in SW Fla., Obama may mean hope*, NEWS-PRESS.COM, Feb. 2, 2009, available at [www.news-press.com](http://www.news-press.com).

208. Sullivan, *supra* note 28.

209. *No Quick Change*, *supra* note 67.

ocratic Solidarity Act of 1996, also deemed the Helms-Burton Act.<sup>210</sup> The Act extended the territorial application of the initial embargo to apply to foreign companies trading with Cuba, and penalized foreign companies allegedly “trafficking” in property formerly owned by U.S. citizens but expropriated by Cuba after the Cuban revolution.<sup>211</sup> Furthermore, the Act heightened the requirements for lifting the embargo by requiring all the following conditions to be met: the establishment of a transition Cuban government that does not include Fidel or Raul Castro; the legalization of political activity; the release of all political prisoners; the cessation of Cuban interference with Radio and TV Marti broadcasts; and the progressive steps by the country in establishing an independent judiciary and respecting internationally recognized human rights.<sup>212</sup> Also, in order to terminate the embargo, Cuba would have to abide by all of the conditions for a suspension as well as put an elected civilian government in power.<sup>213</sup> While many appreciate the Act, some feared the “strict legislative conditions could keep the United States from having any leverage or influence as events unfold in a post-Fidel Cuba and as Cuba moves toward a post-Raul Cuba.”<sup>214</sup>

When President George W. Bush came in to office, he aspired that the “United States will help the people of Cuba realize the blessings of liberty.”<sup>215</sup> He long expressed disdain for the policies of Fidel Castro, namely its harsh punishment policies against political revolutionists. “It just breaks your heart to realize that people have been thrown in prisons because they dare to speak out,” he said.<sup>216</sup> Both Houses have approved legislative provisions over the past several years that would ease U.S. sanctions on Cuba.<sup>217</sup> Bush, however, regularly threatened to veto various appropriations bills if they contained provisions weakening the embargo.<sup>218</sup> As a result, all of these provisions were eventually removed before the final passage of the associated legislation.<sup>219</sup>

Despite the callous attitude towards the Communist command, Bush did try to prepare for a political transition in Cuba in hopes of re-establishing some sort of relationship with a post-Fidel regime. Twice, in 2004 and in 2006, the President ordered the Administration’s Commission for Assistance to a Free Cuba prepare reports detailing how the United States could provide support during a Cuban transition government in order to help it respond to humanitarian needs, conduct free and fair

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210. 22 U.S.C. §§ 6021-91 (1996).

211. Cuba and the Helms-Burton Act 4 (House of Commons, Research Paper 98/114, 1998) (G.B.).

212. Sullivan, *supra* note 28.

213. *Id.*

214. *Id.*

215. *No Quick Change*, *supra* note 67.

216. *Id.*

217. Sullivan, *supra* note 28.

218. *Id.*

219. *Id.*

elections, and move toward a market-based economy.<sup>220</sup> The reports presupposed however that Cuba would undergo a rapid democratic transition and did not entertain the possibility of reform under a communist government.<sup>221</sup> As Fidel's presidency neared an end, Bush expressed hope, stating, "I view this as a period of transition and it should be the beginning of the democratic transition in Cuba."<sup>222</sup>

The attitude quickly changed, however, once the Bush Administration saw democracy was not upon the horizon. Following Raul's official succession, the Administration was quick to rule out any immediate policy changes, deriding Raul as 'dictator-like.'<sup>223</sup> "He is simply a continuation of the Castro regime, a dictatorship," said State Department deputy spokesman Tom Casey.<sup>224</sup> Cuban Americans echoed the Department's sentiments. "It matters nothing at all whether Fidel, Raul or any other thug is named head of anything in Cuba," said Representative Lleana Ros-Lehtinen, a Miami-area Republican.<sup>225</sup> She continued, "What the people want is freedom to vote in multiparty elections that are internationally supervised and freedom to express their dissent from the oppressive regime."<sup>226</sup> Senator Robert Menendez, D-N.J., also of Cuban descent, mirrored those sentiments "This does not represent the replacement of totalitarianism with democracy. Instead, it is the replacement of one dictator with another."<sup>227</sup>

