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Discussion Paper

Normalization With Cuban Characteristics: How Might Cuba Navigate Normalization to Avoid Political Instability and Enhance Economic Development?

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Abstract: Normalization offers great promise but also great risk to Cuba. Cuba has constructed a tightly woven framework of macro-economic policy and political structures around a unique application of European Marxist-Leninism. That framework has proven durable even in the face of substantial economic crisis and a political situation increasingly subject to internal pressures. Closer working ties with the United States will only exacerbate the tensions and contradictions of the current system. If Cuba means to keep a Marxist-Leninist political structure, something will have to evolve. The current leadership understands this but has been less able to shape and guide the path forward since the mild efforts that produced the Lineamientos. This paper explores the nature of that risk relating to Cuba's economic policy and the viability of its political ideology as normalization deepens. The thesis of the paper is that, while it may be possible to embrace normalization and retain something of the current political framework, the Cuban Communist Party will have to engage in substantially more active leadership if it means to retain its leadership role. Part II considers the way that the current political ideology has helped shape the current economic system and its constraints on reform. That ideology and those constraints may well prove fatal to the current political order. Part III suggests a path to reform, with Cuban characteristics, of Cuban economic policy that might remain true to the ruling ideology but that offers the possibility of a more positive macro-economic policy both internally, and in Cuba's external economic relations. With respect to the latter, consideration of the future of ALBA and the new Foreign Investment law will be considered.



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I. Introduction


This Working Paper explores some issues that may follow from the move toward normalization of relations between the United States of America and the Republic of Cuba. The Working Paper is arranged around Text Boxes¹ that focus on central points further developed in the text that follows. It is meant to provide a different and perhaps useful way of presenting the subject.

Text Box 1:²

Background

Normalization offers great promise but also great risk to Cuba.

As President of the United States, I've called on our Congress to lift the embargo. (Applause.) It is an outdated burden on the Cuban people. It's a burden on the Americans who want to work and do business or invest here in Cuba. It's time to lift the embargo. But even if we lifted the embargo tomorrow, Cubans would not realize their potential without continued change here in Cuba. (Applause.) It should be easier to open a business here in Cuba. A worker should be able to get a job directly with companies who invest here in Cuba. Two currencies shouldn't separate the type of salaries that Cubans can earn. The Internet should be available across the island, so that Cubans can connect to the wider world -- (applause) -- and to one of the greatest engines of growth in human history. (Remarks by President Obama to the People of Cuba 22 March 2016, La Habana Cuba).



[Obama visits Old Havana at the start of a historic tour to Cuba](#)

I am grateful for the opportunity to think briefly through one of the great regional challenges for the United States and Cuba—the promises and challenges that normalization will bring. Because of disparities in size and power, these opportunities and challenges will affect Cuba considerably more than the United States. It is for that reason that the focus here will be on Cuba. But make no mistake, Cuba has been an important, if periodic, player in U.S. politics, and its exile community is still significantly influential in the United States. But for the United States, the issues of normalization are more political than social or economic. Normalization solves a number of regional problems of perception for the United States. For Cuba, normalization may

¹ The links embedded in the Text Boxes may be accessed here:

<http://www.slideshare.net/LarryCatBacker/normalization-with-cuban-characteristics-how-might-cuba-navigate-normalization-to-avoid-political-instability-and-enhance-economic-development>. All images are © Larry Catá Backer 2016.

² [Remarks by President Obama to the People of Cuba](#) 22 March 2016, La Habana Cuba; image copyright [Obama visits Old Havana at the start of a historic tour to Cuba](#).


have profound economic and political effects. It is with that in mind that I offer these brief thoughts.

It is important to put the issue of normalization in context. In this case, unlike others where states withdraw their diplomatic personnel for some relatively short period of time, the diplomatic break was long and bitter and exacerbated by the migration policies of both the United States and Cuba. With a large, influential and prosperous diaspora community clustered around what has become Cuba's second most important city—Miami, Florida—and with a long historical background of cold war politics and an embargo imposed by the United States and enforced globally (sometimes more effectively than in other times), normalization promises to be a long and complicated process. That process offers the possibility of substantial benefit but also substantial risk especially to Cuba. The nature of those possibilities and risks are nicely brought out in the quote taken from President Obama's remarks on this state visit to Cuba in March 2016.

Text Box 2³

The Promise of Normalization

- Trade
- Security
- Stability
- Regional Influence
 - **both the U.S. and the Cuban governments see in it advantage to the realization of their long term goals**
 - **goals are political and economic**
 - **These goals are politically incompatible**
 - **Both must be negotiated within domestic and international contexts**



What, specifically can one point to as some of the benefits to Cuba of normalization? This slide suggests some of the broader possibilities. None of these should be unexpected. I note here the usual major value (to both) of normalization: trade, security, stability, and regional influence. To some extent the moves between both states over the last decade or so have been moving in the direction that normalization might merely accelerate with respect to each of these.


³ See generally, [Danielle Renwick](#), Brianna Lee, and [James McBride](#), U.S.-Cuba Relations Council on Foreign Relations Backgrounder (Updated: March 24, 2016), p11113, available <http://www.cfr.org/cuba/us-cuba-relations/p11113>. Image of Habana Harbor from the east side, October 2015.

