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Citizenship and State Power in Cuba - Legal Practices and Socialist Education After the "Special Period"

by

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Abstract

Almost by definition, the relationship between the state and society is fraught with tension. While the state enjoys a relative advantage over citizens (decisions are made at the political center, and enforced by centralized mechanisms of coercion), attempts at resisting and negotiating state power are common. More often than not, defiance results in the confirmation of the status quo, but it may also lead to change. Therefore, the tension between power and resistance is not only crucial to the understanding of the dynamics of governance, but to our understanding of how states are created, maintained and reformed. The rapid and profound changes in government policy over the last few decades pose interesting questions regarding state-citizen relations in Cuba.

Facing severe material deprivation as a result of the breakdown of the socialist bloc, the government was forced to implement dramatic economic reforms, which have since evolved into a permanent overhaul of the economic and political system. While the issue has been mainly examined through the interaction between nongovernmental and religious organizations and state agencies, the meeting points between state agencies and individual citizens remain virtually unexplored. This dissertation aims to fill that void by examining the negotiation of power between the judges in the People's Popular Courts (a state agency *par excellence*), and the individual citizens who appeared before them. Drawing on civil law documents pertaining to litigations brought before the courts between the years 1986 and 2010, I focus on the ways in which citizens challenged the authority of the state and its hegemonic discourse, as well as examine the changes that have taken place in the implementation of state socialism in Cuba over the last two and a half decades. In order to do so, I trace how ideas of individuality, community, solidarity

and morality were coercively transmitted, but also blatantly contested and, eventually, re-defined; this process re-reformed the socialist state in unprecedented ways. The courts are thus seen not only as an arena for political indoctrination, but a site of political contestation as well. As we shall see throughout this dissertation, citizens appear to have moved during the time period under study from apologetically requesting that their cases be revised, towards forceful demands for transparency, revision of procedures, and better service from government agencies. The reactions of judges to the claims made by citizens changed dramatically as well; judges moved from repeatedly attempting to either ignore the demands made by citizens or re-educate the demander to speak and behave according to revolutionary values, to addressing those demands and concerns at great length, in the manner of well-trained customer representatives. By focusing on the extent that the (increasingly defiant) arguments of litigators became acceptable, or at least tolerated by judges, this dissertation brings forth three main arguments: a) generally speaking, state power, whether in democratic or authoritarian regimes, always entails the possibility of resistance, regardless of the final outcome of such efforts, b) a transition to a more participatory model of governance is taking place in Cuba, both at the grassroots and the governmental levels and c) state socialism in Cuba is being re-defined as to include an enhanced focus on decency in interpersonal relations, rather than economic doctrine. In coming to terms with contemporary Cuba, where a substantive political transition is said to be taking place in these very moments, this examination becomes all the more compelling.

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List of Abbreviations That Appear in the Dissertation

CDR – Comités de Defensa de la Revolución (Committees for the Defense of the Revolution)

ECC – Empresa de Camiones de Cuba (Cuban Truck Company)

ECM – Empresa de Camiones de Matanzas (Matanzas Truck Company)

FAR – Fuerzas Aereas Revolucionarias (Revolutionary Air Force)

PPC – People's Popular Courts

UBPC – Unidad Básica de Producción Cooperativa (Basic Unit of Cooperative Production)

UJC – Unión de Jovenes Comunistas (Union of Young Communists)

UPC – Unión de Pioneros Cubanos (Union of Cuban Pioneers)

Important clarification: The reader will note that a few of the acronyms mentioned throughout the dissertation (especially in Chapters 5-7) were omitted from this list. These are the names of all parties implicated in legislation, mentioned only in initials as to protect their privacy.

Introduction

Almost by definition, the relationship between the state and society is fraught with tension. The state, a set of social relations that establishes a certain order, also supports and helps reproduce categorically unbalanced power relations; decisions are made at the political center, and enforced by centralized mechanisms of coercion (O'Donell, 1993; Przeworski, 1998). Yet while citizens are in a position of relative disadvantage vis-à-vis the state, attempts at resisting and negotiating state power find vivid expression, ranging from sporadic expressions of discontent to continuous efforts at monitoring the actions of government officials, from specific demands to change to general demands for accountability.

The rapid and profound changes in government policy over the last few decades have rekindled a stubbornly persistent debate regarding the existence (and extent) of civil society in Cuba. Deeply affected by the collapse of the Soviet Union, Cuba has implemented increasingly liberal reforms since the 1990s. Beginning with the adoption of austerity measures aimed at curbing the state's growing deficit and coping with the dwindle of state reserves (former socialist states demanded payment in hard currency for goods that had been already delivered under COMECON[1] agreements, and refused to supply further goods on credit), Cuba moved on to introduce mass tourism and foreign investment, permitting its citizens to engage in several forms of individual entrepreneurship. Further political and economic changes, such as the removal of purchasing and travel restrictions and the implementation of elections, were effected

[1] The COMECON was an economic organization for mutual assistance that comprised the Soviet Union and countries of the Eastern bloc, as well as number of socialist states elsewhere in the world. It was disbanded following the downfall of the Soviet Union.

following Fidel Castro's delegation of his major duties to his brother Raúl (first temporarily, then permanently) in the second half of the 2000s, underscoring the possibility of substantial and enduring change.

While the question of civil society in Cuba has been mainly examined through the interaction between nongovernmental and religious organizations and state agencies, the meeting points between state agencies and individual citizens remain virtually unexplored. This dissertation aims to fill that void by examining the negotiation of power between the judges in the People's Popular Courts (a state agency *par excellence*), and the individual citizens who appeared before them. Drawing on civil law documents pertaining to litigations brought before the Cuban People's Popular Courts (the higher court in the country – deals with appeals to verdicts produced in lower courts across the island) between the years 1986 and 2010, I focus on the ways in which citizens challenged the authority of the state and its hegemonic discourse, as well as examine the changes that have taken place in the implementation of state socialism in Cuba over the last two and a half decades. In order to do so, I trace how ideas of individuality, community, solidarity and morality were coercively transmitted, but also blatantly contested and, eventually, re-defined; this process re-reformed the socialist state in unprecedented ways. The courts are seen not only as an arena for political indoctrination, but a site of political contestation as well. I outline the ways in which ideas of individuality, community, solidarity and morality were coercively transmitted, but also blatantly contested and, eventually, re-defined. By addressing the People's Popular Courts' position in the fraught meeting point between individual and the state, this study tackles the complexities of the transformation of Cuban society, specifically, questions of

how citizens contest state practices and authority, and, in so doing re-reform the socialist state in singular ways. As we shall see throughout this dissertation, citizens appear to have moved during the time period under study from apologetically requesting that their cases be revised, towards forceful demands for transparency, revision of procedures, and better service from government agencies. Another significant change involves the discussion of material issues; while protocols of trials conducted during the 1980s contained no mention of the appellants' aspirations to improve their material wellbeing, those made after the collapse of the Soviet Union revolved almost exclusively around the issue. Yet whereas changes in the claims made by citizens are definitely indicative of a major shift in the populace's mindset, it is the judges' reactions to those claims that marks the beginning of a new era of governance. Therefore, the second major focus of my analysis revolves around the reactions of judges to the claims made by citizens; as we shall see, judges moved from repeatedly attempting to either ignore the demands made by citizens or re-educate the demander to behave (and more importantly, speak) according to revolutionary values, to addressing those demands and concerns at great length, in the manner of well-trained customer representatives. By focusing on the extent that the (increasingly defiant) arguments of litigators became acceptable, or at least tolerated by judges, this dissertation brings forth three main arguments: a) generally speaking, state power, whether in democratic or authoritarian regimes, always entails the possibility of resistance, regardless of the final outcome of such efforts, b) a transition to a more participatory model of governance is taking place in Cuba, both at the grassroots and the governmental levels and c) state socialism in Cuba is being re-defined as to include an enhanced focus on decency in interpersonal relations, rather than economic doctrine. In

coming to terms with contemporary Cuba, where a substantive political transition is said to be taking place in these very moments, this examination becomes all the more compelling.

Although this study only involves an analysis of Cuban society, its conclusions compel us to re-think our assumption that socialism is homogenous or static. There is not only one monolithic path toward implementing socialist doctrine, and, we need to remember, there exist more than one socialist doctrine: the significant differences between the implementation of Marxism-Leninism in Cuba, the Soviet Union, eastern bloc states and Vietnam illustrate this point, as do the disparities between Maoism and Marxism-Leninism. It is also clear that socialist theory is not fixed, evolving over time and adjusting to ever-changing circumstances; the pink tide in South America which attempts to establish "twenty-first century socialism" exemplifies this argument. Cubans have adapted and pushed the boundaries of socialism, through the central axis of reconstructed, evolved, state-society relations. These relationships have evolved, not only because of decisions or policies devised by the state, but as a response to pressure from below as well. This study ultimately demonstrates precisely *how* legal practices have evolved in a dynamic internal and external environment. Socialism (both as ideology and as state policy) has changed significantly after the fall of the Soviet Union (Azicri, 2001; Sidel, 2008; Weinreb, 2009) and therefore this dissertation makes a significant contribution to the study of law and society in a contemporary socialist context.

The dissertation is divided into two parts. The first part lays the theoretical and methodological foundations for the analysis of civil court litigation, which stands at the

center of the second. More specifically, the dissertation chapters shall be organized as follows:

Chapter One comprises a discussion of theoretical issues concerning state-citizen relations, state power, governance and the law, as well as an outline of the particularities of legal systems under state socialism. Drawing from the work of major theorists such as Marx, Weber, Gramsci, Althusser and Foucault concerning society, culture, power and the self, the chapter sets to explore the connection between the law, power and identity. The idea that legal mechanisms have the ability to instill hegemonic identities and values by way of coercion, while at the same time opening the way for alternative interpretations of reality and acts of resistance, stands at the core of this chapter.

Chapter Two addresses the methodological aspects of this research project; starting from a discussion setting forth the reasons for selecting a specific time period and branch of law, I then proceed to examine processes of data sampling and analysis and translation of documents. The chapter concludes by identifying a few central theoretical issues and methodological questions that are dealt with in the chapters that follow.

Chapter Three offers a brief historical overview of the events taking place in Cuba over the last five decades. Broadly speaking, the chapter traces the economic, political and social overhaul of the island following the triumph of the revolution, as well as the institutionalization of the revolutionary government in the 1970s and the rectification campaign of the 1980s. The chapter also discusses the consequences of the collapse of the Soviet Union in the early 1990s and the economic and political reforms of the 2000s. Understanding that public policy does not take place in a geo-political vacuum, this

chapter also explores the global context of enmities (with the U.S) and alliances (with the socialist bloc), as well as patterns of migration and Cuba's ties with the exile community.

Chapter Four provides the reader with a review of the legal system in Cuba and introduces the concept of "Socialist Legality," namely an aspiration to transform society, furthering the evolution of society towards pure communism (Evenson, 2004). The chapter explores the insight of earlier studies of the Cuban legal system, and highlights the particular contributions of this dissertation to the field. Finally, the chapter discusses the relationship between law and civil society in Cuba.

Chapter Five revolves around the analysis of written requests for appeal, and points to the dramatic changes that have taken place over the course of the last two and a half decades in the dominant, proper ways of referring to others and justifying one's demands for the revision of an unfavourable verdict and connects them to the existence of a general atmosphere of change in the island. The analysis of these documents demonstrates that while citizens half-apologized for appealing a decision made by the lower courts and hastened to declare their allegiance to the revolutionary project during the latter half of the 1980s, they gradually moved towards a tendency to criticize decisions made by the government as well as the performance of state agencies after the collapse of the Soviet Union. All in all, this chapter demonstrates, changes in the arguments made by appellants seem to strikingly echo the political liberalization of Cuban life over the last twenty-five years.

Chapter Six focuses on the testimonies, judicial opinions and verdicts, which consist of transcripts of rather lively interactions between lawyers, litigators and judges in "real time." Following the analytic focus presented in chapter five, this chapter revolves around three interrelated concerns; the first concerns the rhetorical efforts of litigators, which not only reflect changing ethical and political perceptions, but also resonate with the emergence of a different pattern of communication with the judges. Secondly, this chapter focuses on the stories told by character and expert witnesses in the cases where they were requested to appear before courts; they not only point to changing views regarding what aspects of a person's personality, life trajectory, personal, work or health circumstances were seen as relevant to the dispute under litigation, but the selection of witnesses in itself also signals a shift in the court's approaches to resolving disputes. Within the course of only a few years, litigators moved from the pervasive use of testimonies by leaders of mass organizations to choosing professionals as expert witnesses, abandoning ideologically imbued arguments in favour of scientific ones in the process. The final theme revolves around the courts' verdicts and their justification. Focusing on the judges' explanations for their decision, as well as the responses (or lack thereof) to the arguments raised during litigation, the chapter shows that not only citizens' perceptions of the system and its possibilities have undergone substantial change, but that the judges' view of their role as educators has changed considerably as well.

Chapter Seven elaborates further the findings and arguments presented in chapters five and six, and underscores precisely how the transformation of the rhetoric employed

in court can be situated within a broad context of political, economic and moral change. In addition, this chapter explores the long-term implications of these changes for the construction of a more nuanced form of socialism.

Part One – Theoretical and Methodological Foundations

In his insightful book on the organization of national history in Cuba, Louis Pérez (2013) argues that the memory of the past was a crucial force in the construction of Cuban nationality. Starting with a discussion of the origins of Cuban nationalism in the late eighteenth century, Pérez then moves on to discuss the enormous influence of the realities of colonialism (of the traditional and new varieties) on the shaping of ideas of Cuba and Cubanness. The ever painful memory of decades of insurgency against the Spanish occupation, as well as the gap between the aspiration to absolute national sovereignty and the resulting compromise following the U.S. military intervention, says Pérez, played a significant role in the construction of moral and national characteristics, such the notion of self-sacrifice for the sake of the common good. Moreover, argues Pérez, the anxiety involved in the perception of sovereignty as an ever receding mirage had a major contribution to the claim of the revolution of 1959 as the triumph of history.

A thought-provoking and critical assessment of the construction of Cuban history and historical ideas of Cubanness, Pérez's book teaches us two important lessons: firstly, it reminds us that the revolutionary project is, first and foremost, a nationalist project. Secondly, it demonstrates that notions of community, morality and the self are shaped, contested and forged in the interaction between larger bodies of authority and the members of the community themselves. By showing us the roots of "Cuban" notions of community, morality and the self that are still relevant today, Pérez reminds us that the construction of these notions is ever a work in progress.

The new millennium found Cuba at a crucial crossroad. The implementation of increasingly liberal reforms raises interesting questions regarding their implications for sense of community and morality in the island. By placing the limelight on the theoretical aspects of the relationship between authority and the self, the role of authority for the construction of a community and a sense of morality, and the connection between law and society in Cuba, the Part One of this thesis lays the theoretical foundation for the further exploration of these issues. Chapter One comprises a discussion of theoretical issues concerning state power, governance and the law, as well as an outline of the particularities of legal systems under state socialism. Chapter Two involves the presentation of this research project: the documents and analytical strategy to be used, and the main issues to be discussed.

Chapter 1: State Power in Twentieth-Century Political Theory

The relationship between the state and society is, almost by definition, fraught with tension. The state, a set of social relations that establishes a certain order, also supports and helps reproduce systematically asymmetric power relations; decisions are made at the political center, and enforced by centralized mechanisms of coercion (O'Donell, 1993; Przeworski, 1998). Yet while citizens are in a position of relative disadvantage vis-à-vis the state, attempts at resisting and negotiating state power are common, ranging from sporadic expressions of discontent to continuous efforts at monitoring the actions of government officials, from specific demands to change to general demands for accountability. Based on the premise that dominance never goes unchallenged, but is achieved through the use of coercion and a (perhaps un) fair share of manipulation, political scientists have been drawn to outlining the factors influencing the balance of power in a variety of historical and geographical settings.

Authority/Power and the State, Authority/Power and the Self

Since the early days of modern social science in the nineteenth century, the role of power, ideology and authority in the functioning and maintenance of the nation state has been of great interest for social and political theorists. A foundational stone in the fledgling discipline, Karl Marx and Friedrich Engels' portrayal of society as a ground of oppression of the working classes casts the modern (capitalist) nation state and all forms of state authority as instruments for class domination. According to Marx and Engels' scheme, the material forces of production at a given time, namely labour power and

available knowledge and technology, determine the relations of production (i.e, relations based on ownership of the means of production or lack thereof) in that particular setting. Those, in turn, condition *all* other relations and institutions in society. Therefore, whoever dominates the economy holds control of the state. Within this framework, say Marx and Engels, the bourgeoisie manages to maintain its authority and reproduce its advantage both by the explicit use of force and by the dissemination of an ideology that legitimizes the status quo and assures that it will not be threatened by hordes of discontent and underprivileged proletarians. These oppressive circumstances are predicted to change, however, because the working class is to realize, as a result of changing historical conditions, that it should and could revolt (Marx and Engels, 1970, 2008 [1848]). Ideology plays a double-edged sword in Marx and Engels' theory: on one side, it is crucial in the reproduction of class domination. On the other, it carries the seed of rebellion.

Only a few decades later, Max Weber offered a rather different analysis of power and authority in society and the state. Breaking from Marx and Engels' view of society as a battleground of class warfare, state authority is not exclusively perceived as a tool for class exploitation, but part of a rational, bureaucratic structure where domination is attributable to abstract and, more importantly, institutionalized norms. Weber's working assumption was that authority needs to be perceived as legitimate in order to be effective. In pre-modern societies, leadership had been legitimized either by the existence of a charismatic personality or by the invocation of traditional values. By the time Weber was writing, however, the world had been rapidly changing, adopting secular values and

becoming increasingly bureaucratized and rationalized. Within this process, traditions, values, and emotions as motivators for behaviour were progressively replaced with an orientation towards knowledge, impersonality, cost-benefit calculations, efficiency, and an enhanced sense of control over social and material life. It was therefore not surprising that former justifications for authority ceased to retain legitimacy in the modern world; as nation states bloomed and multiplied in Western Europe from the mid-nineteenth century onward (and, following the end of First World War became the almost exclusive form of political organization), political leadership came to be perceived as legitimate due to its association with a legal order. In this setting, law enforcement is delegated to the state, which holds a monopoly on the legitimate use of force, guaranteeing stability and predictability for both citizens and the system (Bendix, 1960; Weber, 1958).

Weber's theorization of authority as only effective when ideologically justifiable, deeply entrenched in a historically-contingent system of beliefs, and absolutely dependent on a rapidly changing and increasingly rational world, implies that the legitimacy of authority in the modern age might be in need of constant upkeep. Yet while Weber never focused on the processes that result in the maintenance and reinforcement of legitimacy, one cannot help but wonder how this task is fulfilled and what are the mechanisms at play in such an endeavour.