Many fear that in order for Raul's economic reform to succeed it will require some relaxation of the forty-seven year-old U.S. trade embargo.<sup>228</sup> Winning a significant reduction or termination of the U.S. economic embargo would gain him popularity with the military, with most civilian leaders, and especially with the Cuban people.<sup>229</sup> As such, he has abandoned Fidel's tactic of harnessing anti-American sentiment to rally Cubans, and has taken a much more accommodating approach with the United States.<sup>230</sup> A major obstacle remains in that the United States passed a law in 1996 barring the government from dealing with Raul.<sup>231</sup> He has made several public offers to engage in dialogue with the United States since taking office, but all have been denied.<sup>232</sup> Following Raul's first public interview calling for normalizations of the relationship between Cuba and the United States in August of 2006, Assistant Secretary of State for Western Hemisphere Affairs Thomas Shannon spoke on behalf of the Bush Administration reiterating it was willing to work with

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220. *Id.*

221. *Id.*

222. *No Quick Change*, *supra* note 67.

223. *Id.*

224. *Id.*

225. *Id.*

226. *Id.*

227. *Id.*

228. Catan, *supra* note 29.

229. Latell, *supra* note 18.

230. Catan, *supra* note 29.

231. *Id.*

232. Sullivan, *supra* note 28.

Congress to lift U.S. economic sanctions, but only if Cuba were to begin a transition to democracy.<sup>233</sup> According to Shannon, Cuba also had to be prepared to free political prisoners, respect human rights, permit the creation of independent organizations, and create a mechanism and pathway toward free and fair elections.<sup>234</sup>

Raul has joined his brother in expressing strong opposition to current U.S. policy, describing it as "arrogant and interventionist".<sup>235</sup> The harsh feelings towards the United States remain strong in Raul despite these offerings of peace. He refused \$1 million in aid offered by Washington to help with the hurricane destruction, claiming the modest amount did not even remotely approach Cuba's huge losses accrued due to the fifty year-old trade embargo which he estimates total approximately \$224.6 billion in today's dollars.<sup>236</sup> In the latter portion of the Bush administration, however, Raul began to counter his frustrations with hopes of opening negotiations with the next U.S. Administration. On July 26, 2007, the eve of the fiftieth anniversary of the Cuban revolution, which put the more than controversial Fidel Castro in to power and turned the country in to Communism at the height of the Cold War, Raul appeared on state-run television offering "to talk directly 'without intermediaries' and on equal terms with [then] incoming U.S. President Barack Obama."<sup>237</sup> Raul stated, "the new administration will have to decide whether it will keep the absurd, illegal and failed policies against Cuba, or accept the olive branch that we extended."<sup>238</sup> He went on to say "if the new U.S. authorities put aside arrogance and decide to talk in a civilized manner, they will be welcome. If not, we are willing to deal with their hostile policies, even for another fifty years if necessary."<sup>239</sup>

Barack Obama was inaugurated President of the United States on January 20, 2009. Raul's proposal was met with open arms. In his first days on the job, Obama ordered operations cease at Guantanamo Bay.<sup>240</sup> The order not only required closure within one year of the detention facility, it also required U.S. government officials to review the status of each detainee at Guantanamo to determine whether the government should continue to hold the detainee, transfer or release him to a third country, or prosecute him for criminal offenses.<sup>241</sup> After a long run of U.S. Presi-

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233. Thomas Shannon, Assistant Secretary for Western Hemisphere Affairs, *U.S. Policy Towards Cuba*, U.S. Dept. of State, Aug. 23, 2006.