But normalization provides a basis from which trade, security, stability and regional influence objectives may be augmented. That augmentation of course focuses on trade. For Cuba that means access to food, tourism and to a lesser extent machinery and technology. Cuba needs to import “know how” but will be more leery of that because of its subversive element. But other areas should not be overlooked. These include greater coordination in migration flows—from out of the Caribbean into Cuba, and from Cuba into the United States. It also includes access to raw materials and fuel. And, of course, both see significant political objectives in normalization—the Cubans to protect their political system, the Americans to subvert it.

Text Box 3⁴

The Risks

- The US will overwhelm the state's capacity to control
 - Political
 - Economic
 - Social
- Dependence
- Loss of Regional influence
- **El obstáculo fundamental que hemos enfrentado, tal y como previmos, es el lastre de una mentalidad obsoleta, que conforma una actitud de inercia o de ausencia de confianza en el futuro. No han faltado, como era lógico esperar, sentimientos de nostalgia hacia otros momentos menos complejos del proceso revolucionario, cuando existían la Unión Soviética y el campo socialista. En el otro extremo han estado presentes aspiraciones enmascaradas de restauración del capitalismo como solución a nuestros problemas. (Raúl Castro to 7th PCC Congress 16 April 2016)**



And it is the last point raised that suggests the extent of the risks—and the nature of the disjunctions—in normalization from the Cuban and U.S. perspectives. It also suggests the difficulties of normalization in the face of huge disparities of power and resources. The risks can be understood as either political or economic. They are nicely expressed in the quote from Raúl Castro's opening report to the 7th Cuban Communist Party Congress. The political risks all revolve around subversion. The economic risks are more complicated. Their effects tend to vary with the nature of the risk. For example, one group of risks can be understood as a consequence of overwhelming Cuba with US economic activity. Cuba does not have the capacity for absorbing a tremendous increase in economic trade, or for that matter, of tourism. This requires careful

⁴ Informe Central al 7mo. Congreso del Partido Comunista de Cuba, presentado por el Primer Secretario del Comité Central, General de Ejército Raúl Castro Ruz, La Habana, 16 de Abril de 2016, Año 58 de la Revolución (Versiones Taquigráficas-Consejo de Estado). Available http://www.pcc.cu/pdf/congresos_asambleas/vii_congreso/informe_central_vii_congreso_pcc.pdf. Image from outside of Trinidad, Cuba, October 2014.

screening and controls if Cuba is to absorb activity—especially if they mean to embed trade within a sustainable domestic economy and if they mean to avoid defaults. Risks become more subtle where the economic benefits of normalization produce the possibility of political subversion. These come from contact with the US and its people (something that the US is counting on to produce just this sort of subversion), and from the political possibilities of the fruits of technology. The Cubans, like their US counterparts are well aware of the possibilities of post-Twitter revolutions.

Text Box 4⁵

Thesis

- Cuba has constructed a tightly woven framework of macro-economic policy and political structures around a unique application of European Marxist-Leninism.
 - That framework has proven durable even in the face of substantial economic crisis and a political situation increasingly subject to internal pressures.
- Closer working ties with the United States will only exacerbate the tensions and contradictions of the current system.
- If Cuba means to keep a Marxist-Leninist political structure, something will have to evolve.
 - The current leadership understands this but has been less able to shape and guide the path forward since the mild efforts that produced the Lineamientos.

Thus, for Cuba, normalization presents an opportunity and a dilemma. The Cuban state needs the positive benefits of trade and opening up, especially with the United States, to avoid economic collapse and to stem the out migration of its working age population. But the Cubans want the benefits of normalization without substantially changing their political system. And worse, for some elements of the Cuban leadership, they seek the fruits of economic normalization without changing substantially their economic organization. The US wants to use economic normalization in furtherance of its policy of fostering political reform. The disjunction emerges from two fundamentally different world views that lie at the heart of the old divide between the West and “the rest”. The US bases its policies on the fundamental belief that economic rights and reforms can only be accomplished through the development of deep and robust systems of political and civil rights, including popular participation in government. Cuban state wants to use economic development as the basis on which to build robust civil and political


⁵ See generally, Larry Catá Backer, *The Cuban Communist Party at the Cusp of Change* in *Reforming Communism: Cuba in a Comparative Perspective* (Scott Morgenstern and Jorge Pérez López, eds. Forthcoming) available http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2711907.

systems. The battle over which comes first, that is which must derive as the foundation for the other, continues to divide the US and Cuba (as it divides the US and China). In the face of normalization, the problem for the Cuban state apparatus becomes clear—how does it maintain its political order while taking advantage of the possibilities of economic development that comes with normalization. The answer is grounded in economic reform, but reform that remains true to their political principles. For a Cuba emerging from 70 years of Stalinism, this may be a difficult challenge now made immediate by normalization.

Text Box 5⁶

Roadmap

1. Considers the way that the current political ideology shapes the current economic system and its constraints on reform.
2. Suggests a path to reform, with Cuban characteristics.
3. Concludes: **It may be possible to embrace normalization and retain something of the current political framework, but the PCC will have to engage in substantially more active leadership if it means to retain its leadership role.**



It becomes clear, then, that normalization is neither a cornucopia nor a poisoned chalice. And, of course, the likelihood that normalization will produce positive or negative results will depend in large part on the character of each state and the ability of these state systems to absorb and take advantage of the opportunity, or succumb to the dangers, that normalization brings. To think through the consequences of normalization, especially for Cuba, it is necessary to examine the elasticity of the Cuban Party and State apparatus to the challenge posed by normalization. And not just ideological and administrative flexibility—normalization will put the Cuban State and Party to the test of its core ideologies applied under changing circumstances and without much of a lifeline from another protector state. Normalization poses the question of the will of the Cuban Party to confront and implement change that preserves the system but produces potentially profound changes in the way systemic ideology is understood and applied. Thus the roadmap.

