

U.S. POLICY AFTER THE SIXTH PARTY CONGRESS: IT IS TIME TO TRY CONSTRUCTIVE ENGAGEMENT

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For fifty years Cuba and the United States have been at loggerheads. For the first thirty years, the Cold War and Cuba's interest in exporting revolution made Cuba a concern for U.S. national security interests. That concern largely disappeared along with the Soviet Union. The last twenty years have primarily focused on national values and fundamental disagreements on political and human rights. Until recently, that dispute has remained at a stalemate.

Now that is beginning to shift. Starting with Fidel's illness and resignation, and the market reforms announced in the past two years, it is clear that Cuba is rethinking its options. The leadership may not know where it is going, but it understands that past policies have not worked. They do not want to change the political system, but they know it is in danger. Whether they loved him or hated him, Cubans understood that Fidel was their leader. Raúl and those who will follow do not have that authority and they are well aware that the Cuban economy remains on the edge of another meltdown. Its stability remains precariously dependent on the health and political adroitness of one man, Venezuela's Hugo Chávez, and his annual three billion dollar subsidy to the Cuban economy. Presumably, Cuba's leaders are hoping that Chávez will hold on until Cuba's offshore oil reserves come into production. As of yet, however, they cannot know when or even if that will happen, or whether it will be enough to cover any shortfall.

Cuban market reforms are still limited. Partial reforms often lead to partial and sometimes unintended results. Cuban officials still seem unwilling to let

markets work. The plans coming out of the Sixth Party Congress still focus on a centrally directed economy. This should not surprise anyone who has worked on the economic problems of Eastern Europe or the third world. By 1955, the Latin American structuralist school of import substitution was largely discredited, but it would take another 40–50 years to dismantle the policies that stymied growth in the region. Humans have trouble letting go of old ideas. Abandoning lifetime goals is not easy. It often seems easier to make small changes in hopes they will solve one's problem, rather than take big leaps into the unknown. Cuba has taken a large stride, but not a leap. Cuba needs capital. It has none. Cuba needs new institutions and a banking system capable of providing finance to its economy. Yet, Cuba does not have the trained personnel capable of running such a system.

Knowledge is also a problem. It is one thing to understand the argument for a free market economy intellectually; it is much harder to understand it in the gut, especially when the stakes are so high. This is not just true of the Cuban leadership. Many, perhaps most Cubans worry how they would fare in a competitive economy. The ideal of income equality is strongly entrenched, even as the leadership has moved away from it. It is the core of the public dislike of the dual monetary system, which they interpret as the cause of the growing inequality in the country. The writings of many Cuban dissidents show that they too often distrust the market economy.

The current and future Cuban leadership will also have to deal with interest groups and the country's own bureaucratic politics. Cuba is a very authoritarian society, but as is now apparent, the government cannot ignore the dangers of firing a half million people and Cuban bureaucracy has shown many times it can defeat government policies.

At the same time, change in the United States is also proceeding very slowly. George Schultz's comment in the aftermath of the Iran-Contra affair that "nothing is ever settled in this town (Washington)" is still true of our internal debates on Cuban policy. Perceptions of reality change slowly. The problem is on all sides of the Cuba debates. American political leaders have trouble leading when it comes to Cuba. They tend to follow public opinion or at least the opinion of those who have the greatest interest in the issues. There has been little incentive for politicians or even professional diplomats to risk the displeasure of Cuban-Americans, especially when alternative policies towards Cuba also seem to have had little chance in the reality of Cuba.

Nevertheless, there is a change in the Cuban reality. Fidel is no longer in charge. Raúl is sounding less like a socialist and more like a believer in a mixed economy. His admission in his August 1, 2011 address, that Cuba needs to find a new theoretical model of socialism is telling.¹ The regime's self-confidence in socialism has waned as the failure of the old socialist model has become obvious. In the next decade, a new generation of leaders will take charge. This of course is what the U.S. has always wanted, but it is not without its dangers.

Cuba remains a problem for U.S. national security, but the nature of the threat has changed. A collapse of the Cuban police state, unaccompanied by rapidly increasing prosperity, will bring serious problems to the U.S. mainland. The migration problems will be enormous and Cuba will become a new base for the drug trade. Human trafficking of sex workers will also become a serious problem. The author has discussed these problems in detail in this forum before, but the thrust of the argument is very simple.² Cubans are poor, but educated. They are used to dealing in the black market to survive. Poverty has made sex a barter good throughout the society. Cuba is geographically very close to the United States. Remove the police from the borders and eliminate other means the state uses to control its citizens, and Cuba will present us with another Mexican border.

