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IMLA in Cuba

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IMLA in Cuba: An Island Nation in Transition

By Benjamin E. Griffith

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The Normalization Process

17 D means a lot to most Cubans. It was on December 17, 2014, that President Barack Obama announced that the U.S. would "end an outdated approach that for decades has failed to advance our interests, and instead we will begin to normalize relations between our two countries." He and Cuban President Raul Castro issued joint statements that day, one from D.C. and the other from Havana. President Obama stressed that the people in both countries were not "well-served by a rigid policy that is rooted in events that took place before most of us were born," as he ordered significant changes in U.S. policy towards Cuba, indeed the most significant in five decades.

The Long Struggle

In a speech delivered in Spanish on that same date but available to the media and general public with English voice-overs, President Raul Castro echoed these sentiments. See http://www.c-span.org/video/?323392-1/ral-castro-remarks-normalizing-relations-us

President Castro noted that since his election as Cuba's president (technically as president for the Council of State Ministries), he had often reiterated Cuba's "disposition to sustain with the U.S. government a respectful dialogue based on equality, to treat the most diverse topics in a reciprocal manner without affecting the national independence and self-determination of our people." Transcript of Cuban President Raul Castro on US-Cuba Relations, Fox News, Dec. 17, 2014, at http://www.foxnews.com/world/2014/12/17/transcript-cuban-president-raul-castro-on-us-cuba-relations.html. Describing a long struggle and many years of difficulties, President Castro envisioned a Cuba that was poised to push forward to update "our economic model [and] to construct a socialism as prosperous and sustainable" with solutions to topics of mutual interest for both countries. He noted that President Obama's decision to take this approach "deserves recognition and respect from our people," and he also expressed appreciation for support of the Vatican and Canada for improving the relationship and dialogue between these two countries. President Castro also announced that Cuba had decided "to release from prison and send to the U.S. a spy of Cuban origin who was in the service of that country on the other end based on humanitarian reasons today we also released to his country this American citizen Alan Gross."While major issues loom on the horizon, including the "economic blockade" that has caused "enormous human damage and economical damages to our country," President Castro urged President Obama and the U.S. "to adopt measures that are mutual to improve the bilateral climate and to push forward to normalization of the links between our countries based on the principles

of international rights and the letter of the U.S." While Cuba has "profound differences fundamentally in the subject of national sovereignty, democracy, human rights and domestic policy," President Castro reaffirmed Cuba's willingness to open dialogue on all of those topics. At the same time, he urged the United States Government to "remove the obstacles that deteriorate or prohibit the links between our people, the families and citizens of both countries, in particular ones relevant to travel, mailing, and telecommunication, and to reach a sustained exchange to show it's possible to find solutions for many problems."

The Art of Living Together in a Civilized Manner

In his closing remarks, President Castro emphasized that "we should learn the art of living together in a civilized manner with our differences. Overall these topics are important, and we will speak about them in the future."

Changes in the U.S. – Cuba Relationship

Indeed, the United States was changing its relationship with the people of Cuba. To Cuban political scientist Rafael Hernandez, one of the most informed and instructive professionals with whom our IMLA group interacted during our trip to Cuba in January 2016, "17D" was an historic event that stood in marked contrast to the days he could recall before the embargo. Reacting to the 17D statements by both presidents, Professor Hernandez said "For us, it is wonderful that finally a U.S, president has been able to understand that any kind of relations between these two countries must not be under the auspices of war and confrontation, but dialogue and

diplomacy." Whitney Eulich, 5 *ways Cuba-US agreement will make waves,* The Christian Science Monitor, December 19, 2014, http://m.csmonitor.com/World/Americas/2014/1219/5-ways-Cuba-US-agreement-will-make-waves.

Resumption of Diplomatic Relations

In rapid succession, the United States and Cuba re-established diplomatic relations and opened their respective embassies in Havana and Washington, D.C., both shuttered since the days of the Cuban Revolution. Further measures were taken at the executive level to remove Cuba's designation as a sponsor of state terrorism and to ease travel, trade, and aid restrictions.

"17D" as it is referred to by Cubans marked the beginning of an era of normalization of relations for the first time in over five decades. It marked the beginning of the end, albeit gradual and in carefully orchestrated steps with a divided Congress watching over the entire process very cautiously, of a lengthy period of economic sanctions, animosity and diplomatic isolation.

In the first visit by a U.S. President to Cuba since 1928, President Obama is scheduled to visit Cuba on March 21-22, 2016. This historical visit will include meeting with dissidents, civil society groups, entrepreneurs, Cubans from different walks of life and with President Raul Castro. It will have taken place by the time we talk about it at the IMLA Annual Seminar in April. Amidst complaints by some Republicans that President Obama's diplomatic feat in March will legitimize Cuba's

oppressive, communist government and gloss over its human rights record, the clear goal of the U.S. President is to accelerate and cement the progress that has been made in normalizing the relations between the two countries, including expansion of internet access and opening up business opportunities for Cubans and Americans. He also wants to secure this major diplomatic initiative as part of his foreign policy legacy along with the Iranian nuclear deal. As President Obama tweeted, his trip to Cuba will be focused on advancing "our progress and efforts that can improve the lives of the Cuban people." For its part, the Cuban government has expressed a willingness to talk with the United States about these and other concerns and, according to the Director of U.S. Affairs for the Cuban Foreign Ministry, "Cuba is open to speak to the U.S. government about any topic, including human rights." As part of the mutual dialogue, the Cuban government wants Guantanamo Bay returned to Cuba and the economic embargo lifted before relations between the two countries can be normalized.

Lawyers Putting It in High Gear

Travel to Cuba has hit an all-time high. The Florida Bar sent its first ever delegation of lawyers to Cuba in May 2015 to explore emerging new business opportunities as prospects heat up for closer political and commercial relations between the United States and the Communist-run island, and some law firms with Miami offices, often staffed by Cuban-American exiles, are already augmenting their Cuba-related practices and creating Cuba Working Groups within their existing firms in response to inquiries from U.S. companies on telecommunications

issues, banking ventures, and other business ventures amidst signs that the U.S. trade embargo on Cuba is finally eroding after over five decades. Another major area of potential legal activity may center on unresolved property claims against Cuba by U.S. companies and families dating back to the Republic of Cuba's nationalization of all businesses on the island in the early 1960s.

One must consider the significance of this thaw in relations for local government lawyers in America, particularly members of the International Municipal Lawyers Association, as well as for American businesses and American citizens. With Cuba as the conundrum of American Politics for over 56 years, it will be problematic to predict exactly how and how fact relations between these two former Cold War enemies will now play out. This much is clear: these are unique times for an island government based on "Salsa Communism" in which the key players have started stirring in a little capitalism.