⁶ Image of the National Highway around Mile Marker 104, October 2014.

II. Normalization Within Current Constraints

Text Box 6⁷

Current Ideology/Current Constraints

- [European](#) Marxist Leninist Ideology
- Vanguard Party interwoven into structures of state apparatus
- State control of capital and labor
- Central Planning substitutes for market based allocations (macro and micro economic planning)
- Small space for non state sector in retail
- System replicated at regional level
- **Financial Great Wall of Cuba**—dual currency system
- **Great Trade Wall of Cuba**—Foreign Investment Law



The Cuban system itself may pose the greatest set of challenges to maximizing the value of normalization, and to preserve the system itself. We start with the ideological constraints that ironically may well pose the greatest political and economic challenges to the preservation of the Cuba system. This challenge does not arise because the Marxist Leninist foundations of the Cuban system. Indeed, it is clear that Marxist Leninism is robust enough to thrive within conditions of globalization.⁸ The difficulty comes from the form of Marxist Leninist state organization which is deeply embedded in Cuba, the fondness for which may itself spell disaster, even in the absence of the political agendas of the United States.

The basic ideological constraints are relatively easy to summarize, with the caveat that these generalizations hide certain important peculiarities and historical deviations that add substantial color to the description. But for ease of analysis it is fair to assume that the Cuban State is founded on the principles of a European Marxist Leninism that saw its apogee in the

⁷ See, Larry Catá Backer, [Fidel Castro on Deng Xiaoping and Erich Honecker—Understanding the Foundations of Cuban Political and Economic Policy](#)

Law at the End of the Day, 19 August 2012. See also Larry Catá Backer, “Ideologies of Globalization and Sovereign Debt: Cuba and the IMF,” 24 *Penn State L. Rev.* 497-561 (2006).

⁸ Discussed in Larry Catá Backer, “Party, People, Government, and State: On Constitutional Values and the Legitimacy of the Chinese State-Party Rule of Law System,” 30(1) *Boston University International Law Journal* 331-408 (2012).

theories and practices of the Soviet Union before Khrushchev and in Eastern Europe through the fall of East Germany in the late 1980s. As late as 2012 Fidel Castro noted “El alemán más revolucionario que he conocido fue Erich Honecker.”⁹

That produces certain characteristics: an interweaving of state and Party in politics and government, law used as a political instrument in the sense that it merely channels the discretionary power of the administrative nomenklatura, a rejection of markets and private choice as a means of macro economic policy, a tendency toward claiming a monopoly for all political activity in the vanguard party, and a deep suspicion of outside projections into the state. Beyond that the state apparatus is focused on central planning based on the substitution of the vanguard party and its bureaucracies for the determinations that would otherwise be made in markets as the aggregate of transactions among participants.¹⁰

In Cuba, in addition, one must add the autonomous role of the military, whose revolutionary organization pre dates that of the PCC, and a political culture grounded in the sanctity of the revolutionary moment producing a sort of preservationist obsession with the revolution making it difficult to move the PCC from a revolutionary to an administrative vanguard. The result is the seeming permanence over the course of waves of reform of what I call the “financial great wall of Cuba”, its dual currency, and the “great trade wall of Cuba”, its isolation of foreign investment from popular engagement and its isolation and constraint of the non state sector. These are predicated on a suspicion of and protection against outsiders and the use of territorial borders as a means of augmenting state control within them. In the Soviet era these barriers were physical.¹¹ In contemporary global affairs the control of borders extend to global communication and movement of goods, capital and enterprises.¹²

⁹ [Fidel Castro on Deng Xiaoping and Erich Honecker--Understanding the Foundations of Cuban Political and Economic Policy](#) Law at the End of the Day, 19 August 2012).

¹⁰ See, e.g., Daniel P. Erikson, “The Future of American Business in Cuba: Realities, Risks, and Rewards, 14 TRANSNAT’L L. & CONTEMP. PROBS. 691, 694–95 (2004); Edward Yates, “Central Planning Meets the Neighborhood: Land Use Law and Environmental Impact Assessment in Cuba, 16 TUL. ENVTL. L.J. 653, 653–54 (2003) (discussing Cuba’s alignment with the former Soviet Union).

¹¹ See, e.g., Andrea Chandler, *Institutions of Isolation: Border Controls in the Soviet Union and Its Successor States 1917-1993* (McGill-Queen’s Press, 998).

¹² On Chinese efforts at internet control and internal censorship, see, Geoffrey Taubman, “A Not-So World Wide Web: The Internet, China, and the Challenges to Nondemocratic Rule,” *Political Communication* 15(2):255-272 (1998); Guobin Yang, *The Power of the Internet in China: Citizen Activism Online* (Columbia University Press, 2009).

Text Box 7¹³

The U.S.: Political but not Economic Normalization

- **Political Normalization**
 - Democracy enhancement
 - Civil society enabling
 - Travel and interactions
- **Issues**
 - [Visa denials](#) for Cubans serendipitous (political tool?)
 - [Tourism](#) dependence or opportunity?
 - Dissidents
- **Economic Normalization**
 - Travel restrictions eased
 - Travelers to use U.S. credit and debit cards;
 - U.S. insurance companies to cover health, life, and travel insurance;
 - Banks to facilitate authorized transactions;
 - Private investment in some small businesses;
 - Shipment of building materials to private Cuban companies.
 - Helms Burton unlikely to be repealed or modified.