Writing during his imprisonment from the Italian fascist regime in the 1920s and 1930s, Antonio Gramsci further expanded Marx and Engels' idea of domination-through-ideology and Weber's notion of authority-through-legitimacy to explain *how* control is

exerted through the diffusion of a hegemonic culture.[2] According to Gramsci, modern forms of domination stem from the expansion of the state to embrace the daily aspects of citizen life, such as the education system and the law (Burawoy, 2003; Gramsci, 2003). It is within this context that the bourgeoisie develops and propagates its own values and norms so that they become the "common sense" values of all, prompting proletarians to identify their own wellbeing with that of the ruling classes. Believing that the status quo works for their own good, the disadvantaged cooperate in its maintenance and reinforcement, rather than revolting. Certainly, compliance is assured not only by the promotion of ideology through specific institutions, but is always backed up by the possible use of violence. However, as most capitalist states maintain relative stability and rarely resort to the use of force, the question of consent becomes more compelling.

Though it is clear that the concept is not to be understood as a spontaneous consensus that holds society together, it is also clear that for hegemony to be effective it has to wear the guise of freedom and good faith. Moreover, hegemony becomes all the more pervasive because, even in the event that the working class might fathom the extent of its oppression, it cannot necessarily develop an ideology of its own. Rather, it is compelled to work within the system of existing (i.e, hegemonic) ideologies, expanding and elaborating those aspects that better resonate with its interests. In other words, class struggle is not precisely a struggle between ideologies, but takes place on the territory of hegemonic ideology (Burawoy, 2003; Laclau and Mouffe, 1985).

[2] It is hard to believe that Gramsci had any intentions of following on Weber's steps, given his leadership position in the Italian communist party and his apparent lack of academic aspirations. However, as much as his work differs from Weber's in its focus of analysis and political stance, it is difficult to ignore that both theorists' give a great deal of attention to the need for political legitimacy in the modern capitalist state.

Three decades after the *Prison Notebooks* were written and a few years after they were widely published in Italian, German, and French,[3] French theorist Louis Althusser (1972) further pursued Gramsci's interest in the construction and reproduction of consent, though approaching the subject from a different angle. Departing from the traditional focus on mechanisms of (class) domination at the group level, Althusser offers an analysis of the ways power is exerted at the level of the individual. Assuming that a repressive and ideologically-laden structure plays a substantial part in modern (capitalist) societies, but also that the modern world is characterized by the belief that individuals have the power and autonomy to make independent judgments and choices, Althusser became interested in understanding how the ruling class generates obedient subjects, which then reinforce, maintain and, most importantly, reproduce the existing class structure. In Althusser's view, our values and desires are inculcated in us through what he called ideological practices, namely the process of producing values that become incorporated within subjectivity. Ideological practices are carried out through an assortment of institutions, which Althusser called Ideological State Apparatuses (ISAs) and comprise the family, religious organizations, the media and the education system. Those mechanisms produce willing compliance by propagating ideology, but always with the backing of, and working in combination with what he named Repressive State Apparatuses (RSAs). RSAs include the government, the police, the judiciary, the army and their main function is to intervene and act in favour of the ruling class through (mostly) violent and coercive means. In as much as both mechanisms can resort to either explicit violence or symbolic discourse, it is clear that Ideological State Apparatuses

[3] Though small parts of Gramsci's writings were translated to English in the late 1950s and 1960s, the *Prison Notebooks* were not translated and published in English in their entirety until the 1970s.

function predominantly by ideology and secondarily by repression and violence, whereas the opposite is true for Repressive State Apparatuses. The state's need for both types of power in order to create and control its subjects' behaviour cannot be overemphasized and is reflected and illustrated by the work of the judiciary; as courts invoke ideological and contractual language in order to govern individual and collective behaviour, they also have the ability to exert actual physical and/or material violence. This point is also exemplified in Althusser's memorable illustration of the concept of *hailing* or *interpellation*, which describes how individual become subjects; he compares ideology to a policeman shouting "Hey you there!" toward a person walking on the street. Upon hearing this call, the person responds by turning around and in doing so, is transformed into a subject. The person being hailed recognizes him or herself as the subject of the hail, and knows to respond. While this anecdote was obviously meant to explain the process of subject-formation (that is, the transformation of humans into subjects), it is not precisely coincidental that the person chosen by Althusser to do the shouting is a policeman and that he has the power to chase, arrest and punish the subject of his call should s/he decide not to comply and turn around.

According to Althusser, ideology has a profoundly pervasive presence; we cannot recognize ourselves outside of ideology and each and every action we make reaches out to this overarching structure, maintaining and reinforcing it. It is from this point that Althusser proposes that "ideology represents the imaginary relationship of individuals to their real conditions of existence" (Althusser, 1970 p. 153) and that it "has a material existence" (ibid, p. 155). The first proposition resonates with the aforementioned Marxist assertion that ideologies have the function of concealing the oppressive conditions upon

which capitalist societies are based. The second suggests that ideology does not exist in the form of abstract ideas, but consists of the actions and behaviours of subjects regulated by their dispositions within state apparatuses, thus underscoring the importance of social practices and performances.

Althusser's formulation of the problem of the subject as constructed through (state founded) mechanisms of practice that invoke ideology was greatly innovative. However, his focus on the functions of ideology (the reproduction of class relations), came at the cost of leaving the concept of ideology without much inner complexity (Poster, 1984). A former student of Althusser and writing roughly at the same time (though continually honing his views during subsequent years), Michel Foucault suggested a more nuanced way of approaching the issue by investigating the ways in which subjectivity is constituted by discourse. For Foucault, just as for Althusser, subjects are created through the exertion of power and with the objective to govern the individual, but here is where the theorists part ways. Foucault disputes the idea that power is exercised by people or groups by way of periodic acts of domination, seeing the source of power as a pervasive and omnipresent entity instead. In Foucault’s view, control is not exclusively applied upon individuals by external forces, such as the police, the legal system, the army, the family, religious institutions and so on (what Althusser called Ideological and Repressive State Apparatuses), but is also self-inflicted. Seen by Foucault as a major source of social discipline and conformity, control is not instilled upon individuals only in a hierarchical manner, but also horizontally, among peers.

Foucault further distanced himself from leading theorists of the self (mainly Althusser and Lacan), who had adamantly suggested that the conditions for the

development of the self were virtually constant over time, by focusing on the constitution of the subject as a historically-dependent phenomenon instead. For Foucault, power is not a thing but a set of *specific* social relations, a basic feature of the modern social productive apparatus. It subjectivizes individuals through "the intention to teach, to mold conduct, to instill forms of self-awareness and identities" (Gordon 2000, p. xix). In Foucault's view, power is everywhere, diffused and embodied in discourse, knowledge and "regimes of truth" (Foucault, 1991). These "regimes of truth" are the product of scientific discourse and institutions, and are constantly reinforced and re-defined through the media, the education system, and political and economic ideologies. Battles for truth then are not about absolute realities, but about "the rules according to which the true and false are separated and specific effects of power are attached to the true" (Foucault, 1984, p. 74). For Foucault, power creates 'discursive practices' or bodies of knowledge and behaviour that differentiate between the normal and the deviant. As idealized norms of conduct are constructed and become widespread, and individuals are rewarded or punished for conforming to or deviating from this ideal, disciplined subjects are created. Because individuals do not have the capacity to communicate outside the dominant discourse, they become subjects in the sense that they are determined by its meanings and regulations.

The exertion of power through the use of norms (what Foucault called "normalisation"), discourses of truth and the government of the self appear to have far-reaching consequences when we take into consideration that, as norms are formally incorporated into state institutions, transgressions are not met only with shame, but with actual material and physical pain. As formalized norms are effected on the general

population, state institutions use their own discourse of truth to set standards and boundaries for individuals. By doing so, they tend to exclude those that do not fit into their sense of normalcy, a group of people Foucault would call "the other." The judicial system, for example, enacts laws that distinguish law-abiding citizens from criminals. While often useful for institutions, these labels have substantial effects on individual identity. Discursive practices are under constant negotiation, however, because, while it is true that contemporary forms of disciplinary organization allow ever larger number of people to be controlled by ever smaller numbers of specialists, "power is exercised only over free subjects (...) individual or collective subjects who are faced with a field of possibilities in which several ways of behaving, several reactions and diverse comportments may be realized" (Foucault, 2001, p. 342). Thus, while power subjectivizes and limits, it also entails the possibility of resistance, as it has the ability to produce, incite and encourage actions alongside its prohibitory and punishing functions.

Governing action was understood by Foucault as comprised both by actions taken towards others and towards the self. However, his theorization of the mechanisms of subjectivization and control was more associated with a general study of power than with a conceptualization of political power and government *per se* (Rose, O'Malley and Valverde, 2006). This changed when in a series of lectures given at a later point in his career, Foucault developed the concept of "governmentality" to draw attention to the "mechanisms that try to shape, sculpt, mobilise and work through the choices, desires, aspirations, needs, wants and lifestyles of individuals and groups" (Dean, 1999, p.12). Foucault discussed the concept of governmentality in a number of interviews and lectures conducted in the late 1970s and early 1980s, though his own work focused more directly

on the government of the self, rather than on the disciplinary mechanisms of the state (Rose, O'Malley and Valverde, 2006). As Foucault's work began to be taken up by social thinkers in various national and disciplinary contexts (a trend that commenced in the early 1980s and gained more momentum after Foucault's sudden death in 1984), issues of state power became an integral part of the study of governmentality.

Mitchell Dean (1999) expanded the notion of governmentality as to include what he called "mentalities of governing". In this vein, governmentality is not just a tool for thinking about government and governing but also incorporates how and what people who are governed think about the way they are governed. Dean argues that the governed rarely dwell on these issues, therefore implying that they may not fathom the extent to which the institutions, values and discourses surrounding them are arbitrary. Instead, he suggests, the governed perceive the social order as natural and take it for granted, further reinforcing it. Agency is not lost in Dean's observation, however. Following Foucault's perception of power as always open to negotiation, Dean argues: "On the one hand, we govern others and ourselves according to what we take to be true about who we are, what aspects of our existence should be worked upon, how, with what means, and to what ends. On the other hand, the ways in which we govern and conduct ourselves give rise to different ways of producing truth" (Dean, 1999, p.18). For Dean, as for Foucault, knowledge and truth are permanently shaped and re-shaped, defined and re-defined. They may be reinforced and reproduced, but never irrevocably.

The tension between power and resistance is not only crucial to the understanding of the dynamics of governance, but to our understanding of how states are created and

maintained; a wide variety of studies have shown that modern nation states are established through the promotion of a specific moral ethos and a sense of identification with an "imagined community": a socially constructed entity, imagined by those who perceive themselves as part of it; community in this sense entails a special sense of fellowship between people who feel they belong to a nation (Anderson, 2006; Cohen and Rapport, 1995; Corrigan and Sayer, 1985; Joseph and Nugent, 1994). States are therefore normalizing projects, in Foucauldian terms, representing and categorizing individuals as members of a community and rendering all alternative moral views and forms of identification unacceptable. Yet rendering something unacceptable does not make it disappear, and while states act to erase the recognition and expression of those forms of identification through continuous moral regulation, these forms often emerge in the cracks and crevices of the system. Power, governance and identity are thus constantly subject to the possibility of change, therefore highlighting the fact that, in order to maintain the social order, the state needs to continuously construct and perform its social and moral boundaries (Latour, 2005).

Given the incessant efforts needed to maintain a collective identity and (at least a semblance of) relative consensus, the question of *how* the state promotes that identity becomes more compelling. That the state places enormous weight in the performance of cultural forms and everyday rituals has been thoroughly discussed in a variety of historical and geographic contexts (see for example Corrigan and Sayer's [1985] influential work on British history and Joseph and Nugent's [1994] edited volume on state formation during and after the Mexican revolution), as have the everyday forms of

resistance to those efforts. Yet the role of law (or rather, legal practices) in the process of state formation and maintenance has not been warranted much attention in the literature discussing state formation. An enforcer of state morality and disciplinary power, the judiciary plays a significant role in ensuring that citizens are aligned with the official line and thus stands at the core of state-society relations. Yet inasmuch as nation state law achieves a kind of unity it is through the diffusion of ideology, on one hand, and reliance on political authority and coercive force on the other (Cotterrell, 2006, p. 317-325), with coercion being all the more effective because "one party can inflict pain on another who has virtually no choice but to accept both the forum and the pain" (Merry and Milner 1999, p. 7).

Drawing from these premises, Hunt and Wickham (1994) propose a sociology of "law as governance", which incorporates Foucault's views on power into an analysis of the state and the law. Following Foucault's observations on power, governance and knowledge, as well as the work of classical sociologists such as Emile Durkheim, who emphasized the connection between law and social solidarity, and Max Weber, who connected between law, domination, the state and the economic structure, Hunt and Wickham identify four characteristics of law as governance:

a) law as governance is a cyclical and ongoing process; attempts to control are always incomplete and lead to further attempts to control. Governance therefore continues not in spite of its incompleteness, but because of it;

b) law as governance involves power and politics, but also the possibility of resistance, which, in turn, contributes to its cyclicality;

c) law as governance always includes the exercise of power; and

d) law as governance is a social phenomenon, both in the sense that its techniques are limited to those that are socially available, and in the sense that it ties between people. Based on these features, Hunt and Wickham then draw attention to the processes within which governance creates moral communities; norms and ethical values seek to regulate individual conduct and to help maintain compliance by connecting between individuals with shared norms and values, and govern through the invocation of honour and shame, obligations and commitment to others. However, they argue, mechanisms that bind people together may also bring people apart, as articulations regarding who should be considered part of the group also refer, by reversal, to those who should be excluded from it. That is, while governance may establish moralities, moralities imply transgressors who must then be left out of the community.

Hunt and Wickham's approach provides compelling outlines for socio-legal research, but these do not go beyond the theoretical realm. Empirical research based on this approach is then called for, yet virtually no such studies have been conducted.[4] Moreover, it has received a fair amount of criticism both on the grounds that it does not necessarily follow Foucault's work to the letter (Baxter, 1996; Tadros, 1998) and that it does not quite provide an innovative framework for socio-legal research (Baxter, 1996).

While those points are accurate, they do not necessarily nullify the theory's value; firstly, because as quite a few Foucault followers (such as Frank, 2010; Rabinow and Rose, 2003; Valverde, 2010) have repeatedly pointed out, Foucault's observations are not

[4] Oddly enough, however, a wide body of literature on socio-legal theory does survey Hunt and Wickham's work on "law and governance" without using a critical tone (see for example Golder and Fitzgerald, 2006; Roach-Anleu, 2010; Tadros, 1998; Valverde, 2010; Wickham, 2006).

"one-size-fits-all" prescriptions; a truly Foucauldian-inspired approach[5] would rather employ Foucault's views in order to outline important issues in a field of choice, than attempt to "apply" them to its study. Secondly, even if "law as governance" is not necessarily a groundbreaking approach, it is difficult to ignore the skilfulness with which Hunt and Wickham connect between well-established social theories and draw attention to important issues in socio-legal studies, thus making "law as governance" an insightful and useful theoretical framework. These points resonate with a later essay written by Gary Wickham (2006), in which he claimed that the main goal of the "law as governance" approach was to draw attention to the possibilities imbued in incorporating Foucault's views on power into the study of law and of domination through law. This objective was fulfilled, said Wickham, because despite the fact that the approach has not resulted in applied research, it did lead to a more sophisticated view of power in subsequent analyses of the law.

Yet while we need to acknowledge the approach's nuance and ability to connect between (seemingly disparate) theoretical traditions, there appears to be more room for complexity; the law plays an important role in governance, yet numerous studies have demonstrated that its interpretation and execution is not exactly uniform. To assume that the law is a standardized entity that holds the same meaning for all might result in a problematic and incomplete understanding of legal processes, practices and texts. Moreover, if we assume that discourse is always open to interpretation, re-definition and negotiation as Foucault deftly points out, there is more room for research that focuses on

[5] This term was used even though I imagine that it would make Foucault feel quite uncomfortable.

how law governs through discourse and actual punishment and *how* control is resisted and/or negotiated.

Law As Governance, Law As Culture

Discourse plays an important role in litigation. A vast body of research in the social sciences demonstrates that the practice of law is an interpretive process, in which rules can be construed by different lawyers and judges in dissimilar ways, reflecting their perspectives regarding the law and legal process, their personal interests and the social context in which they live and work. The interpretive and context-sensitive nature of the law suggests that it consists of communicative processes through which they are interpreted and executed (see for example Banakar, 2009b; Cotterrell, 2003 and Galanter, 1967;;). The implementation and understanding of the law thus reflect what Roger Cotterrell (2006) referred to as *legal ideology*: "an overlay of currents of ideas, beliefs, values and attitudes embedded in, expressed through and shaped in practice" (p. 88). Legal ideology can be seen as made up of values and ideas standing at the law's core and expressed through and moulded by the practices of developing, interpreting and implementing it. It is significantly created and maintained by the professional practices of law and diffused through these practices on citizens' consciousness. It has the power to shape "common-sense" understandings – forms of taken-for-granted knowledge and belief – outside the spheres of professional legal practice.

Along this line of thought, a perception of the law as a cultural system has become increasingly widespread and evolved into an extensive program of empirical inquiry over the last two decades (see for example Ewick and Silbey, 1998; Sarat and

Kearns, 1995; 2000). Within this paradigmatic context, a substantial number of socio-legal scholars have moved on from focusing on what the law "does", in favour of studying what the law "means" by examining law as consciousness, the discursive practices employed in everyday situations or the law's part in the constitution of identity and governmentality (Silbey and Seron, 2004). Rather than understand the law as a set of rules for the organization of social relations, the cultural oriented approach works under the assumption of a reciprocal process in which actions and interpretations given by individuals to the world they live in, and law and legal institutions as part of it, become repeated and stabilized. These meanings come to be part of material and discursive environments that shape future meaning-making. Cultural analyses therefore focus on the ways in which concrete actions create, maintain and reinforce social structures, but also question and challenge them on occasion (Ewick and Silbey, 1998; 2003).

Following Marx's, Gramsci's, Althusser's and Foucault's conceptions of society, the cultural approach contends that history and culture are made in the struggle among the diverse life worlds that coexist in given times and places. Foucault's influential assertion that power is not a thing but a set of specific social relations, with the ability to incite and encourage action, along with his conviction that investigations of power relations are most fruitful at the sites of resistance, are central to the cultural approach (Mezey, 2001). Culturally-oriented researchers therefore explore the ways in which identities are constructed through the use of discourse, narrative and language, in relation to law, in accommodation and in resistance to it.