Transitional Period

During the first year of this transitional period, officials from both nations celebrated an historic reopening of the United States Embassy in Havana and the Republic of Cuba's Embassy in Washington, D.C. The thawing of international relations is not complete, and the embargo remains in effect for now, but significant progress has taken place.

That progress can be measured in human terms, as with the release of Alen Gross and the last of the Cuban Five, a steady uptick in the number and frequency of official delegations from the USA to Havana and other parts of Cuba, substantial easing of restrictions on international trade and commerce, positive steps to rebuild Cuba's infrastructure, and proactive steps that will lead to expanded internet access for Cuban citizens.

For those of us who visited Cuba in January 2016, there were many encouraging green shoots of private ownership amidst much dreamy dilapidation. Much remains to be done, but much has been done. The embargo is still in effect, but there are growing opportunities for constructive, coordinated international action to improve the physical, economic and sociopolitical infrastructure is at Cuba's doorstep.

People to People Educational Exchanges

In two separate People to People Educational Exchanges in November 2013 under Patty Salkin's leadership and in January 2016 in which I was part of a 40-person delegation of IMLA members and serving as Chair of IMLA's International Steering Committee, many of us had a firsthand exposure to how Cuba is working its way through this transitional process.

OFAC Regulations Amended

On January 27, 2016, while our IMLA delegation was in Havana, the U.S. Treasury Department's Office of Foreign Assets Control (OFAC) published amendments to the Cuban Assets Control Regulations that became effective on January 27, 2016.

These regulations are complex, but a good summary with FAQs can be found at https://www.treasury.gov/resourcecenter/sanctions/Programs/Documents/cuba_faqs_new.pdf.

Dawning of a New Era in Cuban-American Relations

The IMLA trip to Havana, Cuba in January 2016 came at a very pivotal time in the history of the Cuban-American relationship. This may well be looked back on as the dawning of a new era and a new way of looking at and interacting with our neighbors 90 miles south of Key West.

The IMLA members who participated in the January 2016 People to People venture were part of a successful IMLA undertaking. Much of the credit for our being able to meet with experienced, seasoned political, legal and historical experts goes to Steven Meyers of the San Francisco Meyers Nave firm. With Steven's help and contacts, this trip succeeded in exposing our group to Cuban speakers who addressed many issues that are important on the municipal and local government level.

Summary of Substantive Meetings during January 2016

Our substantive meetings were a success, including

1. A journey through 500 years of music history and musical evolution with Professor and Musicologist Alberto Fayo and his son's group of talented Cuban musicians, presented through a musical time machine starting with Mozart.

2. Several meetings with Professor Rafael Hernandez, a Cuban social scientist and the editor of *Temas*, the leading Cuban magazine in the social sciences and the humanities, renowned for its contribution to intellectual controversy in Cuba. Hernandez has been Associate Professor at the School of Public and International Affairs at the University of Columbia, and recently concluded a stint as Visiting Professor at Harvard University. He has been a Robert F. Kennedy Visiting Professor 2006-2007, at the Kennedy School of Government; a Wilbur Marvin Visiting Scholar, 2011-2012; a Cuban Visiting Scholar and senior research fellow at the Centro de Investigación de la Cultura Cubana Juan Marinello in Havana. He is the author or editor of several books, including Cuba and the Caribbean and United States-Cuban Relations in the Nineties. He has written extensively on Cuban and U.S. policies, inter-American relations, international security, migration, Cuban culture, civil society and politics. He was founding editor of Cuadernos de Nuestra América, published by the Centro de Estudios sobre América, and coordinator of the Cuban exchange program with LASA (Latin American Studies Association). His most recent books are Looking at Cuba. Essays on Culture and Civil Society (Critics National Award, 2001), The Other War. Studies on Strategy and International Security (2000), and The History of Havana (2006) and Shall We Play Ball? Debating U.S.-Cuban Relations (2011). Professor Hernandez

listed and debunked a number of erroneous assumptions in the U.S. about Cuba:

1. Since Raúl Castro became president, there has been no political change.

2. Raúl is the end of the line; once he goes, there will be no succession.

3. The military is the key institution in Cuba.

4. Dissent is prohibited and punished.

5. Political opposition groups are the democratic alternative in Cuba.

6. National political mediation is led by the Catholic Church.

7. As long as one party remains in power, no democratization is possible.

8. Cubans know nothing about the rest of the world.

9. Most youth want to leave Cuba.

10. Average monthly income in Cuba is $20.00

11. Cuban émigrés are exiles.

12. US-Cuban policy is driven by the Cuban-American lobby.

13. The Cuban-American political elite is changing as the second generation comes of age.

In Professor Hernandez' Debating U.S. – Cuban Relations: Shall We Play Ball?, he and his two co-authors note that up until recently, U.S.-Cuban relations are still in poor shape in many respects, yet some cooperative elements have begun to take hold and offer promise for future developments. With the advent of an ongoing migration agreement, professional military-to-military relations at the perimeter of the U.S. base near Guantanamo, and professional Coast Guard-

Guarda frontera cooperation across the Straits of Florida, the governments of the U.S. and Cuba actively exploring whether and how to change the pattern of interactions. The authors note that the differences dividing the two nations are real, not the result of misperception, and they do not seek to solve all points of disagreement. They provide perspectives from Cuban as well as non-Cuban scholars, unveil the disagreements and agreements from leading thinkers on the spectrum of issues the two countries face on matters of security, the role of Europe and Latin America, economic issues, migration, and cultural and scientific exchanges in relations between Cuba and the United States.

3. Our IMLA group enjoyed a tour through Havana's diverse neighborhoods, housing developments, business districts, governmental facilities and "Old Havana" narrated by Cuban architect Pedro Vasquez, including a walk through Hotel Riviera built in 1957 for Meyer Lansky.
4. We had a lunch meeting with Canadian attorney Gregory Biniowsky, who shared his unique perspective based on living in Cuba for over two decades. Biniowsky is one of the founders of and part of the team comprising Havanada Consulting, a Canadian consulting firm that focuses on sustainable development projects and social enterprise initiatives in Cuba. He also manages a Russian-style restaurant in Cuba. A Canadian trained lawyer and political scientist who has been living and working in Cuba for the last 23 years, Biniowsky has been consultant in Cuba for Canadian business joint ventures, the United Nations, the Canadian International

Development Agency, the Canadian Embassy, and Heenan Blaikie Global Advisors, the international consulting entity of the Canadian law firm of Heenan Blaikie LLP. Havanada holds itself out as available to assist individual social investors or independent social entrepreneurs, NGOs, international development agencies, social and ecological impact funds, who are interested in undertaking social or environmental projects in Cuba.