• “So here’s my message to the Cuban government and the Cuban people: The ideals that are the starting point for every revolution -- America’s revolution, Cuba’s revolution, the liberation movements around the world -- those ideals find their truest expression, I believe, in democracy.” [\(Remarks by President Obama to the People of Cuba 22 March 2016, La Habana Cuba\)](#)”

The United States presents a similar picture of rigidity even within patterns of change. What normalization brings is a change of technique but not objective. The United States continues to use its economic power to effect political change. The tactics changed, first by withholding access between the 1960s and 2015, and now by making it available. Trade is used as a technique to discipline macro economic policies that underlie the global order. This is not something nefarious. The United States is merely doing more aggressively what has been memorialized as the working methods of the OECD and its projects of creating the normative basis of global trade marked by the free movement of goods, capital, enterprises and to some extent, people. It represents the ideological position of the West in the construction and application of the emerging global norms for business and human rights. It underlies the operation of the Ethics Guidelines of sovereign investment by Western SWFs. But it is a political project in the sense that globalization is a political and ideological project.

¹³ Quote from B. Obama, [Remarks by President Obama to the People of Cuba](#) 22 March 2016, La Habana Cuba. On visa issues see William M. Legrande, Denying Visas to Cuban Scholars Cripples Obama’s Policy of Engagement, *Huffington Post*, June 14, 2014. Available http://www.huffingtonpost.com/william-m-legrande/denying-visas-to-cuban-sc_b_5494140.html. On tourism, see, Orinaldo Gutiérrez Castillo and Nélida Gancedo Gaspar, “Tourism Development for the Cuban Economy (English version)” *ReVista* (2002). Available <http://revista.drclas.harvard.edu/book/tourism-development-cuban-economy-english-version>. See also John H. Thomas, Miranda Kitterlin-Lynch, Daymaris Lorenzo Del Valle, “Cuba’s Future Hospitality and Tourism Business: Opportunities and Obstacles,” *Cornell Hospitality Reports*, 15(11), 6-16 (2015). On economic normalization, see, Danielle Renwick, Brianna Lee, and [James McBride](#), U.S.-Cuba Relations Council on Foreign Relations Backgrounder (Updated: March 24, 2016), p11113, available <http://www.cfr.org/cuba/us-cuba-relations/p11113>.

For the Cubans, the most challenging aspect of this globalized ideology of macro economic organization and function is not the political aspects—human rights, civil and political rights, etc. Rather it lies in the fundamental centrality of regulatory governance as the operative technique for macro economic policy. That is, the challenge lies in the emerging global consensus that economic regulation is best managed through markets rather than planned through the ministries of states controlled by vanguard parties. For the United States, on the other hand, the promise of this political project is undermined by its own politics. While the President has substantial authority to weaken the economic embargo, he does not have the authority to repeal the legislative constraints represented by the Helms Burton law and its related legislation built up or applied since the 1960s. As a the recent political use of visa denials demonstrate, access to the United States may still be used as a weapon in its engagement with Cuba.

III. Normalization and Paths to Reform

Text Box 8¹⁴



Having described the context in which normalization will evolve, it is important to note that the situation on both sides is fluid. In the United States, of course, the entire trajectory of normalization can be changed simply by a change of President. And that will happen in early 2017. What that future brings is uncertain. Thus the reason for legislative change to constrain Presidential whim. On the Cuban side, the ideological constraints, burdened by the living history of the PCC and its autonomous military command, is also dynamic. And it is in that dynamism

¹⁴ Text Box from Larry Catá Backer, “The Cuban Communist Party at the Center of Political and Economic Reform: Current Status and Future Reform,” *Northwestern Interdisciplinary Law Review* 8:71-129 (2015).

that one can see the way forward to a reception of the benefits of normalization while building institutional structures that can resist the political objectives of change that come with it. In short, European Marxism in Cuba has been blended with a good bit of nationalist indigenous ideology that carries within it the possibilities of interpretive elasticity without destroying the coherence or fundamental structures of the political system.

Castro theory through the first decade of the 21st century became increasingly conservative and rigid, as an ideological matter. That ideological rigidity became increasingly remote from the steps necessary to protect the Cuban state system after the 1990s.¹⁵ The PCC's ideological work since the start of the Raúl leadership has sought to both bring coherence between state policy and state ideology, and to move ideology forward to be more compatible with the realities of the historical stage of development and the political context in which Cuba finds itself. But the process has been slow and cautious and not necessarily robust enough.¹⁶ Castro was careful to note the need for caution in his report to the 7th Party Congress in April 2016.¹⁷ But that caution may well reflect political resistance than the prudent caution of well organized ideological and state practice reform.

¹⁵ See, e.g., Jorge Pérez-López, "The Cuban Economic Crisis of the 1990s and the External Sector," 8 CUBA TRANSITION 386 (1998), Available <http://www.ascecuba.org/publications/proceedings/volume8/pdfs/41perez.pdf>.


¹⁶ See, e.g., Carmelo Mesa-Lago, Will the VI Communist Party Congress Solve Cuba's Economic and Social Problems?, 21 CUBA TRANSITION 292 (2011), <http://www.ascecuba.org/publications/proceedings/volume21/pdfs/mesalago.pdf>.