A NEW APPROACH: CONSTRUCTIVE ENGAGEMENT

So how do we address these problems? How do we encourage economic and political reform while not betraying our fundamental disapproval of the regime? How do we support the Cuban people without supporting the status quo? The U.S. Government found one answer in its use of constructive engagement with Eastern Europe during the cold war. The foreign business community used constructive engagement to protect its interests while opposing apartheid in South Africa.

Constructive engagement would be a positive approach to economic and political reform in Cuba. It would provide reversible stimuli for good behavior. It would be a fundamental change from our long-term

1. "Pasando a otro asunto. En cumplimiento de los acuerdos del Sexto Congreso fue creada la Comisión Permanente para la Implementación y Desarrollo que conducirá el proceso de actualización del modelo económico, incluyendo el perfeccionamiento funcional y estructural del gobierno en todos los niveles, la que a la par de proponer la introducción, a corto plazo, de cambios puntuales en diversos ámbitos de la vida económica, elaborará la conceptualización teórica integral de la economía socialista cubana, tarea que, como se comprenderá, requerirá de más tiempo y mucho esfuerzo." Discurso pronunciado por el General de Ejército Raúl Castro Ruz, Presidente de los Consejos de Estado y de Ministros en el Séptimo Periodo Ordinario de Sesiones de la VII Legislatura de la Asamblea Nacional del Poder Popular, el 1ro de Agosto de 2011," <http://www.granma.cubaweb.cu/2011/08/02/nacional/artic03.html>.

2. Gary H. Maybarduk, "Can Cuba Avoid Becoming a Narco-State?" *Cuba in Transition—Volume 19* (Washington: Association for the Study of the Cuban Economy, 2009), <http://info.lanic.utexas.edu/project/ascce/publications/proceedings/volume19/pdfs/maybarduk.pdf>; and Maybarduk, "Cuba and U.S. National Interests: Developing an American Strategy for the Cuban Transition." *Cuba in Transition—Volume 18* (Washington: Association for the Study of the Cuban Economy, 2008), <http://info.lanic.utexas.edu/project/ascce/publications/proceedings/volume18/pdfs/maybarduk.pdf>.

policy of insisting on total capitulation or violent overthrow of the regime. Instead, it would say, “If you want to reform, we will support those efforts we believe are positive.” It would tell the Cuban regime that we are willing to support a peaceful transition to a market based economy and political democratization. It would allow for the protection of U.S. self-interest by moving Cuba towards the prospect of rapid economic growth as it allows more freedom for its citizens, thus lessening the dangers of large-scale migration.

Constructive engagement would not target good relations with Cuba as an end in themselves—although good relations can provide many intangible and sometimes unpredictable benefits to both parties. Rather it embraces the concept that good relations come when they incorporate our national security interests and our national values.

Principles for Constructive Investment in Cuba

In the mid 1980s, to push for the end of apartheid, the United States imposed an embargo on South African exports. However, it did not prevent U.S. investment in South Africa. That was, in part, because of U.S. self-interest. We already had a great deal of investment in the country. U.S. investors could rightly argue they had already been part of the fight against apartheid. Many had already voluntarily adopted the Sullivan principles, named for the Reverend Leon Sullivan. The principles were a code of conduct that called for companies to practice racial equality in the workplace.³

The author visited South Africa during that period. He found the Sullivan Principles were breaking down the walls of apartheid, even before the South African government began to change the nation’s laws. Because of their need for foreign investment,

the authorities looked the other way to rules dictating non-discrimination in employment. At the same time, white South Africans could see that their world need not end when the country’s black citizens received equal employment rights.

In 1994, Rolando Castañeda and Plinio Montalván designed Sullivan-like principles for Cuba, which they named Arcos Principles. Their proposals demanded compliance with the current Cuban constitution, the United Nation’s Universal Declaration of Human Rights, and the various conventions of the International Labor Organization to which Cuba is a signatory. Key provisions required investors to allow Cubans into all facilities normally reserved for foreigners, promote fair labor standards and the right of Cuban workers to form independent labor unions, and to hire and terminate workers directly with no government intervention and no discrimination based on political considerations, sex, race, religion or age.⁴

Had governments and foreign investors adopted the Arcos Principles when first proposed, they would have made an important contribution to human and labor rights in Cuba. Unfortunately, they never gained the political support necessary.