Culture, is then understood not as a matter of absolute consensus, despite the existence of some shared symbols, but a matter of argument, "a confrontation of signs

and practices along the fault lines of power that contains polyvalent, potentially contestable messages, images, and behaviours" (Coombe, 1994, p. 811). It is with that recognition in mind that a wide array of culturally-oriented studies of law pays attention to mundane, everyday forms of resistance, based on the assumption that social structure and power are inseparable from the resistant practices that oppose them, that is, that opportunities for resistance originate in the repeated exercise of power (see for example Coombe, 1994; Ewick and Silbey, 2004). Resistance is understood to be possible due to the pervasiveness of social institutions and because of the resisters' familiarity with them; it is through everyday practical engagements that individuals identify the vulnerabilities of institutionalized power such as the law. By re-organizing basic schemas and resources that operate in conventional interactions, acts of resistance entail a clear awareness of existing relations of power, underscoring the unfairness of the situation and placing blame on particular institutions that are identified with the exercise of power.

Yet for all their interest in legal processes, culturally-oriented researchers see the law as one form of discourse, which interacts with other discourses and sources of meaning to construct and to contest identities, communities, and authorities (Sarat and Kearns, 1993). Cultural analyses of law seek after the various signs of its presence in everyday situations which frequently "include imperfect reproductions of the doctrinal commands" and pay "close attention to language and discourse tracing the residues of legal concepts and meanings in everyday social transactions" (Silbey, 2005, p. 332).

The assumption that "the law is all over" (Sarat, 1990) and its analytical implications were a welcome balance to a prior exclusive focus on court proceedings and the work of legal professionals and constitute a compelling effort to bring society back to

the study of law and society. However, while everyday interactions do reflect existing perceptions of law and morality (Ewick and Silbey, 2004), they do not necessarily activate these views in the same manner as transpire in actual court situations. Recounts of past and theoretical encounters with legal authorities may involve reflexive conclusions about the latter's performance, but neither take the work of legal professionals into account nor show the interaction between them and laypeople. If, as many culturally-oriented studies suggest, law and fundamental cultural assumptions interpenetrate, it would be interesting to explore how dominant values and knowledge are performed, maintained or resisted in court situations. Since discourse is such an integral part of litigation, and identities are formed through the use of discourse, narrative and language, it seems that a project that examines the work of courts, while taking cultural processes of meaning-making into consideration, is called for.

This dissertation sets out to investigate the work of the People's Popular Courts (PPC) in Cuba, with the aim to shed light on the changing relations between state and society over the last twenty-five years. In other words, this dissertation focuses on the ways in which the PPC attempted to foster a new national and moral identity in those who appeared before them (and, by association, in society at large). Assuming that the interaction between judges and litigants brings existing schemas, values and narratives into (rather lively) play, and finding interest in discussions and implementation of law as they occur and not in retrospective reflection, this study examines the discursive strategies employed in court situations. It is clear, however, that efforts at educating and instilling "proper" values in the populace never go unchallenged – both by the concrete actions and the discursive strategies of those standing in trial. Therefore, this dissertation

will focus on the ways in which notions of morality and community are performed, defined, negotiated, re-defined.

It is clear, however, that since different types of government do not exercise their power in the same manner, citizen domination is attained through different means, and resistance by citizens takes on different characteristics. The connection between states and regimes is important because, as O'Donnell (2004) reminds us, the rule of law pertains to both. Drawing from that assumption, scholarship seems to have been divided along conceptual lines, in addition to historical and geographical ones: assuming that the use of force might be more evident in authoritarian regimes than in democratic ones, studies of authoritarianism have mainly drawn attention to the role of coercion in political processes (mainly political repression). In contrast, studies of democracy have placed more attention to the spaces where power can be manipulated and abused, but also monitored and contested. As we shall see below, that division is not as clear-cut and is filled with complexities.

While indisputably brought about by a "violent break, anti-constitutional acts, a military coup, a revolution, or foreign intervention", rather than gradual evolution, (Linz, 2000, p. 60), authoritarian regimes base their power in more sophisticated mechanisms than the exertion of brute force. A pioneer in the study of authoritarianism, Spanish sociologist and political scientist Juan José Linz (1970), defined such regimes as those which exercise "power within ill-defined limits but actually quite predictable ones". Based on his study of Francoist Spain, Linz argued that power in authoritarianism is maintained through a combination of limited pluralism (i.e., relative repression of political alternatives), de-politicization of the populace (thus promoting passive

acceptance of the regime) and legitimization through deeply ingrained attitudes in the general public, as well as the support of a variety of state institutions and the church. Drawing on the notion that domination can be achieved through fostering political passivity in the citizenry (in addition to a credible threat of force, to be sure), Argentine-born scholar Guillermo O'Donnell (1973) set out to study the breakdown of democracies in Argentina and Brazil in the 1960s. He pinpointed the birth of South America's authoritarian regimes to changes in the area's economic policies, arguing that the import-substitution model of industrialization had enabled the rise of modern technocrats and a professionalized military organization. These elements suppressed the popular sector and subordinated its class organizations, especially trade unions. Domination over citizens, claimed O'Donnell, stemmed from a constant threat of coercion (and the occasional exertion of violence) rather than the consent of its citizenry and their perceived legitimacy of the state's institutions.

Yet while it is widely agreed that authoritarian rule requires the intensive use of coercion, quite a few studies have examined how coercion is managed. In a groundbreaking study of Chile's coercive apparatus under Pinochet's rule, Pablo Policzer (2009) traced the changes in the organization of the secret police in the country, showing how the intensive violence and blatant human rights abuses during the first years of the regime were replaced by an institutionalized restraint on the use of coercion in later years. Demonstrating the ways in which the state's re-organization of its mechanisms of coercion was connected to the efforts of human rights watchdogs to supervise and resist the state's coercive practices, Policzer teaches us that political repression is a

multifaceted, complex process and that coercion can be negotiated and resisted with varying degrees of success.

Democratic regimes may rely on more subtle mechanisms to maintain their power, but tensions with the citizenry are not necessarily less intense. Always at the core of political research, the study of these tensions became more compelling (and widespread) as Latin American states transitioned to democracy in the 1980s and 1990s, prompting scholars to highlight the limitations of these democracies and the possibilities for citizen participation in governance. Guillermo O'Donnell (1998) coined the term *delegative democracy* to highlight the concentration of power in the hands of elected presidents in new Latin American democracies and proposed a typology of accountability that takes into account the directionality of the systems of control, as well as the specific sites where accountability exchanges occur (O'Donnell, 1998, 2003; Peruzzotti and Smulovitz, 2006). *Vertical accountability* concerns the ability of citizens to monitor and control the state, mainly through the existence of elections, while *horizontal accountability* comprises the state's monitoring of its own activities by state-run agencies. O'Donnell's typology of accountability not only set the groundwork for the investigation of new democracies in Latin America (see for example Calleros-Alarcón, 2008; Peruzzotti and Smulovitz, 2006) and Asia (Rodan and Hughes, 2014), but did a great job of summarizing the dynamics of power between state and citizens; the electoral process has a limited ability to elicit accountability not only because elections occur only periodically, but because elections may not necessarily be free and fair. Yet while the ability of citizens to control may be gnawed by shady electoral processes, citizens may

very well affect the chances of governments establishing (and obeying) institutions of horizontal accountability (Fox, 2000).

Following this line of thought, Enrique Peruzzotti and Catalina Smulovitz (2006) suggested that citizens may exert increased control on the state through mechanisms of *social accountability*, namely monitoring the actions of political authorities through citizen associations and autonomous media institutions. Social accountability does not operate through the electoral mechanism of vote aggregation, nor only during periods of elections; it can be activated on demand and, while it might influence the outcome of elections, it might also affect the activation of horizontal mechanisms of accountability. In this manner, social accountability can overcome deficits inherent in both electoral-vertical and horizontal mechanisms of accountability and empower democracy "from below."

Social accountability stems, almost by definition, from the existence of civil society. Traditionally connected to the voluntary contractual relations between people, and, by extension, the extent of citizen participation in government matters, the concept of civil society has led to significant contributions in the understanding of governance and citizen participation in a variety of settings (deTocqueville, 2003; Putnam, 2001). The increase in widespread participation in media activity has resulted in a budding body of research that examines the implications of technological changes on state-citizen relations (see for example Mueller, 2010). As unmediated information becomes more accessible and easier to diffuse (mainly through the social media), and state censure and control grows increasingly difficult, citizens are finding it easier to express criticism and organize in order to monitor and resist state power. Changes in state-citizen relations are

by no means limited to technological developments, however, but are also connected to shifting attitudes concerning governance and citizen rights.

This dissertation examines state-society relations in a rather complex setting; while revolutionary Cuba is clearly an authoritarian regime, authoritarianism is not a unified category, but a rather varied, continuum-like construct. Formally a Marxist-Leninist state, Cuba has implemented a wide array of liberal reforms (including the gradual use of elections), thus suggesting that the distinction between both types of regimes can be somewhat of a false dichotomy. Moreover, as both studies of democratic (or rather, quasi-democratic) and authoritarian states have shown us, the negotiation of coercion and citizen demands for (some degree of) accountability seems to be a common thread in both types of states.

The rapid and profound changes in government policy over the last few decades have rekindled a long standing debate regarding the existence (and extent) of civil society in Cuba. Lively discussions of the matter found their way into academic publications, peaking in two influential anthologies. The first, published in 2005 by the Woodrow Wilson Center, addressed the changes taking place in Cuban Society (including the U.S. diaspora) since the 1990s from a variety of perspectives, ranging from theoretical essays to empirical studies of human rights and youth and religious organizations. The second compilation, edited by Alexander Gray and Anthony Kapcia and published three years later, focused on the question of whether a civil society exists in Cuba and if so, what type of role it fulfills in such a dynamic socio-political context. Bringing together a diverse array of contributors, both collections suggest innovative understandings of civil society as a theoretical concept, and place great attention to the changes that have taken

place in the private sector. In addition, both anthologies provide invaluable insight regarding the rise of religious entities and nongovernmental organizations (NGOs).

In addition to those studies, the last decade has also witnessed a growth in scholarly interest in alternative sources of identity, mainly in connection with religious affiliation (see for example Behar, 2007; Brown, 2003; Gonzalez, 2006; Hearn, 2008), but also in relation to sexual orientation and gender politics (Rodriguez, 2003), cultural consumption (Pacini Hernandez and Garofalo, 2004), race (Pérez Sarduy and Stubbs, 2000) or any combination of the above (for a fascinating example of the interplay between racial identity and cultural practices see Vaughan, 2012). These too have been linked to the expansion of civil society, under the premise that competing foundations for solidarity (i.e., stronger alternatives to the revolutionary project) would promote further political reform. The same argument has been made about the power of religious entities and NGOs, mainly due to their ability to create alternative networks that expose Cubans to overt criticism of state policies and to the realities of life outside the island (Leo Grande, 2002).

The resurgence of civil society in Cuba over the last few years presents interesting questions regarding the status of state-citizen relations in the country. While the issue has been mainly examined through the interaction between nongovernmental and religious organizations and state agencies, the meeting points between state agencies and individual citizens remain virtually unexplored. This dissertation aims to fill that void by examining the negotiation of power between the judges in the People's Popular Courts (a state agency *par excellence*), and the individual citizens who appeared before them. The courts are seen not only as an arena for political indoctrination, but a site of political

contestation as well; I outline the ways in which ideas of individuality, community, solidarity and morality were coercively transmitted, but also blatantly contested and, eventually, re-defined. By addressing the People's Popular Courts' position in the meeting point between individual and the state, this study aims to tackle the complexities of the transformation of Cuban society and address the question of how the citizens of civil society are contesting state practices and authority, and in so doing re-reforming the socialist state in unique ways. As I will demonstrate throughout this dissertation, state institutions are responding to pressure from below at least as much as imposing directives from above, therefore implying that Cuba is in the midst of a process of state (re)formation in which citizens are becoming increasingly involved.

States are neither formed nor re-formed overnight; the construction of collective ways of "making sense of the world" – both in the manner in which citizens perceive and explain their experiences and in the ways in which "state activities, forms, routines and rituals…for the constitution of regulation of social activities" occur (Corrigan and Sayer, 1985, p.14 in Joseph and Nugent, 1994) – is a lengthy process, one which is not devoid of struggle. This dissertation places the limelight on everyday forms of governance, as well as the tensions between individual citizens and the state, with the objective being to shed light on these new, contested spaces.

As I will show throughout this dissertation, Cuba is in the midst of a process of state (re)formation in which state institutions are responding to pressure from below at least as much as imposing directives from above. Drawing from the existing literature on processes of state formation, which turns the spotlight on everyday forms of governance rather than declarations by government officials and the arguments made by citizens to

the occasional interviewer, this dissertation focuses on direct interactions between citizens and the state. The objective is to shed light into these new, contested spaces, which reflect the broader changes taking place in the rest of the country.

That the court situations investigated in this study take place in a socialist state, where legality is perceived as an edifying tool rather than a mere instrument for the maintenance of order, enables us to further theorize about the educational functions of the law and legal practices. With this idea in mind, the discussion of socialist legality and legal practices in socialist states continues below.

Legal practices in Socialist States

If we see law as an interpretive, contextual, ideologically-laden process, we are then bound to acknowledge the significance of the politico-economic circumstances in which it is interpreted and applied. Law in its conceptual sense is perceived differently in liberal and socialist thought; in the former, the rule of law and the market limit the degree to which the state can intrude on the activities of individuals, thus maximizing their freedoms (Hayek, 1994; Sypnowich, 1990). In the latter, "law is destined to 'wither away' once capitalist economic relations are destroyed and replaced by socialist forms of organization" (Sypnowich, 1990:156; see also Beirne and Sharlet, 1982; Pashukanis, 2007; Thompson, 1982). These different conceptions have brought about differences in the way the judiciary is organized in capitalist and socialist states;[6] while in capitalist states judicial functions are performed by professionals who are said to be representing

[6] Clearly, there are significant differences in legal structures between different capitalist states, as well as between socialist ones. Moreover, as Michael Burawoy and Janos Luckacz (1985) have astutely pointed out, some communist states have more "capitalistic" characteristics than capitalist ones. These differences were overlooked for the sake of the general argument but will be addressed further on.

the interests of the government and state, judicial functions in socialist states are executed by professionals as well as laymen, who are said to be representing the interests of the people and proper "working class" consciousness (Hayden, 1986; Pashukanis, 2007; Sypnowich, 1990).

In addition to differences in the structure of the legal system, there are dissimilarities in the content, purpose and scope of law between the two economic systems. In both capitalist and socialist states the law deals with issues of ownership and the duties and rights of citizens towards the state and one another. Naturally, the character of these rules differs among capitalist and socialist states, especially those regarding ownership and property rights. However, while the purpose of law in capitalist states is to maintain stability and order in society by establishing general guidelines for behaviour, its objective in socialist states is to implement a "revolution from above" (Brady, 1982; Fernandez Burlé, 2005; Pashukanis, 2007) educating citizens, both transgressors and the broader community, in light of revolutionary values and consciousness, as well as maintaining stability and order within society. The desire to cultivate those values usually means that the scope of regulation is widened to include mundane and everyday behaviours, not necessarily included in some criminal law systems (Hayden, 1986; Ramundo, 1964; Rojek, 1989; Sieglebaum, 1992; Sypnowich, 1990; Weiss, 1972).

While much academic work has focused on the law, legal systems and practices of capitalist countries (see for example Barzilai, 2003; Cotterrell 2000; 2006; Dworkin, 1986; Ewick and Silbey, 2004; Fitzpatrick, 2002; Galanter, 1967; Merry and Milner, 1994; Sarat, 1990; Sarat and Kearns, 1993 to just mention a few), such studies of the law in socialist countries are few and far between. Though this gap might very well reflect

pragmatic considerations rather than theoretical inclinations, it is puzzling that the scholarly interest in the role played by law in the construction of identity and community has yet to result in a study of systems designed precisely with the aim to instil proper revolutionary consciousness in its citizens. This project will investigate the work of the People's Popular Courts in Cuba and will focus on its attempts to educate those who appeared before them to be "good Cubans" and "good Socialists," to implement and institutionalize a "revolution from above." It is clear that communist systems, just as capitalist ones, are not static entities, but embedded in ever-changing socio-political circumstances. By contesting the assumption that law is bound to "wither away" once socialism has been institutionalized, this study also aims to show *how* legal practices in Cuba have evolved in a dynamic internal and external environment. With that purpose in mind, a brief summary of the historical and institutional context in which the tribunals act follows.

Law and Civil Society in Cuba

The collapse of the Soviet Union and the rapidly changing policies of the Cuban government have drawn increasing scholarly interest to the implications of liberalization for civil society in the island. The concept of civil society has traditionally been connected to the voluntary contractual relations between people, and, by extension, the extent of citizen participation in government matters (or decision making processes) (deTocqueville, 2003; Putnam, 2001). While that focus has led to significant contributions in the understanding of governance and citizen participation in a variety of settings, scholars of Cuban society and polity have keenly argued in favour of a broader

definition of the concept of civil society for the examination Cuba's dynamic political and social structure.

Jorge Luis Acanda González (2005) suggested a Gramscian interpretation of the notion of civil society; rather than a set of truly consensual relations, Acanda González borrows Gramsci's concepts of hegemony and manufacture of consent to draw attention to the processes that produce, diffuse, and reproduce consensus regarding the meaning of society, individuality, solidarity, and community. Seeing civil society as a set of social relationships that produces meaning, Acanda González suggests focusing on the work of forums for public socialization, such as institutions of education, professional and religious associations, community and labor organizations, the mass media, and cultural and academic publications.

Ariel Armony (2005) takes Acanda González's perception of civil society a little further. Acknowledging the processes that create consensus, but also remembering that consensus is always a work in progress, he proposes examining the "reciprocal interaction and interpenetration between civil society and the state" (p.22). He sees civil society as "a public sphere made up of numerous autonomous niches vis-à-vis the state" (p. 20) and suggests that the capacity of civil society to bring about change is connected with the state's capacity to generate and implement public policy, promote and sustain a national project and use mechanisms of coercion in order to discipline its citizens and control the opposition. In this manner, Armony includes citizens' increasing questioning of the system, the constant political debates over socialist models and economic reform, a-political youth movements, and social networks organized around religious activity

(Afro-Cuban religions, the catholic church) as spaces that can be described as "civil society."

Building on Benedict Anderson's perception of the nation state as an imagined community, where a sense of community is politically promoted by the state (Anderson 2006), Armony suggests focusing on the relationship between civil society and the state's symbolic apparatus. Given the changes that have taken place in Cuban society, it is crucial to perceive the relationship between civil society and the state as comprised of dynamic interactions. In other words, we need to examine how and the extent to which civil society conforms to or challenges the state's formula for inclusion in political society and the community in general, and the extent to which it takes part in its re-definition.

