

## EMBRACING A 21<sup>ST</sup> CENTURY PLANNING MARXISM MODEL: THE CUBAN COMMUNIST PARTY CONFRONTS CRISIS, CHALLENGE AND CHANGE IN ITS 7<sup>TH</sup> CONGRESS

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The 7<sup>th</sup> Congress of the Cuban Communist Party (PCC) was held just weeks after the historic visit of United States president Obama to celebrate the normalization of relations between the Republics of the United States and Cuba.<sup>1</sup> The official press of China described the 7<sup>th</sup> PCC Congress as a great success.<sup>2</sup> More importantly, it celebrated that success in terms that profoundly resonate in China—reform and opening up that preserves the socialist path and the vanguard role of the ruling party.<sup>3</sup> From this perspective, the great success of this Congress was ultimately capped by its transitional aspects. With echoes of Chinese wariness of cults of personality and entrenched leadership, the reports of the 7<sup>th</sup> PCC Congress focused on the ability of the vanguard Party to prepare for a succession of leadership—and survive. “This Seventh PCC Congress will be the last led by

the historic generation,” Castro said at the closing ceremony of the four-day party congress, where delegates gave his brother, revolutionary leader and former President Fidel Castro a standing ovation.”<sup>4</sup>

Yet, the 7<sup>th</sup> PCC Congress stands in plain contrast to its predecessor. The promise of the 6<sup>th</sup> PCC Congress might have been expected to be realized in the 7<sup>th</sup> PCC Congress, especially in the context of limited political opening up, of planning for a succession, and of a more robust embrace of a distinct macroeconomic model, more market oriented. The opening up to normalization of relations with the United States, and with it the further promise of more robust integration with globalized markets, suggested the possibility of accelerated change, even if it also served to reaffirm the current political framework and the leadership of the emerging architecture of PCC polit-

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1. See, e.g., José de Córdoba, “Post-Obama Visit, Cuba’s Communist Party to Signal Next Steps: Younger generation waiting in the wings for Castro to cede power,” *The Wall Street Journal*, April 15, 2016, available <http://www.wsj.com/articles/post-obama-visit-cuba-communist-party-to-signal-next-steps-1460712601>.

2. Raimundo Urrechaga, *Spotlight: Cuba to Embark on New Reforms After Communist Party Congress*, *Xinhua*, April 20, 2016. Available [http://news.xinhuanet.com/english/2016-04/20/c\\_135297508.htm](http://news.xinhuanet.com/english/2016-04/20/c_135297508.htm).

3. “Reform and opening up” is a specific element of the basic line of the Chinese Communist Party. It references the framework through which “China, socialism and Marxism . . . develop themselves.” Constitution of the Chinese Communist Party, General Program. Available <http://english.cpc.people.com.cn/206972/206981/8188087.html> (“The Party must carry out fundamental reform of the economic structure that hampers the development of the productive forces, and keep to and improve the socialist market economy; it must also carry out corresponding political restructuring and reform in other fields. The Party must adhere to the basic state policy of opening up and assimilate and exploit the achievements of all other cultures.” *Ibid.*).

4. *Ibid.*

ical economy.<sup>5</sup> Instead, the 7<sup>th</sup> PCC Congress appeared to slow the pace of reform and opening up and appeared much less certain of its scope and trajectory than it had a mere five years before. The tone was set by the First Secretary when he suggested that a slow and steady course, with little deviation, should be the guiding principle of the Congress.<sup>6</sup> The First Secretary was able to offer only four items<sup>7</sup>: (1) a review of the slow course of reform from the 6<sup>th</sup> Congress; (2) a five-year plan together with (3) a discussion draft the governing framework for “sustainable and prosperous socialism”<sup>8</sup> going forward, its *Conceptualisation of the Cuban socio-economic socialist development model* (“*Conceptualización*”);<sup>9</sup> and (4) an action plan for PCC engagement in these efforts.<sup>10</sup> “The methodological approach to reform outlined by Castro and highlighted during the debate. . . throws cold water on hopes by some observers that the party gathering would speed up the process of change that began during the sixth congress of 2011.”<sup>11</sup> For sym-

pathetic observers, the sense of anticlimax that marked a congress most notable for its lack of either transparency or popular engagement also pointed to substantial rifts between the leadership and PCC rank and file.<sup>12</sup>

Procedurally, the 7<sup>th</sup> PCC Congress appeared to mark a step back from the openness of the 6<sup>th</sup> Congress. And it offered little by way of political opening up, even an opening up ushering in more robust intra-Party democracy. Most importantly, the 7<sup>th</sup> PCC Congress appeared to fall far short of confronting the economic model reaffirmed in the 4<sup>th</sup> PCC Congress—a model of central planning and Soviet bureaucratic mechanisms substituting for any sort of markets based regulation of economic activity. And the 7<sup>th</sup> PCC Congress appears to test the value that can be derived from U.S.-Cuba normalization.<sup>13</sup> Yet, it was also made clear that the 7<sup>th</sup> PCC Congress was meant as a starting point rather than an ending point

5. See, e.g., Mimi Whitefield, “Cuba’s Communist Party Congress wants change, but also more of the same,” *The Miami Herald*, April 18, 2016, available <http://www.miamiherald.com/news/nation-world/world/americas/cuba/article72522672.html>.

6. Raúl Castro Ruz, El desarrollo de la economía nacional, junto a la lucha por la paz y la firmeza ideológica, constituyen las principales misiones del Partido; Informe Central al 7mo. Congreso del Partido Comunista de Cuba, presentado por el Primer Secretario del Comité Central, General de Ejército Raúl Castro Ruz, La Habana, 16 de Abril de 2016, Año 58 de la Revolución, at p. 9 (hereafter Raúl Castro, Informe), available <http://www.granma.cu/file/pdf/gaceta/congreso%20pcc.pdf>.

7. See Ibid.

8. See Ibid., p. 3 (“un socialismo próspero y sostenible”). The term “sustainable and prosperous socialism” ought to be read against the much older and well developed concept of “socialist modernization” that has become the cornerstone of Chinese Marxist Leninist political economy. For the Chinese approach, see, Constitution of the Chinese Communist Party, General Program, available <http://english.cpc.people.com.cn/206972/206981/8188065.html>. This is taken up again below. The five year plan may be found at pp. 17 et seq. of the document in which the *Conceptualización* is published. It consists of an introduction (ibid., p. 17); guiding principles and thematic hubs for the elaboration of the plan (Ibid); national vision for 2030 (Ibid., p. 18); strategic hubs (Ibid., p. 18), and a discussion of strategic economic sectors (ibid., p. 25).

9. Conceptualización del modelo económico y social Cubano de desarrollo socialista: Plan nacional de desarrollo económico y social hasta 2030: Propuesta de visión de la nación, ejes y sectores estratégicos (hereafter the *Conceptualización*) Available <http://www.thecepe.org/wp-content/uploads/2016/05/Conceptualizacion-del-modelo-economico-PCC-Cuba-2016.pdf>.

10. “Trabajo del partido en cumplimiento de los objetivos aprobados en la primera Conferencia Nacional y de las Directrices del Primer Secretario del Comité Central.”

11. Mimi Whitefield, “Cuba’s Communist Party Congress Wants Change, But Also More of the Same,” *The Miami Herald*, April 18, 2016. Available <http://www.miamiherald.com/news/nation-world/world/americas/cuba/article72522672.html>.

12. See, Marce Cameron, “Cuban Communist Party to Launch Post-Congress Debate Among Divergent Visions,” *Green Left Weekly*, May, 9, 2016. Available <https://www.greenleft.org.au/node/61736>. See also “Cuba’s Future Economic Model in Spotlight at Party Congress,” Univision (via AP) April 16, 2016. Available <http://www.univision.com/univision-news/latin-america/cubas-future-economic-model-in-spotlight-at-party-congress>.

13. That testing is discussed in Larry Catá Backer, “On U.S.-Cuba Normalization,” *Opinio Juris* (Jan. 5, 2015), available <http://opiniojuris.org/2015/01/05/guest-post-cuban-normalization/>.

of discussion.<sup>14</sup> The extent to which that actually happens remains to be seen.

This paper considers the potential and the missed opportunities of the 7<sup>th</sup> PCC Congress. After this Introduction, the next part considers the process aspects of the 7<sup>th</sup> PCC Congress. A close reading suggests the limits of reform in Cuba. These limits are structural as well as ideological. Structural limits are exacerbated by an entrenched *nomenklatura* that is fearful that ideological change will subvert the authority of the PCC and its political framework. Ideological limits are suggested by a political timidity that has been built into the operating culture of the PCC. The paper then considers the substantive consequences of the reform trajectory of the 7<sup>th</sup> PCC Congress. To that end it attempts a close reading of the major ideological product of the 7<sup>th</sup> Congress, its *Conceptualización*<sup>15</sup> which is intended to complement the Guidelines (Lineamientos) of the 6<sup>th</sup> PCC Congress, and provide the theoretical foundation for its further implementation. Adopted in principle,<sup>16</sup> the *Conceptualización* serves to answer the question: what sort of theoretical model will guide the development of Socialism in Cuba. The *Conceptualización* is of particular interest for its potential divergence from the construction of Chinese post-Soviet Socialist Market theory within the context of socialist modernization. And so the paper ends with a consideration of the deviations that the Conceptualization suggests from what had been the mainstream of Marxist development—Asian Markets Marxism.

