### US Should Remove Cuban Embargo

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The Cuban embargo is not a limited set of economic sanctions affecting a few carefully targeted areas of Cuba's government and society. Instead, it is a comprehensive program that prohibits virtually all American trade, investment, travel, cultural and human contact with Cuba outside of a few narrow exceptions. Moreover, throughout the embargo's 47-year history, different U.S. administrations have worked aggressively to expand the embargo's extraterritorial reach in order to pressure as many countries as possible to reduce their contacts with Cuba. The embargo's extensive extraterritorial reach and power as well as its disproportionate nature are magnified by Cuba's weakness as a small Caribbean island of 11 million people, its peculiar geographical location only 90 miles from the United States, and the U.S.'s own international economic and financial preeminence. As currently structured, the embargo has comprehensive, widespread, and indiscriminate effects on the economic, social, and family conditions of the Cuban people that cause it to violate widely recognized human rights norms as well as the basic obligation of states to ensure that sanctions imposed for the sake of promoting human rights do not have the opposite effect of harming the human rights of innocent people. n259

Apologists for the embargo point out that the embargo has only a limited impact on the Cuban economy because Cuba is free to trade with virtually every other country in the world. n260 This argument overlooks two key [\*236] issues. First, the U.S. government has not contented itself with denying the benefits of trade and investment to Cuba. Instead, throughout most of the embargo's history, U.S. administrations have exerted enormous pressures on foreign governments and companies to discourage all economic contact with Cuba. A typical example occurred in the early 1990s when Cuba, then in the midst of a severe economic depression caused by the collapse of its ally, the Soviet Union, attempted to modernize its antiquated 40-year old telephone network. Grupos Domo, a Mexican-based conglomerate with substantial economic ties to the United States, began negotiations with Cuba over what would have been a multi-billion dollar deal but eventually withdrew from negotiations as a result of enormous pressure by the U.S. government. n261 Ultimately, Cuba found a group of willing international investor partners, most of whom insisted on anonymity in order to avoid possible American retaliation. Thus, the reach of the U.S. embargo extends significantly beyond U.S.-Cuba trade relations, and negatively impacts Cuba's relations with other countries as well.

Second, since Congress passed the Cuban Democracy Act in 1992 and the subsequent Helms-Burton Act of 1996, the embargo has sharply increased its extraterritorial reach. Thousands of foreign companies that could trade with Cuba before 1992 are no longer allowed to do so by virtue of being subsidiaries of U.S. corporations. Although the European Union and other U.S. allies responded to the Helms-Burton Act by enacting "blocking statutes" and "claw-back" provisions n262, Helms-Burton has nonetheless had a [\*237] chilling effect on trade and investment with Cuba. n263 Thus, the embargo's economic impact must be measured not only in terms of the way it has isolated Cuba from U.S. markets but also by its effect on the willingness of many private international entities to do business with Cuba.

Because the embargo has such far-reaching effects on foreign trade and investment with Cuba, its effects on human rights are similarly far-reaching, encompassing such areas as public health, nutrition, education, culture, and even fundamental family rights. In general, economic sanctions affect education in the sanctioned country by decreasing access to supplies, which ultimately leads to the deterioration of infrastructure. n264 The Cuban government estimates that the embargo has cost Cuba an estimated average of $ 2.19 billion a year since 1959, a figure that may be quite conservative in light of several factors. n265 First, the embargo is unusually comprehensive and affects every area of Cuba's economic life. Second, it deprives Cuba of the benefits from economies of scale and geographical advantages associated with the U.S. market. Third, the dollar's role as the international currency of choice, the preeminent role of U.S. banks in international trade especially in the western hemisphere, and the embargo's extraterritorial reach combine to [\*238] increase substantially the costs to Cuba of trading with many other countries.

The most recent United Nations report on human rights in Cuba referred to the U.S. embargo as one of the "factors hindering the realization of human rights in Cuba," and noted that:

The restrictions imposed by the embargo help to deprive Cuba of vital access to medicines, new scientific and medical technology, food, chemical water treatment and electricity. The disastrous effects of the embargo in terms of the economic, social and cultural rights of the Cuban people have been denounced by the United Nations Food and Agriculture Organization, the United Nations Children's Fund, the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the World Health Organization ... . n266

Thus, though the embargo is now promoted as a means of improving human rights, the embargo has had the opposite effect of harming human rights.