A state-run mechanism of coercion par excellence, as well as a site of civil society according to the definitions mentioned above, the work of the People's Popular Courts is an interesting setting for the examination of the relationship between civil society and the state; while transgressions of the law and petitions for appeal are normally seen as a form of resistance to the authority of the state, we shall see that the claims made by litigators during court proceedings reflect a constant struggle with official definitions of morality, citizenship and community, forcing judges (that is, the state) to clarify, elaborate, and ultimately re-define these concepts. As we shall see, the strategies employed by citizens to question policies implemented by the state, as well the official criteria for inclusion in the collective have changed substantially over time, as has the state's perception of the rights of citizens to complain, demand and participate in the re-definition of such criteria. Thus, an examination of the Cuban legal system should

not only address how legal practices in Cuba have evolved in a dynamic internal and external environment, but how those changes are connected to the relationship between citizens, and civil society and the state.

Chapter 2: Methodology

This project analyses civil law documents pertaining to litigations brought before the Cuban People's Popular Courts between the years 1986 and 2010 (that is, a few years after the codification of the first constitution under the revolutionary government, and before and after "The Special Period"). This time period was selected because it includes the wide array of political, economic and social changes that have taken place in the island over recent decades (as discussed in chapter 2), and supports a reasonably broad scope of analysis. In addition, many documents pertaining to litigations conducted between 1959 and 1975 would have been impossible to track down, given that many disputes were resolved by informal mechanisms of justice whose record-keeping practices were rather unreliable. Records of proceedings conducted between 1976 and 1985 have not been conserved at the PPC archive, despite the fact that these were produced after the legal system was reformed and unified. Partial records of litigation between 1974 and 1985 are available, as very brief summaries of the verdicts have been compiled into bulletins, published by the Ministry of Justice. These records would not serve the purpose of this dissertation, however, as they do not include the arguments made by litigators and witnesses, nor the appellants' written petitions; while undoubtedly instructive as to the decisions made by judges in every case brought before courts, the records do not include much information about the particular circumstances of a case, and, more importantly, they do leave the litigators' voices side of the story unspoken. Since this dissertation's focus is the negotiation of moral perspectives between state and citizens, it became clear upon looking at the bulletins, that documents that only recount the side of the state would not do justice to the purpose of this study.

The reasons for the change in the archive's conservation practices around 1986 remain unclear; perhaps the revolutionary zeal of the rectification campaign was translated into more meticulous organization and preservation of state documents, perhaps it took a while for the reformed legal system to draft clearer instructions for the management of files and maybe changes in archive personnel was accountable for the difference.

Apropos of the selection of the time-frame for this study, my interest in civil law also stemmed from pragmatic and substantive considerations. Early on my research journey, I was told that the chances of obtaining permission to work at the archive would increase if I was to focus on "dull, procedural cases"[7] rather than the much more "politically sensitive" criminal cases. This advice turned out to be real sage in more ways than one. Gaining access to archival materials in Cuba is no easy task and my data collection quest was far from being peaceful and relaxed. It took many months to find out who I needed to request permission from, and, more importantly, *how*. Many months passed before I received an answer from court officials, and during that time I doubted that I ever would, and even if the courts replied I doubted that it would be a positive one. Today I am convinced that in the end it was my interest in civil cases that made my request seem less suspicious in the eyes of those in charge and therefore tipped the scales in my favour.

Of equal importance are the theoretical points that make civil law interesting; in contrast to universally well-established legal maxims such as "thou shalt not kill", rules regarding property and family matters, which are the main component of civil law cases,

[7] Personal conversations with two lay judges, a lawyer, two CENDIJ employees (Centro de Documentación e Información Judicial) of the PPCs, and a faculty member at the University of Havana.

seem to be exceptionally sensitive to the idiosyncratic judicial and discursive practices of a particular place at a particular time. Granted, this statement holds true for the vast majority of codified laws, and even the taking of someone else's life can be interpreted differently (as homicide or heroic action) depending on the circumstances. However, to the extent that legal mores reflect the ideological principles of a particular regime, civil law's focus on property and family issues makes it more likely to mirror those values because it deals with issues that are highly relevant to ideological sensitivities. Private property and property rights, for example, are a crucial source of disagreement for different economic and sociopolitical philosophies. Large scale ownership of material goods are perceived as a means of production under state socialism, and are therefore bound to be replaced by public ownership.[8]

This outlook usually translates into a policy of extensive regulation by the government and the implementation of a broad range of limitations regarding trade in a wide array of privately-owned assets (Chen, 2008). In contrast, capitalist countries (in all its versions) hold a view of property as a resource to be managed by its rightful owner. Inasmuch as the government exerts some kind of supervision on specific types of dealings, which usually takes the form of price and commerce regulation, capitalist regimes usually adopt a laissez faire approach, intervening in transactions only when existing limitations are breached (Baumol, Litan and Schramm, 2007; Katz, 2010). Civil law has a significant connection to economic and political ideology, yet this connection is

[8] As will be discussed in the following chapters, the revolutionary government in Cuba made great efforts to educate the populace to redirect their intrinsic drive, from struggling to improve their own individual material wellbeing, toward continuous labour on behalf of the common good of the collective.

more nuanced than it seems at first glance. We saw that private property is, at least in theory, not expected to exist (nor thrive) under state socialism. However, research conducted on socialist states, as well as Cuba's civil law code, points out that private property not only exists, but that its presence is not precisely contested by the state (Burawoy and Lukacz, 1985; Sabel and Stark, 1982). This apparent contradiction suggests that, to the extent that civil law mirrors the values held by the state, this reflection tends to be more reminiscent of a funhouse mirror image, rather than an accurate reproduction. It is the intricacies of the connection between civil law and economic and socio-political doctrine that makes the investigation of civil law in a contemporaneous socialist context an interesting endeavour.

The specific documents that will be examined in this study are protocols of legal verdicts issued by the People's Popular Courts between the years 1986-2010.As was mentioned in the former chapter, the Popular Courts deal mostly with appeals to sentences produced by Municipal and Provincial Popular Courts across Cuba. Two features made the study of litigations brought before the Popular Courts an appealing research option: first and foremost, though People's Popular Court proceedings are conducted in the capital, cases can and in fact do originate from everywhere in the Island. Therefore, PPC cases are more representative of the realities, experiences and problematics of Cubans across the country than their locally-oriented counterparts. Secondly, appeals to the court are of theoretical interest because they reflect an additional facet of the negotiation of authority, identity and morality between state and litigants. Transgressions of the law and socialist legality might amount to a challenge to state authority, and testimonies given during trial may sometimes voice a similar intention.

However, appeals to verdicts given by a state-appointed tribunal are more likely to signal an intention to question and contest the authority of the state; while appeals might not express disagreement with the law, or with dominant moral discourses, they always articulate a discomfort with the way they were implemented in their case. In doing so, they challenge the original verdict givers' capacity to interpret the law in the spirit it was legislated, or their authority to enforce it.

Documents were collected at the Archive of the People's Popular Courts, located in Havana, Cuba, during two field-trips: the first was conducted in January-March 2012, and the second in January, 2013 (a preliminary visit was conducted in January 2011). Since the dissertation only implicated the use of archival materials, I was advised by the Conjoint Faculties Research Ethics Board in the early stages of this project that no formal University of Calgary ethics clearance was needed. It is clear, however, that even when only papers are involved, research projects are never conducted in complete isolation, and the researcher is not precisely sequestered from the outside world; this is particularly true in the case of my project. As I spent significant chunks of time at the PPC's information centre (CENDIJ) within which the archive is located (both because I conducted multiple trips to the country, and because I spent entire days at the archive), I not only had the opportunity to forge friendships with workers at the centre (who were tremendously knowledgeable and helpful in all stages of my work), but also had the chance to meet lawyers and judges who came to borrow materials from the centre (such as books and past verdicts) or just dropped by to visit.[9] These acquaintances were eager to share their

[9] Not many foreigners are known to frequent the PPC's information centre, which made me somewhat of an attraction and subject of conversation -- judging by the amount of stares from strangers, and constantly meeting staff who knew who I was even though we had not been previously introduced.

invaluable knowledge and experience (and sometimes, their journals and books!), which have occasionally found their way to the pages of this dissertation. Though this information was never achieved by way of formal interviews, it was made clear to all legal practitioners or CENDIJ staff with whom I had informal conversations that their comments would potentially be cited in my dissertation. This participation, however, does not fall under the purview of formal ethics criteria because while my interlocutors did provide me with interesting and important background information, they were by no means the focus of this dissertation. According to the Tri-Council policy:

> …in some cases, research may involve interaction with individuals who are not themselves the focus of the research in order to obtain information. For example, one may collect information from authorized personnel to release information or data in the ordinary course of their employment about organizations, policies, procedures, professional practices or statistical reports. Such individuals are not considered participants for the purposes of this Policy. This is distinct from situations where individuals are considered participants because they are themselves the focus of the research. For example, individuals who are asked for their personal opinions about organizations, or who are observed in their work setting for the purposes of research, are considered participants.[10]

While none of my contacts requested to remain anonymous, I have chosen not to disclose their names. All such cites will then only mention the person's occupation in order to establish their expertise in a given matter.

Since during the majority of years in question the number of sentences produced was far too large to be analyzed in this study, case files were randomly sampled from the population of available verdicts. Making decisions regarding sampling is never easy, but this task was simplified by the way the archive is organized; rulings are stored in individual binders and placed in shelves that are organized by branch of law, then

[10] http://www.pre.ethics.gc.ca/eng/policy-politique/initiatives/tcps2-eptc2/chapter2-chapitre2/

collected into packages according to each year. For this study, I randomly selected 25-35 of the verdicts produced in each given year by blindly (literally) picking half of the binders in each package as soon as it was handed to me by the archivist. To be more precise: after receiving a package and making sure all binders were upside down (as to ensure that information regarding the cases, such as date of verdict, issues to be discussed, names of litigators and region where the prior verdict had been produced, was not available to me), they were scattered on the (unusually large) archive table. Then, 25-35 cases were selected, the rest were placed in a different table.[11] Cases in each package were organized by the date of the verdict. No thematic order was ascribed to the packages and therefore, I felt that picking cases blindly could ensure that I found appeals for cases that had been discussed in a variety of regions and that dealt with a diversity of issues. As will be shown in the chapters that follow, such diversity was not to be found; disputes involving certain issues were more common in certain periods than they were in others, mirroring the realities of the times (see table below). During the years of the rectification campaign, for example, we see a concern with disagreements between individuals taking place within the confines of the law and socialist doctrine. No illegal activities were involved or mentioned in testimonies. The disputes found in this sample revolved around usual civil/family courts matters – divorce, custody arrangements, and paternity proceedings. Despite the fact that the Cuban code of law at the time permitted the existence of a few forms of private property, mainly houses and cars (which could be inherited but not sold – at least not legally), cases discussed by the PCC during this

[11] While this approach might raise the eyebrows of methodological purists, it is important to keep in mind that the backbone of conventional approaches to data collection consists of applying a consistent strategy and ensuring that cases are selected randomly. Both principles were applied when selecting data for this study.

period did seldom concern conflicts over inheritance and house swaps, and arguments over property division following divorces were rare (see table below).

As will be discussed in the following chapters, the dire economic hardships of the "Special Period" following the collapse of the Soviet Union were translated into dramatic legislative changes and government initiatives. A substantial number of the disputes resolved by the courts during this decade deal with the forced expropriation of trucks, cars and houses (although the latter appear to have been quite rare) by the government. As replacement parts became increasingly scarce, gas turned into a rare commodity and urban space was required for tourism initiatives, there was growing need to appropriate these resources and put them to different, government-regulated use. Family disputes such as divorces, paternity claims, and custody provisions appear in the sample of cases as well, though a deeper look at the cases themselves shows an increasing concern with the division of property and alimony payment, perhaps due to existing material privations and the government's halt of formerly existing subsidies.

The 2000s marked Cuba's relative recovery from "Special Period" sufferings. However, a major part of the disputes in this sample revolved around financial issues, signaling that the preoccupation with money was far from being overcome. Disagreements surrounding the inheritance and selling of houses, and between state-run agencies and their foreign partners were characteristic of this period. In addition, family matters such as divorces, paternity claims, and custody provisions were brought before courts and, in similarity to Special Period conflicts, there was constant anxiety over the division of property and alimony payment. In addition to all the former, two new types of disputes entered the legal scene: feuds over debt payment, and claims for damages from

insurance companies or the state, further pointing to a concern with monetary issues. Moreover, the emergence of cases where citizens make strong demands from the state marks the appearance of a new sense of entitlement towards a formerly unapproachable, inflexible body of government.

Distribution of cases sampled for this study by decade

The boldfaced numbers indicate the number of cases in each category. The italicized number in a cell percentages the boldfaced number using the total number of cases in a given decade as the denominator.

	Adoption	Breach of contract	Child support	Claim to property	Contract	Custody	Damages	Debt	Division of Property after Divorce	Divorce
1980s	**2** *2*	**0** *0*	**0** *0*	**0** *0*	**0** *0*	**24** *22*	**0** *0*	**0** *0*	**3** *3*	**1** *1*
1990s	**0** *0*	**1** *0*	**1** *0*	**2** *1*	**7** *3*	**16** *6*	**5** *2*	**0** *0*	**27** *11*	**5** *2*
2000s	**0** *0*	**4** *1*	**0** *0*	**0** *0*	**5** *2*	**16** *5*	**20** *6*	**15** *5*	**14** *4*	**5** *2*
	Donation	Expropriation	Financial	Halt of construction	House	House swap	Illicit gain	Inheritance	Intellectual Property	Joint Venture
1980s	**1** *1*	**32** *29*	**0** *0*	**0** *0*	**0** *0*	**10** *9*	**0** *0*	**3** *3*	**1** *1*	**0** *0*
1990s	**0** *0*	**34** *13*	**7** *3*	**6** *2*	**0** *0*	**13** *5*	**0** *0*	**23** *9*	**0** *0*	**2** *1*
2000s	**4** *1*	**2** *1*	**3** *1*	**8** *2*	**1** *0*	**16** *5*	**1** *0*	**52** *16*	**0** *0*	**0** *0*

Distribution of cases sampled for this study by decade - continued

	Land	Neighbour dispute	Nullification of marriage	Paternity	Privation of Parental Rights	Procedural	Property	Recognition of Marriage
1980s	**1** *1*	**0** 0	**1** 1	**18** *16*	**1** *1*	**0** *0*	**0** *0*	**13** *12*
1990s	**4** *2*	**10** *4*	**0** *0*	**27** *11*	**0** *0*	**13** *5*	**0** *0*	**29** *11*
2000s	**0** *0*	**33** *10*	**2** *1*	**5** *2*	**3** *1*	**43** *14*	**18** *6*	**31** *10*

	Vindication of property rights	Recognition of property	Technical error	Rent	Trade	Usucap-tion	Vehicle sale	Total
1980s	**0** *0*	**0** *0*	**0** *0*	**0** *0*	**0** *0*	**0** *0*	**0** *0*	**111** *102*[12]
1990s	**0** *0*	**19** *7*	**0** *0*	**1** *0*	**2** *1*	**3** *1*	**0** *0*	**257** *100*
2000s	**2** *1*	**11** *3*	**6** *2*	**0** *0*	**1** *0*	**2** *1*	**1** *1*	**324** *103*[13]

[12] Percentage does not add to 100 due to rounding error.
[13] Percentage does not add to 100 due to rounding error.

It is crucial to note that this table does not represent the overall number of cases dealt with by the PPC during the periods noted above, but merely describes the distribution of issues discussed in the sample of cases analyzed in this dissertation. While this is important information, it is also important to see how these trends compare with the totality of cases brought before the PPC. Tracking down the total number of cases brought before the PPC has turned out to be an impossible task. While technically this information should be obtainable from two different sources (the archive in Havana which, on paper, holds the protocols of all cases dealt with by the PPC[14] and an annual bulletin published by the PPC, which ideally contains all the cases discussed during a given year) in practice that did not prove viable.

At a relatively early stage of my fieldwork I became suspicious that the archive in Havana may not have actually retained a record of all the disputes brought before the PPC: cases are given serial numbers based on their order of discussion, but the numbering in some years did not begin at "1"; in fact, the first case number I encountered for a few of the years was "100". There were also unexplained gaps between case numbers in quite a few instances. Since I was given closed packages directly by the archivist (and, judging by the amount of dust, they did not seem to have been reviewed in a long while), I tend to believe that the missing cases were simply not preserved for posterity.

Very fortunately, I was able to secure a copy of every bulletin issued by the PPC since 1974 (some had been photographed, and a few hard copies had been given to me as

[14] Although the CENDIJ is in the process of creating a computerized database of all the materials that can be found in the premises, the archive does not have, at this point, an organized list of cases.

a gift by one of the judges I became acquainted with while working at the CENDIJ) and therefore could rely on them for information about the distribution of all cases discussed by the PPC on a given year. It occurred to me that I could assess the reliability of the bulletins by comparing the sample used in this study to the cases that appeared in the bulletin in each given year. It did not take long to realize that there indeed was a problem: upon examining a preliminary sample of three different years, I found that some of the disputes in my sample were not mentioned in the bulletins, therefore suggesting that they may not be the most reliable source of information.

That said, even with all the limitations of drawing conclusions from a small sample, we need to keep in mind that: a) cases were selected randomly and literally blindly, and; b) the specific themes that will be outlined throughout this dissertation were prevalent in the vast majority of cases (see appendix 2 at the end of this dissertation), therefore suggesting that similar trends would have been found in the disputes that were not selected for this sample, as well as in those which were not preserved in the archive.

Broadly speaking, documents were analyzed using the strategy of discourse analysis. An analysis of discourse is essential to a project that aims to explore the courts' attempts to foster a national and moral identity in those who appeared before them, as well as the ways these were challenged by those standing in trial. By discourse, I refer to the large-scale cultural rhetorics which actors employ as interpretive resources (Holstein and Gubrium, 1994; Deutschlander and Miller, 2003; Hopper, 1993). A fundamental assumption in this study is that actors use language strategically to accomplish their purposes in particular settings. In other words, when actors speak they promote a

preferred version of the world and disqualify others (Ibarra and Kitsuse, 1993; Miller, 1993; Deutschlander and Miller, 2003). This feature plays a major role in legal situations because judges *have* to be persuaded by one account among many in order to reach a verdict. Accordingly, this approach highlights the role of individuals as active, interpretive beings who actively assign meaning to situations and activities around them. Yet the resources employed by litigators and judges do not emerge from a vacuum. They originate in, and are shaped by, practices of power, and are constantly reinforced and re-defined through the media, the education system, and political and economic ideologies (Foucault, 1984; van Dijk, 1993). That being said, discursive practices are under constant negotiation, because together with its prohibitory and punishing functions, power has the ability to produce, incite and encourage actions.

The use of the term "discourse" in this study therefore does not refer to the formal linguistic aspects of speech and writing, but to institutionalized patterns of knowledge that operate by the connection of knowledge and power. Consequently, the analysis of documents has focused on the power relationships as they are expressed through language. Given the close-knit relationship between power and resistance, it is clear that this project must pay as much attention to "top-down" relations of dominance as it heeds "bottom-up" relations of resistance and obedience (van Dijk, 1993).