234. *Id.*

235. Interview of Raul Castro, Laszaar Barredo Medina, *No Enemy Can Defeat Us*, DIARIO GRANMA, Aug. 18, 2006.

236. Penn, *supra* note 33.

237. *Raul Castro Offers Direct Talks with Obama*, ABC NEWS, Jan. 3, 2009, available at <http://www.abc.net.au/news/stories/2009/01/03/2458851.htm>.

238. *Raul Castro Presides Over Rebellion Day Ceremony*, OPEN SOURCE CENTER [CUBAVISION], July 26, 2007.

239. *Id.*

240. 74 Fed. Reg. 4897 (Jan. 22, 2009); Rob Sequin, *Fidel Castro's latest Reflection-frees up Raul to make decisions?*, HAVANA J., Jan. 22, 2009, available at <http://havanajournal.com/politics/print/8566>.

241. 74 Fed. Reg. 4897.

dents backing the now forty-six year old trade embargo against Cuba, President Obama's aspirations to normalize relations with the country present a rare opportunity to say the least.<sup>242</sup> It is especially surprising coming on the heels of President George W. Bush's years in office spent working to further isolate the Communist-run island.<sup>243</sup> Throughout his campaign, Obama promised to "grant Cuban Americans unrestricted rights to visit family and send remittances to the island."<sup>244</sup> Although prior to his run at the oval office he pushed ending the embargo, his re-vamped political goal stated he would not "take off the embargo," but would preserve it as "an important inducement for change."<sup>245</sup>

The celebrations should not start yet. Both parties are being realistic about the possibility of finding an end to the feud. Although Raul feels Obama could "do a great deal" and "could take positive steps," he believes that the hopes the new U.S. President has raised in the rest of the world may be "excessive."<sup>246</sup> The Cuban President explained "because even if he's an honest man—and I believe he is—a sincere man—and I believe he is—one man alone cannot change the destiny of a country and much less the United States."<sup>247</sup> In fact, Raul is not even satisfied with the closing of Guantanamo. He wants Obama to give the base back to Cuba without conditions, but the U.S. Administration indicates it will not return the base without concessions.<sup>248</sup> With those thoughts in mind, along with a reflection on the harsh U.S. treatment of his island over the last fifty years, Raul qualified his gesture for talks with the United States stating, "We are ready to do it whenever it may be, whenever they may decide, without intermediaries, directly . . . [b]ut we are in no rush, we are not desperate."<sup>249</sup>

Now the new U.S. Administration has taken the reigns and the world await what will transpire. There are two policy approaches the United States could follow in responding to Raul Castro's succession. One option is a stay the course or status-quo approach that would maintain the policy of isolating the Cuban government with comprehensive economic sanctions.<sup>250</sup> Advocates of this theory argue Raul's new Cuba is not new at all and has not demonstrated any willingness to ease repression or initi-

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242. *Raul Castro Offers Direct Talks with Obama*, ABC NEWS, Jan. 3, 2009, <http://www.abc.net.au/news/stories/2009/01/03/2458851.htm> [hereinafter *Raul Offers Talks*].

243. *Id.*

244. Aaron Wiener, *Obama Suggests Cuba Policy Reform*, THE WASH. IND., Dec. 31, 2008, available at <http://washingtonindependent.com/23303/will-obama-reform-americas-cuba-policy>.

245. *Id.*

246. *Raul Castro Says Hopes Too High For Obama*, REUTERS, Jan. 3, 2009, available at <http://uk.reuters.com/article/idUKTRE5020EA20090103>.

247. William Booth, *In Cuba, Pinning Hopes on Obama*, WASH. POST, Jan. 9, 2009.

248. Silvia Ayuso, *Ailing Fidel Castro changes tack, attacks Obama*, TOPNEWS, Jan. 31, 2009, available at <http://www.topnews.in/ailing-fidel-castro-changes-tack-attacks-obama-2118268>.

249. *Raul Offers Talks*, *supra* note 237.