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V Conclusion: The Human (Rights) and Moral Dimension

This essay has presented the history of economic sanctions against Cuba, analyzed the questionable legality of the sanctions, and detailed the effects of the sanctions. In conclusion, I want to problematize further the legality of the sanctions under international law. To be sure, the U.S. commitment to the WTO limits its ability to refuse to trade absent a legitimate, allowed concern. To use the national security claim vis-a-vis Cuba simply does not pass the laugh test; although the recent talks with Venezuela and the Russian fleet might cause a reconsideration of that position. Moreover, save for the regulations, which in any case are limited in light of the entirety of the Toricelli and Helms Burton laws, the WTO is a "later in time" statement of the law which should then govern.

The other aspect of legality involves the human rights idea. Here, the real impact on real people of the embargo borders on unconscionable. As the essay has described, the actions have taken a human toll; they affect health, hunger, education, nutrition quite directly. They also affect the right to travel and the right to family life of Cubans in the U.S. who can no longer visit their relatives with regularity nor spend time with them in either times of joy or times of need - although this has been changed dramatically by President Obama' s policy shift.

Economic sanctions are valuable tools for protecting human rights. The U.S. has used sanctions to discourage human rights violations. Examples include the U.S. ban of South African gold Krugerrands in 1985 to protest apartheid148, the blockage of Nicaraguan imports to deter terrorist acts of the Sandinista regime,149 the prohibition of foreign aid to Burma to oppose the government's use of forced labor,'50 and the 1989 denial of MFN status against China to protest the killing of pro-democracy protestors in Tiananmen Square to name a few.' 51

The U.S. is not alone in this approach. In fact, human rights violations have resulted in states jointly taking economic sanctions through the UN Security Council. Examples include NATO states' 1986 sanctions against Libya as a result of Moammar Ghadafi's support for the terrorist killing of 279 passengers aboard a U.S. airline bombed over Lockerbie and 1990 Iraq sanctions for its invasion of Kuwait.

The Cuba sanctions, however, reflect another aspect of economic sanctions: their deleterious and harmful effects on civil society, the innocent citizenry of the targeted country. By depriving citizens of the benefits of trade, of travel, of family life; by creating circumstances in which people's health, nutrition, standard of living and overall welfare are negatively affected, sanctions have effected serious denials of human rights - a moral if not legal failure.

Holmes 10 MA The School of Continuing Studies, Georgetown [Michael G. Holmes, SEIZING THE MOMENT, https://repository.library.georgetown.edu/bitstream/handle/10822/553334/holmesMichael.pdf?sequence=1]

From an image stand point repealing the sanctions and removing the embargo is symbolic. It shows Cuba and the world that although the United States is pro democracy, it does not wish to impose its values on other nations. The Cuba Democracy Act was an attempt to force democratic changes in Cuba.10 By repealing the act the United States, illustrates that it respects the sovereignty of nations. Considering that this Act did allow for the application of U.S. law in a foreign country11, repealing it not only sends the message about U.S. views on sovereignty but also shows that the administration is taking steps to ensure that sovereignty is actually respected.

Repealing the Helms-Burton Law will certainly stimulate foreign investment in Cuba as well. Many foreign countries were leery of investing in Cuba out of fear of being sued or losing property under the provisions established by the Helms-Burton Act.12 This return of foreign investment will further secure Cuba's place in the global marketplace. It also will help to silence skeptics who will question U.S. intentions. Since the sanctions against Cuba were unilateral U.S. actions, an unsolicited change in course will undoubtedly spark speculation. Allowing all countries to invest in Cuba again underscores the United States' position of desiring for all countries to participate in the global market place. It is difficult to imagine that the benefits of lifting the embargo will not be immediate and substantial in regards to the United States reputation in the world. Looking at the long-term benefits of removing the sanctions, the two benefits that stand out the most are trade and fuel.

### US Shouldn’t Remove Cuban Embargo

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Conclusion

Since its inception, the Cuban embargo has ebbed and flowed in severity and support. While the measure seems to be increasingly unpopular, it takes legitimate aim at a Cuban regime characterized by intolerance and oppression. Though the Castros utilize the embargo as a scapegoat upon which to blame Cuba’s failures,94 recent changes suggest the embargo is indeed close to accomplishing its goals.95 Despite this, critics, including U.S. oil producers, want the embargo dropped. Regardless of criticism, the embargo must remain in place until its goals are met. Environmental fears can be effectively countered through bilateral response and preparation agreements with Cuba. Also, economic and energy needs are more properly addressed through drilling U.S. resources. Ultimately, with the aid of legislation such as Buchanan’s bill, the United States should exercise its political and economic power to pressure foreign companies to avoid offshore drilling in Cuba. The United States can dissuade foreign investment without compromising the embargo. It appears an end to oppressive communist rule in Cuba is nearing. Now is the time for the United States to both reject offshore drilling in Cuba and demonstrate resolve in meeting the goals of the economic embargo.

