63. Relations with Cuba

Congress should

- repeal the Cuban Liberty and Democratic Solidarity (Libertad, or Helms-Burton) Act of 1996,
- repeal the Cuban Democracy (Torricelli) Act of 1992,
- restore the policy of granting Cuban refugees political asylum in the United States,
- eliminate or privatize Radio and TV Marti,
- end all trade sanctions on Cuba and allow U.S. citizens and companies to visit and establish businesses in Cuba as they see fit, and
- move toward the normalization of diplomatic relations with Cuba.

In 1970, 17 of 26 countries in Latin America and the Caribbean had authoritarian regimes. Today, only Cuba has a dictatorial regime. To be sure, the transition to market-oriented democracies, which protect individual liberty and property rights under the rule of law, is far from complete in any of the region's countries and has suffered setbacks in some of them. Economic sanctions have not been responsible for the general shift toward liberalization, however. They have, in fact, failed to bring about democratic regimes anywhere in the hemisphere, and Cuba has been no exception. Indeed, Cuba is the one country in the hemisphere against which the U.S. government has persistently and actively used a full economic embargo as its main policy tool in an attempt to compel a democratic transformation.

The failure of sanctions against Cuba should come as no surprise since sanctions are notorious for their unintended consequences—harming those they are meant to help. In Cuba, Fidel Castro is the last person to feel the pain caused by the U.S. measures. If sanctions in the early 1990s

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failed to dislodge the military regime in Haiti, the poorest and most vulnerable country in the region, it is difficult to believe that they could be successful in Cuba.

A Cold War Relic

Sanctions against Cuba were first authorized under the Foreign Assistance Act of 1961, passed by the 87th Congress. In 1962 President John F. Kennedy issued an executive order implementing the trade embargo as a response to Castro's expropriation of American assets and his decision to offer the Soviet Union a permanent military base and an intelligence post just 90 miles off the coast of Florida at the height of the Cold War. Castro's decision confirmed Cuba as the Soviet Union's main ally in the Western Hemisphere.

For three decades, Cuba was a threat to U.S. national security. Not only did Cuba export Marxist-Leninist revolutions to Third World countries (most notably, Angola, and Nicaragua), but, more important, it served as a base for Soviet intelligence operations and allowed Soviet naval vessels port access rights. However, with the collapse of the Soviet Union and the subsequent end of Soviet subsidies to Cuba in the early 1990s, that threat virtually ceased to exist. (There is always the possibility that Castro will do something reckless.) Indeed, a 1998 report by the Defense Intelligence Agency concluded: ''At present, Cuba does not pose a significant military threat to the United States or to other countries in the region. Cuba has little motivation to engage in military activity beyond defense of its territory and political activity.'' With the demise of the security threat posed by Cuba, all valid justifications for the embargo also disappeared.

Trade sanctions against Cuba, however, were not lifted. The embargo was instead tightened in 1992 with the passage of the Cuban Democracy (Torricelli) Act, a bill that former president George Bush signed into law. The justification for it was not national security interests but the Castro regime's form of government and human rights abuses. That change of focus was reflected in the language of the act, the first finding of which was Castro's ''consistent disregard for internationally accepted standards of human rights and for democratic values.''

In 1996 Congress passed the Cuban Liberty and Democratic Solidarity (Libertad) Act, a bill that President Clinton had threatened to veto but instead signed into law in the aftermath of the downing of two U.S. civilian planes by Cuban fighter jets in international airspace.

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The Unintended Consequences of a Flawed Policy

The Libertad Act, better known as the Helms-Burton Act for its sponsors Sen. Jesse Helms (R-NC) and Rep. Dan Burton (R-IN), is an ill-conceived law. It grants U.S. citizens whose property was expropriated by Castro the right to sue in U.S. courts foreign companies and citizens ''trafficking'' in that property (Title III). That right—not granted to U.S. citizens who may have lost property in other countries—is problematic because it essentially extends U.S. jurisdiction to the results of events that occurred on foreign territory.

By imposing sanctions on foreign companies profiting from property confiscated by the Castro regime, the Helms-Burton Act seeks to discourage investment in Cuba. But fears that foreign investment there, which is much lower than official figures claim, will save the communist system from its inherent flaws are unfounded; significant capital flows to Cuba will not occur unless and until market reforms are introduced. While Helms-Burton may have slowed investment in Cuba, U.S. allies (in particular, Canada, Mexico, and members of the European Union) have not welcomed that attempt to influence their foreign policy by threat of U.S. sanctions. Consequently, they have repeatedly threatened to impose retaliatory sanctions and to take the United States to the World Trade Organization.