In this paper, 17 years later, the author proposes a set of investment principles that borrows freely from the Arcos principles. As in the Arcos principles, this version would encourage the creation of independent labor organizations and a freer labor market. Politically it would reduce government control over individual freedoms. However, it also provides incentives to move Cuba away from central planning and towards free markets.

The principles would require the American investor:

3. The Sullivan Principles were: (1) non-segregation of the races in all eating, comfort, and work facilities; (2) equal and fair employment practices for all employees; (3) equal pay for all employees doing equal or comparable work for the same period of time; (4) initiation of and development of training programs that will prepare, in substantial numbers, blacks and other nonwhites for supervisory, administrative, clerical, and technical jobs; (5) increasing the number of blacks and other nonwhites in management and supervisory positions; (6) Improving the quality of life for blacks and other nonwhites outside the work environment in such areas as housing, transportation, school, recreation, and health facilities; (7) working to eliminate laws and customs that impede social, economic, and political justice.

4. Rolando H. Castañeda and George Plinio Montalván, “The Arcos Principles,” *Cuba in Transition—Volume 4* (Washington: Association for the Study of the Cuban Economy, 1994), <http://www.ascecuba.org/publications/proceedings/volume4/arcos.pdf>.

1. To act freely in the hiring and firing (with just cause) of its employees, with no government intermediaries and with no discrimination based on sex, race, or political affiliation;
2. To pay wages directly to the individual with no payments to the government. Firms could deduct normal taxes, so long as they were the same tax rates applicable to other Cuban citizens.
3. To allow their employees to enter freely into voluntary bargaining associations or unions with free and secret elections;
4. To ensure that at least 50 percent of inputs by value—labor, material, intermediate goods—must come from the private sector, either domestic (Cuban), or foreign;
5. Not to use any property confiscated from an American citizen and registered with the U.S. Foreign Claims Settlement Commission;
6. Not to pay any fees or taxes devised to skirt indirectly points 1–5;
7. To obey all Cuban commercial and labor regulations and laws that do not conflict with points 1–6 in either letter or spirit.

In addition, the U.S. investor would not be entitled to any taxpayer funding such as the Export-Import Bank or government investment insurance. The principles would allow private bank financing because the fungibility of money would make a ban very difficult to enforce. American firms that agree to abide by the principles could obtain a license to operate outside the embargo and to export to the United States.

Principles 1–3 would allow more Cubans to participate in a free labor market and are the heart of the Arcos principles. That by itself is a worthy goal, but it would not be the only goal. Cuba has been much more than a dictatorship. Rather it has had many of the characteristics of a totalitarian society where political and social control have been exerted in the workplace, where employment, access to scarce goods and many services have been prioritized to benefit those who conform to Communist Party norms. Cuba's large black market and legalization of small private firms has already eaten away at such control. These principles would further these trends.

Principle 4 tries to ensure that the earlier principles have some impact. By insisting that at least 50 percent of the firms' inputs by value must come from the private sector, it would discourage the use of government owned sub-contractors. An alternative formulation of this principle might be to insist that at least 50 percent of the domestic value added of the firm's output come from Cuba's private sector or the firm's direct employment of workers.

Principle 5 makes the principles compliant with the Helms-Burton Act and tries to prevent legal problems that might arise later.

Principle 6 is self-evident and designed to encourage good faith by the firms involved.

Principle 7 is recognition of Cuban sovereignty as far as is possible and is no more than can be expected from any foreign investor in any country in the world.

It is reasonable to ask if the Cuban Government would accept these principles, but that need not and should not be a matter of negotiation. The principles would apply to the American firms, not the Cuban government, just as the Sullivan principles applied to American firms and not to the South African Government. The Cuban government could not credibly claim it violated Cuban sovereignty. If the Cuban Government wants American investment, it would have to allow the American firms to meet the requirements of American law. If not, then the onus for the lack of investment would be on the Cuban government. These terms would be reasonable to most countries.

Furthermore, Cuba has made some of these concessions before. In the late 1990s, it allowed both Mercedes Benz and Club Med to hire and fire their own employees and pay them directly. The Cuban government would of course understand and be suspicious of our intentions, but they have already calculated the risks of their current policy changes in the same direction. They may decide that the benefits outweigh the risks.