Both the deviation of form from the 6<sup>th</sup> PCC Congress as well as the thrust of the *Conceptualización* ap-

pear to make it clearer that the PCC is finding it hard to move even from soviet style central planning ideologies to Marxist market ideologies that have proven more successful in other states. That may have consequences not merely for the trajectory of reform—ironically it may be easier to effect limited political reform than economic reform at this time—but also its scope. The PCC is suffering from a paralysis that may be more dangerous to its long term authority than any machinations originating in its enemies.

### THE PROCESS OF THE 7<sup>TH</sup> PCC CONGRESS: A STEP BACK FROM A VANGUARD PARTY?

On the eve of the start of the 7<sup>th</sup> PCC Congress, and in the wake of the state visit of the U.S. President to Cuba, there was a sense, not of expectancy in the wake of the great reform and opening up efforts of the 6<sup>th</sup> Congress, but rather of uncertainty and caution. “There should not be any big surprises, says Omar Everleny, a leading Cuban economist”; It seems as if nobody knows what to expect—except very little,” a Western diplomat said after speaking with senior Cuban officials.<sup>17</sup> And, indeed, the old habit of looking to the United States as a source of the failures of Cuban policy lingered well into the start of the 7<sup>th</sup> Congress itself.<sup>18</sup> “At the opening of the PCC Congress, President Raúl Castro warned of Washington’s attempts to weaken Cuba’s socialism. “We cannot ignore the influence of powerful foreign forces who call for the empowerment of non-state forces, to try and create agents of change in hopes of ending the revolution and socialism in Cuba,” he

14. Oscar Sánchez Serra, “El Congreso no se acabó,” *Granma, Edición especial*, May 14, 2016, p. 32, available <http://www.granma.cu/file/pdf/gaceta/congreso%20pcc.pdf>.

15. *Conceptualización*, supra..

16. See, “Resolución sobre el Proyecto de Conceptualización del Modelo Económico y Social Cubano de Desarrollo Socialista,” *Inter-Press Service en Cuba*, April 19, 2016, available <http://www.ips cuba.net/archivo/resolucion-sobre-el-proyecto-de-conceptualizacion-del-modelo-economico-y-social-cubano-de-desarrollo-socialista-2/>.

17. José de Córdoba, “Post-Obama Visit, Cuba’s Communist Party to Signal Next Steps.”

18. See, e.g., Jon Lee Anderson, “Cuba After Obama Left,” *The New Yorker*, April 1, 2016 available <http://www.newyorker.com/news/daily-comment/cuba-after-obama-left>. But see, Marc Frank and John Paul Rathbone, “Cubans Look to Communist Party Congress for Evidence of Reforms: A Month After Obama’s Historic Visit, Disenchantment Over Reform is Setting In,” *Financial Times*, April 16, 2016, available <http://thecubaneconomy.com/articles/2016/04/cubans-look-to-communist-party-congress-for-evidence-of-reforms-a-month-after-obamas-historic-visit-disenchantment-over-reforms-is-setting-in/>.

said.<sup>19</sup> And on the issue of human rights, the First Secretary offered a sort of comparison with the United States, noting that the United States adhered to far fewer human rights treaties than Cuba.<sup>20</sup>

But uncertainty and caution also produced a return to past patterns of behavior, and provided a basis for the re-emergence of past fears.<sup>21</sup> These were expressed not just in the signaling effectuated through the leadership appointments, but also in the process leading to the 7<sup>th</sup> Congress itself and the substance of its work. In February 2015 Raúl Castro, while presiding over the PCC's Central Committee, approved plans to begin preparation for the commencement of several programs to be established from 2015 to 2018 pursuant to the PCC's 6<sup>th</sup> Party Congress.<sup>22</sup> Among these programs was preparation for the PCC's 7<sup>th</sup> Congress, which was scheduled to be celebrated from April 16–18, 2016.<sup>23</sup> According to the XIII Plenary of the PCC's Central Committee, the themes teed up for debate at the 7<sup>th</sup> Congress were: the Conceptualization of the Cuban Social and Economic Model of Socialist Development, the Program of Social and Economic Development until 2030, which was directed to solve structural problems of the Cuban economy by governmental policies with

an integral and sustainable focus, and an evaluation of the results of the implementation of the Economic and Social Policy Guidelines (Lineamientos) (of which 21% of the 313 have been implemented within the last five years and 77% are still in the process of being implemented), as well as their upgrading.<sup>24</sup>

Almost a year later after the announcement that the 7<sup>th</sup> Congress would take place, the PCC Central Committee's XIII Plenary reviewed the documents, which were not released to the public until after the conclusion of the 7<sup>th</sup> Congress itself.<sup>25</sup> Party organs announced in January 2016 that the Plenary PCC's Central Committee held that month had considered all of the documents that would eventually be presented to the 7<sup>th</sup> Congress. With respect to what would emerge as the *Conceptualization*, it was reported that a consensus had emerged about the value of memorializing the fundamental principles of the Cuban Marxist Leninist order to serve as a guide for future reform.<sup>26</sup> But consensus around the need to develop such a conceptual basis for Cuban Marxist Leninism did not produce consensus as to its form. It was reported that a substantial number of comments were received and would be reviewed as part of the process of finalizing the document for the 7<sup>th</sup> Con-

19. "Cuban FM Slams Obama's Visit as Attack on Island's History, Culture," *New China (Xinhua)*, April 20, 2016, available [http://news.xinhuanet.com/english/2016-04/20/c\\_135294353.htm](http://news.xinhuanet.com/english/2016-04/20/c_135294353.htm). Referencing a quote from Castro, *Informe*, supra, p. 7 ("No somos ingenuos ni ignoramos las aspiraciones de poderosas fuerzas externas que apuestan a lo que llaman el "empoderamiento" de las formas no estatales de gestión, con el fin de generar agentes de cambio en la esperanza de acabar con la Revolución y el socialismo en Cuba por otras vías" made in the context of an introduction to the principles underlying the *Conceptualización*.)

20. Castro, *Informe*, p. 8.

21. "Fidel's Last Stand: The Cuban Communist Party Blocks Change," *The Economist*, April 30, 2016 (retention of status quo in leadership choices). Available <http://www.economist.com/news/americas/21697888-cuban-communist-party-blocks-change-fidels-last-stand>. That this might have been expected in the wake of the potential of the draft Lineamientos before the start of the 6th Congress had been predicted. See, e.g., Larry Catá Backer, *Order, Discipline and Exigency: Cuba's VIth Party Congress, the Lineamientos (Guidelines) and Structural Change In Education, Sport and Culture?*, in *Papers and Proceedings of the Twenty-First Annual Meeting of the Association for the Study of the Cuban Economy (ASCE)* 21:148–170 (2011); available <http://www.ascecuba.org/publications/proceedings/volume21/pdfs/backer.pdf>.

22. *En abril de 2016 tendrá lugar el VII Congreso del Partido Comunista de Cuba*, CUBA DEBATE, February 23, 2015, <http://www.cubadebate.cu/noticias/2015/02/23/en-abril-de-2016-tendra-lugar-el-vii-congreso-del-partido-comunista-de-cuba/#.VunUsuIrLcs>.

23. *Id.*

24. *VII Congreso PCC*, CONGRESOS DEL PCC, <http://congresopcc.cip.cu/congresos/vii-congreso-pcc> (last visited March 17, 2016).

25. *Evaluó Pleno del Comité Central documentos que serán debatidos en el VII Congreso del Partido*, GRANMA, January 15, 2016, <http://www.granma.cu/cuba/2016-01-15/evaluó-pleno-del-comité-central-documentos-que-seran-debatidos-en-el-vii-congreso-del-partido-15-01-2016-00-01-11>.

26. *See id.*

gress.<sup>27</sup> The Central Committee also reviewed the Program of Social and Economic Development until 2030, which is designed to solve structural problems of the Cuban economy.<sup>28</sup>

By the end of February 2016, the documents that would be submitted for consideration and approval at the 7<sup>th</sup> Congress began to be reviewed across all the Cuban provinces.<sup>29</sup> Several members of the National Assembly, members of the UJC, mass and social organizations, representatives from FAR and MININT, among others, took part in these reviews.<sup>30</sup> However, some of these documents were not released to the general public. Among the most important of these non-circulating documents was the *Conceptualization* itself, despite assurances that the general population's input would be solicited. This approach stood on contrast to the free circulation of the new Labor Code and the Lineamientos that were circulated in draft form before they were presented to the delegates of the 6<sup>th</sup> Congress.<sup>31</sup> Much of the online commentary has been critical of this decision of not allowing the general population access to these vital documents.<sup>32</sup> What emerged was a determination by the senior PCC organs to keep a tight control over the development of the *Conceptualización* itself, with the object of then presenting the finished product for consideration by the masses, including the masses of PCC cadres. In effect, there would be no

engagement with the development of the *Conceptualización*, only commentary after its fundamental principles were adopted and used as the basis for the document itself. To some extent, then, the process produced a very public repudiation of the sort of interaction that had marked earlier reforms—returning substantial authority and control to the senior levels of the PCC.

The preparatory process leading up to this 7<sup>th</sup> Congress stands in pronounced contrast with the previous Congress with regards to the disclosure of documents that would be discussed during the Congress and the lack of public input. And indeed, the 7<sup>th</sup> Party Congress appears more aligned with the forms of earlier Congresses than with what now appears the more aberrational 6<sup>th</sup> Congress. The differences are highlighted in the chart that appears at Annex A.