¹⁷ See, Informe Central al 7mo. Congreso del Partido Comunista de Cuba, presentado por el Primer Secretario del Comité Central, General de Ejército Raúl Castro Ruz, La Habana, 16 de Abril de 2016, Año 58 de la Revolución (Versiones Taquigráficas-Consejo de Estado). Available http://www.pcc.cu/pdf/congresos_asambleas/vii_congreso/informe_central_vii_congreso_pcc.pdf. Image form outside of Trinidad, Cuba, October 2014.

Text Box 9¹⁸

Paths to Reform Within Cuban Socialist Model

- Party
 - From revolutionary to vanguard party
 - Avoid paranoia and historicism as governing style
 - Deepen structures of collective leadership **WITHIN** the PCC
 - Regularize the relationship between PCC-Military-State apparatus.
 - Sort out the constitutional effect of leadership by the PCC
 - Ideological work and societal embedding
 - Expanding membership
 - Corruption



Source

While normalization for the United States represents no substantial engagement with its own core ideologies, normalization, then, presents the conditions under which the PCC must confront its own ideological challenges. These challenges can no longer be avoided. The last panel of the prior text box suggests the framework within which the PCC may undertake its political work to ensure that normalization does not overwhelm its ability—as an ideological or institutional matter—to survive normalization with its political system preserved.

The broad contours of necessary ideological work are suggested here. These include inserting the PCC back into historical context—as both a Cuban and a Marxist party. The first reminds the PCC of its national priorities. The second reminds the PCC that the sole objective and the core around which a Leninist vanguard can build its legitimacy is the objective to develop social, economic, cultural and political forces toward the establishment of a communist society. The means to that end—central planning or markets—are a secondary consideration. That fundamental evolution makes it possible for the PCC both to move beyond the Revolutionary moment of January 1, 1959 and to integrate elements of markets within its macro economic planning. That last can be molded both for SOEs and the non state sector. And it makes it easier to discipline foreign investment. But the PCC requires more than ideological development; it also requires a deepening attention to its own institutional integrity—by developing the Leninist principles of collective decision making within the PCC and moving decisively away from a Stalinist focus on cults of personality driven party architectures. The PCC will also have to

¹⁸ Image from the PCC, available <http://www.pcc.cu/imagenes/conceptorev2.jpg>. See Larry Catá Backer, “The Cuban Communist Party at the Center of Political and Economic Reform: Current Status and Future Reform,” *Northwestern Interdisciplinary Law Review* 8:71-129 (2015).

confront its history in another way. It will have to finally institutionalize a working relationship between the military, the state apparatus and the PCC apparatus in ways that produce coherence and efficiency. All of this serves as foundation for the critical task—the disciplining of corruption. To do that requires to dry up the sources that make corruption possible—personal discretion, cults of personality, institutional autonomy.

Text Box 10¹⁹

Paths to Reform Within Cuban Socialist Model

- State
 - **Economic Reform**
 - From central planning to oversight apparatus
 - Regulatory governance
 - Greater role for non state sector
 - Oversight but not control of wholesale markets
 - SOEs
 - Oversight but no prohibition of non state corporate enterprises
 - Cooperatives in the wholesale sector
 - The problem of cross border family businesses
 - Reduce control but better manage labor markets
 - **Structural Reform:**
 - Corruption
 - Controls on exercise of discretion
 - Complexity as traps for the unwary



PCC reform, and especially the reform of its governing ideology with respect to Marxist market systems, are an essential pre condition to any development of the state apparatus. Two basic objectives for state reform are suggested here. The first cluster around elements of economic reform. The key element revolves around dismantling the choking and antiquated system of central planning. Marxist markets ideology moves from a nomenklatura that serves as a proxy market to a cadre of administrators that manage markets for specific and broad purposes. The object of the state apparatus, then, changes from specifics to objectives based and managerial regulation. This shift requires a corresponding change in the culture of discretion—from review and case by case negotiation of business planning to a review of the rules within which economic actors may make choices that serve the objectives of the state. With regulatory governance principles what appears to be a reduction in control actually broadens control, and in

¹⁹ Image from La Habana Vieja, October 2015. On Cuban corporate law, see, e.g., Larry Catá Backer, “Cuban Corporate Governance at the Crossroads: Cuban Marxism, Private Economic Collectives, and Free Market Globalism,” 14:2 *Transnational Law & Contemporary Problems* 337-418 (2004). On Cuban cooperatives, see, e.g., Larry Catá Backer, “The Cooperative as a Proletarian Corporation: The Global Dimensions of Property Rights and the Organization of Economic Activity in Cuba,” 33 *Nw. J. Int’l L. & Bus.* 527 (2013); *Cooperativas Y Socialismo: Una Mirada Desde Cuba* (Camila Piñeiro Harnecker ed., 2011).

a way that is easier to assert to manage the incoming economic activity that normalization may represent.

The second cluster around structural reforms. These touch on creating structural separation of military, state and PCC. Not that these three pillars of the Cuban state should not be closely interlinked, but rather that this interaction is done through institutional rules and arrangements. The avoidance of the personal is the key element, then,. To these structural changes. And with the reduction of the personal element, corruption might be easier to isolate and control. At a minimum the corruption becomes institutional in character and potentially easier for the PCC to deal with. But structural changes without vigorous anti corruption campaigns will produce little other than grist for the propaganda mill.