Focusing on the ways in which notions of morality and community were performed, defined, negotiated and re-defined in court situations, this study will attempt to ferret out existing schemas, values and narratives as they are played out in court situations. Special emphasis will be placed on the ways in which different actors strived to define not only the meaning of particular social signs but also the methods and codes

appropriate to generating authoritative knowledge of "the greater good" (Valverde, 1991). Drawing from the assumption that discourse that intends to persuade an audience (any audience), is frequently structured "not so much through formal logic but through tropes" (ibid: 179), I have focused on the use of metaphors or figures of speech.

Along with a focus on allegories and rhetorical expressions, documents were also examined through a narratological lens. While agreement surrounding the role of rhetoric in court situations has always been prevalent among legal scholars (Gewirtz, 1996), there has been growing interest in the study of narratives in the law over the last two decades. (Peter Brooks and Paul Gewirtz's 1996 compilation of essays and lectures given at a legal narratology symposium conducted at Yale a year earlier is an illustrative example of this trend.) Narrative refers to a type of discourse that shapes meaning through the ordering of material and events; speakers convey particular understandings of individual action by organizing people, objects and events into specific arrangements, connecting between actions, events and consequences (Brooks, 2006; Holstein and Gubrium, 2011). Drawing on the assumption that narratives are a constructed version of reality rather than reality itself, narratological studies also place great importance in the context where statements are made: "who sees and who tells, the implicit or explicit relation of the teller to what is told, the varying temporal modalities between the told and its telling" (Brooks, 2006, p.2). Narratives provide us with information that transcends what "really" occurred in a specific event, shedding light on a narrator's way to make sense of the event and the forms used to convey that logic in a convincing manner. This information is crucial for an analysis of legal documents, since decisions in court depend to a great extent upon the well-roundedness of stories, or, to paraphrase Peter Brook's (2002) witty summary of the

relation between law and narrative "'Conviction' — in the legal sense — results from the conviction created in those who judge the story (p.2).

Writing a few years later, though not as part of the legal narratology movement, Arthur Frank (2010) developed the idea of *narrative habitus* to suggest that people (or groups) are predisposed to hear and tell certain stories rather than others. This tendency is also linked to an expectation that people emplot their lives in particular ways. Therefore, I will argue that not only did the litigators appearing before the PCCs strive to construct a compelling, sound argument in court by resorting to familiar (and potentially acceptable by the judges) rhetorical and narrative resources, but judges responded to the stories told in court in a manner consistent with their narrative habitus - they were able to accept certain stories, but were unable to hear others. This project therefore aims to explore how narrative habituses were employed in court, both by litigators and judges.

Yet for all the interest in discourse, a small clarification is in order. Power, as well as resistance to power, takes many forms. Transgressions of the law seldom take place in the realm of discourse, and the lion's share of the courts' power stems from its ability to exert material penalties on those who are found to be in the wrong, rather than from its scathing diatribes (though both are clearly well connected). Along this line of thought, Gavin Kendall and Gary Wickham (1999) suggest that a "Foucauldian discourse analysis" should encompass an analysis of material practices along with discursive ones. Granted, the documents used in this study only include reports of actual actions or the judges' intention to apply certain sanctions. However, given how crucial actions are to attempts to resist power, and how crucial sanctions are to attempts to implement it, this study cannot stay indifferent to the world of the concrete.

This project relies on a sample of archived case files, rather than on analysis of all civil law cases discussed by the PPC. The latter would not only have been a rather cumbersome task, but nearly impossible given my dependence on the archive's conservation practices. In other words, a major part of the sampling conducted for this study was based on the cases that were be found in the archive in the first place (or, if I was to adopt a more skeptical stance, on the cases that were made available to me). Aiming to examine how the courts have worked to create a sense of generalized Cuban identity that has changed over time, I have not only focused on the idiosyncrasies of specific cases, but identify common themes evident in the documents. An analysis of discourse is not concerned with finding a "true" version of events, but rather with how these events are constructed. Therefore, my focus has been on "figures of speech, setting, narrative devices, historical and social circumstances, *not* the correctness of the representation nor its fidelity to some great original" (Said, 1978 p. 21).

The aspiration to reach generalized conclusions from a sample of cases, however, cannot be fulfilled without acknowledging the effects of the context where those texts were produced, archived, made available, translated and analyzed; while my sampling strategy aimed at lessening the influence of my possible personal preferences when it came to choosing the disputes to be analyzed later on, it is clear that the selection of cases was anything but clean of other influences. The first, obvious context influence regards the cases that were available for research. As was mentioned above, my sampling strategy relied on the cases that were conserved at the archive, and within that category, the cases that were presented to me as a foreign researcher. While I have no intention of placing suspicion in the intentions or work practices of the archivists at the PPC (who

were, beyond any doubt, exceptionally gracious and extremely diligent), it is clear that there is a significant possibility that not all materials were conserved, organized, labeled, shelved and made available to me. Though this problem has been granted a great deal of attention in the scholarly community (see for example Derrida, 1996), there is widespread agreement that limitations stemming from the "selective survival" of documents do not, and should not undermine the value of archival/historical research.

Another, rather pressing influence worthy of discussion concerns the production of the documents that will be analyzed in the following chapters; protocols of PPC proceedings, at least when it came to the arguments made by litigators and witnesses, consisted of a synopsis of the claims made during trial, rather than precise transcriptions of court proceedings. These summaries were peppered with quite a few literal citations and therefore seemed to reflect the general feeling the speaker tried to convey, though this is more an intuitive assumption than a scientific proposition. The judicial opinion and verdict were transcribed word by word, possibly due to an expectation that a copy of the decision be submitted in writing. Though the power to create a legal protocol, and thus to construct a legal narrative is clearly reserved only for the judges, giving them license to decide what is worthy of being recorded and what is not, it is important to note that protocols are always shown to litigators as to ensure that it does justice to the parties' declarations. It is then safe to assume that the *style* of litigators' and witnesses' statements has been, for the most part, modified, yet their *content* has remained unchanged. Therefore, the analysis of citizen statements will revolve around their meaning rather than their form. The investigation of judicial opinions, however, will focus on both.

The discussion of language in the documents analyzed in this dissertation would not be full without addressing the topic of translation. As the reader may have inferred, all the documents used in this dissertation were originally produced in Spanish, the official language in Cuba and only translated to English when cited. There are many approaches to translating a document, ranging from strict "word-for-word" translations, to absolute paraphrases of the original text (Ziaul Haque, 2012). No method is perfect, however; literal translations are at risk of being awfully cumbersome, as words in a given language may carry more than one meaning, and expressing the right meaning of a word in one language may often require using more than one word in another. Moreover, literal translations may reproduce flaws in the original document, such as imperfect grammar and awkwardly phrased expressions, thus culminating in a rather problematic result. These problems could be easily resolved by rephrasing the original text, but as the words of the initial speaker are replaced with those of the translator, it becomes unclear whether the translation truly reflects the original speaker's intentions. Translating a document indeed requires a fair share of judgment, carefully considering the implications of choosing one word, or one approach rather than another. Because the focus of this dissertation is on the use of language, I have decided to translate all documents as closely to the "word-by-word" end to the continuum as possible. The reader will note that many of the arguments could have been expressed (and transcribed) in a more coherent manner, might think of better, more concise ways of conveying the same message, and might find the use of punctuation marks to be irreversibly flawed. The decision to leave the writers' grammar uncorrected was part of the intention to leave their arguments unchanged and

here I ask the reader to patiently bear with what may look at times as clumsy, inarticulate arguments.

Yet the aforementioned effects of context do not necessarily constitute irredeemable flaws in this research project, nor precisely undermine its contribution. In his influential essay on methodology in the Social Sciences, Michael Burawoy (1998) made an excellent case for bringing the influence of context into the analytic limelight, aiming to "enjoin what positive science separates: participant and observer, knowledge and social situation, situation and its field of location, folk theory and academic theory" (p. 14). Reflexive (social) science, says Burawoy, is dialogical in the sense that "it calls for intervention of the observer in the life of the participant; it demands an analysis of interaction within social situations; it uncovers local processes in a relation of mutual determination with external social forces; and it regards theory as emerging not only in dialogue between participant and observer, but also among observers now viewed as participants in a scientific community" (p. 16). Stemming from this premise, theories flourish through intellectual debate, offering "no final truth, no certainties", but existing "in a state of continual revision" (p. 16). The objective is therefore to apply "reflexive science in order to extract the general from the unique, to move from the "micro" to the "macro", and to connect the present to the past in anticipation of the future, all by building on pre-existing theory" (ibid, p. 5). In other words, Burawoy argues in favour of acknowledging the uniqueness of each of the cases under study, but also claims that cases should be connected to a wider social, political and theoretical context. Thus, while fully recognizing that cases under study are the product of specific historic, geographic and

economic circumstances, my intention is to find some general aspects that could be relevant for Cuban society and its legal system as a whole.

While this study places particular weight in finding broad tendencies in the work of the PPCs, a few issues will be interwoven throughout the different chapters of this dissertation. Apart from the focus on the discursive strategies employed by judges and litigators to justify their actions and denounce those of others, as well as the possible changes in moral discourse over time, three topics are readily identified:

1) The nature of disputes dealt with by the courts, and the strategies employed for resolving those disputes. More specifically, it will be argued that the political and social situation is deeply connected to the issues brought before the courts, as well as the courts' techniques for tackling these issues. This is deeply connected to the next matter under discussion, which appears below.

2) The circumstances under which transgressions are committed, and under which they are tolerated. Different political, economic and social conditions elicit different types of behaviours, and different ways of interpreting such behaviours. In other words, offenses that were perceived as unthinkable in a particular context can be permitted or ignored in another.

3) The concrete (i.e., non-rhetorical) tools used by courts to educate transgressors.

Keeping this introduction of the documents under study and the strategies employed to analyze them in mind, we shall move on to the second part of this dissertation.

Part Two – Compliance and Defiance in Late Socialist Cuba

In his influential work on the last three decades of the Soviet Union, Alexei Yurchak (1997, 2006) pinpoints the breakdown in the social system to a major shift in the discursive regime that took place three decades earlier; the transformation he refers to concerns a diversion of interest from the literal meaning of ideological representations during the first forty years of the socialist government, to an almost obsessive preoccupation with the acts of copying their precise forms. In this manner, what were once symbols filled with sociopolitical meaning became devoid of genuine significance for the average Soviet citizen who, due to a belief in the system's immutability, continued to cooperate with its reproduction. Yurchak adduces invaluable examples, such as that of a man marching under a banner without knowing what is written on it, or that of comsomol activists reporting they had conducted a meeting and voted in favour of important propositions, while in fact they had gone home early for the day, to depict how an all-encompassing atmosphere of apathy towards ideology contributed to its reproduction. The argument is that, instead of engaging with the hegemonic discourse, by voicing outright opposition, partial criticism or active support, the "normal" homo Sovieticus engaged in constant repetition of slogans and rituals without reflecting on their substantive content. The iterative performance of conformity created an illusion of consensus, which brought about further manifestations of conformity. Interestingly enough, however, because these displays of consent were in fact empty of content, the Soviet system collapsed like a house of cards the moment surveillance and censure disappeared from the map and political alternatives became feasible. Performance, Yurchak teaches us, is powerful because it reinforces the officially-sanctioned discourse

whether there is genuine consent behind it or not; obedience might very well stem from a desire to avoid major trouble or minor inconvenience rather than from honest belief in the system. Yurchak shows us that form is no less important than content in reproducing hegemonic discourse, though the existence of one without the other can expedite its downfall.

Scholars of contemporary Cuba tend to associate the events of the last two decades with the country's passage into a late socialist stage. Ariana Hernández-Reguant (2004), for example, justifies this assumption by referring to the new social relations that developed around the conflict between socialist theory and capitalist practices, along with new ways to imagine and negotiate forms of identification and community. Overall, says Hernández-Reguant, the embeddedness of new types of cultural production, leisure activities, and perspectives on work and community in a transnational context, encouraged the construction of alternative discourses and forms of social practice. Amelia Weinreb (2009) expands this argument by meticulously describing how the union between a socialist doctrine and capitalist practice created a growing class of "unsatisfied citizen-consumers," who readily and frequently voice their frustration with nationalized mechanisms and their desire for affordable quality goods and services. This atmosphere of change, represented by citizen avoidance of political activism and participation in unreported trade and employment, says Weinreb, has significantly weakened Cuba's political fabric and will continue to play a vital role in directing Cuba's transition.

State socialism in Cuba is indeed undergoing dramatic changes. My approach neither purports to predict the possible breakdown of state socialism in the island, nor to

imply that citizens' engagement with the hegemonic discourse is nothing but a sham. The aim here is to add a different dimension to the existing discussion of Cuba's transition by focusing on issues of form, performance and repetition on one hand, and negotiation, adjustment and change on the other. The multifaceted nature of the interactions between litigators and judges not only highlights the use of hegemonic discourse, but also shows how it is resisted and negotiated.

It is important to examine the inventive ways, born of necessity, in which actors in a late-socialist setting are rearranging organizations and institutions by redefining and recombining values, ideology and resources. While the preliminary premise of this project is that the law is deeply entwined in the economic context in which it is conceived and implemented, instead of perceiving these reorganizations as indicative of an inevitable transition to state capitalism, my overall approach explores their evolutionary potentials.

Chapter 3: The Cuban Setting: Brief Historical Background

The following chapter will focus on the economic, social and political events that have taken place in Cuba during the last five decades. Assuming that legal practices are not static entities, but deeply entwined in ever-changing socio-political circumstances, this chapter will provide a much needed background to the investigation of the Cuban legal system. Since substantive political transitions have occurred in the island over the course of the years, and given the changes that are taking place in these very moments, the connection between law and context becomes all the more compelling. While a thorough review of Cuban contemporary history is clearly beyond the scope of this dissertation, it is crucial to keep in mind that brief historical outlines tend to over-simplify complex, often emotionally fraught events, and wrongfully omit occurrences that are perceived to be of less significance when this is not necessarily the case (though this could be said of any historical review, long or short). For these I apologize in advance, and hope that awareness of these inherent flaws has brought me one step closer to diminishing them.

Early Twentieth-Century, BR (Before the Revolutionary Era).

Cuba was "discovered" by Christopher Columbus in 1492 and remained a Spanish colony until 1898, when it was ceded to the United States under the Treaty of Paris (Aguilar, 1996; Thomas, 1998; Fernandez Burlé, 2005).[15] It gained formal independence from the U.S. in 1902, as the Republic of Cuba. Under Cuba's new constitution, however, the U.S.

[15] After the Spanish-American War, Spain and the United States signed the Treaty of Paris (1898), by which Spain ceded Puerto Rico, the Philippines, and Guam to the United States for the sum of $20 million (Aguilar, 1996; Fernandez Burlé, 2005; Thomas, 1998).

retained the right to intervene in Cuban affairs and to supervise its finances and foreign relations. Throughout the first part of the twentieth century the United States remained a dominant presence in Cuba. American citizens and corporations owned a substantial part of the land in the Island and controlled many other aspects of the economy. The Cuban peasant class resented the control they felt in this new set of relations, as well as the deterioration of their basic living conditions. In the immediate pre-Revolutionary period, most Cubans lived in economic destitution; according to various censuses conducted from 1943 to 1957, twenty to thirty percent of the labour force was unemployed or underemployed (Amaro and Mesa-Lago, 1972, p.353), eighty-five percent of the rural population and twenty percent of the urban population lived in substandard housing without running water and the vast majority of industrial workers lacked legislative protection (Pérez, 1996). Coupled with these conditions were high illiteracy rates (Canizares, 1993; Pérez, 1995b; Weinreb, 2009). The poor and disenfranchised peasants were eager to change their situation and joined urban student organizations and the progressive and educated middle class (Pedraza, 2007) in their support of Fidel Castro's effort to overthrow the Batista government, who was described as a puppet of the United States (Domínguez, 1978; Fernandez Burlé, 2005; Pérez, 1996; Randall, 1981). After three years of violent struggle, Castro's triumphant troops marched into the streets of Havana in early 1959, prompting the overhaul of Cuba's social and political governmental organization.

Transformation into socialism

Following the success of the Cuban revolution, the government made substantial financial, educational and agrarian reforms; the communications media, most businesses and all banks were nationalized (Domínguez, 1996). However, while over a hundred new laws were enacted during the years after the revolution with the aim to transform the social and economic order, the transition into socialism was neither easy, uniform nor instantaneous (Evenson, 2003), shaped as it was by a combination of internal and external factors.

Soon after the new government was established, it was recognized by both the United States and the Soviet Union, which were, by this time, deeply invested in the intricacies of cold war politics. A few months later, however, the U.S began imposing trade restrictions on the island, mainly as a result of the nationalization of American enterprises. As domestic reforms deepened, so did the sanctions, culminating with the prohibition of all exports to Cuba in October 1960. Washington's increasing economic boycott led Cuba to consolidate trade relations with the Soviet Union, which in turn triggered the break off of all diplomatic relations with the U.S by the end of the year (Azicri 2001; Blasier, 1985; Domínguez 1996; Mesa-Lago, 1979). In April 1961, a force of about 1500 exiles, trained by the American Central Intelligence Agency, invaded the Island at the Bay of Pigs (in Cuba's southern coast), aiming to overthrow the regime. This attack was vigorously resisted by the army and tens of thousands of volunteers and, paradoxically, it elicited a popular reaction against the invaders, further strengthening the government's position in the country (Schulz, 2003).

Following the "Bay of Pigs affair" Castro declared the new government to be "Marxist-Leninist" (Aguilar, 1995; Cardoso and Helwege 1992; Dominguez, 1996).[16] Despite the fact that such public statements are always the product of (at least some) deliberation, processes occurring under the surface of overt politics, the government's open adoption of socialist doctrine marked the beginning of a new phase in the history of the Cuban revolution; the general atmosphere that prevailed after the declaration brought about significant demographic changes, both inside and outside of Cuba. In addition, the following years saw a significant advancement toward the implementation of Marxism-Leninism in the government's foreign and domestic policies (Aguilar, 1995).