When Raúl Castro invoked the VI Congress on November 8, 2010, he made clear that the Congress would not only be a meeting of those who were selected as delegates, he also announced that the militancy and the entire population would be part of the process of discussion leading up to the VI Congress regarding the Lineamientos or decisions that were to be adopted in said Congress.<sup>33</sup> As opposed to the secretive 7<sup>th</sup> Congress, the 6<sup>th</sup> Congress, as the current president of Cuba described it, would be a Congress of the entire militancy and of the people of Cuba,

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27. *Ibid.*

28. *Ibid.*

29. See *Comienza hoy reunión de consulta de los documentos que se someterán al Congreso del Partido*, GRANMA, February 29, 2016, <http://www.granma.cu/cuba/2016-02-29/comienza-hoy-reunion-de-consulta-de-los-documentos-que-se-someteran-al-congreso-del-partido-29-02-2016-23-02-42>.

30. See *id.*

31. See Miriam Leiva, *A dos meses del VII Congreso del PCC*, CUBANET, February 16, 2016, <https://www.cubanet.org/opiniones/a-dos-meses-del-vii-congreso-del-pcc/>.

32. See e.g., Eduardo Ortega, Comment to *Reuniones de consulta de documentos del Congreso del Partido comienzan hoy en Cuba*, CUBA DEBATE (March 1, 2016, 1:14 PM), <http://www.cubadebate.cu/noticias/2016/03/01/reuniones-de-consulta-de-documentos-del-congreso-partido-comienzan-hoy-en-cuba/#.Vu3Ub-IrJhE>; LR, Comment to *Reuniones de consulta de documentos del Congreso del Partido comienzan hoy en Cuba*, CUBA DEBATE (March 1, 2016, 1:15 PM), <http://www.cubadebate.cu/noticias/2016/03/01/reuniones-de-consulta-de-documentos-del-congreso-partido-comienzan-hoy-en-cuba/#.Vu3Ub-IrJhE>; Rafael, Comment to *Comienza hoy reunión de consulta de los documentos que se someterán al Congreso del Partido*, GRANMA, (March 1, 2016, 1:35 PM), <http://www.granma.cu/cuba/2016-02-29/comienza-hoy-reunion-de-consulta-de-los-documentos-que-se-someteran-al-congreso-del-partido-29-02-2016-23-02-42>. There are many similar comments regarding the disclosure of these documents throughout Cuban online news engines.

33. See Raúl Castro, *Convocatoria al VI Congreso del Partido Comunista de Cuba*, GRANMA, November 8, 2010, <http://www.granma.cu/granmad/secciones/6to-congreso-pcc/artic-01.html>.

who would “actively participate in the adoption of the fundamental decisions of the Revolution.”<sup>34</sup> As a matter of fact, the Lineamientos were published the day after Raúl’s declaration that the VI Congress would take place. In that same declaration Raúl also detailed how the Lineamientos would be made available, and in fact, these Lineamientos were “massively” discussed from December 2010 to February 2011 in workplaces, schools and in communities.<sup>35</sup>

And indeed, key documents were not ready to be presented at the 7<sup>th</sup> Congress itself. Rather than receive and adopt the documents, the 7<sup>th</sup> Congress was reduced to adopting documents in principle, awaiting circulation for a time after the conclusion of the Congress. The resolution adopting the *Conceptualización* was made up of several instructions.<sup>36</sup> First, the 7<sup>th</sup> Congress approved the “Proyecto de Conceptualización del Modelo Económico y Social Cubano de Desarrollo Socialista con las modificaciones incorporadas.” Second, it charged the PCC Central Committee with the development of a consultation, but open to “todos los militantes del Partido y la Unión de Jóvenes Comunistas, representantes de las organizaciones de masas y de amplios sectores de la socie-

dad.” Third, it authorized the PCC Central Committee to approve a final version of the *Conceptualización* incorporating changes from the consultation process. Fourth, it recommended to the National Assembly that they adopt the *Conceptualización* so approved and monitor its implementation. Fifth, and last, it instructed the PCC Central Committee to develop a process of study of the final version among cadres, use the final version to guide mass organizations, and ensure that the document serves as a guide for economic reform.<sup>37</sup>

The documents were made available in May 2016. But they were not distributed free.<sup>38</sup> The PCC determined that consultation among its cadres would occur between May and September 2016.<sup>39</sup> The kick off was staged with cadres of the biotech sector—among the most sensitive sectors of the developing economy.<sup>40</sup> The state media organs were at some pains to paint this consultation as evidence of the form of democracy that is developing in Cuba.<sup>41</sup> “A partir de hoy y hasta el 20 de septiembre se desarrollará en todo el país un debate democrático, en el que participarán directamente millones de cubanos.”<sup>42</sup> For students of Chinese Communist development, there was an echo of recent efforts to theorize endogenous democracy, but in quite attenuated and dis-

34. *See id.*

35. *See Comienza hoy el Sexto Congreso del Partido*, GRANMA, April 16, 2011, <http://www.granma.cu/granmad/secciones/6to-congreso-pcc/artic-02.html>.

36. “Resolución sobre el Proyecto de Conceptualización.”

37. *Ibid.*

38. The price of the document was de minimus—one Cuban peso—but in a country where most people have very little income, even a small price could act as a barrier to purchase. Most likely fewer copies were sold than shared or otherwise made available to especially poorer communities. Moreover, among those with means, copies of the document were posted on line.

39. See, María del Carmen Ramón, Ismael Francisco, “Biotecnología cubana debate el futuro del país: arranca discusión de documentos del VII Congreso del PCC,” *Cubadebate*, June 16, 2016, available <http://www.cubadebate.cu/noticias/2016/06/16/biotecnologia-cubana-debate-el-futuro-del-pais-arranca-discusion-de-documentos-del-vii-congreso-del-pcc-fotos-y-video/#.V5aGdI5vFo4>.

40. *Ibid.*

41. One of the leaders of that sector was quoted to that effect: “La discusión la abrió un hombre que ha hecho historia en los últimos años en Cuba: Jorge Berlanga, científico cubano líder del equipo creador del medicamento Herberprot-P. “El hecho de que este documento pueda sufrir modificaciones en el camino, que transite desde el punto en que se elaboró por profesores universitarios, académicos y políticos al nivel de la base, es una muestra elocuente de la democracia que existe en Cuba y un excelente referente en términos de conceptualizar la sociedad a la que aspiramos llegar”, afirmó frente a sus colegas y su intervención rompió el hielo ante los reunidos en el teatro de esta institución, que está próxima a cumplir los 30 años de fundada.” *Ibid.*

42. “Editorial de Granma: Un debate por el futuro de Cuba,” *CubaDebate*, June 14, 2016, available <http://www.cubadebate.cu/noticias/2016/06/14/editorial-de-granma-un-debate-por-el-futuro-de-cuba/#.V5aJso5vFo4>.

tinct form.<sup>43</sup> These also underline arguments deployed during the development of the Lineamientos; yet here the post facto efforts do not quite match the more vigorous version that occurred in 2010–2011 in the prelude to the 6<sup>th</sup> Congress. Yet the contrast was not lost on critics: “Right now, the preparations for the 6<sup>th</sup> Congress appear in comparison to be the very model of democracy.”<sup>44</sup> For all that, it must be emphasized that in either case, the PCC retained substantial control of both the scope of debate and reserved to itself the power to weigh and incorporate suggestions as it saw fit. The democratic element here focused on engagement and participation—paired with the obligation of PCC officials to do their duty and listen, but always constrained by the ideological foundations on which the state is organized. Where, as here, that ideological foundation is itself not the subject of debate, then it is likely that the resulting product will reflect a specific viewpoint of Marxism and Leninism in Cuba.

And, indeed, that frustration seemed to run through the wide criticism of the consultation process both within and beyond Cuba.<sup>45</sup> Some analysts have sug-

gested that the 7<sup>th</sup> Congress effectively conformed the failure of the Lineamientos project (only about 21% of which have been implemented), requiring a new set of guidelines that better align with lower expectations.<sup>46</sup> And, indeed, in an effort to please both the reformers and hard liners it is likely that future plans will serve little practical effect. Others have focused on the uncertainty surrounding the 7<sup>th</sup> Congress that “seems designed to encourage public indifference.”<sup>47</sup> Some criticism was directed as well as the asymmetry in representatives to the Congress, most from the countryside in a state in which the majority of the population are urban dwellers.<sup>48</sup> And indeed, the criticism that ought to worry PCC leaders most is the one they are least able to meet—that the current system is Marxist Leninist in name only, or conversely, that the Marxism Leninism they are theorizing is, in any case obsolete; the recognition of both led to the lack of transparency in the *Conceptualización* project.<sup>49</sup> The failure to meet this criticism will pose more damage internally than any outside efforts by the United States to “destabilize” the current governmental apparatus.

43. For discussion, see, Larry Catá Backer, “Crafting a Theory of Socialist Democracy for China in the 21st Century: Considering Hu Angang’s Theory of Collective Presidency in the Context of the Emerging Chinese Constitutional State,” *Asian-Pacific Law and Policy Journal* 16(1):29–82 (2014).

44. Rogelio Manuel Díaz Moreno, “Cuba’s Secretive 7th Communist Party Congress,” *Havana Times*, March 8, 2016. Available <http://www.havanatimes.org/?p=117223> (“What we take away from and confirm with these levels of secrecy is, once again, how terrified Cuban authorities are by transparency, and their lack of democratic will.”)