Text Box 11²⁰

Paths to Reform Within Cuban Socialist Model

- Civil Society
 - From regulatory object to partner
 - Strict division between administrative and political activities
 - Space for civil society as stakeholder in accountability of state apparatus
 - [Comites de Defensa de la Revolución](#) should be turned inward as critical space for popular accountability of local officials
 - Broader role for local involvement in decision making subject to PCC oversight
 - Stricter oversight of foreign funding or foreign sourced NGOs



Because, for the US, normalization has political objectives, it will be necessary for the Cuban state to confront its own approaches to its civil society. It is far too late in the day for a Leninist party on power to pretend that the masses are mere objects to be led, like cows, to the glorious future of a communist society. Leninism itself suggests this very European error. Leninism suggests that the vanguard must not merely move the masses forward but engage with them. This ideological work is not merely hierarchical and for the purposes of teaching and recruiting new members. It also serves to ensure that the Party and state organs themselves

²⁰ Image from a highway near Cienfuegos, Cuba, October 2014. On Comites de Defensa de la Revolución, see, [Comites de Defensa de la Revolución EcuRed](#) (May 24, 2016), available http://www.ecured.cu/Comit%C3%A9s_de_Defensa_de_la_Revoluci%C3%B3n.


remain faithful to their own obligations and to the long term task of building up the country—for the benefit of the masses. That involves a constant interaction.

The difficulty for Leninist parties is the manner in which they can distill such engagement among the masses while ensuring that political discussion—discussion about the shape and application of state ideology remains centered in the PCC. This is possible. In theory. But Leninist parties have not yet fully developed it potential. Yet to fail to develop these institutional structures of Leninist civil society—civil society that are not merely tools of the PCC itself—is to open the door to substantial subversion by the norms of systems incompatible with state ideology. The responsibility is entirely that of the PCC. It must learn to permit robust engagement with its administrative apparatus, and to encourage the channeling of political discussion into the PCC itself. PCC theorists have failed to grasp this potential. Instead, and following the disastrous European model, they appear to begin to see in a limited political opening up a means of managing civil society. That is error that will be exploited by the US—and rightly so. Starting with the use of civil society to root out corruption, and detailed management of civil society objectives and operations provides a sound framework to begin this work.

Text Box 12²¹

Paths to Reform Within Cuban Socialist Model

- Law
 - Principles
 - From Regulatory discretion model to Compliance model
 - From everything prohibited unless permitted to everything permitted unless prohibited
 - Substance
 - [Law Reform on Chinese Vietnamese model](#)
 - Embedding [human rights](#)
 - Organization
 - Accessibility
 - Codification



But reform limited to the institutional structures of the political, administrative, economic and social spheres does not end the matter. The old patterns of European Stalinist approaches to law—to rules—must be abandoned as well. One sees the start of this with the *Lineamientos*. There, for the first time in half a century, notions of contract and of the constraining nature of law as a system of rules that bind and constrain administrative discretion, appear in significant measure. Significant, that is, by Cuban standards. Yet the old system remains fundamentally in place. That system, grounded in the principle of the unity of law and politics (an error that US leftists have also made a career of furthering to ill effect), has produced a culture of law in which legal norms are viewed merely as expressions of policy and as a sorting device for dividing and regularizing systems of administrative discretion. That administrative discretion is invoked at practically every instance of potential activity that is not intimately tied to the dictates of central managers.

²¹ Image, Sanctuary of the Virgen de Pegla, Havana, Cuba, October 2014. On Chinese law reform, see, e.g., Larry Catá Backer, [Advancing the Rule of Law With Chinese Characteristics: A Conversation About Constitutionalism, Shangfang, and the Ideological Work of the Chinese Communist Party](#), Law at the End of the Day 19 August 2014. On embedding human rights in a Marxist Leninist regime, see, e.g., Larry Catá Backer, [Part 17 \(CCP Leadership-Socialist Democracy\)—On a Constitutional Theory for China—From the General Program of the Chinese Communist Party to Political Theory](#), Law at the End of the Day 19 September 2015, and Larry Catá Backer, *Global Corporate Social Responsibility(GCSR) Standards With Cuban Characteristics: What Normalization Means for Transnational Enterprise Activity in Cuba*, in Papers and Proceedings of the Twenty-fifth Annual Meeting of the Association for the Study of the Cuban Economy (ASCE) 25:234-247 (2015) (ISBN 978-0-9831360-5-7). Available <http://www.ascecuba.org/c/wp-content/uploads/2016/03/v25-backer.pdf>.

This practice produces an enormous drag on reform, and indeed, can undo in the letter of law the objectives specified in policy. It is as much in evidence in the laws and regulations of cooperatives as it appears in the foreign investment law. It is evidenced by a principle of rulemaking that starts by prohibiting everything unless it is permitted. Each provides a framework within which individual applications are made and viewed (negotiated as to specifics) at multiple levels of the state organs. Not only does this produce potent nexus points for corruption but it personalizes government as much as it weakens its institutional character. This is law made for the governance of administrative discretion, and for the institutionalization of personal rule. Most important, it provides no basis for helping people guide their own conduct. It produces a law that significantly increases the enforcement costs of law. To manage foreign investment, and to ensure successful integration, a more conventional approach to law and regulation will have to emerge—one that is predictable, clear, accessible and coherent. A socialist rule of law system is possible.