In May 1998 the Clinton administration and the European Union reached a tentative agreement that would exclude citizens of EU countries from Titles III and IV (denying entry visas to the executives of companies ''trafficking'' in confiscated property) of the Helms-Burton Act in exchange for guarantees from the EU not to subsidize investments in expropriated properties. President Bush has continued the policy of repeatedly waiving Title III of the act. But because only the Congress can repeal Titles III and IV, the possibility that the EU will impose retaliatory sanctions or take the United States to the WTO remains. That confrontation has risked poisoning U.S. relations with otherwise friendly countries that are far more important than Cuba to the economic well-being and security of the United States. It also serves to divert attention, both inside and outside Cuba, from the island's internal crisis.

Moreover, any increase in Washington's hostility would benefit only the hard-liners within the Cuban government. Indeed, the embargo continues to be the best—and now the only—excuse that Castro has for his failed policies. As a Hoover Institution report on Cuba stated, Castro knows that ''the embargo to some degree keeps him from becoming just another in

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a centuries-long string of failed Latin American dictators. . . . Nothing would come so close to 'killing' him while he is still alive as lifting the embargo.''

Although the Soviet Union provided Cuba with more than $100 billion in subsidies and credits during their three-decade relationship, Cuban officials, who have estimated the cumulative cost of the embargo at more than $40 billion, incessantly condemn U.S. policies for causing the meager existence of the Cuban people. Elizardo Sánchez Santa Cruz, a leading dissident in Cuba, has aptly summed up that strategy: ''[Castro] wants to continue exaggerating the image of the external enemy which has been vital for the Cuban Government during decades, an external enemy which can be blamed for the failure of the totalitarian model implanted here.'' The more supporters of the embargo stress the importance of sanctions in bringing Castro down, the more credible becomes Castro's claim that the United States is responsible for Cuba's misery.

Unfortunately, the Bush administration played into Castro's hands when it formed the Commission for Assistance for a Free Cuba. The administration adopted the commission's recommendation to tighten the embargo by restricting travel and remittances to the island even further. The commission also endorsed the administration's policy of providing aid to Cuban opposition groups, thus lending a semblance of credibility to Castro's claims that dissident groups are agents of Washington.

As long as Castro can point to the United States as an external enemy, he will be successful in barring dissent, justifying control over the economy and the flow of information, and stirring up nationalist and anti-U.S. sentiments in Cuba.

Cuba Must Determine Its Own Destiny

Perhaps the biggest shortcoming of U.S. policy toward Cuba is its false assumption that democratic capitalism can somehow be forcibly exported from Washington to Havana. That assumption is explicitly stated in the Helms-Burton Act, the first purpose of which is ''to assist the Cuban people in regaining their freedom and prosperity, as well as in joining the community of democratic countries that are flourishing in the Western Hemisphere.''

But the shift toward democratic capitalism that began in the Western Hemisphere two decades ago has little to do with Washington's efforts to export democracy. Rather, it has to do with Latin America's realization that previous policies and regimes had failed to provide self-sustaining

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growth and increasing prosperity. The region's ability to benefit from a market system will depend in large part on its success in sustaining market reforms, which, again, will depend entirely on Latin American countries, not on the United States.

Since the end of the Cold War, Cuba has no longer posed a credible threat to the United States. Whether Cuba has a totalitarian or a democratic regime, though important, is not a vital U.S. national security concern. The transformation of Cuban society, as difficult as that may be, should be left to the Cuban people, not to the U.S. government. As William F. Buckley Jr. has stated: ''If the Cuban people overthrow Mr. Castro, that is the end for which devoutly we pray. But if they do not, he is their problem.''

Furthermore, there is little historical evidence, in Cuba or elsewhere, that tightening the screws on Cuba will produce an anti-Castro rebellion. Cato scholar James Dorn has observed that ''the threat of using trade restrictions to advance human rights is fraught with danger . . . [because] it undermines the market dynamic that in the end is the best instrument for creating wealth and preserving freedom.''