45. “Cuban leaders criticize both bureaucracy and private sector,” Fox News, April 18, 2016, available <http://www.foxnews.com/world/2016/04/18/cuban-leaders-criticize-both-bureaucracy-and-private-sector.html> (“The congress has been criticized for its extreme secrecy by ordinary Cubans and even members of the Communist Party itself.”)

46. See, e.g., Albright, Stonebridge Group, Cuba’s 7<sup>th</sup> Party Congress, April 20, 2016, available <http://www.albrightstonebridge.com/files/ASG%20-%20Cuba%20Party%20Congress%20Update.pdf> (“Because many of the objectives outlined in the 2011 Guidelines have not yet been accomplished, the Congress approved a resolution to update the Guidelines for 2016–2021, paving the way for its long-term economic and social vision. The new document, which will need to be approved by the National Assembly, is expected to include 286 guidelines, 44 of which are new and 193 of which are modified versions of previous reforms.” Ibid., p. 3).

47. Rogelio Manuel Díaz Moreno, “Cuba’s Secretive 7th Communist Party Congress.” (“These days, a well-designed campaign aimed at keeping public opinion at bay prior to the next congress seems to be in place. This campaign has been able to rely on the population’s more pressing concerns, such as the galloping inflation affecting produce and livestock products.”)

48. Ibid. (“Cuba’s *Granma* newspaper reports that the majority of the representatives who will take part in the coming congress come from the farm sector. This will allow the congress to reflect the country’s reality, this official newspaper claims. However, we know that more than 70% of Cuba’s population was born or resides in cities. The country’s predominant economic sector is that of services. Since, as we know, the instances where representatives are selected are chosen “at the top,” the makeup of these congress participants smells like manipulation.”)

49. Osmel Ramírez Álvarez, “Behind the Curtains of Cuba’s Communist Party Congress.” (“Lacking any practical connections to the now-obsolete Marxist-Leninist doctrine, they met up with government philosophers and political scientists to engender a kind of politico-ideological platform, under their censorious gaze.”)

More sympathetic critics noted that the representation problem had another dimension: exposing a rift between leadership and rank and file even within the PCC itself.<sup>50</sup> One report notes that a prominent Party member “complained that ‘for months’ he’d been asking for the Congress documents, to no avail. This would be a congress of party functionaries rather than the grassroots ‘which I consider to be the real party,’ he added.”<sup>51</sup> When, in an editorial in late March, *Granma* published a set of justifications, grounded in its sense that there was no need for consultation because so few of the Lineamientos had been implemented and because in any case the 1000 delegates to the Congress and selected others had already given comments,<sup>52</sup> the response was not entirely supportive.<sup>53</sup> Beyond that, the lack of transparency and the appearance of uncertainty within the leadership was troubling. As well what had started as a conceptual complement to the Lineamientos, turned into a site for conflict among PCC factions that threatened the Congress itself.<sup>54</sup>

**THE SUBSTANCE 7<sup>TH</sup> PCC CONGRESS:  
REFORM AND OPENING UP OR  
OSSIFICATION IN THE ADVANCEMENT OF  
SOCIALIST MODERNIZATION**

Raúl Castro clearly set forth the ideological conundrum that Cuba finds itself in the wake of the “re-

form and opening up” of the 6<sup>th</sup> PCC Congress and the normalization of relations with the United States. Cuban ideology was a prisoner of its historical and geo-political context.<sup>55</sup> The great conceptual enemy was the United States and its ideologies of markets, of capitalism and of hegemony, pursued through the construction of a globalized economic order.<sup>56</sup> The goal of the United States was to subvert the Cuban state and its ideology (“por una perversa estrategia de subversión político-ideológica que atenta contra las esencias mismas de la Revolución y la cultura cubana, la historia y los valores que en ella se han forjado”).<sup>57</sup>

Castro proposes what to outsiders might appear to be a reactive ideological framework. Gone are the days of an assertive ideology fully confident in itself and its place both within the specific context of Cuba and generally within the world of theory—and specifically of Marxist Leninist theory. In its place the caution of those who come to reform and opening up reluctantly—as something that must be accomplished, but must be undertaken purely as a defensive reaction to changed circumstances. The approach, then, is at once tentative and suspicious—with a subtext of longing for historical conditions that might never be restored. That approach distinguishes the Cuban engagement with Marxist Leninist theory development (within the specific context of Cuba) almost the op-

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50. Marce Cameron, “Cuban Communist Party to Launch Post-Congress Debate Among Divergent Visions.”

51. Ibid. (“In a similar vein, on March 27, PCC activist Francisco ‘Paquito’ Rodriguez published an Open Letter to Raúl Castro on his personal blog. ... Rodriguez objected to “the lack of discussion of the key Congress documents—which are still shrouded in secrecy—in both the grassroots Party committees and among the rest of the citizenry”).

52. This was a position reiterated by Raúl Castro in his opening remarks to the Congress. See Castro, *Informe*.

53. Marce Cameron, “Cuban Communist Party to Launch Post-Congress Debate Among Divergent Visions.” (“As usual, readers submitted comments to the online version of the *Granma* editorial. Most touched on the controversy.”)

54. Ibid.

55. Raul Castro, *Informe*, p. 9.

56. Ibid.

57. Ibid.

posite of the foundation for theorizing in China.<sup>58</sup> For the Chinese, evolving theory provides a path toward the objective of its role as a Leninist vanguard Party;<sup>59</sup> for the PCC, on the other hand, the protection of the victories of 1959 and the pre-1989 political economy remains the foremost objective.<sup>60</sup> It is with this framework in mind, and with a sensitivity to its fundamental difference in approach from the Marxist Leninist line of the Chinese Communist Party, that one can usefully approach the *Conceptualización*.

The *Conceptualización* explicitly takes for its object the task of providing a theoretical referent or guide against which economic reform in Cuba may be tested.<sup>61</sup> Though it is written within the contemporary context of Cuba, it is meant to guide the future society toward which the vanguard aspires. Because its object is the exposition of theory, it does not suggest the means of its implementation—that is left to the Development Plan for 2030 that was also an object for study by the 7<sup>th</sup> Congress. It is meant to synthesize the thought of Fidel Castro and his conceptualization of the revolutionary movement that he embodies, along with the conceptual framework that gave rise to the Lineamientos. As such it is meant to

develop both the basic normative framework but also point forward toward those practices and principles that might require change. In that respect two issues predominate: the first is the fundamental role of societal property, the second is the organization and function of the socialist state.<sup>62</sup> It is divided into four chapters of 311 paragraphs, and a set of short “final considerations” bringing the total to 330 paragraphs.

The Introduction sets the stage (§§ 1–44). It includes what is termed a succinct reference to the present historical moment in which Cuban society finds itself as it proceeds with the task of developing its Marxist model. It ties that historical moment to most significant elements of the process of revolution which preceded it and the principal strengths and weaknesses of the system which Cuba confronts in developing its form of socialism.<sup>63</sup> The Introduction sets out the theory and essential characteristics of the economic model (§2). The fundamental object is to bend theory to the creation of superior alternative to capitalism, and in this way to contribute to the advancement of humanity (§ 8). To that end, the Model is grounded on the essential principle of the consolidation of “socialist property”, which, though coexisting with others forms of property, the func-

58. One need only compare the General Program of the Constitution of the Chinese Communist Party, *supra*, and its articulation of the Chinese Party’s basic line, with the caution and reactive approach of the PCC. In both cases, for example, there is a wariness of the errors and allure of “right” and “left” error in theory. But for the Chinese that is merely a caution as they elaborate Marxist Leninist theory in line with emerging historical stages. For the Cubans, the formative historical stage has been reached, and there is only adjustment to protect its essence against a relentless outside world. The General Program of the Chinese Communist Party, for example, embeds avoidance of left and right error within the more important task of integrating the basic line of reform and opening up with the Four Cardinal Principles, with vigilance against errors of the right but “primarily against ‘Left’ tendencies.” *Ibid.* In Cuba, on the other hand, it is “Right” error that constitutes the greatest fear. See, e.g., Angel Guerra Cabrera, “Cuba: No retornará al capitalismo jamás,” *Cubadebate*, April 21, 2016. Available <http://www.cubadebate.cu/opinion/2016/04/21/cuba-no-retornar-al-capitalismo-jamas/#.V5ZK1LUww44>.

59. The symbolism of “path” or “road” toward the ultimate objective of the vanguard party is embedded in the General Program of the Chinese Communist Party, *supra*. For example, the General Program of the Chinese Communist Party speaks to the “socialist road,” adherence to the “spirit of the times,” and to the fundamental line of “reform and opening up.” The approach suggests that an essential element of Leninist theory is the principle that the task of theory and of the vanguard itself remains under development until the ideal of a communist society can be attained. Reform, then, is built into both theory and implementation.

60. Discussed in Larry Catá Backer, “The Cuban Communist Party at the Center of Political and Economic Reform: Current Status and Future Reform,” *Northwestern Interdisciplinary Law Review* 8:71–129 (2015)

61. *Conceptualización*, Prólogo, p. 3.

62. *Ibid.*

63. *Conceptualización*, Prólogo, p. 3.

tion of which is to move the nation towards a *socialist, prosperous and sustainable society* (§10).<sup>64</sup>

The Model is built on this objectives foundation, the character of which was the product of the Cuban revolutionary experience adjusted for current internal and international conditions (§ 12). The Introduction provides a synthesis of this process of revolutionary learning and experience (§§14–35). This process is undertaken in the shadow of the United States and its hostility, as well as with the intention to produce a system that appears to invert that of the United States. It is also developed in the shadow of the former Soviet Union and a relationship that remains a pleasant memory and a source of inspiration. There is an emphasis on necessity as a driver of Cuban responses to conditions after 1989, leading up to the reform and opening up of the Lineamientos in 2011. Revolution, hostility to the United States, friendship with the Soviet Union, and the stresses of surviving in a post Soviet world provide the crucible within which this Model was forged.