And that leaves open the need for Cuban moves toward greater accommodation of global business practices, among them emerging standards of human rights related behavior.²² This includes the sale of services abroad, which has proven controversial, though it serves as an important source of income for the Cuban state, less so for the volunteers who participate.²³ And the challenge extends to business practices beyond just human rights. Unless foreign direct investment will continue to be isolated and limited to state interactions—a state of affairs that will likely not be sustainable as the non state sector economy grows, Cuban law will have to find a way of harmonizing its system to that of its partners. And at some point, especially as the transactions in the informal economy continue to grow and become an increasingly important element of Cuban economic wealth production, that sector of the economy will have to be recognized, legitimated and managed. Cuba cannot afford a robust underground economy if it means to advance wealth production efficiently and attack cultures of corruption.²⁴

²² Discussed in Larry Catá Backer, *Global Corporate Social Responsibility (GCSR) Standards With Cuban Characteristics: What Normalization Means for Transnational Enterprise Activity in Cuba*, in *Papers and Proceedings of the Twenty-fifth Annual Meeting of the Association for the Study of the Cuban Economy (ASCE)* 25:234-247 (2015) (ISBN 978-0-9831360-5-7). Available <http://www.ascecuba.org/c/wp-content/uploads/2016/03/v25-backer.pdf>.

²³ See, e.g., John M. Kirk, “Cuban Medical Internationalism Under Raúl Castro,” *Bulletin of Latin American Research* 31(s1):77-90 (2012).

²⁴ Discussed in Archibald Ritter, Cuba’s Underground economy No 04-12, [Carleton Economic Papers](http://carleton.ca/economics/wp-content/uploads/cep04-12.pdf) from Carleton University, Department of Economics (Jan. 14, 2005), available <https://carleton.ca/economics/wp-content/uploads/cep04-12.pdf>.

Text Box 13²⁵

Paths to Reform Within Cuban Socialist Model

- Military
 - Better integrated within the state managed system
 - An autonomous economic and political sector?
 - A special form of SOE
 - Reforming the Unión de Industrias Militares
 - Better integrated within global production chains
 - The problem of human rights



Cuba's economic ideology focuses on the exclusive role of state organs in economic activity. Operating through state owned enterprises or directly in production, the Cuban state and Party apparatus are used to dealing either with state organs or with institutions or enterprises that appear to function like states. The Cuban authorities would also prefer to maintain their "Great Walls", discussed above, as the easiest means of preserving the integrity of their system through practices of isolation. This is possible on island republics better than in other contexts. The principle objectives of normalization are economic—to secure as much wealth through trade as efficiently as possible with as little people to people contact as necessary. Cuba has substantial experience in state to state economic activities, and its major SOEs have experiences with their quasi public counterparts, in the form of the leadership firm of multinational enterprises.

To those ends and with these objectives in mind, it should emerge that Cuba would seek to manage normalization quite narrowly. And the easiest way to do that consistent with Cuban cultural and economic practices, is to limit economic contact—to the extent possible—with the

²⁵ Image, Che Guevara Mausoleum, Santa Clara, Cuba, October 2014. On the military in Cuba, see, e.g., Michael Aranda, "The Evolution Of The Cuban Military: A Comparative Look At The Far With The Bureaucratic-Authoritarian Model Of South America," Papers and Proceedings of the Twenty-fifth Annual Meeting of the Association for the Study of the Cuban Economy (ASCE) 20:200-208 (2010); Larry Catá Backer, *The Military, Ideological Frameworks and Familial Marxism: A Comment on Jung-Chul Lee, "A Lesson From Cuba's Party-Military Relations and a Tale of "Two Front Lines" in North Korea*, in Papers and Proceedings of the Twenty-fifth Annual Meeting of the Association for the Study of the Cuban Economy (ASCE) 25:165-171 (2015). Available <http://www.ascecuba.org/c/wp-content/uploads/2016/03/v25-backercomments.pdf>. For the Unión de Industrias Militares, see http://www.cubagob.cu/otras_info/minfar/industria/industria_militar.htm.

largest foreign multinational enterprises. And to have those enterprises deal exclusively with state organs. Among the most significant controllers of large SOEs, and especially those most likely to be at the front lines of foreign direct investment, are the enterprises operated by the military. Funneling foreign direct investment through military enterprises serves several purposes: security, data harvesting, technology transfer and control of labor. But the military remains substantially more autonomous in Cuba than in other Leninist arty states. The danger of relying on the military as the focus of normalized economic transactions is that it may well unbalance an already unbalanced institutional power sharing and undermine the stability of the current system. For the US this would indeed be welcome—the encouragement of the emergence of military control can be viewed as a first and critical step toward transition away from Marxist Leninist state organization.

Text Box 14²⁶

Paths to Reform Within Cuban Socialist Model

- Regional/Bilateral
 - Strengthen [ALBA](#)
 - Develop BITs
 - Special economic zones as spaces to experiment safely (Cienfuegos, Santiago, Mariel)
 - Refine state to state economic relations
 - The problem of selling labor abroad
 - Special economic zones: Havana-Miami?
- “En las complejas circunstancias de nuestra región y del mundo, la política exterior de la Revolución Cubana se mantendrá fiel a los principios originales que hemos defendido en las coyunturas más difíciles y ante las más graves amenazas y desafíos.” ([Raúl Castro to 7th PCC Congress 16 April 2016](#))