5. IMLA members also listened to an informative lecture by Reuters journalist Marc Frank. Frank is the author of Cuban Revelations: Behind the Scenes in Havana (2013). He has lived in and reported on Cuba during the best days of the Revolution, the fall of the Soviet Bloc, the great depression of the 1990s, the stepping aside of Fidel Castro and the reforms orchestrated by Raúl Castro. He has written and consulted for numerous media and publications over the years and his articles have appeared around the world in both English and Spanish. He is considered by many Cuba watchers around the world--in government, business and academia--to be one of the most informed English language foreign correspondent working in Cuba today. He has won various Thomson Reuters awards, including Latin American and global best for general and political news and best scoop for Latin America in 2008 for his coverage as the island moved toward a more market oriented economy. Frank has written about the many ways in which Cuba is changing after over 55 years, shifting from a highly centralized, paternalistic, socialist regime, both lauded and vilified for achieving social progress at the cost of democracy

and civil liberties, to a hybrid system in which individual initiative, decentralization and some forms of limited debate are encouraged. As the Castro brothers prepare to leave the scene, he has noted, they are handing power to a more institutionalized Communist party that maintains tight political control even as it liberalizes the economy. In Frank's book, Cuban Revelations: Behind the Scenes in Havana, he captures this evolving terrain and provides a clear guide to the transition from Fidel to Raúl Castro after the demise of the Soviet Union. Frank's wife is Cuban, and based on his two decades in Cuba and an extensive network of colleagues, friends and family, he is able to both seasoned and amateur observers why Cuba's leaders are embarking on a new path. Nearly everything about life in Cuba today is complicated by Cuba's outsized role during the Cold War, the trauma of exile and the opaque nature of its regime. Despite Cuba's controlled media environment, Frank has managed to open doors to information not readily available to others, a testament to his intrepid reporting. In his book, he focuses on the Cuban regime's recognition that it needed a "blueprint for survival" to cope with the barrage of challenges it faced in the 1990s and afterward with the withdrawal of Soviet subsidies and assistance, the tightening U.S. embargo, a heavy debt burden, and a few major hurricanes. He quotes Raúl Castro's 2009 address to the National Assembly as evidence of the intellectual shift from a revolutionary ethos to pragmatic governance. "No one, neither a person nor country, can endlessly spend more than they

earn," Raúl said. "In the conditions of our imperfect socialism, due to our own shortcomings, quite often two plus two makes three. We should definitely put an end to the irresponsible attitude of consuming while no one, or very few, care to think of how much the country pays to ensure it and, foremost, if it can really do it."

Frank chronicles how the government's efforts to "replace social, across-the-board subsidies with individual reward and targeted welfare," has meant difficult adjustments for most Cubans: the closure of lunchrooms, a steady drop in the value of the monthly rations allotment and layoffs of hundreds of thousands of government workers (the majority of Cuba's workforce). He catalogues the decline in the quality of public services such as housing, education and health care—once hallmarks of the revolution—and the steady rise in prices of goods. There have been liberalizing measures as well—such as the expansion of the "cuentapropista" or self-employed sector and a consequent proliferation of food and other small business vendors.

Agriculture policy has also been revamped to encourage more cultivation of arable land and direct sales to markets, restaurants and hotels, instead of through the Cuban bureaucracy. Decision making has become more decentralized, with local and provincial governments and party committees gaining some control over economic decision making. Cubans have also been allowed to buy and sell their houses and cars, with now over 84% of Cuban households owning their homes, a move that effectively legalizes and taxes a

pre-existing black market increasingly driven by market economics. Frank also explains how Cubans, in order to help cope with these adjustments, benefitted from the largesse of Fidel Castro's faithful student, Venezuelan President Hugo Chávez, who happened to control the world's largest reserves of crude oil right next door. In exchange for heavily subsidized energy imports, Cuban doctors and teachers were sent abroad to work in the barrios and favelas of Caracas and Maracaibo. This doctors-for-oil swap has turned out to be a critically important and fortuitous element of the Cuban survival story. No analysis of Cuba's current predicaments would be complete without understanding the role of the United States. Frank notes that President Obama's decision in 2009 to loosen restrictions on travel and remittances for Cuban Americans has had a direct positive effect on many Cuban families. But we are only just beginning to understand how these trends are affecting Cuba's political economy and social dynamics. Many entrepreneurs are now able to start small businesses with cash and goods from abroad. As more Cuban Americans from across the social spectrum visit the island, and as more Cubans take advantage of Havana's decision in 2013 to make it easier for them to leave and return to their homeland, a process of dialogue and "humanization" of the long-divided Cuban family is accelerating. Frank's excellent publication tells us how Cuba is slowly but surely changing, a story largely missed in Washington. Frank's work forces the question of whether the U.S. should remain alone at loggerheads with a Cold War enemy, or begin

a process of direct, high-level and comprehensive dialogue with Havana coupled with direct support to the Cuban people. That question appears to have been answered on December 17, 2014.

Constructive Dialogue With Cubans

Through these diverse, informed and knowledgeable professionals, our IMLA group learned about Cuba during this transitional period, and enjoyed interactions with Cubans working in several different cooperatives. Professor Hernandez accompanied our group on a walk down Obisbo as we saw Havana in a microcosm and struggled to tell the differences, if any, between state-owned and privately owned businesses. We also enjoyed the beautiful choreography of the Habana Compas Dance company, and were treated to a moving performance by the Orchestra Sinfonica Juvenil.

In addition to great hotel accommodations at the Parque Central, our IMLA group enjoyed Cuban cuisine at every turn. We were treated to the specialties of several Cuban restaurants and paladars, including El Aljibe, La Terraza, Paladar Los Merdaderes, Rio Mar, La Guarida, Paladar San Cristobal, and Atelier.

Cuban-American Life and the Role of Local Governance

We were on a steep learning curve as we dove into Cuban-American legal, cultural, socioeconomic and political life, and learned from our Cuban counterparts about different aspects of the judiciary, the Cuban version of transparency and Rule By Law, and the vastly different role of local governance and empowerment. The last

week in January 2016 gave each of us valuable insights into the current state of Cuban-American relations, presented through the experience, talent and skills of uniquely qualified individuals who freely shared their views and assessments with us.

The heart and soul of this IMLA trip to Cuba was provided by our group leaders, Oscar Hernandez and Lazaro Rodriguez Calvo, who shared their years of experience and their personal perspectives on many aspects of Cuban life and the Cuban-American phenomenon as it has developed over the past 56 years.