That forging, in turn, produced seven fundamental principles (§§ 37–43) on which the Model is built and the idea of a socialist society, prosperous and sustainable, is developed (§ 36). These include, (a) unity and independence of the Cuban people (§37); (b) popular support of the leadership role of the PCC (§ 38);<sup>65</sup> (c) the universality of social welfare services (§39); (d) the strengthening of Cuban values (§ 40); (e) active engagement of a socialist civil society (§

41); (f) productive capacity to engage in global commerce in specified sectors (§ 42); and (g) augmented international prestige and standing among the community of nations (§ 43). As generalizations, none of these principles are unusual. But some details stand out. The unity of the Cuban people centers attention on Cuban youth and their training to ensure they are proper heirs to the revolutionary traditions set out in the Model (§ 37). Social welfare services are meant to mold the all around individual and to socialize them to serve as the proper heirs of the revolutionary system (§ 39). That Cuban values serve as an important objective of the Leninist enterprise is not unusual.<sup>66</sup>

The construction of a socialist civil society, however, deserves special pause (§ 41). “Civil society” is itself specifically defined.<sup>67</sup> This definition considerably touches on conceptions of the legal effect of human rights norms—particularly with respect to civil and political rights, within Cuban law and politics. What is clear is that when President Obama and Raúl Castro speak about civil society, they mean very different things. That is the case as well when the ideologies of global human rights in business is transposed into the Cuban context.<sup>68</sup> That is possible because the conceptual basis that infuses that term with meaning is quite different for each representative of vastly different systems. Lastly, the principle of international prestige is meant to further Cuba’s South-South relationships and Latin American regional integration, long a policy priority in Cuba (§ 43). These princi-

64. One notes that the terms “sociedad socialista próspera y sostenible” is a term of art further defined in the glosaery of key terms. See, Aceptación De Algunos Términos Utilizados En Los Documentos Que Se Presentaron Al 7mo. Congreso Del Partido.

65. This is a fundamental Leninist principle that remains a cornerstone of such political structures. Compare the Chinese approach in the General Program of the Chinese Communist Party Constitution (“The Four Cardinal Principles to keep to the socialist road and to uphold the people’s democratic dictatorship, leadership by the Communist Party of China, and Marxism-Leninism and Mao Zedong Thought are the foundation on which to build the country. Throughout the course of socialist modernization the Party must adhere to the Four Cardinal Principles and combat bourgeois liberalization.”)

66. Compare China, General Program of the Chinese Communist Party Constitution, supra. (“The Communist Party of China leads the people in developing an advanced socialist culture. It promotes socialist cultural and ethical progress, combines the rule of law and the rule of virtue in running the country and works to raise the ideological and moral standards and scientific and educational levels of the entire nation so as to provide a powerful ideological guarantee, motivation and intellectual support for reform, opening up and socialist modernization.”)

67. See, Aceptación De Algunos Términos Utilizados En Los Documentos Que Se Presentaron Al 7mo. Congreso Del Partido, § 10.

68. Discussed in Larry Catá Backer, “Globalization and the Socialist Multinational: Cuba at the Intersection of Business and Human Rights,” in *Handbook on Contemporary Cuba: Economy, Civil Society, and Globalization* 287–299 (Mauricio A. Font and Carlos Riobó, eds., New York: CUNY/Paradigm Press, 2013).

ples are then refined and elaborated in the chapters that follow. But what is already clear is not merely the affirmation of the Leninist project as a basis of state organization, but more importantly, the primary role of PCC control of the means of production and the project to reshaping the individual to assume a proper role in the society under construction. To these ends both law and regulation will be utilized.

Having established the general normative foundation of the Model, Chapter 1 then focuses more specifically on two broad objectives (§§45–115). The first is to elaborate the specific principles that sustain the economic Model. The second is to specify the transformations necessary to implement these principles. The strategic objective of the chapter is to build a total (an “all around”) Socialist Society (§ 49). The chapter considers the sustainability and prosperity aspects of the socialist Model it seeks to develop. To that extent it represents an elaboration of the more specific definition of sustainability and prosperity in the definition of the terms.<sup>69</sup> *Sustainability* is a function of development of a particular kind—one that requires rhythms and structures (*ritmos y estructuras*) of economic growth (§ 50). *But not just undifferentiated economic growth* but growth compatible with social justice, ecological harmony and the preservation of natural resources and the national patrimony. But these rhythms and structures have a structure—the Lineamientos which provided the implementation framework for the new model of Cuban macro-economics and the politics of social construction and political institutionalization (§§ 50–51). Prosperity is both material and spiritual, the later in the sense of the cultivation of revolutionary consciousness (§ 52), one that can produce a long slow increase in the level and quality of life (§ 53). And that is the ultimate objective of this model, but one which requires the constant hand of the vanguard party to maintain its flow and direction.

This sets the stage for the elaboration of the fundamental principles of the Model (§§ 54–73), and then for the principal transformations in the current system the application of those principles demands

(§§74–87), including the role of non-state property ownership within the Model (§ 88–93), and its perfectibility (§§97–115). The Model posits nine sustaining principles. These represent an elaboration of the basic principles of the Introduction in light of and as a continuation of the essential basis of Cuban socialism (§ 57). One group touches on principles of societal values and structures. The first elaborates socialist human rights and moral values (§ 58). These values are elaborated as the inverse of what is to be avoided (§ 58). The second touches on principles of moral and juridical equality of rights and obligations of citizenship grounded in principles of equal opportunity, antidiscrimination and social justice (§ 68), including a right to work, health, education, sport, and the like (§ 69), to ensure social welfare (§ 70–71). Another emphasizes the Leninist character of the model, positing the leadership of the PCC as the Leninist vanguard party (§ 59). Additional principles touch on the State as the guarantor and source of sovereign authority (§ 61); socialist democracy is exercised through the legislature under the leadership of the PCC (§ 60); and the state as the source of popular rights and obligations through law (§ 62).

More importantly, the Model clearly posits the primacy of state ownership of the means of production as the central element of its political, economic and social model (§ 63). It follows that central planning is a necessary consequence of national ownership of the means of production (§ 67). This relationship between the PCC, the state and productive forces serve as the legitimating source of the Model and its assertion of the democratic character of socialist economics and makes possible the construction of a socialist welfare state (§§ 64–65). The national character of the Model and the shadow of the United States produces a focus on national defense and the defense of the economic system posited against aggression from abroad (§ 66). And both serve to generate obligations on individuals—to defend the homeland (§ 72), and to protect state property and work hard (§ 73). The consequence for law is profound—economic law, at least, is directed inward toward the administration of

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69. See, Aceptación De Algunos Términos, § 1.

the state as it administers the economic life of the nation. Law is institutional self regulation. As such it becomes the means for structuring the bureaucracy and for assigning authority to make the discretionary decisions that are the foundation of a central planning economy. Law does not constrain, it assigns functions and describes the extent of jurisdiction. The patterns and vocabulary of rule of law becomes incomprehensible in this ideological framework.

The second part of Chapter 1 speaks to the points of necessary “transformation.” Though here one must think of transformation more in the form of “perfeccionamiento,” (§§ 74–115) grounded in the contemporary conditions in which Cuba finds itself (§ 75) (and thus suggesting both imperfection and the impermanence of some of the characteristics of the Model). These transformations are divided into three parts. The first touches on the consolidation of the principal role of social property with respect to the fundamental means of production. The necessary conditions for transformation with respect to the fundamental means of production include the creation of a revolutionary working class (§ 80); the modernization of SOEs (organization, technology, innovation (§§ 81–82); application of Socialist distribution to workers (§83); SOE self-financing of development and improvement (§§ 84–85); integrated SOE state ministry planning and direction (§ 86); and a unified currency (§ 87). The most interesting of these transformation is not the expected—those regarding the better management and operation of SOEs, but rather the emphasis on the reconstruction of the working class itself as a means of effective central planning as a substitution for markets.

The second touches on the recognition and diversification of different forms of ownership of property, its management, properly interrelated (§§ 89–96). This includes controlled but enhanced foreign inbound investment—appropriately directed (§ 89). More importantly is its recognition of *complementary role of private property* over specifically designated means of

production which *must be bent to the needs of perfecting the centrally planned economy* (§§ 91–96). It is important to understand the way this substantially constrains the opening of the non state sector that appears to be an important element of the 6<sup>th</sup> PCC Congress. First, the relevance and legitimacy of the non state sector is recognized. But its role is tightly controlled as a complement to the state sector. And it is to be managed in a way that makes clear its subordination to and its utility for the state sector (§ 94). Effectively the idea of markets and markets based economic activity is decisively rejected. This restates an orthodoxy of Cuban Marxist thought that goes back at least to the 1980s.

The third touches on transformations necessary for the perfecting of the socialist state, its systems and management bodies (§§ 97–115). This follows from the principles of state ownership and direction of all of the productive forces of the state, with a complementary and highly regulated role for the non state sector. The state responsible for development of social and economic order (§ 99). Central planning of the economy must control both the state sector and private markets (§§ 101–104). Import substitution and export growth as basic policy (§ 105). And judicial norms to be developed in aid of this system with order and discipline (§ 106). The last echoes and expands Raúl Castro’s call, repeatedly made respecting the culture of labor in Cuba, for work progress that is ordered and disciplined (*con orden y disciplina*).<sup>70</sup> This order and discipline is to be contrasted with the disorder and undisciplined characteristics of markets, and its unsustainable consumerism.