The events of 1961 left many Cubans feeling confused and unsafe. Cold war animosities between the east and the west dramatically escalated and, given the political closeness to the Soviet Union on one hand, and the geographic proximity to the United States on the other, it was unclear whether more attacks would be launched on the Island. The sense of impending danger prompted tens of thousands of Cubans, mostly middle-class, professional, white and, to some extent or other, formerly sympathetic to the revolution, to leave (Amaro and Portes, 1972; Pedraza, 1992, 2007; Pérez, 1986).[17] This

[16] There is still debate as to whether this declaration was made for external (pursuit of closer ties to the USSR) or internal reasons (postponing a specific political affiliation until after the success of the revolution). In his widely-read biography, Fidel Castro asserts that he became a supporter of Marxism-Leninism during his years as a student at the University of Havana and implies that the revolutionary movement had always promoted a Marxist-Leninist platform in an overt manner (Castro and Ramonet 2008). However, there is strong evidence that the revolution was not fought under a Marxist-Leninist banner and that in fact, the vast majority of Cubans were greatly suspicious of communist ideas before the declaration and therefore would not have supported a Marxist-Leninist movement. Moreover, many of the members of the initial revolutionary government were not affiliated with Marxism-Leninism and renounced their posts after this event (Dominguez 1996; Aguilar 1995). This does not exclude the possibility that the declaration was made in 1961 in order to gain support from the Soviet Union, after the ties with the U.S had been cut. For an argument that places more emphasis on the former hypothesis, see Shearman 1990. For an analysis that tends to focus on the latter, see Aguilar 1995.

[17] The triumph of the revolution motivated thousands of upper-class Cuban families, who were closely associated with the former regime, to immediately flee the country. However, the political turmoil that

massive population move had substantial political and logistical implications for the fledgling socialist regime.

The vast majority of migrants moved to the United States, mainly to south Florida, where they were given refugee status and joined the exile community that had been established there after the revolution. Cuban expatriates had played a major role in the invasion at "Bay of Pigs" and, as the number of expatriates steadily grew, so did the pool of collaborators with initiatives (mostly involving support from the CIA) against the new government. The need to abandon their homes (literally and figuratively) as a result of the political situation was a significant source of resentment for the exile community, and now that an overtly socialist system was being established on the island, the prevailing sentiment was that Castro *had* to be brought down (Olson and Olson, 1995). Cuban-American attempts to topple the regime throughout the decade prompted the Cuban government to seek ways to defend itself against future attacks, which, in turn, caused further altercations with the U.S; the October crisis of 1962 illustrates the "tug of war" dynamic that prevailed between the two countries throughout the decade (and those to come), when medium and intermediate-range Soviet missiles (i.e, with the ability to strike a great part of the United States) were deployed to the island as a preventive measure against American attacks. A diplomatic disaster ensued and, though a compromise was reached and the missiles were returned to the Soviet Union, relations between Cuba and the U.S were irreversibly damaged (Dominguez, 1978). Over the subsequent years, the exile community has switched its focus from overt attempts to harm

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preceded and followed Castro's declaration brought about migration in much larger numbers (see for example Pedraza, 2003).

Castro's government (though those have not been brought to a total halt) to forming a strong, active lobby with the ability to influence the United States' policy toward Cuba.

On the internal front, the great migration left Cuba with noticeable deficiencies in both economic and human resources (Pérez, 1993; Zatz, 1994). As a prominent example, the void left by the departure of tens of thousands of doctors, engineers and lawyers presented an enormous challenge to a country whose immediate objective was to promote the health of its hitherto neglected rural communities, eradicate infectious diseases that were long gone in the developed world, construct decent housing where many faced inappropriate living conditions and maintain a functioning legal system. The degree to which the Cuban revolutionary government managed to attain all these in the face of an immense brain-drain is certainly notable (Evenson, 2004; Zatz, 1994).

As the government reeled from these tremendous changes, it became evident that a clear operationalization of Marxism-Leninism in the Cuban context was in order. Measures to modify the economy and society, already undertaken immediately after the revolution, were deepened during this period (Amaro, 1995). The reforms of 1959 and early 1960 were indubitably revolutionary (no pun intended). However, the laws during the months immediately preceding and following the declaration, as well as the general atmosphere that proliferated at this time, certainly brought Cuba closer to changing the country according to Communist doctrine. The Agrarian Reform of May 1959, for example, limited the size of farms and expropriated and redistributed any holdings that surpassed the maximum allowed dimension to local farmers, clearly a sign of increasing government intervention. In contrast, the Second Reform (legislated in October 1963) further expanded intervention by nationalizing *all* agricultural land and bringing *all*

peasants under the National Association of Small Farmers (ANAP). Radical reforms were also enacted in non-rural contexts, closely anticipating Cuba's overt identification with the communist bloc; for example, the Urban Reform of October 1960 prohibited all private rental of dwellings, converting housing into a public service and making the government the primary landlord in the country (Evenson, 2004, p. 208). The Nationalization laws (legislated the same month), expropriated all privately held enterprises, making the government the primary employer in the Island. In March 1962, the government installed a system of entitlement, according to which all food and personal care items would be distributed at artificially low prices in state-run stores, making the government the primary retailer in the country.

It is worth pausing here to take heed of the fact that revolutions are always ongoing processes, not a definitive (and finite) series of limited events, and the new government understood this well when it launched a series of campaigns aimed at instilling proper "socialist consciousness" in citizens following the public acceptance of Marxism-Leninism (Bunck, 1994; Serra, 2007). For Cuba to become a perfectly functioning socialist society, noted the leaders of the revolution, a "New Man must be created simultaneously with the material base" (Guevara, 1987). The "New Man," as was publicly expressed in speeches, essays and letters, would be free of the egotistical tendencies of the old society and would be driven by moral, rather than material incentives (Guevara 1987, 2002; Martinez-Saenz 2004).[18] The "New Man" would be

[18] Similar campaigns have been implemented by kindred revolutionary regimes, such as the Soviet Union and China. While educational steps originally pursued by the Soviet government clearly influenced those undertaken in both China and Cuba, it is important to note that state policy in both countries was were not precisely inter-dependent, mainly due to the Sino Soviet split in the late 1950s and 1960s (which, in turn, affected Cuba's relations with China until the collapse of the Soviet Union and the Eastern Bloc). For a more detailed discussion of both educational campaigns, see Cheng, 2009.

industrious, productive and frugal (Guevara and Guerassi, 1968 p. 30), heroic and selfless, in times of war as well as in times of peace (Guevara, 1987, 2002). In order to actualize this goal, reasoned the new leaders, "society as a whole must be converted into a gigantic school" (Guevara, 2002, p. 35) meaning that every social institution should be committed to educate and be educated in light of socialist values.

In the summer of 1961, an all-encompassing literacy campaign was launched with the objective to "alphabetize and revolutionize" the illiterate, which, prior to the revolution amounted to around a 30 percent of the adult population (Suchlicki, 2002). At the same time, the Nationalization of Education Law was enacted, dramatically changing the education system throughout the island by transferring the control of private (mostly catholic) schools in the Island to the state. The consequences of this were the establishment of a uniform curriculum across the country and the modification of the content of instruction in the schools, making instruction in socialist doctrine an integral part of the educational process. This goal clearly called for more, and newly indoctrinated teachers, which, as part of the reform, would be trained at new institutions of higher education that focused on Marxist ideology, together with professional instruction (Bunck 1994; Lutjens 1996).

The educational reform was meaningful for two main reasons. Firstly, and most obviously, it gave the government the power to educate the masses according to the values it endorsed. Secondly, the reform marked a break (which would begin to be bridged decades later) with religious authorities and institutions, mainly the church,

which had been in charge of a substantial portion of the schools in Cuba.[19] Religious education was thus left for families to pursue or not, a policy likely distancing children and families from religious practices. In this manner, the Nationalization of Education Law and the literacy campaign offered a complementary side to the steps taken thus far: not only the government would be in charge of the material aspects of life in the island, but would also attempt to take charge of the ideological ones as well. In other words, if all former legislation reflected a fight over "the body" of the revolutionary state and its citizens, educational reforms manifested a desire to take over their soul.

Yet if the revolutionary government intended to transform Cuba into a "gigantic school," education was clearly not intended to halt at the level of the formal school system. To intensify social cohesiveness, the new government established a number of children and youth organizations, such as the Union of Cuban Pioneers (UPC), which were meant to teach young children revolutionary values and train them for participation in the youth and young adults' organizations such as the Union of Young Communists (UJC). More importantly, the government founded the Committees for the Defense of the Revolution, which aimed to promote social welfare and report on "counter-revolutionary" activity. Organized on a geographical basis, CDRs were endowed with the responsibility to monitor the individual's political and moral background, as well as arranging festivals, administrating many voluntary community projects, and organizing mass rallies (Bunck, 1994). The media and arts were also dedicated to the educational endeavor: not only through the ubiquitous political posters and slogans on the streets, schools, workplaces,

[19] Operation Peter Pan, a church (and CIA) run project in the course of which over 14000 children were sent to the United States between late 1960 and 1962, allegedly to save them from a life in military school and Soviet labour camps, reflects the alienation between the revolutionary government and the church in Cuba.

formal institutions and state-run stores (Cushing, 2003), but through the creation and continuous support of cultural institutions which would convey the revolutionary message to the masses (Craven, 2006; Serra, 2007). Fiction literature and films that promoted the gospel of revolution were widely acclaimed, distributed and discussed (Serra, 2007). The press, strictly controlled by the state, played an important role in promoting communist doctrine through the broadcasting of speeches and educational programming on the television and radio and the publication of essays addressing the accomplishments of the revolutionary project in the newspapers (Domínguez, 1978).

By the end of the 1960s, all sectors of the economy had been nationalized, and free enterprise no longer existed legally. A ban on competitive political activity had been enforced, illegalizing all opposition to the government and its policies (Domínguez, 1978). Diplomatic ties with the United States seemed to be irreversibly severed over the course of the decade, while relations with the Soviet Union were reinforced time and time again through the signature of short-term trade agreements and cultural exchanges (Miller, 1989). State socialism was becoming an unwavering reality on the island.

Institutionalizing the Revolution

The 1970s witnessed even further stabilization and institutionalization of the revolutionary project. Legal changes, such as the adoption of a socialist family code in 1975, the establishment of the constitution in 1976, and the codification of a new, socialist criminal code in 1979, solidified the revolutionary presence in the island and its significance for the everyday lives of its citizens (Evenson, 1994). In addition, the government tightened its ties with the Soviet Union and the Eastern bloc through

financial transactions and cultural exchanges, which gave them the possibility to provide better food, health care, education and security to the population. This strengthened its position in Cuba, thus affording it a "decisive margin of survival" (Dominguez, 1978 p. 159).

After a series of short-term contracts and public displays of support from the Soviet Union throughout the 1960s, Cuba was granted full membership in the communist-run Council for Mutual Economic Assistance (COMECON) at the beginning of the decade (1972), thus tying its economy with that of the eastern bloc. By the end of that same year, five generous agreements were signed between Cuba and the Soviet Union, which formed the basis of their relationship until the latter's collapse almost two decades later. In the aftermath to these treaties, the S.U raised the purchasing price of Cuba's nickel and sugar, promised technical aid, deferred payments for the Cuban debt at zero interest, granted credits and arranged for future trade agreements. Cuba's agriculture flourished during this time, thanks to new tractors and machinery brought from the S.U., which, in turn, provided an expansive market for its expanding produce (Miller, 1989). The economy surely prospered during this time; however, it was heavily reliant on Soviet assistance to the extent that it amounted to 25 per cent of its GNP by the end of the decade (Blasier, 1983; Ratliff, 1990).

The Soviet Union also provided military and professional aid and promoted academic and cultural exchanges, making Soviet presence felt in the island (Miller, 1989). The interchange also went in the opposite direction, and a substantial number of Cubans traveled to the Soviet Union and its satellite states to gain education in a variety of fields – from civil engineering to Slavic languages to scientific Marxism.

Intermarriages proliferated, families with ties in both countries bloomed, and there was a feeling that the ties between the two countries would not be easily broken. Quite a few memoirs (such as Cristina Garcia's *soñar en Cubano*, first published in 1994) and documentary films (see for example Enrique Colina's 2012 film *Los bolos en Cuba y una eternal amistad*) focus on the intricacies of those relationships and the general sense of stability found in the alliance with the Soviet Union and the eastern bloc. New consumption items appeared in Cuba, most prominently in the black market, sold by arriving personnel and family members from the Soviet Union; other goods could be purchased in state-run stores through formal trade agreements made between the countries. These included mostly meats and canned foods and medicine, but also clothes and shoes. Cubans were becoming accustomed to a better standard of living, this time due to the generosity of their Soviet allies (Weinreb, 2009).

In accordance with this feeling of material wellbeing, the late 1970s and early 1980s saw a more relaxed policy regarding economic and social control, a time when farmers and artisans were allowed to sell their surplus to state quotas in private, unregulated markets. Regulations on self-employment and free labour hiring became more flexible, enabling private contracting of services during the weekend or after-hours. A new administrative system was implemented, providing managers with more autonomy and authority. Enterprises were also permitted to retain some profits to be distributed to the workers at the end of the year and to improve the enterprise and its working conditions. In addition, differential wages were introduced, as were performance bonuses and overtime pay (Bethell, 1996; Mesa-Lago 1990).

These reforms proved short-lived. A disappointingly slow economic growth after the implementation of the reforms in the early 1980s, combined with the "unsettling winds of change" blowing in the Soviet Union (Bunck, 1994), brought about a "rectification campaign" in 1986 that aimed to eliminate past errors and dissociate the country from the evils of capitalism (Bethell, 1996). Farmers' markets were banned, all forms of private property or enterprise were abolished and the bonuses implemented only but a few years earlier were severely criticized as obstacles to the construction of a better society, and unbecoming to socialist "new men" (Bethell, 1996; Mesa-Lago ,1990; Camnitzer, 2003). Cuba was hurled back into a purer form of socialism. The eastern bloc, however, was rapidly breaking away from it.

The Special Period

> "Mi novia Carniuska, que se me perdió.
> Cuando fui a buscarla, desapareció.
> Carniuska! Carniuska! por qué te fuiste de forma tan brusca.
> Carniuska! Carniuska! ya nadie te encuentra, la gente te busca.
> La ultima vez que vieron a Carniuska,
> Iba por el parque del brazo de Polloski,
> Oh, Polloski! Oh Carniuska!
> Por qué se fueron de forma tan brusca.
> Oh, Polloski! Oh Carniuska!
> Tengo el presentimiento, que no los veré mas nunca".
>
> **"**Mi girlfriend Carniuska,[20] who I lost.
> When I went looking for her, turned out she had disappeared.
> Carniuska! Carniuska! Why did you leave so abruptly?
> Carniuska! Carniuska! Nobody can find you, people are looking for you.
> Last time someone saw Carniuska, she was in the park, holding Polloski's[21] arm.

[20] This is a play on the Russian name Katiuska. "Carne" is the Spanish word for meat. The name in the song, "Carniuska," refers to the meat imported from the Soviet Union, which was distributed to Cubans when relations between the countries were tight.
[21] This also is a play on a common Russian name. Pollo is the Spanish word for "chicken."

Oh Polloski! Oh Carniuska! Why did you leave so abruptly?
Oh Polloski! Oh Carniuska! I have the feeling I will never see you again.

-Jorge Díaz, *potpourri canciones de humor*

The collapse of the Soviet bloc in the early 1990s had a near catastrophic effect on the Cuban economy. The abrupt removal of Soviet aid, coupled with the disappearance of 87 percent of its market almost overnight, forced the population to endure severe material deprivation. Meats, grains, and dairy products once supplied via COMECON agreements, became distant memories. Locally sourced food dwindled as the agriculture came to a near halt due to the shortage of fertilizers, pesticides, gas and spare parts for the tractors Cuban farmers had grown so dependent upon. The lack of oil and parts also affected life in the cities, as transit interruptions became routine due to lack of such resources making transportation a time-consuming affair.[22] Confronted with the realities of rapidly disappearing provisions, the Cuban government felt pressured to implement extreme austerity measures as would be done during times of war (Azicri, 2001 p. 21). "The Special Period," the name under which both the time and measures became widely known, entailed the reduction of food rations, the virtual cut of state subsidies for non-food items and the conservative distribution of medicines. Life in the island became a daily fight for survival (Azicri, 2001; Fisher, 2002; Weinreb, 2009; Pérez, 1995a; Pérez-López, 2003).

As former allies demanded payment in hard currency for goods that had been supplied under COMECON barter agreements (Kirk and Erisman, 2009; Schulz, 2003), and Cuba's debt to the Soviet Union swelled to astronomic proportions (Mesa-Lago,

[22] For a vivid account of everyday life in Cuba during the early 1990s, see Zatz, 1994.

2003), the government was forced to conduct further reforms. The resultant need for foreign currency prompted the introduction of the island to mass tourism and foreign investment (Azicri, 2001). Those changes were anchored in the 1992 constitution which recognized and legalized forms of non-socialist property (such as joint ventures and corporations), while simultaneously reinforcing and revalidating the socialist character of the Cuban state.

The government undertook to encourage and promote the tourism industry, building hotels and resorts and investing in the construction and reparation of "holiday towns," such as Varadero and Cayo Largo, involving an increasing number of Cubans in the business (Azicri, 2001; Rose Jiménez, 2008). This initiative proved to be immensely profitable within months (grossing over $500 million in 1992 and $700 million in 1993) and providing much, though not enough relief to the ailing Cuban economy (Crespo and Negrón Díaz, 1997). However, while the growing sector attempted to supply luxurious travel experiences for foreigners, those stood in sharp contrast to the realities of the "Special Period" for the Cubans providing them.[23] In an extraordinary step towards further acquisition of much needed hard currency on one hand, and relief of the everyday privations of thousands of Cubans on the other, the government legalized the possession and use of foreign money on the island in 1993 (Azicri, 2001). This enabled citizens to utilize remittances sent from relatives living abroad, as well as money given by foreign tourists, to purchase goods priced in U.S. dollars in state-owned stores (Weinreb, 2009). The Cuban government also permitted increased entrepreneurial activity and self-employment, which facilitated people's access to much needed funds. Those who were

[23] Dirk Vandersypen's documentary film "*Cuba 111*" offers a striking, at times heart-breaking, portrayal of these inequalities.

paid in foreign currency were in a significantly better position, however, since the Cuban peso became, through the intricacies of the world economy, not equivalent to the U.S. dollar but worth roughly one twentieth of one. In 1994, the government introduced the CUC (Cuban Convertible Peso), a local currency which was officially valued at one American Dollar; this gave the government the benefit of receiving hard currency to pay its creditors without having to resort to the exclusive use of American notes with all its the negative ideological connotations (Withfield, 2008).

The opening of Cuba to mass tourism and subsequent monetary reforms had complex implications. Whereas dollar stores gave Cubans the opportunity to acquire items they had not seen in years, or perhaps had never encountered at all, and allowed the government to collect virtually all foreign money circulating in the island, this also created a two-tiered economy in Cuba, one conducted in local currency and one in American Dollars. This transition created a new, stratified social structure that differentiates between the "haves" (access to foreign currency) and "have-nots" (Weinreb 2009). The ongoing material distress juxtaposed with growing inequalities, caused great frustration among tens of thousands of Cubans who, between 1991 and 1994, took to the sea in improvised rafts (balsas) with the intention to emigrate to the United States. As leaving Cuba at this point was illegal and materials to build a raft were hard to come by, *balseros* undertook significant risks. If caught by the Cuban authorities, they would face imprisonment and ongoing harassment by government officials. Should they manage to slip outside of Cuban territorial waters, they would have to resist exposure, sharks, and strong currents. The majority of the rafts were too precarious to protect navigators from

these perils and tragically, many never made it to their destination (Ackerman, 1996; Masud-Piloto, 1996).