The Existing Embargo

It is beyond the scope of this presentation to delve into all of the details of the U.S.-Cuban embargo, see generally Economic Embargo Timeline at http://www.historyofcuba.com/history/funfacts/embargo.htm, but it appears that significant progress is being made that may lead to a gradual lifting of trade restrictions. This may be a process measured in years, not months. It might help to put this in an historical perspective.

Relaxation of Travel Restrictions - *Over Many Decades*

On January 1, 1959, the dictatorship of Fulgencio Batista was overthrown, and Fidel Castro's rebel July 26th Movement took power.



Castro quickly eliminated civil society, and tensions between his nationalist revolution and the U.S.A. soon emerged. Following the Bay of Pigs invasion in 1961, and Cuba's nationalization of commercial and residential property, Castro declared his affiliation with Communism, and the Castro-led socialist regime turned to the Soviet Union. The U.S.-imposed trade embargo on Cuba included a travel ban in 1963. In 1977, President Jimmy Carter ended the travel ban and stimulated the process of reconciliation among Cuban families. Despite travel restrictions imposed by the Reagan Administration in 1982, continued under President Clinton in 1996, and strengthened under George W. Bush, that process of reconciliation and re-encounter continued in fits and starts, with relaxed terms during Clinton's final years. The Obama Administration boosted individual contact in 2009 by allowing unlimited family travel and remittances and authorizing direct flights to Cuba from an increased number of U.S. airports. Cuban Americans were able to visit relatives more easily and provide them more generous financial support. By 2013, over 400,000 family visits took place, and cash remittances exceeding $2.7 billion were being sent by Cuban Americans to loved ones in Cuba. Holly Ackerman, *Post-D-17*

and Processes of Cuban National Reconciliation, Center for Latin American and Latino Studies, American University at http://www.american.edu/clals/upload/2015-AU-SSRC-Ackerman-Post-D-17-and-Processes-of-Cuban-National-Reconciliation-FINAL-3.pdf

Cuban Citizens Allowed to Travel to United States

Beginning in January 2013, Cuban citizens also benefitted from changes in Cuban government travel regulations and were allowed to travel to the United States, some for the first time since the mid-1960s, if they obtain a visa. Most important, they could be away from Cuba for up to two years without losing their property in Cuba, with the option of requesting an additional two-year extension. The Cuban Adjustment Act allowed these travelers to obtain a green card in the U.S. after one year and can leave the U.S. for up to a year, making it possible for them to have legal status in two places. The result was an almost 80% increase in visas granted to Cubans during the first half of 2013 and a geometric increase in the number of Cubans "multiplying their life chances while simultaneously creating a civic stake in both communities and deepening relationships with family and friends in the exterior." Holly Ackerman, *Post-D-17 and Processes of Cuban National Reconciliation*, supra.

State Appropriation of Private Property

When Fidel Castro took power at the end of 1959, most Americans fled Cuba and their property behind, land, buildings and cars. The claims on those contested

holdings are the subject of a massive amount of speculation among public and private sector organizations, and if mishandled, those claims would be a stumbling block for reconciliation. One complicating factor is the Act of State doctrine, an exception to the general rule that a court of the United States, where appropriate jurisdictional standards are met, will decide cases before it by choosing the rules appropriate for decision from among various sources of law including international law. The Act of State doctrine is not an inflexible rule, but when it applies, it can and does preclude judicial review of the acts of the government of one sovereign State done within its own territory by the courts of another sovereign State. Under the principles of international comity, the courts of the United States ordinarily refuse to review acts of foreign governments and defer to proceedings taking place in foreign countries, allowing those acts and proceedings to have extraterritorial effect in the United States. See *Hilton v. Guyot*, 159 U.S. 113, 164 (1895). Cf. *Banco Nacional de Cuba v. Sabbatino*, 376 U.S. 398, 437 (1964) (A divided Supreme Court addressed whether the act of state doctrine applied to preclude the courts of the United States from inquiring into the validity of the public acts of a recognized foreign sovereign power committed within its own territory. In this case, the public acts consisted of the decree of the Government of Cuba giving the Cuban President and Prime Minister discretionary power to nationalize by forced expropriation property or enterprises in which American nationals had an interest. The Court held that "however offensive to the public policy of this country and its constituent States an expropriation of this kind may be, we conclude that both the national

interest and progress toward the goal of establishing the rule of law among nations are best served by maintaining intact the act of state doctrine in this realm of its application."); A*lfred Dunhill of London, Inc. v. Republic of Cuba*, 425 U.S. 682 (1976) (Where the Cuban Government confiscated the business and assets of the five leading manufacturers of Havana cigars in 1960, each organized under Cuban law and all of whose owners were Cuban nationals, the Supreme Court in a plurality decision declined to extend the Act of State Doctrine to acts committed by foreign sovereigns in the course of their purely commercial operations. Because the act relied on by the plaintiff manufacturers was an act arising out of the conduct by Cuba's agents in the operation of cigar businesses for profit, the act which was commercial and not public and thus was not an act of state.)

American Support for the Embargo

It does appear that a majority of the people in the United States of America no longer support the embargo. The generational changes that have taken place strongly indicate that we are poised for more formal changes as the USA and Cuba further explore normalization of their relations.

Cuba's Constitution

Cuba's Constitution was adopted in 1976 and revised in 1992 and 2002. It formalizes an authoritarian political system that has been in effect for over four decades. Our U.S. Constitution is based on a system of checks and balances and a series of limitations on government, whereas Cuban law and philosophy is grounded

on the concept that government *is* the people and government will do the right thing.

Background leading to the Current Cuban Constitution

The 1976 Cuban Constitution was adopted by referendum on February 15, 1976, and approved by 97.7% of voters, taking effect February 24, 1976. It called for a centralized control of the market and committed to the government providing its citizens with access to free education and health care, vesting in the government ("the State") power to regulate the activities of religious institutions. Private ownership of media companies was forbidden. Article 1 of The Cuban Constitution establishes Cuba as an independent, sovereign and socialist State of workers (Articles 1), whose governmental organs are the National Assembly of the Popular Power, the State Council and the Council of Ministers, and Supreme Popular Court with the rest of the Courts. The Cuban Constitution also provides for the promotion and protection of the cultural heritage and the artistic expressions.

Foreign Investment and Property Ownership

A constitutional amendment in 1992 removed certain limitations on foreign investment and gave foreign corporations a limited right to own property on the island if they established joint ventures with the government.

Secular State

Another amendment provided that Cuba was a secular state rather than an atheist state, which prompted expansion of local participation in religious observance,

increased social service work on the part of sectarian international charities, and public recognition of religious pluralism.