Chapter 2 takes up the issue of the ownership of the means of production (§§ 116–202). Here one comes to one of the central elements of Cuban theory—state ownership. The dominant position of state ownership, when combined with state control (chapter 3) forms the core basis of the theoretical conception of Cuban socialist modernization, whose “perfeccionamiento” is the object of this exercise. This

70. See, Raúl Castro llama a los agropecuarios cubanos a trabajar con orden y disciplina, *Cubadebate* (September 15, 2013) available <http://www.cubadebate.cu/noticias/2013/09/15/raul-castro-llama-a-los-agropecuarios-cubanos-a-trabajar-con-orden-disciplina-y-exigencia/#.V6PhNrUww44>.

stands in marked contrast to the Chinese General Program, whose central object is state management for the purpose of moving Chinese society closer to its ultimate objective—the establishment of a society so rich it can produce a communist social and economic order.<sup>71</sup> The chapter on the ownership of the means of production is divided into two parts.

The first, and longest, identifies and describes the organization of the means of production (§§ 119–191). The most important includes all national socialist property (*propiedad socialista de todo el pueblo*) (§§ 121–157). These constitute the economic backbone of the state economy because of their strategic importance (§§ 123, 125), which are further divided into two categories. The first includes noncommercial enterprises (*las unidades presupuestadas*) (§§ 138–141). These may be operated directly by the state as part of its own government. The second includes commercial enterprises (*entidades empresariales de propiedad socialista de todo el pueblo*) (§§ 142–157). These constitute the state owned enterprises and their production chains over which the state retains control (§ 148). For these enterprises salaries are set by reference to the obligation to satisfy the workers' basic needs (§ 150), and labor collectives participate in its operation (§ 153) under the oversight of the State (§§ 154–157). Additional forms include the labor cooperative (§§ 158–167), of which much has been written.<sup>72</sup> Mixed enterprises (joint ventures) are organized to permit the investment from abroad, subject to substantial control by the state (§§ 168–172). Also, the property of socialist civil society—the mass organization that are both public and private in character—is regulated (§§ 187–191).

Of more interest, perhaps, is the recognition of the legitimacy of private property (§§ 173–186). This form of economic activity must be found to serve a social function (§ 174). It is regulated by law to ensure that it serves as a complement to the state sector for the benefit of the economy as a whole (§ 175). This law provides general objectives and vests state

administrators with wide discretionary authority to implement. This is the essence of the administrative function in central planning economies. Thus wholly foreign owned enterprises may be authorized on a case by case basis (§ 179). As a critical reform, the ability of Cubans to form private enterprises is recognized. But the authority to engage in economic activities in this form is tightly managed to ensure that the non-state sector remains a complementary element to the economic development of the state (§ 177). Cubans may operate such enterprises if they constitute small family businesses (§ 181), and can form small, medium and micro scale with approval (§ 182). Critically, the state reserves to itself the power to constrain the authority to engage in private business activity by regulation that limits the concentration of property and wealth in the hands of private proprietors (§ 179).

The second generalizes principles derived from the organization of production through state enterprises (§§ 192–202). Here the *Conceptualización* recaps the only permitted forms of economic organization (§§ 193–200). It emphasizes the role of law in the constitution of the economic sector organized through these forms of economic enterprise (§§ 199–200). All entities are regulate by law, but subject to the regulatory compliance defined by the State (§ 199). Its basis is State control of juridical persons in all respects through law (§ 201). Lastly, it reserves to the state the assignment of the provision of goods and services by any of these economic actors as it sees fit (§ 202). This last point underlines the subordinate relationship of the market, and of private ordering, to the central planning authority of the State. Both exist as and to the extent permitted and for so long as they remain compatible with the needs of the state as determined by the PCC. Private property, private enterprise and markets remain very much contingent and dependent.

If Chapter 2 deals with state ownership, Chapter 3 elaborates the principle of central planning—the na-

71. See Constitution of the Chinese Communist Party, General Program.

72. Discussed in Larry Catá Backer, "The Cooperative as Proletarian Corporation: Property Rights Between Corporation, Cooperatives And Globalization In Cuba" *Northwestern Journal of International Law and Business* 33:527–618 (2013).

ture of state power over the means of production in the service of socialist economics (§§ 203–264). *The essence of* central planning confronts and rejects the notion of a significant role for markets (§ 211). It is divided into four parts—socialist planning, regulation, state management, and control. Each is considered briefly in turn.

Socialist planning is the means to achieving socialist development. Socialist Development is a term of art subject to its own definition.<sup>73</sup> Thus understood, within the *Conceptualización*, socialist development, in turn, is understood as built around human beings and their collective needs when organized in states (§ 220). Central planning all actors in the economy and society (§ 217). Regulation is associated with the ordering of transactions, as well as aspects relating to the distribution and redistribution of income (§§ 224–225). Most important, it is understood as a means of market regulation (§ 245 et seq.). Among the most important are the following tasks: (1) regulate market access and induce rational consumption; (2) identify areas suitable for market functioning; (3) establish standards and regulate competition; (4) consumer protection; and (5) restrict monopoly conditions contrary to societal interests.

These regulatory engagements with the market hide critical concepts that distinguish Cuban from other forms of political economy. Among the most important are the framing notions of rational production and consumption as the framework within which planning decisions are made and produce social effects. Critical here are notions of rational consumption and production (§ 246). These have a long history that trace back to the 1980s and Fidel Castro's notions of capitalist consumerism as a veil for the exploitation of developing states.<sup>74</sup> And again, the Model emphasizes the constraining and regulation of those identi-

fied sectors in which market style activities may be tolerated (§ 247).

State management and control issues round out the chief characteristics of central planning theory. State management focuses on resource management and regional economic integration. It is written in the shadow of over a decade of theorizing regional integration on a socialist central planning model (§ 259) through the *Bolivariana para los Pueblos de Nuestra América*.<sup>75</sup> Control speaks to issues of regulatory governance: monitoring, surveillance, and regulatory structures to detect offenses and enforce planning.

Chapter 4 finally takes up the issue of the relationship between Socialist economics and socialist society and culture, tying together economic and social development. (§§ 265–311). The specific object is the *management and control of labor markets and the social organization of the state*. That makes sense from the basic organizational principle of state control of the means of production. Those means include both capital and labor. It also follows that the management of labor markets as a control of labor as a factor in the production of wealth is intimately tied to the management of labor, and of the masses themselves. Yet strangely, and unlike the Chinese system, there appears to be a sense that there will always be a vanguard party leading—limited to a few—and the masses that must be led. There is no corresponding “three representations” line which assumes the eventual growth of the Communist Party to include larger numbers of citizens pointing to a time when people and party merge.<sup>76</sup> This division of authority and the permanence of a vanguard party relationship with the working class, the masses, under a system in which the vanguard controls economic transactions through decision making authority derived from law, produces a context in which labor is both a commod-

73. Aceptación, § 3.

74. Discussed in Larry Catá Backer, “Odious Debt Wears Two Faces: Systemic Illegitimacy, Problems and Opportunities in Traditional Odious Debt Conceptions in Globalized Economic Regimes,” *Duke Journal of Law & Contemporary Problems* 70:1–46 (2007).

75. See ALBA Info, available <https://albainfo.org/what-is-the-alba/>.

76. Discussed in Larry Catá Backer, “The Rule of Law, The Chinese Communist Party, and Ideological Campaigns: Sange Daibiao (the “Three Represents”), Socialist Rule of Law, and Modern Chinese Constitutionalism,” *Transnational Law & Contemporary Problems* 16(1):29–102 (2006).

ity and the object of the obligation of the vanguard to the state. It follows that, just as central planning is deployed to perfect, and substitute for markets, so the masses must be perfected—as revolutionary worker and as model citizen (§ 268). It is to those ends that Chapter 4 is developed. It is in this sense that Chapter 4 ties together economic and social development (§ 265).

What the *Conceptualización* references as societal politics (*política social*) is understood as a further elaboration of the fundamental goal of producing a socialist society that is prosperous and sustainable. The Model speaks to the prosperity aspect especially in the context of developing a normative system for the working class—the masses who are the vanguard party's charge—that like its notions of rational production and consumption, is grounded in rational choices corresponding to the values of society which are protected and nurtured by the state (§ 268). The object, then, is to embed the grand normative vision of the state within the bodies of its working class so that they might be the living embodiment of theory made active through their deployment within the economic construct overseen by the vanguard party. The social space, like the economic space, is defined through the values that are identified and cultivated by the state through its workers. And, indeed, unless the vanguard can reconstruct its proletariat, the possibility of successfully substituting the planning of the economy for markets becomes impossible. Here, then, is the key to Marxist Central Planning Models—the fundamental need to reshape the masses and direct them in their activation of the productive forces now owned by the state. And the shadow of the United States hangs heavy in its construction as well. The additional object of creating the model worker imbued in socialist culture is necessary not just to activate the planned economy but as a defense against the noxious enticements of bourgeois culture (§§ 270–271).