There remains the question if U.S. firms would be willing to invest under these principles. Again, the principles do not seem onerous and are hopefully

standard practice for U.S. firms throughout the world. They would provide American firms with some tricky political issues, but American companies face those everywhere. The principles would discourage some investment, but the main impetus for this proposal is not the promotion of American foreign investment, but rather protecting our broader national security interests and national values.

CONSTRUCTIVE ENGAGEMENT AND THE EMBARGO

For fifty years, the U.S. embargo has been our signature tool in our relations with Cuba. We should not denigrate its value. It was successful in denying resources to a hostile regime that wanted to spread its system to the third world. It cost the Soviet Union billions of dollars and helped make Soviet adventurism unacceptably costly. It also has served as a symbol to American opposition to a totalitarian regime. Regrettably, however, it has not brought down the Cuban regime or forced it to make significant reforms at home. Embargos tend not to overthrow regimes, and Fidel Castro was not prepared to accede to any American demands.

Looking forward we need to reevaluate the usefulness of the embargo and how it might more skillfully be used to bring the changes we desire. As an incentive for changes in the Cuban government's behavior, the embargo might be more useful now than in the past. However, our current all or nothing approach to the embargo is of limited value. Change is coming in Cuba and much is coming from the top, which finally seems to realize its system is not working, but is struggling to shape its future. A new generation of leaders—still unidentified—is waiting in the wings. We need to be imaginative to use the embargo and other tools to try to influence Cuba's direction.

Market Liberalization

When and if the Cuban government (GOC) moves ahead with significant market reforms we can respond in ways to make those reforms successful.

If for example the GOC were to allow unlimited privatization of farm to market transportation, we could respond by allowing the sale of farm trucks to Cuba's private truckers.

Should Cuba allow its farmers to export tropical fruits through private channels, we might lift the embargo to allow such imports.

If Cuba's tourist hotels followed the Investment Principles and if Cuba allowed the development of private secondary tourist industries, entertainment, retail stores, guides, and restaurants near the hotels, we could consider lifting the ban on tourist travel.

If American companies are able to operate successfully under the investment principles, we could open access to the U.S. market to Cuban subsidiaries of foreign firms and even privately owned Cuban companies that agree to the same principles.

Political Liberalization

Although this paper has focused on the importance of creating a prosperous Cuba, democracy is and should be our primary goal. The author believes achievement of that goal will come more rapidly and with better results if accompanied or preceded by rapid economic growth. However, democracy should be our first goal. The U.S. should also reward any significant political reforms with a partial or complete lifting of the embargo, regardless of the economic situation.

Unilateral Action or Negotiation?

We probably cannot and should not try to negotiate the criteria for liberalization with the GOC. It would likely slow rather than accelerate progress. Cuban officials regularly refuse to engage in discussions of their internal affairs, not just with U.S. officials but also with representatives from other interested nations. Cuba may eventually revise their standard operational procedure, but probably not anytime soon. Nevertheless, the Cubans are rational actors in their foreign policy. They pay close attention to our policies. They will respond in a manner they believe will support their own national interests. We should do likewise. As the Cuban leadership works through its approach to restructuring, we should support those reforms we believe are in the right direction. We can afford to ignore those changes that are not appropriate and should feel free to react to those that move backward.

Using Diplomacy to Reinforce Constructive Engagement and to Protect U.S. National Interests

For much of the last fifty years, the U.S. has used diplomacy as a way to isolate the Cuban regime. It worked for a while, but has been ineffective for years. We have used it as a statement of our opposition to its totalitarian nature, its alliance with the Soviet Union, and its aggressive support of leftist revolutionary movements and oppressive regimes. That was and is a principled position and popular with a key domestic constituency, but substantial results in achieving political liberalization have been lacking. Our diplomacy may have denied resources to Cuba, but has not brought democracy.

Still, there has been little political reason to change it. There is no evidence that Fidel ever wanted better relations with the United States. Various U.S. administrations have tested that premise and then had to face the futility of their effort. President George W. Bush's administration, influenced by those who wrote the Helms-Burton legislation, decided from day one that better relations were not possible. They may have been right, but their actions made it a self-fulfilling prophecy.