Even though Cuba—unlike other communist countries, such as China or Vietnam, with which the United States actively trades—has not undertaken meaningful market reforms, an open U.S. trade policy is likely to be more subversive of its system than is an embargo. Proponents of the Cuban embargo vastly underestimate the extent to which increased foreign trade and investment can undermine Cuban communism even if that business is conducted with state entities.

Cuban officialdom appears to be well aware of that danger. For example, Cuba's opening of its tourism industry to foreign investment has been accompanied by measures that restrict ordinary Cubans from visiting foreign hotels and tourist facilities. As a result, Cubans have come to resent their government for what is known as ''tourism apartheid.'' In recent years, Cuban officials have also issued increasing warnings against corruption, indicating the regime's fear that unofficial business dealings, especially with foreigners, may weaken allegiance to the government and even create vested interests that favor more extensive market openings. As the Hoover Institution study concluded: ''In time, increasing amounts [of expanded tourism, trade, and investment] would go beyond the state, and although economics will not single-handedly liberate Cuba, it may contribute some to that end. This is so, in part, because the repressive Cubans within the state apparatus are subject to influences that can tilt their allegiances in positive ways.''

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Further undercutting the regime's authority is the widespread dollar economy that has emerged as a consequence of foreign presence and remittances from abroad, estimated at $800 million annually, which the Helms-Burton Act had banned until the spring of 1998. Today about 50 percent of the Cuban population has access to dollars. The dollarization in the early 1990s of the Cuban economy—a phenomenon legalized by the Cuban regime as a result of its inability to control it—significantly reduced the regime's ability to dictate the country's monetary policy. That development in part prompted the regime to impose restrictive exchange controls in 2003 and to try to ''de-dollarize'' the economy by penalizing use of dollars beginning in 2004.

Replacing the all-encompassing state with one that allows greater space for voluntary interaction requires strengthening elements of civil society, that is, groups not dependent on the state. That development is more likely to come about in an environment of increased interaction with outside groups than in an environment of increased isolation and state control.

At present, there are signs that civil society is slowly emerging in Cuba, despite Castro's attempts to suppress it. For example, the Catholic Church, the main recipient of humanitarian aid from international nongovernmental organizations, has experienced a resurgence since the Archbishop of Havana was made a cardinal. The Varela project, a Cuban democratization initiative, attracted 25,000 signatures, prompting Castro to crack down on peaceful dissidents, sentencing 75 of them to up to 20 years in prison.

Finally, there are the small-business owners who are able to earn a living in the small but growing nonstate sector. The 150,000 *cuentapropistas*, or ''workers on their own account,'' are approximately 4 percent of the total workforce; half of them are working with government-approved licenses and the other half in the informal sector. According to Philip Peters, vice president of the Lexington Institute, those workers ''are dramatically improving their standard of living and supplying goods and services while learning the habits of independent actors in competitive markets.'' For instance, private farmers bring 85 percent of the produce sold in markets although they cultivate only 15 percent of the arable land. And, because most independent workers are in the service industries (mostly restaurant and food service), they would greatly benefit from the presence of Americans visiting for business or pleasure.

Cuban exiles should also be allowed to participate in the transformation of Cuban society. However, their participation need not require active involvement of the U.S. government. Thus, Radio and TV Marti, govern-

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ment entities that broadcast to Cuba, should be privatized or closed down. If the exile community believes that those stations are a useful resource in their struggle against the Castro regime, they have the means—there are no legal impediments—to finance such an operation.

A New Cuba Policy Based on American Principles

Washington's policies toward Cuba should be consistent with traditional American principles. First, the United States should restore the practice of granting political asylum to Cuban refugees. The 1994 and 1995 immigration accords between the Clinton administration and the Cuban government have turned the United States into Castro's de jure partner in oppressing those Cubans who risk their lives to escape repression. The ''wet feet, dry feet'' policy, which grants political asylum to Cuban refugees who make it to the U.S. shore on their own and forces the U.S. Coast Guard to return to Cuba those refugees that it picks up at sea, should be eliminated. Instead, the U.S. government should grant political asylum to all Cubans who escape the island.

There is no reason to believe that Cuban refugees would not continue to help the U.S. economy as they always have. The 1980 boatlift, in which 120,000 Cuban refugees reached U.S. shores, proved a boon to the economy of South Florida. In addition, since the Cuban-American community has repeatedly demonstrated its ability and desire to provide for refugees until they can provide for themselves, such a policy need not cost U.S. taxpayers.