Chapter 4 treats these issues in two parts. The first touches on economic and social rights (§§ 273–298). The second touches on work as a source of welfare and prosperity (§§ 298–311). The provisions on economic and social rights are understood as rights with

a constitutional dimension (§ 274). The right to work is also an obligation—work contributes to the production of wealth which, in turn, is the source of wealth necessary to ensure the welfare of the masses as a whole (§§ 295–298). The model member of the working class, then, works not just for herself, but for the working class itself. It is in this sense that the failure to work, and to work in accordance with the normative premises of the Model, *can be understood as political wrong*, and thus a legal one as well. If it is the obligation and privilege of individuals to work, it is the obligation of the state to ensure the production of workers appropriately trained and socialized. And so the Model focuses on the obligation to education and cultural socialization (§§ 277–284). The state determines the premises of the concept of beauty (§ 285), and the appropriate approach to the use of non-working time (§ 286). To this construction of the socialist worker, the family is understood to contribute (§§ 287–288, 293), and to that extent regulated, as are all means of communication and information dissemination (§ 290). All is bent to the production of proper values and an appropriate basis for cultural knowledge and obligation in the service of the socialist state economy.

The provisions on work as a source of welfare and prosperity seeks to conflate wealth distribution and social justice and the obligations of the revolutionary working class (§ 300). This requires a focus on wages and on consumption. Markets in wages are rejected. Just as the state substitutes itself for markets in the generation of economic activity, so it substitutes itself for markets in wages. That permits the break between prices, income and wages (§ 305). It is in this sense that it allocates wages based on its notions of social justice—wages are meant to provide for need and may be differentiated on the basis of need and circumstances (§ 302). Such control of wages is made possible by the socialization of workers to accept the idea that the wages they receive are indeed just—and thus the importance of the model revolutionary worker.

As important, though, is the cultivation of cultures of rational consumption (§§ 307–311). Consumption, like work, is thus a political as well as economic issue,

one in which the state may lend a hand in determining the scope of the universe of consumables that may be offered to the revolutionary worker and her family (§ 308). That, in turn, requires confrontation with and a rejection of, what is understood as capitalist consumption—something that Fidel Castro has long condemned as both unsustainable and necessary for the production of hegemony by powerful states in globalized economic systems. Thus, again policy made in the shadow of the United States.<sup>77</sup> It follows that to this end the state is required to socialize the consumption expectations of its masses: “The state regulates advertising, aimed at responsible and sustainable consumption, based on ethical and aesthetic principles unrelated to any kind of deception, discriminatory or offensive to any sector of society, and promote as symbols of colonial and pro-capitalist messages.” (§ 311). Consumption, then, is conflated with the anti-capitalist, anti-globalist and anti-U.S. policies of the Cuban state.

The “consideraciones finales” sums up the project (§§ 312–340), its potential and its weaknesses. The *Conceptualización* itself is a function of outside forces over which the state has little control—the hostility of the United States, Latin American integration and the international relations of Cuba in a complex geopolitical world order (§ 314). Beyond the international situation, the particular relationship and actions of the United States stands as the ideological polar opposite against which the *Conceptualización* itself might be measured—as a normative project (§§ 323–324). In a sense, then, theorization of Marxism Leninism in Cuba must be a reactive exercise and constrained by geo-political realities. Yet *one wonders whether such “realities” ought to affect theory or merely the form of its realization*. Indeed, that appears a substantial and traditional weakness of con-

ceptualization within a Cuban state and Party that cannot disentangle theory and implementation. It is that fear of the outside that points conceptualization into a reactive character—it seeks to avoid the structural adjustments common to poor developing states within economic globalization, but tells us little about what theory suggests would provide a socialist path toward a precise national goal.

Within that constraint, the basic line is Raúl Castro’s slow and steady progress principle (§ 315). Related to the slow and steady principle is the “cautious and systematic” practice of reform (§ 316). Such principles and the advancement of the *Conceptualización* requires participation—debate and engagement by key social sectors—labor and students. But it also requires a greater commitment to transparency—at least in the form of informational transparency (§ 319). This process is to be controlled by the PCC as a Leninist vanguard organization. But that control ought to be dynamic in the sense that the *Conceptualización* serves as a baseline theory that requires improvement (§§ 321–22). It is in this context that Cuba should assert its interests in the context of regional integration (§§ 326–326), multilateral organizations (§ 327), and the internal construction of socialism in Cuba (§ 328). Cuba’s internal development, then, is to be protected against outsiders and projected outward as well, one in which the state owns and manages the means of production, providing a very small space for individual activity that is not directed by the state under the leadership of the PCC. This is, in large respect, a refinement of the most advanced form of mid 20<sup>th</sup> century European Bureaucratic Marxism, one that views the outside world with suspicion and is sensitive to the notion that its very existence is threatened without end by its

77. See, e.g., Fidel Castro Ruz, *Una revolución solo puede ser hija de la cultura y sus ideas*, Discurso pronunciado por el Presidente del Consejo de Estado de la República de Cuba, Fidel Castro Ruz, en el Aula Magna de la Universidad Central de Venezuela, 3 February 1999, available at <http://www.cuba.cu/gobierno/discursos/1999/esp/f030299e.html>. Discussed in Larry Catá Backer, “Ideologies of Globalization and Sovereign Debt: Cuba and the IMF,” *Penn State International Law Review* 24:497–561 (2006)

most implacable ideological enemies against which theory must be deployed.

## CONCLUSION AND IMPLICATIONS

*Nothing is accidental in Communist Cuba, everything has a political purpose.*<sup>78</sup> The *Conceptualización* is now is meant to serve as the basis for a debate about the future of Cuban political economy. For students of markets, and that includes most people involved in the construction and management of the global economic order, including Marxist markets, this effort is worth considering. Not that it is right, but that it may be influential is alone worth the time to engagement with its principles and approaches. Indeed, the *Conceptualización* may serve as the most interesting *theoretical* counterpoint to the development of Marxism in a generation. Perversely, that interest is generated in large part by its anachronisms. Ironically, the advent of big data, of the algorithms that now increasingly automate markets, may itself make it possible to move the mechanism of the markets out of the private sphere and back into the state. But that touches on the markets and not on states, and the *Conceptualización* fails precisely because it inverts cause and effect. The state can manage markets—can substitute itself for markets—only by becoming the market maker itself. And that is possible only because markets themselves are becoming free of individual volition, except in those areas that the Cuban state has left to the individual—the detritus of economic activity with the lowest value added and the most marginal expressions of power. Data management in

transactions may make that possible. In this form, in the form that big data, that technology, makes possible, that this poses the most interesting challenge not just to Chinese socialist market theory but also to the core of Western neo liberal market ideology.

And, indeed, the *Conceptualización* nicely contrasts the approach to theorizing Marxism and Leninism in the 20<sup>th</sup> century. And the differences in approaches to markets is mirrored in the differences in approaches to labor as well. Here the Chinese and Cuban approaches are quite distinct. The *Conceptualización* appears still very much grounded in notions of class struggle<sup>79</sup> that were subordinated to the primacy of socialist modernization in China from the late 1970s.<sup>80</sup> Individuals are understood as the central element of labor and labor is understood as the second of the two key elements of productive forces that are the key elements to operate if the vanguard party through the state apparatus is to substitute itself for markets. But individuals as a *productive force* creates a problem; unlike capital, labor has volition and, more importantly, their welfare as *individuals* is the animating element of Marxist theory. That model speaks to the recognition of the motivation of the working class to work and to be efficient, as well as the erosion of socialist values,<sup>81</sup> a revolutionary consciousness<sup>82</sup> that would help establish a “revolutionary worker” willing and eager to contribute productively and efficiently as directed by central planning needs and recognizing her role as a contributor to the functioning of a revolutionary society as an owner of the means of production.<sup>83</sup> The product would be

78. Osmel Ramírez Alvarez, “Behind the Curtains of Cuba’s Communist Party Congress,” Havana Times, April 21, 2016. Available <http://www.havanatimes.org/?p=118256>.

79. See, e.g., *Conceptualización* ¶ 80, discussed above at text and accompanying notes.

80. Constitution of the Chinese Communist Party, *supra*, General Program (“Owing to both domestic circumstances and foreign influences, class struggle will continue to exist within a certain scope for a long time and may possibly grow acute under certain conditions, but it is no longer the principal contradiction.”)

81. *Conceptualización*, ¶30 (“ha afectado la motivación para trabajar y ser eficientes, a la vez que se observa cierta erosión de valores inherentes a nuestra sociedad”).

82. *Conceptualización*, ¶52 (“Una sociedad socialista próspera podrá alcanzarse a partir del trabajo, una profunda conciencia revolucionaria, el cumplimiento del deber, alta motivación y productividad, el ahorro, la eficiencia, y en especial, la aplicación de la ciencia, la tecnología y la innovación.”).

83. *Conceptualización*, ¶80 (“de una clase obrera revolucionaria, capaz de trabajar con eficiencia y productividad en función del cumplimiento de los planes, reconociendo su papel de dueño —como parte de todo el pueblo—, de los medios fundamentales de producción”).

the existence of a system of perfected planning from the top that is rational, agile, that is powered by motivated workers adequately paid producing wealth for the common good.<sup>84</sup> And for people in Cuba, that suggests the contradiction between motivated workers and a paymaster state which also directs all of the means of production to its own ends.