250. Sullivan, *supra* note 28.

ate economic openings.<sup>251</sup> “The succession from Fidel to Raul is a preservation of dictatorship,” asserts secretary of Commerce Carlos Gutierrez.<sup>252</sup> Others are concerned that easing the embargo would prolong the communist regime by increasing money flowing into the state-controlled enterprises.<sup>253</sup> They argue continuing sanctions is the route to keeping on the pressure to enact deeper economic reforms.<sup>254</sup>

The other would be an approach aimed at influencing Cuban government and society through an easing of sanctions and increased contact and engagement.<sup>255</sup> The main argument in support of this theory is based on the notion that the United States needs to take advantage of Cuba’s political succession.<sup>256</sup> They argue that continuing the status quo really has no practical effect in encouraging policy change for Cuba, rather only serves to guarantee more years of hostility between the two countries.<sup>257</sup> This group urges even the smallest reforms could help spur popular expectations for additional change.<sup>258</sup>

Both of Obama’s predecessors, Bush and Clinton, opted for the status quo policy. Obama is living up to his campaign rhetoric calling for ‘change.’ Although extremely early in the game, it appears President Obama is following the old verbiage “you can catch more bees with honey than vinegar” in engaging the second policy approach and opening long-awaited communications with Cuba. Congress is following suit. Since Obama took the reigns, lawmakers have quietly introduced bills that, if passed, would lift all travel restrictions on trips to Cuba by U.S. citizens, a step that could inflict a decisive blow against the embargo. In a more vocal move, on February 23, 2009, Senator Richard Lugar, the top Republican on the Senate Foreign Relations Committee, issued a draft report concluding Washington’s unilateral embargo on the Caribbean nation has been ineffective and should be reevaluated.<sup>259</sup> The report argues that the embargo has harmed U.S. interests in the region and provided the Cuban Government with a “convenient scapegoat” for its economic troubles.<sup>260</sup> The report concludes that the embargo is no longer serving its purpose, to serve as an incentive for negotiations with the Cuban government to reform human rights and restore democracy. “This narrow approach . . . has not furthered progress in human rights or democracy in Cuba and has come at the expense of other direct and regional strategic

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251. *Id.*

252. Dept. of Comm., Commerce Secretary Carlos M. Gutierrez Remarks at the Heritage Foundation “Cuba at the Crossroads” Series, Wash., D.C. (Sept. 17, 2007).

253. Sullivan, *supra* note 28; Jason Poblete & Jamie Suchlicki, *Cuba Brief: When Should the U.S. Change Policy Toward Cuba*, Inst. for Cuban and Cuban-American Studies, Univ. of Miami, Aug. 13, 2007.

254. Poblete, *supra* note 1253.

255. Sullivan, *supra* note 28.

256. *Id.*

257. Julia E. Sweig, *Fidel’s Final Victory*, FOREIGN AFFAIRS, Jan.-Feb. 2007.

258. Mario Loyola, *After Fidel*, THE WEEKLY STANDARD, Oct. 15, 2007.

259. Staff Trip Report, *supra* note 133.

260. *Id.* at 2.

U.S. interests.”<sup>261</sup>

It is important to note that while this is a step in mending relations, it is not a call for an end to the trade and investment embargo, which President Obama has defended as an “inducement” for change in Cuba. “Instead, the reform agenda outlined by the report focuses on easing restrictions on travel and the sale of agricultural goods, managing migration, and cooperating on drug-trafficking concerns, though the door will be left open for bolder policy changes.”<sup>262</sup>