Permanent Socialistic System

In 2002, the constitution was amended to stipulate that the socialistic system was permanent and irrevocable. See Constitution of Cuba at https://en.wikipedia.org/wiki/Constitution_of_Cuba.

Thus, while the current Cuban Constitution contains many of the same provisions as our U.S. Constitution, these are expressed in terms of a socialistic system as opposed to a democratic, free-market system. The need for a market-based economy in Cuba is clear, but the communist government's top-down control is preventing needed change. Government control is still the order of the day, but the Cuban government of late has been forced to lay of state workers due to the fact that it is no longer subsidized by the U.S.S.R. or Venezuela. From 25% to 50% of Cubans work in the private sector either full or part-time. Besides B & Bs, there has been an explosion of paladares, private restaurants located in large homes, but even private restaurateurs are struggling since they are heavily taxed and must buy food from the state at retail prices. There are no private wholesale markets in Cuba. Trudy Rubin, *Excitement, fear as Cuba approaches post-Castro era*, The Spokesman-Review (Jan. 20, 2016), at http://www.spokesman.com/stories/2016/jan/20/rubin-excitement-fear-as-cuban-approaches-post-cas/

Direct Elections

In a February 27, 2015, interview by Counterpunch with Cuban President Raul Castro's son, Alejandro Castro Espín, Alejandro emphatically stated that Cuban elections "could not be more direct," and that the Cuban electoral process compared favorably with that in the United States and other countries. Lasonas Pipinis Velasco, *The Future of Cuba* (Counterpunch, February 27, 2015) at http://www.counterpunch.org/2015/02/27/the-future-of-cuba/

This is how Cuba's direct election process was described by Raul Castro's son, described in the cited article as a Doctor of Political Science and social researcher:

1. Blocks: In Cuba the elections for the powers of the State come from the people through meetings of the citizens at the base. In Cuba these are called blocks, which are the divisions of a city.
2. Neighborhood Assemblies: Several blocks of neighborhoods living in the same area gather in assemblies that are stipulated by law. In those assemblies the people choose freely among themselves who will represent them. The criteria take into account the candidates' characteristics, including if they are hardworking, if they are good people, if they have a clean past, and money has no bearing on who is nominated. They are not nominated by a party, but the people nominate them. The one chosen is based on the one who

represents the neighborhood best, and after the popular election, the person chosen is called a local delegate.

3. Local Delegates: All of the local delegates meet to form a Municipal Assembly at a superior political administrative level.
4. The Municipal Assembly of the People's Power consists of those elected by the people.
5. Through the same election process at the provincial and national level one reaches the National Assembly, which is formed in a popular election through nomination of people whom the voters think have the right attributes, prestige and authority to govern them.
6. The National Assembly then chooses the superior powers of the State, which is the Council of the State. The Council of the State then chooses those who direct the society: the President of the Council of State and the Council of Ministers, the Vice-presidents of the Council of State and Ministers, which is the highest power of the State.
7. The Council of State and Ministers define the Government and after that Government is defined. The Government is formed with those elected by the people who have been elected at various levels, with all of those positions elected at the national level coming from the base.

Election of National Assembly Candidates

Cuba's municipal and provincial bodies elect candidates for the National Assembly. In March 2007, those bodies decided who would become the president of Cuba.

Cuban Local Elections

Local elections "are the one chance Cubans have to directly choose their representatives. Candidates must be nominated but in these polls, which are officially non-partisan, they do not have to be members of the Communist Party." Cuban Local Elections 2007 https://en.m.wikipedia.org/wiki/Cuban_local_elections,_2007.

Executive Power: Council of State and Council of Ministers

Executive power is exercised by the Cuban Government, which is represented by the Council of State and the Council of Ministers.

Legislative Power: National Assembly of Popular Power

Legislative power is exercised through the unicameral National Assembly of People's Power, which is constituted as the maximum authority of the state. Raúl Castro is currently President of the Council of State, President of the Council of Ministers (sometimes referred to as the Prime Minister), First Secretary of the Communist Party, and Commander-in-Chief of the Revolutionary Armed Forces. See Politics of Cuba, https://en.m.wikipedia.org/wiki/Politics_of_Cuba

Transition to New Generation: Future Direction of Cuba

On 24 February 2013, the so-called "historical generation" began the transition of leadership to a new generation. Jose Ramon Machado Ventura made available to his post as first Vice President, and he himself proposed Miguel Díaz-Canel to

occupy it. Raul Castro said this was a step in "defining in shaping the future direction of the country through the gradual and orderly transfer to the new generation..."

Communist Party of Cuba (PCC)

Since 1965 Cuba has been governed by a highly centralized system headed by the Communist Party of Cuba (Partido Comunista de Cuba—PCC), which is the only authorized political party and rules as "the highest leading force of society and the State," according to the Cuban Constitution. The party monopolizes all government positions, including judicial offices.

Party Membership De Facto Prerequisite for High Level Offices

Though not a formal requirement, party membership is a de facto prerequisite for high-level official positions and professional advancement in most areas, although non-party members are sometimes allowed to serve in the National Assembly. The Communist Party or one of its subsidiaries vets candidates for any elected office.

President Raul Castro exercises control over all aspects of life through the Communist Party and its affiliated mass organizations, the government bureaucracy headed by the Council of State, and the state security apparatus.

Politburo Membership

President Castro personally chooses the membership of the Politburo, the select group that heads the party. The Communist Party controls all government

positions, including judicial offices. The judiciary is completely subordinate to the Government and to the Communist Party.

Political Bureau of Central Committee of the PCC

The 24-member Political Bureau of the Central Committee of the Communist Party of Cuba (Partido Comunista de Cuba—PCC) is the party's leading decision-making institution and Cuba's most important decision-making entity. The PCC monopolizes all government positions, including judicial offices, and approves candidates for any elected office.

Party Congress

The PCC's highest authority is the Party Congress, which elects a Central Committee (150 members in 2005) to supervise the party's work. To direct its policy, the Central Committee elects a Politburo (24 members in 2005, reduced from 24 to only 15 in 2011).

Council of State of the National Assembly of Popular Power

The Council of State of the National Assembly of Popular Power is the state's highest decision-making body, and the Council of Ministers is the highest executive and administrative authority. Beginning on December 2, 1976, Fidel Castro assumed the functions of president of the Council of State and Council of Ministers.

People's Supreme Court

A People's Supreme Court, accountable to the National Assembly, oversees a system of regional courts. Municipal, regional, and provincial assemblies also have been established.