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This tension between the sound conclusions of public health surveys of countries targeted by sanctions and the uncertain attribution of responsibility for human rights violations underscores the need for more reflection on the relationship between health and human rights. There can be no doubt that the civilian populations in targeted countries are victims of human rights violations. The Committee on Economic, Social and Cultural Rights authoritatively declared that "the inhabitants of a given country do not forfeit their basic economic, social and cultural rights by virtue of any determination that their leaders have violated norms relating to international peace and security."42 While it is necessarily true that violations are committed by perpetrators, the principles of accountability for the human rights violations resulting from sanctions do not clearly identify the perpetrators or the consequences they should bear. Therefore, a more fruitful avenue is reform of sanctions to avoid such violations.

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Lifting the embargo would be no panacea. Other countries invest in and trade with Cuba to no obvious political impact. And the lack of widespread economic reform makes it easier for the regime rather than the people to collect the benefits of trade, in contrast to China. Still, more U.S. contact would have an impact. Argued trade specialist Dan Griswold, “American tourists would boost the earnings of Cubans who rent rooms, drive taxis, sell art, and operate restaurants in their homes. Those dollars would then find their way to the hundreds of freely priced farmers markets, to carpenters, repairmen, tutors, food venders, and other entrepreneurs.”

The Castro dictatorship ultimately will end up in history’s dustbin. But it will continue to cause much human hardship along the way.

Perez 10 (David A. Perez, J.D. 2010, Yale Law School, “America's Cuba Policy: The Way Forward: A Policy Recommendation for the U.S. State Department,” Spring 2010, Harvard Latino Law Review 13 Harv. Latino L. Rev. 187)

Use the Embargo as a Bargaining Chip After conducting some initial discussions, both countries can then move on to the embargo. No one argues that the embargo is an effective foreign policy, because it has clearly failed to bring about real reform on the island; the only argument for maintaining the embargo is that it can be used as a bargaining chip for more dialogue - not that in its current state it can lead to a better situation. Put differently, the embargo is only valuable to the extent that its removal can be part of a quid pro quo strategy - not that its maintenance will lead to fundamental reform on the island. n82 This reveals a bifurcated myopia that affects both sides of the debate. On the one hand those who support the embargo as a negotiating chip often gloss over the fact that its continuation will not lead to regime change. On the other hand, those who focus on the embargo's inability to topple the regime and instead support lifting the embargo unconditionally, generally give too little weight to the embargo's value during diplomatic negotiations. The Helms-Burton legislation lays out the rather onerous conditions that must be met on Cuba's end before the U.S. can begin restoring diplomatic relations. n83 The significance of Helms-Burton's restraints cannot be overstated: while a particular president's rhetoric or a particular resolution's wording might chill diplomatic relations between two countries, Helms-Burton's arduous provisions freeze relations. The onus to thaw that freeze is properly placed upon Washington, rather than Havana. It is therefore incumbent upon the United States to change its own laws before any rapprochement with Cuba can begin. Invariably the debate surrounding America's embargo revolves around its solvency: has it worked? The question should instead be reworded to ask: will current U.S. policy work from here on out to achieve certain definable interests? The United States sold the island over $ 700 million in goods in 2008, accounting for 40% of the island's agricultural imports. n84 That number seems to indicate that Cuba's trading relationship with the U.S. is not of [\*217] trivial importance to the island's leadership. However, the strength of this relationship may steadily diminish relative to other trading partners in the next few years. For example, over the next five to seven years Cuba will have an increased energy productivity stemming from its coastal drilling operations that will bring it closer to Spain, Canada, Norway, Brazil, and India. n85 With these relatively stable flows of capital, Cuba will increasingly become insulated from U.S. economic pressure. The moment to decisively influence Cuba's government through economic pressure may have never existed, but if it did, it has surely passed. The notion that the U.S. can intricately craft Cuba's governmental and domestic policies by applying a combination of economic and political pressure must be rejected either as categorically false, or as an anachronism of the early 1990s. During her confirmation hearings, Secretary of State Hillary Clinton said "that it is not time to lift the embargo on Cuba, especially since it provides an important source of leverage for further change on the island." n86 Secretary Clinton is correct: the embargo definitely provides a valuable bargaining chip during negotiations, and should not be lifted unconditionally. But given this evidence, the Obama Administration should be suspect of claims that the embargo gives the U.S. decisive leverage over Cuba.