As an initial unilateral step, staff recommends fulfilling President Obama’s Campaign promise to repeal all restrictions on Cuban-American family travel and remittances before the Fifth Summit of the Americas in Trinidad and Tobago on April 19, 2009. The timing of this gesture would signal an important change and would improve goodwill towards the United States from Latin American countries, as [the U.S.] seeks regional cooperation on a wide range of issues. . . . Today it is clear that a reform of our policy would serve U.S. security and economic interests in managing migration effectively and combating the illegal drug trade, among other interests. By seizing the initiative at the beginning of a new U.S. Administration and at an important moment in Cuban history, [the U.S. government] would relinquish a conditional posture that has made any policy changes contingent on Havana, not Washington.”<sup>263</sup>

It is clear a major factor in reevaluating the policy is the changing of the guards. Lugar suggests that the recent changes in leadership in Washington and Havana provide a key opportunity to “reevaluate a complex relationship marked by misunderstanding, suspicion, and open hostility.”<sup>264</sup> Obama is no longer dependent on the Cuban-American vote as Bush was, thus free to shape the U.S.-Cuba policy as he sees fit.<sup>265</sup> Lugar suggests under Raul, “decision-making relies on more regularized and predictable channels such as the Cuban Communist Party, the National Assembly, and government ministries.”<sup>266</sup> Furthermore, the weakened state of the economy plays a role because the government of Cuba no longer represents the security threat to the United States that it once did. “While Cuba’s alliance with Venezuela has intentions of influencing regional affairs, [it] has not been positioned to ably export its Revolution since the collapse of the Soviet Union forced an end to Cuba’s financial support for Latin American guerrilla movements.”<sup>267</sup>

This strong support has already convinced President Obama to make substantial policy changes toward Cuba beyond those he promised in his campaign, namely lifting restrictions imposed by George W. Bush in

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261. *Id.* at 12.

262. Alyssa Fetini, *Changing U.S.-Cuba Policy*, TIME, Feb. 24, 2009, available at <http://www.time.com/time/nation/article/0,8599,1881353,00.html>.

263. Staff Trip Report, *supra* note 136, at 12.

264. *Id.* at V.

265. Wiener, *supra* note 244.

266. *Id.* at 2.

267. *Id.* at 11.

2004.<sup>268</sup> Many had predicted major policy reforms would be announced prior to the Summit in mid-April, seeing it as an ideal time to unveil the plan for a “new partnership” in the Americas.<sup>269</sup> “Nothing would more clearly signal the visionary intent of a young and forward-looking global leader to open a new chapter in U.S. Latin American relations than a change in Cuba policy,” said William LeoGrande, a Cuba specialist and dean of the School of Government at American University. He continues “it would be welcomed across the hemisphere, and enable us to work together with our friends on a strategy to create a positive climate for change in Cuba.”<sup>270</sup> The President used the Summit to do just that. Days before the Summit of the Americas, President Obama lifted all restrictions on the ability of individuals to visit relatives in Cuba, as well as to send money to their families there.<sup>271</sup> He pledged before leaders of thirty-three other nations attending the Summit his hopes to “move U.S.-Cuban relations in a new direction.”<sup>272</sup> He avoided the tactics of his predecessor, George W. Bush, keeping an uplifting tone instead of scolding the Cuban government for holding political prisoners.<sup>273</sup> He did not, however, say that he was willing to support Cuba’s membership in the Organization of American States or lift the forty-seven year old trade embargo against Cuba. Americans are still barred from sending gifts to high-ranking Cuban government officials and Communist Party members and travel restrictions remain in place for Americans of non-Cuban descent.<sup>274</sup> Still, this marks the most significant shift in U.S. policy towards the island in half a century.

As far as American constituents are concerned, President Obama will not be able to appease everyone. Many groups encourage relaxing the restrictions, such as the business community. Jake Colvin, vice president of the National Foreign Trade Council (NFTC), an association of several hundred of the large U.S. multi-national companies, has called for the “complete removal of all trade and travel restrictions on Cuba.”<sup>275</sup> Some Cuban Americans are also hopeful policies will be relaxed. “If Obama does something to better Cuban relations, even if it’s lifting travel restrictions or money restrictions or sending more aid, it would be an improvement over what [the United States] has done for the last forty-seven years

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268. Jim Lobe, *US-Cuba: Lugar Report Gives Momentum to Anti-embargo Push*, IPS NEWS, Feb. 23, 2009, available at <http://ipsnews.net/news.asp?idnews=45859>; Zulima Palacio, *Obama Administration’s Latin America Policy Could Focus on Cuba, Venezuela*, VOA NEWS, Jan. 30, 2009.