By the summer of 1994, the economic crisis had reached its nadir. Civic unrest mounted over the deteriorating living conditions on the island and the violence turned on those who attempted to escape the country. In response to the protests, Fidel Castro announced the end of government efforts to prevent people from leaving, immediately resulting in the flow of thousands of Cubans towards the United States. Washington responded to the growing number of immigrants by putting an end to the open-arms policy that had granted automatic asylum to Cubans since the early 1960s, leaving thousands of Cubans waiting at sea. The crisis was resolved a few weeks later, when the United States and Cuba signed a migration agreement according to which the former would accept at least 20,000 immigrants annually and the latter would take effective measures to impede unsafe departures. The agreement indeed succeeded in lowering the number of *balseros*, and the exodus came to an end by December of 1994 (Travieso-Dias, 1998).[24]

That Cuba and the U.S managed to find a joint solution to the rafter crisis did not mean that the American stance towards the revolutionary government had changed, however. The longstanding embargo was reinforced shortly before and after the incident; the 1992 "Cuban Democracy Act" (better known as the "Torricelli Law") prohibited

[24] This was not the first time that economic woes had caused Cubans to take drastic measures: in April 1980, about 750 Cubans gathered at the Peruvian embassy in Havana asking for diplomatic asylum. The news of these events spread by word of mouth and days later, there were over 10,000 people squatting in the Peruvian embassy grounds. As days passed by and no movement out of the embassy was evident, Castro opened the port of Mariel (about 30 miles west of Havana) to anyone wishing to leave Cuba, as long as they were picked up from the island. Cuban exiles rushed to make all necessary arrangements and between May and October 1980, around 125,000 Cubans had made the journey to the United States. The boatlift was ended by a mutual agreement between the two countries.

foreign-based subsidiaries of U.S. companies from trading with Cuba, travel to Cuba by U.S. citizens, and family remittances to Cuba. Limitations were strengthened in 1996 by the "Cuban Liberty and Democracy Solidarity Act" (widely known as the Helms-Burton Act), which extended the territorial stipulation of the initial embargo to apply to foreign companies trading with Cuba. This act also sanctioned third party nations, persons, and businesses dealing with property formerly owned by U.S. citizens, attempting to further isolate (though not always successfully, as will be seen below) the island from potential sources of relief during the darkest times in Cuba's economy.

American sanctions notwithstanding, the later part of the 1990s saw a significant recovery from "Special Period" hardships; the tourism industry was responsible for the greater part of the economic growth in the country but there were also other dimensions to the relative normalization of the economy. Since the collapse of the Soviet Union, Cuba had been making great efforts to deepen its diplomatic and economic relations with alternative trade allies. These began to bear fruit by the late 1990s, when a variety of joint venture operations with European countries, such as Spain and Italy, were launched (Azicri, 2001). In addition, the agricultural sector began to become active and independent again, as a focus on agricultural biodiversity and organic farming helped farmers overcome shortages in fertilizers and pesticides.

However market-oriented reforms in Cuba may seem, it is important to note that they have not been constructed by Castro nor any government official as more than a strategy to survive a major economic crisis (Azicri, 2001; Weinreb, 2009). As such changes preceded the "Special Period," government officials have taken pains to affirm the state's loyalty to socialism by articulating that "the objective is to perfect socialism,

not to move toward capitalism" and that "there would be no 'transition' in Cuba as in the European socialist countries, which 'have had a transition to hell'" (p.135). Thus, Cuba seems to be struggling to straddle changing circumstances (which are sometimes beyond official control) without resorting to re-define the meaning of socialist doctrine.

As Cubans interact with populations abroad through tourism, family visits, and various forms of professional cooperation (all of which are promoted by the government for economic reasons), however, the chances of ideological change increase. The growing tolerance toward religious practice that started with the prohibition of discrimination based on religious belief in the 1992 constitution and climaxed with the Pope's visit in 1998,[25] has created social networks independent of party supervision, exposing large numbers of Cubans not only to alternative doctrines, but to overt criticism of state policies (LeoGrande, 2002).[26] As time passes and new changes begin to take effect, it remains to be seen how the Cuban socialist state navigates these possibilities.

After the Special Period

Since the dawn of the "Special Period," scholars have been increasingly arguing that Cuba is in transition and is, in one way or another "reinventing socialism." This is evident, academics claim, in the government's foreign and internal policies as well as in the everyday practices of Cuban citizens. The downfall of state socialism communism in the eastern bloc left Cuba without significant political and economic allies. In addition,

[25] These changes include, but are not limited to, the (re) opening of synagogues (Behar, 2007; The Cuba-America Jewish Mission, 2011) and churches, and the blooming of Santería practices (Azicri, 2001).
[26] The use of this reference calls for one important caveat: while I absolutely agree with LeoGrande that Cuba's general openness holds the potential for political and ideological change, it is important to note that his analysis had originally been made in a completely different context than this and, most importantly, with a different purpose in mind.

Cuba's political orientation and complex relationship with the U.S excluded it from all economic organizations subject to a U.S veto (Azicri, 2001).[27] Such limitations, however, do not apply to major regional associations, enabling Cuba to form meaningful alliances in the area. Since the late 1990s, Cuba has invested a great deal of time, resources and efforts in order to earn acceptance to local partnerships; in 1998 Cuba entered the Latin American Integration Association (ALADI in Spanish or LAIA, in English),[28] which opened the South American market to Cuban exports and became a substantial source of customers for the island's goods (Sánchez-Egozcue, 2006). In addition, relations with the Caribbean Community (CARICOM) [29] have been steadily warming, resulting in a variety of political and medical agreements and the opening and re-opening of embassies in countries that had never had diplomatic ties with Cuba or had severed them after the revolution. While Cuba is not a member of CARICOM, its constant participation in the community's summits and even the hosting of one in 2008, as well as its growing involvement in CARICOM initiatives, suggest that Cuba's affiliation with the community will not be easily dissolved.

Yet changes in Cuba's network of partnerships in the region are not only attributable to its own courting efforts; transformations in Latin America's political map are also accountable for this shift in alliances. Since the late 1990s, an increasing number

[27] Such as The OAS, the inter-American Development Bank and the Free Trade Area of the Americas (U.S international trade commission, 2001).

[28] The Latin American Integration Association (ALADI) is a trade organization based in Montevideo. Its main objective is the establishment of a common market, in pursuit of the economic and social development of the region.

[29] The Caribbean Community (CARICOM) is an organization of 16 Caribbean countries, established in 1973, whose main purposes are to promote economic integration and cooperation among its members, to ensure that the benefits of integration are equitably shared, and to coordinate foreign policy (Caricom, 2012).

of left-leaning presidents have been elected[30] in Latin America, affecting Cuba's standing in the area.[31] The number of formal visits to the island by heads of state such as Luiz Inácio Lula da Silva and Dilma Rouseff from Brazil, Hugo Chavez and Nicolás Maduro from Venezuela and Michele Bachelet from Chile, among others, have steadily risen, as well as overt criticism of U.S policy towards Cuba.[32] In 2004, Cuba and Venezuela established the Bolivarian Alliance for the Americas, an international cooperation organization based on a vision of social welfare, trade and mutual economic aid between the countries of Latin America and the Caribbean. Originally a two-member association, it has grown to include ten member states and five "guest members" (Alianza Bolivariana, 2012; Lopez Maya, 2011). The presence of other left-leaning governments in the region is of great importance for Cuba not only because of their potential for trade, but because they constitute an importance source of legitimacy for the revolutionary government.

In addition to developing ties with countries in Latin America and the Caribbean basin, Cuba has tightened its relations with the European Union and Canada, receiving humanitarian aid from both since the mid-1990s (Kirk and McKenna, 1997). Cuban-Canadian and Cuban-European joint ventures have been flourishing for the last 15 years, as have trade agreements involving both imports and exports from Cuba (Kirk and McKenna, 1997; Roy, 2009; Wright, 2009). Yet despite Cuba's strengthening ties with

[30] While the term "elected" might be contested by a variety of observers in this specific context, I prefer to adhere to the official discourse in this case – a discussion of whether all or some of Latin America's left-leaning heads of state were democratically elected is beyond the scope of this dissertation.
[31] Latin America's "left turn" is reported to have begun with Hugo Chávez's election in Venezuela in 1998, followed by Ricardo Lagos' in Chile in 2000, Luiz Inácio Lula da Silva of Brazil in 2002, the Argentinean Néstor Kirschner in 2003, Tabaré Vázquez in Uruguay in 2004, Evo Morales of Bolivia in 2005, and Daniel Ortega of Nicaragua and Rafael Correa of Ecuador in 2006. By the end of the decade, incumbent presidents or parties were re-elected in the majority of those states (Levitsky and Roberts, 2011).
[32] Levitsky and Roberts, 2011.

various and powerful countries, relations with the U.S continued to be bleak throughout the first part of the 2000s; the Helms-Burton Act remained in force, travel restrictions to the island were continuously expanded, and it was revealed that the U.S government was investing great amounts of money in anti-Castro propaganda on the island. But while rumors regarding close American (mostly financial) ties with the dissident movement are still "alive and kicking" in the island,[33] the situation has begun to change gradually with the election of a Democratic Party president in 2008. Officially eager to begin a new phase in U.S relations with Cuba,[34] Barack Obama has signed into law a Congressional spending bill, which mitigates some of the economic sanctions and loosens travel restrictions on Cuban Americans traveling to Cuba. The loosening of restrictions is likely to help nonprofits and academics from both countries who work together on issues of mutual concern, and will possibly affect Cuba's relations with the exile community. Whether stronger ties will develop between the two countries remains to be seen, especially since the Obama administration has not yet made clear-cut policy changes and diplomatic talks have not been announced. Moreover, as the Obama administration approaches a mid-point in his second term in the White House, it is unclear whether there will be changes in the government's policy towards Cuba.

[33] It suffices to watch any evening news broadcast, or to have a talk with people on the streets (not to mention closer friends and acquaintances) to understand the extent to which this constitutes a widespread assumption among the island's populace. Whether they are true is unclear, but it is important to note that the Cuban-American community is very much involved with the dissident movement; the press in the state of Florida (such as "El Nuevo Herald" and the "Miami Herald") follows and reports on every development and protest on the island. Youth and student movements, such as "Youth for a free Cuba", located in Miami Beach, "CAUSA: Students United for a Free Cuba" at the University of Miami, and The "Free Cuba Foundation" at Florida International University, just to name a few, organize political rallies and discussions supporting the movement.

[34] Judging from public political statements made immediately after his election, such as his speech at the 5th Summit of the Americas (see for example Barrionuevo and Stolberg, 2009).

Cuba has indeed faced many changes in the diplomatic realm, but these are dwarfed by the transformations that have taken place within the country over the last few years. In July 2006, Fidel Castro temporarily delegated his major duties to his brother, Raúl Castro, while he recovered from intestinal surgery. Following the procedure, Fidel gradually retired from public affairs, fueling increased speculations about his health condition. In February 2008, he announced his resignation as President of Cuba. A few weeks later, Raúl was chosen by the national assembly to take his brother's place. Rapid political and economic adjustments soon followed: In March 2008, the government removed existing restrictions against the purchase of a variety of products hitherto unavailable in the island, such as DVD-players, computers, rice cookers and microwaves. In an attempt to increase food production, the government transferred unused state-owned land to private farmers and cooperatives and assigned significant authority to the municipal level in issues regarding land use. In mid-2008, the government reorganized the pay structure of all state-run companies, so that they would include differential salaries. In addition, the government has removed restrictions against the use of cellular phones, though the availability of services remains out of the reach of many Cubans because rates are to be paid in CUCs. In March 2009, Raúl Castro removed a few officials that had served under Fidel's administration for years, thus signaling the beginning of a new era of Cuban politics (Lacey, 2009).

The change in leadership has provided a continuous impetus for the overhaul of the economy and polity. During the Communist Party's sixth congress in April 2011, Raúl announced a plan of 313 reforms, which include further encouragement of private initiative, foreign investment and agrarian reforms (this time towards privatization), and

the reduction of state spending and subsidies (Communist Party of Cuba, 2011). Overall, these changes are to be gradually implemented by a government commission (ibid, p. 38), but small modifications are already taking place. A real-estate market has been created, enabling Cubans to buy and sell houses legally (Burnett, 2011; Hall, 2012). Cars sales are now possible under the auspices of the law (Acosta and Frank, 2011; Burnett, 2011). A new regulation, which has come into effect in January 2013, has cancelled the requirement of exit visas for Cubans wishing to travel overseas (Government of Cuba, 2012), thus eliminating a significant impediment to migration abroad. [35]

The changes made by Raúl Castro certainly seem to rock the socialist foundations laid by the earlier leadership during decades of legislation and education. However, the liberalization reforms are constructed, similarly to the way "Special Period" measures were, as a means to guarantee the "continuity and irreversibility of socialism, the country's economic development and the rise of the population's standard of living, coupled with the formation of ethical and political values in the population" (Communist Party of Cuba, 2011, p. 5). It seems that, more than attempting a complete transformation of Cuban society, the new government aspires to navigate between the intricacies of a global economy and society and the requirements of socialist doctrine. Amidst the political and economic changes in the island, the new possibilities and impossibilities of liberalization, Cubans also seem to be striving to find a balance between the socialist ideology they were and are still being educated by, and the everyday material intricacies of personal consumption (for a tremendously illustrative description of everyday

[35] Doctors, scientists, members of the military and other valuable professionals will still face restrictions in order to prevent "brain-drain."

struggles in Cuba, see Weinreb, 2009). Cuba seems to be indeed "reinventing socialism," both at the government and the grassroots level.

This project's aim is to investigate the changing constructions of ideology and citizenship in Cuba as they are reflected in the work of the People's Popular Courts. Before turning to this task in Chapter 5, the next chapter outlines the main characteristics of the Cuban legal system.

Chapter 4: The Cuban Legal System

After having discussed the theoretical focus of this dissertation (chapter 1), as well as reviewed some of the major events that have taken place in Cuba over the last five decades (chapter 3), I shall now move on to exploring the main characteristics of the country's legal system. In addition, I will examine some of the major features that make Cuba's judiciary, and more particularly the People's Popular Courts, such a compelling site for the investigation of the (changing) relationship between citizens and the state in the island.

The country has experienced insurmountable changes over the last century, many of which resulted in the overhaul of the legal system (Evenson, 2004). While an examination of all the changes in legislation and an analysis of the structural re-organizations undertaken since the declaration of independence in 1902 are beyond the scope of this dissertation, a review of the role played by the judiciary in the implementation of revolutionary doctrine, and the institutionalization of the revolutionary government is crucial to the understanding of the changes in the relationship between citizens and the state in the last twenty five years.

The 1959 revolution differed from all earlier attempts at state formation in that it not only aimed to establish a new political entity and a sense of collective identity, but it sought to construct a new society altogether (and, after April 1961, an openly socialistic one). Therefore, its triumph was promptly followed by an all-embracing campaign to foster an appropriate socialist identity in its citizens. A mechanism of enforcement of state-sanctioned policy and values, the legal system was swiftly recruited to the educational effort; new laws regulating the organization of material assets and, most

importantly, citizen behaviour, were passed shortly after the new government was established (Berman, 1969; Domínguez 1978; Salas 1983a, 1983b). Private property was abolished completely, and any economic conduct associated with the old regime was outlawed (Domínguez, 1978; Salas, 1983b). Although the law usually provided accurate definitions of offenses, stipulations referring to counterrevolutionary activities were rather vague, allowing the government to decide what would be considered "counterrevolutionary" on a case-by-case basis (Domínguez, 1978, p. 251). This was somewhat problematic because transgressions of a counterrevolutionary nature were to be severely punished, either by conviction, confiscation of property or, in more extreme cases, death (Salas, 1979; Domínguez, 1978). Yet there was much more to the fledgling socialist legal system than the conviction of the reactionary. As it attempted to educate the newly "liberated" masses in the way socialist theory should be put into practice, it was as connected to the everyday practices of citizens as it was to breaches of trust by the ruling elite. However, while it was widely agreed that law played a fundamental role in the transformation of society and its transition towards communism, a new, revolutionary legal framework (in other words, a constitution) was only established in the mid-1970s. Hence, citizen conduct in those critical early years was regulated by the legislation of specific laws and their implementation was mainly carried out by communal mechanisms of control (Evanson, 2004; Zatz, 1994).

Changes in the political situation resulted in the departure of thousands of professionals, among them a considerable number of legal practitioners. The massive migration left the country with insufficient personnel to staff the courts and train the next generation, thus pressing the government to make structural reforms that would enable

the legal system to properly fulfill its functions (Domínguez 1978; Salas 1983b, 1983a). As a consequence, two mechanisms of justice were added to the existing ordinary courts, one quasi-military, the other communal (Evenson, 2004). The Revolutionary Courts were established in January 1959 with the aim to bring Batista's collaborators to trial for atrocities and criminal acts committed during the dictatorship. These courts quickly became redundant, as the majority of followers of the former regime were either convicted or had left the country, leading to the Revolutionary Courts closing and then conversion into a tribunal for the trials against counterrevolutionary offenders (ibid., p. 52). In contrast, the People's Popular Courts were local, community-based judicial mechanisms executed by lay people rather than by professional judges (Berman, 1969; Salas, 1983b; Evenson, 2004). The courts were established with the aim to increase citizen involvement in the justice system and to educate the population in light of socialist morality. Therefore, people were highly encouraged to attend the proceedings (trials were held in the evening hours and in public places to motivate citizens to attend), and input from all present was sought by judges (Berman, 1969; Salas, 1983b).[36] The pedagogical dimension of the courts was enhanced by the circulation of verdicts among the community, either by local gossip or subsequent mention by the judges in related trials (Berman, 1969). Fully in line with the intent to make courts familiar and related to the everyday lives of citizens, judges were usually well-known members of their

[36] In addition to the known (and rare) studies of the courts, such as Jesse Berman's (1969) ethnographic study and Luis Salas' (1983b) later analyses of their emergence and decline, the work of the courts has been lengthily described in the interviews conducted by Oscar Lewis and his team during the 1960s (see for example Lewis, Lewis and Rigdon, 1980). Moreover, the courts' involvement in the daily lives and mundane tribulations of citizens in the early years after the revolution has been a source of fascination for creative writers; description of trial situations appear in quite a few works of fiction, such as Cristina García's "soñar en Cubano."

community, selected due to perceived ethical integrity and commitment to the revolutionary cause. Along these lines, they were expected to reach decisions based in a sense of socialist morality rather than the codes of law (Evenson, 2004). There are various reports on the positive effect the courts had on the communities they served and on the promotion of the concept of popular justice (Berman, 1969; Evenson, 2004; Zats, 1994). However, the existence of a non-unified legal system caused much confusion and inconsistencies in the implementation of the law, making clear that reforms were in order.