ANPP: Supreme Organ of State & Sole Legislative Authority

As amended in July 1992, the 1976 constitution vests all formal legislative powers (including the powers to amend the constitution) in the National Assembly of Popular Power (Asamblea Nacional de Poder Popular—ANPP). The National Assembly is the supreme organ of state and the sole legislative authority. The National Assembly has the formal power, among others, to approve the budget and the national economic plan; elect the members of the Supreme Court; and generally oversee the rule-making activities and electoral processes of the provincial assemblies and municipal assemblies.

Direct Popular Vote for National Assembly Deputies: No Contested Elections

The National Assembly deputies are elected by direct popular vote for five-year terms. There are no contested elections for the roughly 600 members of the National Assembly of People's Power (ANPP), which meets twice a year for a few days to rubber stamp decisions and policies previously decided by the governing Council of State.

Provincial and Local Government

The central government directly oversees the provincial and local governments through a hierarchical network of assemblies and committees.

Provincial Assembly

Each of Cuba's 14 provinces is formally governed by a provincial assembly, which elects a provincial committee.

Provincial Governor

The president of the provincial committee functions as the provincial governor. A provincial assembly must have at least 75 members, and they serve for five years.

Municipal Assembly Elections

Each of the country's 169 municipalities is governed by a municipal assembly, which elects a municipal committee, whose president functions as mayor. Municipal assembly delegates serve for two and one-half years. Nominations for municipal assembly elections come from regional assemblies at the precinct level.

See Cuba's Government, at

http://www.globalsecurity.org/military/world/cuba/government.htm

Role of Local Government In Cuba

The role of Cuban local government is a far cry from local government as it exists in the U.S.A. Cuban local government does not provide local democracy in the form of a democratic system of governance through representatives chosen through fair,

free and open elections in a system with the rule of law as its foundation. Cuba's rationale for this diluted form of local governance is that it allows active citizen participation and provides a motivation and force for local innovation and self-help. As a part of the Cuban model of democracy, and as the normalization process and international communication network develops between our nations, there remains much work to be done, and much sharing of information and constructive dialogue will need to take place in the field of local government as we understand it based on municipal governance in America and local government as it is understood in Cuba. As Professor Rafael Hernandez has pointed out, there are differences that pre-date Fidel Castro between Cuba's and the U.S.A.'s "respective visions on democracy and freedom, not to speak of equality, citizen's rights, sovereignty and what President Wilson called "creating a safer world for democracy." " *Cuba, December 17th: Sequences and Consequences*, at http://cuba-networkdefenseofhumanity.blogspot.com/2015/01/cuba-december-17th-sequences-and.html?m=1

Free Education

The Cuban Constitution guarantees all Cubans the right to free education, from grade school through professional school, the right to own a limited amount of property, and the right to free medical and dental care. The result is that Cuba's education and health care are among the best in the Western Hemisphere,

according to the World Health Organization. Cuba has enjoyed over a 96% literacy rate and a significantly lower infant mortality rate than the United States.

Gender Discrimination

A significant element of Cuba's constitution is that it specifically prohibits discrimination based on gender. Cuban women make up 65 percent of the legal and other professions in Cuba. In the U.S., the Equal Rights Amendment failed ratification in the 1970s, falling three states short. The U.S. Constitution still lacks a provision prohibiting gender discrimination, although the U.S. Supreme Court has not exactly been sitting idle in this field. Cf. *Obergefell v. Hodges*, 576 U.S. ___ (2015) (holding that the fundamental right to marry is guaranteed to same-sex couples by both the Due Process Clause and the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution).

Freedom of Speech

The Cuban Constitution contains a provision for freedom of speech, couched in the language of Cubans' unique view of the Cuban socialist state:

"Citizens have freedom of speech and of the press in keeping with the objectives of socialist society."

The limits of free speech in Cuba are not clear, and after my two trips in 2013 and 2016 those limits are still not clear. When we press for a clear explanation of exactly what our Cuban counterparts can and cannot say and do with respect to their

constitution right to freedom of speech, it seems that they sincerely believe that have no less freedom of speech than we have in the United States. National pride and a fierce sense of shared survival may contribute to this attitude.

In R. Stephen Roberts' "A Closer Look at Cuban Law" contained in the online blog *Socialist Viewpoint* (Feb. 3, 2003, Vo. 3, No. 2) at http://www.socialistviewpoint.org/feb_03/feb_03_19.html, the writer gave this account of an exchange with his Cuban counterparts:

> We stated, "We can go out in the streets and yell, 'Down with the government, down with President Bush.'" Their response: "We, too, can go in the streets and yell, 'Down with Bush.'" At least they have a sense of humor about it.

The Free Press Freedom Index for 2011-12 ranked Cuba ranked 167th of 179 countries. "PRESS FREEDOM INDEX 2011-2012." *Reporters Without Borders: For Freedom Of Information*. Reporters Without Borders, n.d. Web. 4 Apr 2012. S. Daul, Cuba, in *Free Speech and Free Press Around the World* (World Press), at https://freespeechfreepress.wordpress.com/cuba/#_ftn11 ("As a vehicle to transmit free speech, free press cannot be established in Cuba without compelled interest from the citizens of Cuba in free speech itself, and a reorganization of the institutions occupying free press operators. In recent news, the censorship of Internet access in Cuba has received great attention. As expressed before, many Cubans do not have access to the web, and it continues to remain unseen because of the repression of new technologies by the nation's leaders. Although Raul Castro

has allowed some improvements in this realm, these are not enough for the Cuban population to be exposed to the idea of free speech to cause dissent from the current standing in Cuba. However, within the limited Internet access available to the Cuban population, many websites are still unavailable due to government-imposed filters of material, limiting what Cubans can see.")

The Special Period

Then the U.S.S.R. collapsed in 1989, Cuba lost its financial support from the Eastern Bloc and entered a "Special Period" of economic crisis. In October 1990, the United States Congress enacted the Mack Amendment, named after its sponsor, Florida Senator Connie Mack, which prohibited all trade with Cuba by subsidiaries of U.S. companies, and imposing sanctions against any country that purchased Cuban sugar. This legislation was followed several months later by the Cuban Democracy Act, introduce by Florida Congressman Robert Torricelli, and the combined sanctions coupled with the dissolution of the Soviet Union hastened Cuba's entry into this "special period" during which it was unable to adequately provide food or transport to its people. As our hosts reminded us, many Cubans during this special period subsisted on black beans and rice, a dish found even today at most meals.