269. LeoGrande, *supra* note 176, at 87.

270. *Id.*

271. *Obama Eases Cuba Travel Restrictions*, CNN, Apr. 13, 2009, available at <http://www.cnn.com/2009/POLITICS/04/13/cuba.travel/index.html>.

272. Sheryl Gay Stolberg & Alexei Barrionuevo, *Obama Says U.S. Will Pursue Thaw with Cuba*, N.Y. TIMES, Apr. 18, 2009, available at <http://www.nytimes.com/2009/04/18/world/americas/18prexy.html>.

273. *Id.*

274. *Obama Eases Cuba Travel Restrictions*, *supra* note 271.

275. Lobe, *supra* note 268.

– which is nothing,” says Fort Myers resident Juan Castillo.<sup>276</sup> But that does not mean all Cuban Americans have forgiven the Castro clan for the pain and hardships endured. “The Cubans voted overwhelmingly against Obama,” said Daniel Erikson, director of Caribbean programs at the Inter-American Dialogue and author of *The Cuba Wars*.<sup>277</sup> In fact Obama carried only thirty-five percent of the Cuban-American vote in Florida.<sup>278</sup> The community has generally taken a hard line against Castro’s Cuba and opposed efforts to ease sanctions on the island nation.<sup>279</sup> Relaxing the embargo stands to enrage this large sect of the population. Many ‘hard-liners’ remain steadfast in opposing legislation that will finance the prolonged existence of the Castro regime. “Much depends on the Obama’s attitude,” said Leo Grande, who noted that the hard-liners had gained some influence with new Democratic, as well as right-wing Republican lawmakers in recent years who have accepted campaign funding from the U.S.-Cuba Democracy PAC.<sup>280</sup> Much criticism resulted from Obama bypassing Congress to enact the policy reforms announced in April. As Florida Representative Connie Mack said, Obama “should not make any unilateral change in America’s policy toward Cuba. Instead, Congress should vigorously debate these and other ideas before any substantive policy changes are implemented.”<sup>281</sup>

The European Union has set a lead for the United States to follow, lifting its diplomatic sanctions against Cuba in 2003.<sup>282</sup> The sanctions were meant to punish Cuba for its poor human rights record. Upon the solidification of bilateral cooperation agreements in the human rights front, the European Union has opened the door to financial and commercial arrangements with the island.<sup>283</sup> The United Nations has also long supported open trade with Cuba, urging the dissolution of the U.S. trade embargo for the last sixteen years.<sup>284</sup> President Obama just may be the man to listen to their plea.

## VI. FUTURE

In light of the reforms announced at the 2009 Summit of the Americas, the focus has shifted to the Communist Party’s Sixth National Congress. Cuba’s next Communist party congress is scheduled for late 2009.<sup>285</sup> The meeting brings a possibility for broader policy changes including foreign

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276. Chris Umpierre, *For Cubans in SW Fla., Obama may mean hope*, NEWS-PRESS.COM, Feb. 2, 2009, available at [www.news-press.com](http://www.news-press.com).

277. Wiener, *supra* note 244.

278. *Id.*

279. *Id.*

280. Lobe, *supra* note 268.

281. *Obama Eases Cuba Travel Restrictions*, *supra* note 271.

282. Penn, *supra* note 33.

283. *Id.*

284. *Id.*

285. Reihing, *supra* note 36.

investment, further land restructuring, and perhaps increased private business ownership.<sup>286</sup>

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286. *Id.*



# Updates