For Cuban Central Planning Marxism that leads almost inexorably to the task of remaking individuals to better serve the state and the project of maintaining a communist society. All of the provisions touching on labor obligations and on the making of the model citizen elaborate the fundamental principle of that model. But it also suggests an almost permanent separation between individuals who serve as revolutionary worker, and those whose function is to serve within the vanguard party apparatus itself. The permanent class struggle element inherent in that produces a theoretical contradiction that is not addressed by the Model. For Asian Markets Marxism, on the other hand, both class struggle, and the relationship of the individual qua worker to the state takes on a distinct complexion. This is reflected in their respective approaches to wealth differentiation. For Asian Markets Marxism, the rise of income and wealth differentiation must be tolerated as the nation develops its productive forces.<sup>85</sup> For Cuban Central Planning Marxism the state must use law to avoid the development of wealth differences. The determination that private enterprises may be limited to the extent they amass too much wealth is a central element of this approach.<sup>86</sup>

Those who thought that the reform and opening up of the 6<sup>th</sup> PCC Congress would lead to some form of effective engagement with markets, even within the parameters of Asian Markets Marxism will be deeply

disappointed by the *Conceptualización*. Those who tend to read Cuban reform in Western or Chinese terms will likely misunderstand and overestimate the form and character of reform in Cuba. Like it or not, the Conceptualization is an important document—not for the truth of what it states, but as a referent for the foundation about the way that key actors in Cuba think about the world. To fail to take it seriously will cause substantial misunderstanding.

Yet, at the same time, the vanguard appears to distance itself from the masses that are the object of the *Conceptualización*, and the core of its obligations. Critics have summed up the 7<sup>th</sup> Congress, and its theoretical Model in pessimistic terms: “If I were asked to sum up the Congress, in a nutshell, I would say that the civil-military elite of the West’s only single-party state doubled down on its reactionary positions and presented the rawest evidence in 57 years of the disconnect between the dictatorship’s leaders and the Cuban people.”<sup>87</sup> The PCC’s *Conceptualización* remains complex and remote; a specialist text. It does not speak to the masses. It appears more to speak to its own cadres and to the United States, against whose systemic premises it appears written. And yet even so, the theory remains embedded with ambiguity. The document is opaque and complex enough to require a large addendum of definitions of terms of art.<sup>88</sup> That is not negative in itself, but in a political and economic order in which substantial discretion is vested in both vanguard party and state apparatus, the remoteness of text makes it effectively impossible for individuals—even the model revolutionary worker that is the object of especial treatment—to know or understand either the structure, foundation to principles of the system that has been erected in her service.

84. *Conceptualización*, ¶ 139 (“Forman parte del Estado socialista, cuyos sistemas y órganos de dirección han sido perfeccionados, de modo que la administración pública es racional, ágil y eficaz, con la vitalidad necesaria y trabajadores motivados, preparados profesionalmente y remunerados de forma adecuada.”).

85. Constitution of the Chinese Communist Party, General Program.

86. See *Conceptualización* ¶ 179 and discussion supra at text and accompanying notes.

87. Roberto Alvarez Quiñones, “The 7<sup>th</sup> Congress: A Reality Check,” *Diario de Cuba* (April 21, 2016), available [http://www.diario-decuba.com/cuba/1461241072\\_21833.html](http://www.diario-decuba.com/cuba/1461241072_21833.html).

88. See, *Acepción*, pp. 27–32.

**Table 1. Process of preparing for the PCC's Party Congresses**

7 <sup>th</sup> Congress (Apr. 16–18, 2016)	6 <sup>th</sup> Congress (Apr. 16–19, 2011)	5 <sup>th</sup> Congress (Oct. 8–10, 1997)	4 <sup>th</sup> Congress (Oct. 10–14, 1991)	3 <sup>rd</sup> Congress (Feb. 4–7, 1986)	2 <sup>nd</sup> Congress (Dec. 17–20, 1980)	1 <sup>st</sup> Congress (Dec. 17–22, 1975)
During the X Plenary of the Central Committee held in February 23, 2015, there was agreement on the 7 <sup>th</sup> Congress. An official invocation has not been released for the 7 <sup>th</sup> Congress as it was for the 6 <sup>th</sup> .	Announced by Raul Castro in an official invocation on November 8, 2010.  Key document prepared behind closed doors.	Invoked by the Central Committee on April 16, 1997.  On May 21, 1997 <i>Granma</i> states that the entire population will discuss the document prior to the Congress.	Invoked by Raul Castro on March 18, 1990.  On Jan. 5, 1991 the first assemblies of the Balance of the Cuban Communist Party take place in the provinces of Isla de la Juventud and Granma.	On Jan. 2, 1985 the press releases the call to the Congress.  A Preparatory Commission was established with the mission to develop the contents of the Congress. This Commission included members of the Political Bureau and the Central Committee.	On May 4, 1980 the press releases the call to the Congress.  On June 1980, a Municipal Assembly process begins.	On April 16, 1975 the 1 <sup>st</sup> Congress is officially invoked.  During May 1975 it is claimed that the Anteproyecto de Constitución was discussed with the Cuban people.
Key document, the Conceptualization of Cuba's Economic and Social Development Model, not yet released to the public.	Key document, Lineamientos, was released to the public.	On June 2, 1997 began the national discussion of the document entitled "El Partido de la Unidad, la Democracia y los Derechos Humanos que defendemos."	This was a preparatory step of the 4 <sup>th</sup> Congress.	On November 11, 1985 began discussions of the Anteproyecto de los Lineamientos Económicos y Sociales para el Quinquenio 1986 — 1990.	These assemblies met throughout the months of June and July of 1980.	On May 28, 1975 it is reported that 28,116 assemblies were conducted to discuss this document with over 1.4 million workers participating.
"Rank and file of the PCC in general has been denied the possibility of analyzing" the Conceptualization of Cuba's Economic and Social Development Model.	Cuban academics both inside and outside of Cuba had a chance to review the Lineamientos.	On June 20, <i>Granma</i> reports that the first stage of the process of discussion of this document is completed.	The Congress has 1,667 delegates and 500 invitees.	It is alleged that all workers in Cuba participated in these discussions.	On July 29, 1980 <i>Granma</i> reported that 38,000 assemblies took place in labor centers to discuss the proyecto de Lineamientos Económicos y Sociales para el quinquenio 1981–1985.	On June 12, 1975 a meeting of review of the first stage of work of the subcommittee in charge of the activities of the Congress took place.
There is no official information that the Conceptualization of Cuba's Economic and Social Development Model will be the "main course of the Congress."	There was transparency and opportunity for public comment on the Lineamientos.	On July 5, 1997 <i>Granma</i> reports that scholars reviewed documents of the V Congress.		From January 24 to 26, 1986 every Cuban province held meetings with delegates from the Congress, where Congress documents were discussed.	On October 14, 1980 a meeting for the analysis of propaganda for the Second Congress took place.	From October 13–31, 1975 "popular consultation" of the Program Platform of the PCC took place.

**Table 1. Process of preparing for the PCC's Party Congresses (Continued)**

7 <sup>th</sup> Congress (Apr. 16–18, 2016)	6 <sup>th</sup> Congress (Apr. 16–19, 2011)	5 <sup>th</sup> Congress (Oct. 8–10, 1997)	4 <sup>th</sup> Congress (Oct. 10–14, 1991)	3 <sup>rd</sup> Congress (Feb. 4–7, 1986)	2 <sup>nd</sup> Congress (Dec. 17–20, 1980)	1 <sup>st</sup> Congress (Dec. 17–22, 1975)
Meetings regarding the key documents held in all of Cuba's provinces.	Public discussion of the Lineamentos began December 1, 2010.	This Congress was the first occasion that leaders of nuclei and other base structures were in charge of determining who the members of the Congress would be.			On October 27, 1980 a member of the Political Bureau revealed that the Congress would take place from December 17–20, and also reports its organizational status.	
Members of the National Assembly, members of the UJC, union leaders, mass and social organizations, and representatives from FAR and MININT attended these meetings.	A regime of public discussion of key Congress documents was announced by Raúl when he invoked the Congress.	On September 24, 1997 <i>Granma</i> reports that the provincial delegations of the V Congress began meetings.			On November 19, 1980 began a national meeting in Villa Clara comprised of the "teams of study" of the 2 <sup>nd</sup> Congress.	
The attendees of these meeting will grouped into committees to expand the content of the documents, expand them, and make suggestions that are considered to be pertinent.	After the Lineamentos were published, a national series of seminars run by those in charge of guiding the mass discussion process was established.					
Recommendations made during review process of the documents will be discussed during plenary sessions with all the attendees.	These national seminars were to be established in every municipality.					
All of this will be taken into account by those in charge of drafting the documents ( <i>Granma</i> doesn't identify who these people are), to the higher organisms of the PCC, and finally presented in the 7 <sup>th</sup> Congress.	The process of public consultation was designed to last 3 months. The opinions gathered during this time were to be taken into account at the Congress.					

**Table 1. Process of preparing for the PCC’s Party Congresses (Continued)**

7 <sup>th</sup> Congress (Apr. 16–18, 2016)	6 <sup>th</sup> Congress (Apr. 16–19, 2011)	5 <sup>th</sup> Congress (Oct. 8–10, 1997)	4 <sup>th</sup> Congress (Oct. 10–14, 1991)	3 <sup>rd</sup> Congress (Feb. 4–7, 1986)	2 <sup>nd</sup> Congress (Dec. 17–20, 1980)	1 <sup>st</sup> Congress (Dec. 17–22, 1975)
	<p>By March 1, 2011, it was reported that 127,113 debate meetings took place with 7 million Cubans participating. These participants made over 2.3 million “interventions,” which are reported to have resulted in 619,387 deletions, additions, modifications, concerns, and worries over the contents of the Lineamientos.</p>					