The Early Stages of the Special Period

In addition to widespread good shortages during the early stages of the special period, Cuba experienced a general breakdown in her transportation and

agricultural sectors, fertilizer and pesticide stocks. Australian and other permaculturists came to Cuba and distributed aid and taught their urban agriculture techniques to locals, who implemented them in Cuban fields, raised beds and urban rooftops across the island nation. The Cuban government replaced the old industrialized form of agriculture to which Cubans has become accustomed with organic agriculture. This small-scale low-input system of agriculture evolved to the point that Cuba has now become an example for urban gardens and sustainable agriculture. With the fuel scarcity, mass transit suffered, and innovative modes of mass transit had to be rapidly developed.

Cuban “Camels”

The wait for a bus could take three hours, and the pressure was on to come up with alternative transportation. One of those alternative means of transporting large numbers of Cubans flourished was Cuban "camels."





These were huge 18-wheeler tractor trailers retrofitted as passenger buses that could carry several dozen Cubans each. Power outages could last up to sixteen

hours, and food consumption was cut back to one-fifth of the previous national levels. While starvation was avoided, persistent hunger became a daily experience, something not seen since the days before the Cuban Revolution, , something not seen since before the Cuban Revolution, suddenly became a daily experience. See *Special Period and Recovery,* at http://www.cubahistory.org/en/special-period-a-recovery.html

Embargo During Cuba's Special Period: A Silver Lining

The food shortage resulting from the embargo was a result of Cuba's inability to import food and was a significant factor leading to a population-wide weight loss that averaged 20 pounds per Cuban citizen. The combined effect of the embargo and the fall of the Soviet Union was a diminished presence of meat and dairy products in the Cuban diet, these being very dependent on fossil fuel in Cuba's former factory farming methods.

The Cuban Diet

Departing from their traditional Latin American food habits, the people of Cuba adopted diets higher in fiber, fresh produce, and ultimately more vegan in character. Sugar was no longer needed as much for a cash crop since the dissipation of the oil-for-sugar program that the former Soviets had contracted with Cuba, and Cuba quickly diversified its agricultural production and used former sugar cane fields to grow oranges and other fruits and vegetables.

Increased Physical Activity

Another factor contributing to the nationwide weight loss was physical activity. The Cuban government was able to obtain and provide its citizens during the special period with over one million bicycles, and with public transportation sidelined due to the scarcity of fuel, Cubans walked or cycled more than ever. See *The Only Positive Effect of the Cuban Embargo? Weight Loss*, at http://www.nature.com/scitable/blog/labcoat-life/the_only_positive_effect_of

Nationwide Weight Loss

This nationwide experience with weight loss was matched with remarkable declines in cases of diabetes and heart diseases. The embargo, in essence, triggered a mini health revolution. As the authors state in the paper: "so far, no country or regional population has successfully reduced the distribution of body mass index or reduced the prevalence of obesity through public health campaigns or targeted treatment programmes." It appears that the embargo succeeded where campaigns and targeted legislation failed. The positive health effects were a surprising silver lining that has been reported in Population-wide weight loss and regain in relation to diabetes burden and cardiovascular mortality in Cuba 1980-2010: repeated cross sectional surveys and ecological comparison of secular trends, a peer review study published in 2013 in the British Medical Journal (BMJ), available at http://www.bmj.com/content/346/bmj.f1515.

Diabetes and Heart Disease Findings

In summary, the study noted that large reductions in diabetes and cardiovascular mortality were noted after the population-wide weight loss in Cuba, during the economic crisis of the early 1990s. This study established that (1) "body weight regain in the Cuban population was associated with an increase in diabetes prevalence, incidence, and mortality, as well as a deceleration in the previously declining rates of cardiovascular death", and (2) "small losses in body weight and prevention of body weight gain across the population could be a critical strategy in the prevention of non-communicable diseases."

How Differently Scientists and Politicians See Life

This endnote was the best part of the British Medical Journal study, stating succinctly: "We would like to acknowledge our great respect and admiration for the Cuban people who faced extremely difficult social and economic challenges during the special period—and by making common cause against this tragedy held up with courage and dignity. This tragedy was "man made" by international politics and should never happen again to any population." Id.

What Goes Down Can Go Back Up

After 1995, the Cuban economy started to pick up again and rose steadily post-2000. This steady economic rise saw a resurgence of obesity, and with it diabetes and

heart diseases. The resurgence was largely due to an increased energy intake from food and drinks consumed since physical activity only marginally decreased. Energy intake reached pre-crisis levels by 2002 and obesity rates had tripled that of 1995 by 2011.

The Embargo's Lessons

The embargo has many lessons, and one of those is that even meagre loss of weight throughout a population, if sustained, can lead to a decline in non-transmissible diseases such as diabetes and heart diseases. How to achieve such sustained decline without having an embargo imposed however is another question. The usual strategies put forward include sensitization through education, policy changes to promote physical activity, taxes on unhealthy food, and similar measures.

The Future of the Cuban Constitution

A number of possible areas to consider with respect to amendments to the Cuban Constitution as and when Cuba moves away from an authoritarian government and closer to one embodying bedrock principles of democracy and the rule of law are discussed in *A Constitution For Cuba's Political Transition: The Utility of Retaining and Amending the 1992 Constitution.* These and other areas of potential change are discussed in detail in this 2003 publication by the Cuban Transition Project, funded in part through a grant from the United States Agency for International Development and published by the Cuban Transition Project. Institute For Cuban

and Cuban-American Studies, University of Miami, ISBN 1-932385-04-5 at http://ctp.iccas.miami.edu/Research_Studies/JDominguez.pdf.

One of the most significant and expensive components of the 1992 Constitution is its extensive commitment to social rights. This is a commitment that many see as critically important to enable Cuba to make a political transition. Further, another practical element of the 1992 Constitution is found in provisions that concentrate political, economic, social and military power, which could help facilitate a political transition. The 1992 Constitution is also free of many veto points. For example, the National Assembly is sovereign and unicameral., there is no presidential veto, and the National Assembly can instantly remove the president, all justices of the Supreme Court, and all top officials of the Office of the Public Prosecutor.

The Cuban Supreme Court is not independent, however, and the National Assembly always acts by simple majority except when amending the Constitution, and can amend the Constitution substantially without resorting to a referendum, serving as its own judge of the constitutionality of legislation. Further, the National Assembly can revoke all laws, decree-laws, decrees, and other regulations issued by any other public authority, including subnational assemblies. There is independent central bank. Overall, the National

Assembly may well be an effective instrument for a speedy and effective transition through a strong parliamentary regime.

The Rule of Law

The Cuba Transition Project has also published a helpful analysis entitled Establishing the Rule of Law in Cuba, at http://ctp.iccas.miami.edu/Research_Studies/LPatalloSanchezRuleofLaw.pdf.