²⁶ Image of Havana harbor, looking east, October, 2015. On ALBA, see, Larry Catá Backer & Augusto Molina, “Cuba and the Construction of Alternative Global Trade Systems: ALBA and Free Trade in the Americas,” 31 *U. PA. J. INT’L L.* 679 (2010). For Raúl Castro’s report, see, Informe Central al 7mo. Congreso del Partido Comunista de Cuba, presentado por el Primer Secretario del Comité Central, General de Ejército Raúl Castro Ruz, La Habana, 16 de Abril de 2016, Año 58 de la Revolución (Versiones Taquigráficas-Consejo de Estado). Available http://www.pcc.cu/pdf/congresos_asambleas/vii_congreso/informe_central_vii_congreso_pcc.pdf. Image form outside of Trinidad, Cuba, October 2014. On sovereign debt issues that may arise and the Cuban view, see, e.g., Larry Catá Backer, “Odious Debt Wears Two Faces: Systemic Illegitimacy, Problems and Opportunities in Traditional Odious Debt Conceptions in Globalized Economic Regimes,” 70 *Duke Journal of Law & Contemporary Problems* 1-46 (2007)

In terms of the consequences of normalization for Cuba, and its impact on reform, there is no area with greater potential for positive development than in the regional arena. Normalization permits Cuba a certain additional degree of access to markets and to investment agreement with regional players that had been made harder under conditions of US open hostility. Cuba has developed a model of regional engagement in economic organizations that is more compatible with its own ideology but which may be flexible enough to accommodate partners with incompatible systems.

As it is currently constituted the ALBA system continues to suffer from the deficiencies of an ideology that is suspicious of markets and encourages planning in lieu of markets. But it may be possible to use ALBA as the regional institution to create and evolve systems of Marxist markets that may be influential with other states in the region. The reason for the influence is situational. States that are placed at the lower rungs of global production chains tend to seek ways to preserve their sovereignty—or better put—to retain a larger portion of value added to products that are worked on in their territory. ALBA could provide a regional framework to effect that sort of collective engagement in discussions about the divisions of profit in global production.

But for the moment it is unlikely that the Cuban state will see in this an opportunity. That, in past, follows from the close association between ALBA and the Venezuelan regime that is now under terrible stress. Lastly, Cuban officials short consider exporting notions of special economic zones from within to outside the national territory. Still to be considered are the possibility of joint economic zones in places like Miami. That provides a basis for joint work with the exile community but in a way that permits the isolation and state to foreign pattern that gives Cuban elites some comfort. Yet these half measures ought to be contextualized—they are not an ends in themselves but a place where experiments may be tried out for general application later. Cuba loses if it believes it can contain normalization within its special zones, populated with special people, to which the rest of the Cuban nation may experience only through social media.

Text Box 15²⁷

The Thrust of Reform

- Focus on economic and structural reform
 - Trust market and market oversight in the service of ideology
 - Avoid what appears easy: political opening up in conditions of poverty
- Opening up for civil society only as a discipline on state apparatus
 - Bend to ideological and capacity building goals
- Structural embedding in global economic streams and practices
- Global human rights norms for labor and environment
- And here is the challenge for the Cuban State apparatus: **Economic, rule of law and market reform appears to reduce ideological and control authority when in fact it increases the authority of the PCC and military apparatus**
 - But this requires detaching cadres from old ways of thinking about authority and leadership



By this point one has a sense of the thrust of reform that normalization may make more important. The Cuban state can no longer be a sort of national time capsule—like Bhutan thirty years ago—impervious to the changes in the world around it. Cuba has been brilliant in both participating in the shaping of the emerging world around it, and of insulating itself from its effects. But normalization makes that dual character interaction unsustainable. Even if there is a taste for a continuation of this dual track engagement, time itself will make that impossible as those who had a direct connection with the time when history stopped eventually pass away. The US has made its intentions clear even as it has opened the door to trade.

The Cuban state believes it can navigate around the political agenda of the US and preserve its system with a minimum amount of adjustment. This analysis has suggested that a minimalist approach is impossible under conditions of globalization. But there is danger for Cuba given its European Marxist Leninist baseline. The Cubans may be tempted, like their European colleagues to put off real economic or political reform by appearing to open up politically—through greater public participation in local elections and the like. Yet that approach, disastrous in Europe will not fare better in Cuba—at least for the integrity of a Leninist state founded on Marxist principles. That approach is fundamentally inconsistent with the Leninist basis of the state; Marxist markets are not. Normalization presents the choice to Cuba in immediate and stark terms. The easy way touches on exactly what the US wants—the appearance of political opening up. The better way focuses on the construction of Marxist markets.


²⁷ Image of interior of State food store, Trinidad, Cuba, October 2014.

IV. Conclusion

Text Box 16²⁸

Conclusion

- The PCC means to use normalization in aid of its long term **economic survival**
- The US means to use normalization to move beyond the current **political system**
- There will be transition, but on whose terms?



And thus the conclusion of this analysis: normalization has put the Cuban Party-State system to a test every bit as severe as that faced at the time of the collapse of the Soviet Union. In the 1990s Cuba chose pragmatism over ideological flexibility and produced a state that became its own ideological contradiction. That has weakened the strength of its ideological foundations and unmoored the state from its attachment, in fact, to its founding principles. If Cuba is to retain its current political-economic system, it will have to evolve its ideology to match its current historical context. It must move forward ideologically beyond that moment when the current system was born. And it must find a way of merging again its practices and its ideologies. The US has been much better at this than Cuba. And that may explain the success, and stability of its own ideological system. That may be the biggest lesson Cuba can draw from its North American neighbor as it contemplates the consequences of more intimate engagement with the giant to its north.

²⁸ Image of the outskirts of Trinidad, Cuba, October 2014.