President Obama has recognized the need to establish a dialogue with the GOC, but so far, he too has had little success. Given this record, it takes a certain amount of unbridled optimism to propose a new approach. Still, diplomatic contact with all levels of the Cuban government should be an important component of constructive engagement and is necessary for well-informed decision-making. Furthermore, no matter how political and economic change comes to Cuba, we need bureaucratic-to-bureaucratic relations. It was a point made here by former Assistant Secretary of Homeland Security, Randy Beardsworth, in 2009.⁵

A NEW APPROACH

Dialogue is the normal mechanism for sovereign governments to resolve differences, but with a few exceptions, it has not worked well with Cuba. Fidel Castro has been the principal obstacle to progress on the Cuban side, but there are institutional reasons as well. Cuban officials use U.S. hostility to the current regime to appeal to Cuban nationalism. Any agreement between the two nations weakens their argument that accommodation with the U.S. is impossible. Cuba operates from a weak position, which paradoxically can lead to a refusal to make mutually beneficial agreements.

Currently both governments restrict the activities of the other's diplomats. Cuban diplomats in Washington and New York and American diplomats in Havana are restricted to their respective city. Contacts with government officials are limited to each other's foreign ministries and legislative branches. The U.S. government first initiated these restrictions and the Cubans retaliated. There were justifiable reasons for the U.S. actions, but as the author has discussed in several other articles, they are today counterproductive. Cuba obtains all the information it really needs from reading our newspapers, internet articles, and watching our television. Cuba's closed society limits our ability to do the same.

To its credit, the Obama administration has recognized the problem and has proposed a reciprocal lifting of some of the restrictions. Cuba has refused, unless U.S. diplomats refrain from contacting dissidents, a position that the U.S. cannot and should not accept.

We should unilaterally remove the restrictions. We initiated the rounds of restrictions and we should remove them. If the Cubans do not respond, the onus will be on them and we can always reverse course.

We should also defund the USAID programs "designed" to hasten the end of the current regime. "Designed" gives these programs too much credit. The

5. Randy Beardsworth did not submit his talk for the ASCE proceedings, but his views are well presented in a very original paper, "US-Cuba Functional Relationships: A Security Imperative," in *Nine Ways for Us to Talk to the Cubans and for Them to Talk to Us* (Washington: The Center for Democracy in the Americas, 2009). <http://democracyinamericas.org/9-ways-us-talk-cuba-and-cuba-talk-us-new-report>.

brutal truth is that our legislators designed these programs to placate parts of the Cuban-American community. They have failed to make any positive impact in Cuba. They have not been taken seriously by senior policy makers in any administration, Republican or Democratic, regardless of their rhetoric. They have left the management to mid-level managers, some with little experience in Cuba, who constantly have had to look over their shoulder to the most outspoken members of Congress. The result has been gross mismanagement, illustrated most recently by the Alan Gross fiasco.

We should continue to meet and give our moral support for the dissidents, whose courage and dedication to human rights leave many of us wondering if we could make such sacrifices. However, USAID should not give them financial or material support. Such support only undercuts their legitimacy, placing them in greater danger. It also serves as grist for Cuban government claims that it is impossible to have a serious dialogue with the United States. The dissidents will have greater impact not only by being true Cuban patriots, but also by being perceived to be so.

Continuity

These economic, political and diplomatic proposals would constitute a change in U.S. strategy towards Cuba, but not change the ultimate and consistent goals of nine U.S. administrations—democracy and human rights for the Cuban people. Moreover, many of our old policies would remain.

- There would be no unilateral lifting of the embargo. Rather we would ease the embargo only when Cuban actions so justified.

- We would continue to use international forums to push for democracy in Cuba and to highlight and condemn violations of human rights.
- We would continue to insist that Cuba release all political prisoners.
- We would continue to give our moral support to the courageous Cuban dissidents who have and will continue to risk their lives and personal freedom to bring freedom to their own country.
- We would continue to oppose Cuban participation in those international and regional organizations whose ideals and principles clash with Cuban policies. These organizations would include the Organization of American States, the IMF, The World Bank, and the Inter-American Development Bank.

PROSPECTS FOR SUCCESS

There can be no guarantee that these new proposals will bring democratic and economic change to Cuba, but neither is there any guarantee that the present policies will work after fifty years of failure. However, wise governments, like wise people, are usually willing to try new approaches when older approaches are not working.

These proposals are neither appeasement nor capitulation. Rather they open new possibilities by telling the Cuban leadership—and perhaps more importantly the new leaders that will follow—that it is possible to work with the United States, so long as they are prepared to grant greater freedom to their people. Constructive engagement helped end the cold war. We should try it with Cuba.