The creation of a law-based state is a principal goal of many developing countries and countries in transition, and reflects a broadly held belief that the existence of the rule of law, accompanied by democracy and political freedom, is necessary for growth and economic prosperity. The rule of law replaces arbitrary will with the requirement that the state articulate reasons to support the use of power. It promises that citizens may be bound only by commands that are the result of a fair, rational process.

Havana Club® Litigation and Echoes from the Past

Current litigation involving the Havana Club trademark provides a context that is relevant to our State & Local Government Law Spring Meeting in San Juan, Puerto Rico, current home of the Barcardi Rum empire.

The litigation is a microcosm of the broader issue regarding private property and trademark rights seized by the Cuban government during the Cuban Revolution and the extent to which those property rights will be the subject of compensation or

reparations. First a few background details – stay with me on this, especially if you enjoy a good Mohito every now and then.

The Havana Club trademark was first used in the 1930s by Cuba's Arechabala family, whose distilling company was confiscated by Fidel Castro's revolutionary government. After the Havana Club trademark owned by the Arechabalas lapsed, Cuban government-owned Cubaexport registered it in the U.S. in 1976 and assigned it in 1993 to the Pernod Ricard SA, the world's second-biggest liquor maker.

In 1998, Congress enacted legislation making trademarks confiscated by the Cuban government unenforceable in the U.S, and that law has been applied only to the Havana Club mark. With the easing of diplomatic relations between the U.S. and Cuba beginning in late 2014, Bacardi anticipated that it would ultimately reacquire full ownership of the Havana Club rum prized trademark. It was surprised by the result.



In mid-January 2016, the U.S. Patent and Trademark Office granted the renewal of a trademark for Havana Club to the Cuban government and its partner, Pernod Ricard, to sell the island's most famous rum in America once the embargo is lifted.Litigation that pitted Bacardi against Cubaexport for two decades over who has the right to use the Havana Club trademark in the United States recently reached a partial resolution in mid-January when U.S. Patent and Trademark Office decided that the rightful owner of the Havana Club trademark was Cubaexport, a Cuban government company that is the Cuban partner of French spirits maker Pernod Ricard in the worldwide distribution of Cuba's most iconic rum, Havana Club.

Because of the U.S. embargo, Cuban-made rum cannot be sold in the United States, but during the thaw between the U.S. and Cuba that began in December 2014, rum makers are looking ahead to the day when Cuba rum does not just arrive in the suitcases of visitors to the island but is sold freely in the U.S. market. *Cuba prevails in Havana Club rum dispute with Bacardi*, The Miami Herald, January 15, 2016, http://www.miamiherald.com/news/nation-world/world/americas/cuba/article54863035.html

The Havana Club dispute dates back to the Cuban Revolution and illustrates how U.S. companies and owners looking to reclaim businesses and brands seized by the Cuban government may be in for a long fight. *Bacardi Fights to Reclaim Ownership of Havana Club in Closely Watched Trademark Case*, Fox Business, February 11,

2016, at http://www.foxbusiness.com/markets/2016/02/11/bacardi-fights-to-reclaim-ownership-havana-club-in-closely-watched-trademark-case.html.

Let's Play Ball

When President Obama gave his 17D speech and announced that the United States was changing its relationship with the people of Cuba in "the most significant changes to our policy in more than fifty years", Professor Rafael Hernández noted that there is now dialogue between the two nations on equal relations, something that has not existed before. He shared this note of optimism that he also expressed to our IMLA group when we met with him in January 2016:

> "Still, there are also comparative advantages in the cultural relationship between the United States and Cuba. Cubans are more culturally North American than the majority of the hemisphere. North Americans generally feel less foreign in Havana than in other capitals, not to mention safer. If they come, they can see for themselves that the Cubans don't so much need the United States to 'help the Cuban people help themselves as they move into the 21st century' (as Obama said in his speech). Rather, they need the United States to stop impeding their access to technology. It would be better for the two societies to encounter each other, without trying to interfere in each others' business, as neighbors who share a passion for baseball, Studebakers, Latin Jazz, home appliances, hip hop, modernity, taste in

movies, and common sites of history like New York and Havana, among many other things."

Cuban scholars: US-style democracy not only option, ROAR (January 17, 2015) at https://roarmag.org/essays/cuban-intellectuals-us-relations/

Conclusion

This discussion ends on a realistic but positive note. Many U.S. citizens traveling to Cuba for the first time may expect to find a communist dictatorship filled with unhappy and poor people. That is not the Cuba that many of us IMLA members saw in the many meetings in which we participated as members of People to People delegation. What we did find were very literate, healthy, educated, cultured, proud, warm and happy people. They were somewhat content with their society, but growing impatient and desiring to see change in their government, their economy and their future. President Raul has announced that he will leave office in 2018, so the door is open to a younger generation of leaders. There are certainly obstacles to normalizing relations with Cuba. Whether one calls it an embargo or a blockade, it is not over. There are very real and statutorily enforced mandates in over a half-dozen federal laws that prevent other nations from doing business with Cuba.



Added to this toxic mix is a strong anti-Castro sentiment that persists among older Cuban-Americans, especially those residing in Miami and South Florida. That sentiment is often expressed in very personal terms that target the Castro Brothers, Fidel and Raul.



Remnants of the Cold War are embedded in different nooks and crannies of our own federal government, and you better bet these old Cold War lions can be expected to

pull out the stops to postpone the start of a new post-Cold War era in U.S.-Cuba relations. They will not disappear.

On the Cuban side, there are hard-line communists within the Cuban government who see America as a colonialist bourgeois haven for the monied and privileged, one that can never live up to the ideals of Che, Fidel and the Cuban Revolution. These hard-liners will likely never agree to opening up their government to free, fair, and open elections under a democratic process grounded on the rule of law.

It also remains very difficult to do business with Cuba, and the banks in many other nations will not go near Cuba out of fear of U.S. sanctions. It is also premature to conclude that the days of Cuba's authoritarian political systems controlled by the communist party are numbered, just as it would be presumptuous to conclude that the only form of democratic government that can ever exist in the Caribbean basin is one that mirrors the United States government.



Change is on the horizon. Normalization of relations between the U.S. and Cuba is being propelled by many factors. Not the least of those factors is economic need on the part of Cubans and the need on the part of both countries for improved bilateral trade relations. That change will also include reconciliation among Cubans, those on the island and those in Miami-Dade County. It is inevitable. It will come from a top-down governmental edict, but will be a process coming up from the people of our two nations, notwithstanding fears of domestic political consequences in South Florida. And you can put that in your cigar and smoke it.



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