Second, the U.S. government should protect its own citizens' inalienable rights and recognize that free trade is itself a human right. As Dorn says: ''The supposed dichotomy between the right to trade and human rights is a false one. . . . As moral agents, individuals necessarily claim the rights to liberty and property in order to live fully and to pursue their interests in a responsible manner.'' In the case of Cuba, U.S. citizens and companies should be allowed to decide for themselves—as they are in the case of dozens of countries around the world whose political and human rights records are less than admirable—whether and how they should trade with it.

Third, U.S. policy toward Cuba should focus on national security interests, not on transforming Cuban society or micromanaging the affairs of a transitional government as current law obliges Washington to do. That means lifting the embargo and establishing with Cuba the types of diplomatic ties that the United States maintains with other states, even dictatorial

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ones, that do not threaten its national security. Those measures, especially the ending of current sanctions, will ensure a more peaceful and smooth transition in Cuba. After all, as former Reagan National Security Council member Roger Fontaine explains, ''It is not in our interest to acquire another economic basket case in the Caribbean.''

The Tide Is Turning

Since the pope's visit to Cuba in early 1998 and the Elián González incident—in which the shipwrecked six-year-old lost his mother at sea and was rescued by Florida fishermen during Thanksgiving weekend of 1999—U.S. businesspeople, policymakers, and the U.S. population at large have shown a growing interest in Cuba. For instance, in early 1998 the U.S. Chamber of Commerce joined religious and humanitarian groups to create a coalition to support the end of restrictions on the sale of food and medicine to Cuba. In the fall of 1998, 24 senators, led by Sen. John Warner (R-VA), and several foreign policy experts, including former secretaries of state Henry Kissinger, Lawrence Eagleburger, and George Shultz, unsuccessfully asked President Clinton to appoint a bipartisan congressional commission to reevaluate U.S. policy toward Cuba. Thousands of U.S. business leaders have visited the country in the past several years.

In the closing days of its second session, the 106th Congress passed a measure as part of its agricultural funding bill that allows cash sales of food and medicine to Cuba but prohibits private-sector financing from the United States. It is doubtful that the measure will create a significant or lasting market for U.S. farmers, as proponents of the bill desire, because Cuba is both broke and uncreditworthy.

The 106th Congress also turned the travel ban to Cuba, which had been implemented by executive order, into law. Turning that ban into law makes it more difficult to revoke the restrictions that deny the majority of Americans their right to travel freely. Already, about 200,000 Americans per year travel to Cuba, including 80,000 who do so without the explicit authorization of the U.S. government. If the travel restrictions were to be lifted completely, the number of American citizens traveling to Cuba would certainly increase, as would their contacts with Cuban citizens who work outside the state sector.

Indeed, in the past four years, the House of Representatives voted to overturn the ban on traveling to Cuba. During that time, an increasing number of politicians, including governors and U.S. senators, visited the

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island. In May 2002 former president Jimmy Carter traveled to Havana and called for an end to the trade and travel embargo. Underlining the liberalizing potential of U.S. travel to Cuba, Carter used his visit to draw Cuba's national attention to the Varela project, which had thus far received no play in the official media. Signs of increasing political dissatisfaction with the embargo show that the tide of opinion is clearly changing.

Conclusion

Sen. Robert G. Torricelli (D-NJ) offered the following justification for U.S. policy after Helms-Burton was passed by Congress: ''Different policies might have worked, might have been taken. But the die has been cast. Years ago we decided on this strategy and we are in the end game now. It is too late to change strategy.'' But even many people who may agree with Torricelli's position recognize, as Cuban exile Carlos Alberto Montaner does, that ''the embargo, at this stage of the game, is probably a strategic error, political clumsiness from Washington which provides Castro with an alibi.'' In fact, it is not too late to change strategy and the ''end game'' may yet take years to complete. U.S. clumsiness, unfortunately, increases the likelihood of a violent Cuban transition into which the United States would unnecessarily be drawn.

A better policy would recognize that, while Castro may be a clever political manipulator, his economic forecasting and planning have been dismal. Supporters of the embargo casually assume that Castro wants an end to the embargo because he believes that step would solve his economic problems. More likely, Castro fears the lifting of the U.S. sanctions. It is difficult to believe, for example, that he did not calculate a strong U.S. response when he ordered the attack on two U.S. planes in early 1996. It is time for Washington to stop playing into Castro's hands and instead pull the rug out from under him by ending the embargo.

Suggested Readings

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