By the late 1960s, much of the unrest that followed the revolutionary transformation had begun to ebb and much of the counter-revolutionary violence that had characterized the earlier years had subsided. As the revolutionary project entered a new phase, the government began to pay closer attention to the legal system and developed a program for its reorganization (Domínguez, 1978; Evenson, 2004; Salas 1983a, 1983b; Zats, 1994). In 1973, legislation regulating the work of the judiciary was passed, re-establishing a unified court system that comprised four levels of jurisdiction: base, district, provincial and national (namely, the Supreme Court). The Supreme Court was given appellate jurisdiction over four distinct areas of law: civil/administrative, criminal, state security, and military. The Revolutionary and People's Popular Courts were abolished, though lay judges were incorporated into the formal system and were to serve in all procedures in equal proportion to professional judges (Salas, 1983 a, 1983b; Zats, 1994). The inclusion of lay judges in the formal legal system is notable in this context because it marks a commitment to the involvement and participation of the community at large in ensuring the proper behaviour of its members (Zats, 1994). The 1973 law not only transformed the structure of the legal system, but also regulated the work of jurists:

the private practice of law was banned, forcing all lawyers working with individuals to join law collectives (*Bufetes Colectivos*) supervised by the Ministry of Justice (Evenson, 2004, p. 53; Michalowski, 1995; Zats, 1994).

Additional reformatory statutes were legislated in subsequent years; in 1976, Cuba formally institutionalized the revolution with the adoption of a new Constitution, which provided the legal system be based on the principle of socialist legality. As a guiding rule, the concept of socialist legality refers to an aspiration to transform society, furthering the evolution of society towards pure communism (Evenson, 2004). In this manner, beginning in the mid-1970s, various legal codes (such as the family code of 1975 and the criminal code of 1979) reflect an even stronger attempt to shape society according to socialist doctrine. The family code, for example, explicitly rejects "bourgeois family norms that maintained patriarchy and the subordination of women" (Evenson, 2004, p. 137) and purports to cultivate marital relationships based on equality (ibid.). The criminal code defines punishable offenses as those who threaten the (communist) social order, such as dishonesty on part of those in charge of economic activities, abuse of social property by functionaries, and the destruction of natural resources and the environment. Cuban law as of the late 1970s aimed to regulate behaviour both in the domestic and in the public spheres according to socialist values; years after the triumph of the revolution it aspired to underscore the transformative (i.e., aimed to transform) character of socialist legality and its vitality in the new legal order.

Further reforms of the legal system took place in both 1980 and 1990, providing meticulously detailed administrative guidelines for the work of the judiciary. However, those changes did not endure long as the system was transformed yet again after the

collapse of the Soviet Union led to the new conditions of the Special Period. With the beginning of the economic crisis, the country witnessed a steep rise in criminal activity, which created substantial backlogs across the island. In order to increase court efficiency, the Ministry of Justice authorized the temporary transfer of all cases involving misdemeanours to the municipal courts. Cases concerning minor disputes were transferred to temporary neighbourhood courts, which not only alleviated the workload of courts, but also facilitated litigants' attendance, as the deteriorating public transport system made travel within cities risky affairs (Evenson, 2004). Another reaction to both the dire material conditions and changing political and economic map was the amendment of the constitution in 1992. As was mentioned in the previous chapter, the adjustments comprised the recognition of private property, legalizing the ownership of joint ventures, companies and economic associations (Government of Cuba, 1992, article 23) and enabling farmers to own their lands (ibid. article 19). Yet while it adapted Cuba's economy to a fluctuating financial context, the 1992 constitution was also a platform for the adamant re-affirmation of the government's engagement with socialist character doctrine. This declaration put an end to speculations assuming that free-enterprise would mark the end of the revolutionary project, especially as the same commitment was made "irrevocable and permanent" in a constitutional modification effected ten years later (Azicri, 2001). However, it remains to be seen whether the government will actually renew its dedication to communism in the next round of constitutional revisions, which are, as of early 2014, currently in process.

Cuba currently has a unified court system consisting of three judiciary levels of authority. At the top is the People's Supreme Courts (*Tribunal Supremo Popular*), which

oversees the operation of the entire court system and is comprised of six chambers: criminal, civil/administrative, labour, state security, military and economic (Government of Cuba, 2012a; Travieso-Diaz, 1997). The next level of courts is the People's Provincial Courts (*Tribunal Popular Provincial*), situated in each of the country's fifteen provinces. These courts have the authority to deal with offenses committed within its area of jurisdiction[37] and also serve as courts of appeal for the People's Municipal Courts (*Tribunal Popular Municipal*), which are situated at the bottom of the hierarchy. The latter have initial jurisdiction over minor criminal matters and are located in each of the island's 168 municipalities (Government of Cuba, 2012a, 2012b). Notwithstanding its roots in Spanish inquisitorial law, Cuba's legal system is becoming increasingly adversarial (Zats, 1994, p. 183), meaning that all legal procedures comprise a two-sided structure in which advocates bring their parties' arguments before a group of judges. In criminal and military trials, and in the case of infractions that put state security at risk, the bi-lateral form consists of the prosecution, conducted by a representative of the office of Cuba's Attorney General (*Fiscalía*), and a defense lawyer. The latter is chosen and paid for by the accused from the existing pool of law collectives (*bufetes colectivos*); fees are fixed at the state level and are set by the government (Michalowski, 1995).

Decisions in trials are made by a judicial panel headed by a professional judge and composed by an uneven number of lay and professional judges, typically three in the Municipal Courts, five in the Provincial Courts and that number or more in the Supreme Court. Verdicts in all levels of the court hierarchy are decided by way of a majority, and lay and professional judges' opinions are given equal weight. Judges are selected by the

[37] Military infractions are automatically referred to the supreme courts.

organs of popular power at the municipal, provincial or national level, depending on the court level. Candidates for the position of judge are screened by the state's mass organizations to ensure that their moral standing and work discipline meet the demands of the job (Government of Cuba, 2012). That being said, party membership has never been a requirement for appointment (Evenson, 2004; Zats, 1994). Professional judges in Cuba are elected for unlimited terms, serving until they are no longer capable (or removed for professional misconduct). Lay judges serve for five years, during which they continue their regular employment. They are given extensive training on the procedural rules of the court system and legal terms before their employment begins, but this is intentionally limited as to ensure that "the view of the people" is preserved (Government of Cuba, 2012). The presence of lay judges in the formal legal system thus facilitates the education of the citizenry in a "bidirectional" manner; bringing the views of the average citizen into the deliberative process and educating them about socialist legality (p. 204).

This brief discussion of the Cuban legal system is intended to enable readers to better grasp the relationship between law, ideology and identity in the Cuban context over the last thirty-five years. As we have seen in chapter 3, life in the island has been anything but stable during the last decades, and it appears that the meaning of concepts such as "socialism", "good citizenship," and "good Cubanism" have been rather dynamic. Moreover, the legal system has undergone significant transformations over the years; structural reforms, legislation of socialist codes of law, and substantial alterations as responses to fluctuating economic conditions. These changes also suggest that the meaning of ideological fundamentals such as "socialism," "good citizenship," and "good Cubanism" are fluid constructs, constantly being defined and re-defined. Since a

longitudinal examination of the structural changes in the legal system and a content analysis of the law alone would fail to reveal how those concepts are performed and contested in practice, this study focuses on the ways those critical constructs ("socialism," "good citizenship," and "good Cubanism") are negotiated in a court of law. That judges in Cuban courts include lay people expected to rule according to socialist sensitivities, suggests that litigants might make use of a similar logic (or similar logics) as they strive to construct a viable argument. In this manner, not only the law (which itself is an ideological construct) and its theoretical interpretations by judges are crucial to the understanding of law and society in contemporary Cuba, but also the way they stand in dialogue with the moral standpoints of laypeople in real court situations. Thus, the complex interplay of formal rules, informal rules and actual conduct, of moralistic discourse, legalistic jargon, and the daily conditions of existence are worth deeper examination. In other words, this study draws the attention to the meeting points between the ever-fluctuating law and society.

There are a number of studies that examine the work of the Cuban legal system, doing so from a variety of standpoints and focusing on a myriad of issues. In recent years, a significant body of literature has arisen in response to the transition to a market economy and perhaps to a non-socialist Cuba (see for example Domínguez, 2003; Radu, 2003; Travieso-Diaz, 1997) and responding to alleged human rights violations in Cuba (Bower, 1995; Consuegra-Barquín, 1994; Gómez, 2003; Patallo Sánchez, 2003). However, the number of (past and current) research projects addressing the relationship between law, identity and ideology in Cuba appears to be quite limited. While those that focus on such issues are quite worthy, they tend to be analytically complex and involve

lengthy and thorough processes of data collection (which my own experience leads me to assume included a fair share of difficulties and complications) and leave certain critical issues unaddressed.

As a prominent example, Luis Salas' (1979) study illuminates the Cuban judicial system in the decades following the revolution and considers legal initiatives, official documents and government statistics in order to illustrate the legal system's various attempts to educate and discipline the citizenry during the decades following the revolution. By turning a wide array of behaviours into criminal offenses, Salas argues, the authorities expanded their involvement to include increasingly private aspects of life, limiting the margins of freedom for personal expression and decision. Compliance with the regime was translated into highly visible characteristics, making any digression from the norm easy to expose and denounce. Salas provides a variety of examples to illustrate this point, such as the repression and police bullying experienced by those deemed "hippie" in appearance (long haired boys), and the constraints faced by homosexuals wishing to affirm their sexual orientation. Yet while Salas' use of mainly quantitative data and formal documents enable him to capture broad trends in the legislation and enforcement of Cuban law, it ultimately leads him to overlook how these trends are played out in practice and in discourse within court situations.

Debra Evenson's seminal work on the Cuban legal system meticulously outlines the work of the judiciary through an extensive survey of legislation in a variety of areas, such as family and criminal law, and interviews with key figures in the legal scene. Evenson's study shows how socialist doctrine is mirrored in the views of high-ranking legal experts, which in turn translates into ideology-laden legislative initiatives. Since

Evenson bases her thesis in declarative forms of discourse, her analysis focuses more on the theoretical realm than on the practical ways socialist ideology is produced on an everyday basis (Evenson, 2004). Though this level of inquiry provides a highly informative and much needed overview of the system (which is by no means an easy feat), it does not ultimately address how ideologically-based rules are enacted on a practical level and how they are negotiated in a discursive context.

A somewhat parallel[38] study of the legal order was conducted by Marjorie Zats in the late 1980s and early 1990s (i.e. before the onset of the Special Period). Drawing on extensive interviews with legal practitioners and faculty at the University of Havana Law School, as well as legal documents, ethnographic data and relevant books, journals and newsletters, Zats delineates the trajectory of the production and reproduction of "Cuban style socialist legality." Zats underscores precisely how ideology, namely the principle of socialist legality, played a major role in the creation of a revolutionary legal order, beginning with the education of post-triumph generations of jurists, the legislation of the 1976 constitution and subsequent amendments, and the inclusion of lay judges in the formal law system (Zats, 1994). Yet as much as this study succeeds in sketching the processes leading to court situations (training of lawyers, legislation of rules and their theoretical interpretation by practitioners), it does not address just how concepts of socialist legality are played out, contested and ultimately shaped, in such a setting.

The actual work of the Cuban court system has been deftly recorded by Jesse Berman, who conducted fieldwork in Cuba during the late 1960s. Berman's important ethnography focused on trials conducted by the People's Popular Courts, and surveyed

[38] Evenson's original study was published in 1994, the same year as Zats'. A second, updated edition of her book was published ten years later.

the courts' jurisdiction, subject matter competence and available sanctions, as well as on the ways legal procedures were performed by judges, litigants and spectators. Berman demonstrates just how all those present in a legal situation were involved in the administration of justice and in the construction of shared moral and legal concepts (Berman, 1969). Yet, however vivid and compelling I found Berman's descriptions of the court setting, a considerable amount of time has passed since his study was conducted. Since the Cuban society has undergone substantial changes in that period of time, as has the legal system itself, I am persuaded that this study, addressing these crucial transformations, will be a helpful contribution to the field, significantly enlarging on the important foundation created by earlier scholarship.

Chapter 5: Epistolary negotiation in the twilight of the revolution

This chapter revolves around issues of style, performance and repetition on one hand, and negotiation, resistance and change on the other. This chapter will examine the basic tropes employed by all parties involved in litigation when communicating with one another in writing for procedural purposes related to the appeal process. Forms and short, form-like letters will be analyzed in order to ferret out the conventions regarding how to begin or end a letter, how to properly address colleagues, clients and superiors. The main focus, however, will be on requests for appeal, a rich and complex type of communication, though still under the category of written correspondence. Placing the limelight on the rhetorical resources employed by those involved in litigation when communicating with one another in writing, this section will not only attempt to trace the dominant, proper ways of referring to others and justifying one's demands, but the changes in what counts as appropriate greetings and acceptable arguments. Here it is worth reminding the reader that all documents have been translated verbatim, since the focus of this chapter is on the use of language. The reader will note that many of the requests for appeal could have been written more coherently, and might find the use of punctuation marks to be flawed. The translation of documents requires a fair share of judgment, and the decision to leave the writers' grammar uncorrected was part of the intention to leave their arguments unchanged.

Before moving on to an analysis of the documents, a brief summary of the appellate process, which will provide a better grasp of the steps and requirements involved in the procedure, is called for.

In a nutshell, the process of appeal works (to this day) in the following manner: after a verdict has been given by the People's Provincial Courts, a petition to revise the verdict can be submitted to the PPC by any of the litigating parties (individuals, organizations, and the prosecutor's office). Normally, this is done within a year of the original verdict.[39] Requests for appeal and all related documents are submitted by lawyers, and all parties involved are expected to be represented by one. Legal practitioners may be associated with government agencies, such as the prosecutor's office, labor unions and places of work, or with the lawyer cooperatives (Bufetes Colectivos) that were mentioned in chapter 4. In the latter case, a standard contract will be signed between lawyer and client and it too will be submitted to the court together with all appeal documents. A cover letter explaining either the reasons for the appeal or announcing the client's representation by the lawyer in all procedures associated with the appeal will be attached to the contract. Contracts take the appearance of a form, where general information about the client, such as name, age, occupation, is typed into boxes. Additional notes (regarding any aspect that may warrant clarification) may be added in a designated space in the form. After these documents have been received by the PPC, a panel meets to discuss whether there is ground for the appeal, and if so, sets a date for the hearing. Summonses are then sent to all the lawyers involved in the case. Typically, at this stage judges prepare for the trial by perusing prior protocols and verdicts, examine existing evidence (house visits will be conducted at this stage), and interview or read existing transcripts of witness interviews.[40] The proceedings may last minutes or hours,

[39] Personal communication with two CENDIJ (Centro de Documentación e Información Judicial) employees.
[40] Personal communication with a CENDIJ employee and a lay judge.

depending on the case, but a decision will be reached on the same day and all parties will be verbally notified of the outcome before they leave the courtroom. A short written report is usually sent to the parties within a few days.

Having outlined the characteristics of the appellate process, we can now turn to consider the tropes employed in the communication between legal practitioners and court officials in the sphere of civil law. But before doing so, a last methodological note regarding the cases to be discussed throughout the chapter is in order; cases have been selected on the basis of their capacity to represent trends taking place in Cuba's legal system, mirroring both the points of tension, as well as the arguments made in courts that were characteristic at a given time. In other words, the cases analyzed in this chapter (and throughout the dissertation) are anything but esoteric, and alternative examples could easily have been selected in their place.

The rhetoric of politeness between courts and lawyers

The spirit of the times (taking into consideration the fact that in the course of over nearly three decades there were many shifting paradigms) was evident in form-like letters, forms and memos written by lawyers, judges and office staff at the courts and lawyer cooperatives. Information regarding when, where and how these forms were produced is rather vague. Personal conversations with a few lawyers revealed that a great quantity of forms had been produced not long before the Special Period (though that too varied among offices) and were never replaced. Later on, each lawyer was responsible for creating their own letters, or used the old forms if there were any. An interesting feature of these forms and form-like letters is their ability to reflect the messages that were seen

as significant or, even more importantly, to be absorbed into the legal routine. The fact that this type of writing seldom requires the sender to phrase revolutionary slogans or reflect on their meaning implies that discourse can be used, reproduced and recycled without necessarily involving any ideological commitment. Examining the taken-for-granted messages and the according-to-protocol forms of salutation exchanged between legal practitioners will then point to the prevailing (at least formally) zeitgeist on one hand, and the possibility of a break between form and content, on the other.

As was mentioned in earlier sections, the mid-1980s saw the escalation of revolutionary ardor. Laws enforcing tighter socialist policies were passed and, according to government sources, zealously enforced.[41] "Revolutionary" messages[42] were as pervasive and unrelenting as they had been for decades (Guerra, 2010), yet their ubiquitous presence stood in stark contrast to the changes taking place in the rest of the socialist world. The legal world was no exception. Colleagues, superiors and citizens were addressed using the expected revolutionary mannerisms that had apparently become taken for granted by this point. Cover letters (visibly typed with typewriters at first, then printed from computer files, making reproduction much easier) attached to documents sent from the provincial court to the PPC began with the term "compañero" (comrade). Endings were usually more diverse, though usually of the "revolucionariamente" (revolutionarily) or "con saludos revolucionarios" (with revolutionary greetings) variation. The mottos "patria o muerte" (fatherland or death), "venceremos" (we shall prevail), "año [] del desembarco del Granma" (year [fill in the blank] after the

[41] Debra Evenson's interview with Carlos Amat.
[42] Clearly the use of the word "revolutionary" in this context denotes the exact opposite of its literal meaning.

disembarkation from the Granma[43] "año [] de la revolución" (year [fill in the blank] after the revolution), "aniversario [] de la revolución" ([fill in the blank] anniversary of the revolution). Form-like letters and forms followed the same style, which is not surprising given the fact that they were produced en masse.

The 1990s saw a reproduction of the same writing style. However, the number of such notes diminished gradually over the years. It is unclear whether the cause was a desire to save (or a complete lack of) paper, lax conservation practices in the archive or the reconsideration of revolutionary ideology in light of the economic crisis/collapse of the socialist bloc. What is evident is that language over those years seems to have begun to change (this will be more evident when we move on to examine requests for appeals and verdicts) – if only by way of abstaining from use of hard core revolutionary rhetoric. It bears noting that, in the cases where form-like letters were used, the paper on which they were written appears to have yellowed significantly more than that employed for other documents, leading me to believe that those utilized were merely leftovers from another era - just needed to be used until all remaining stacks were gone (this suspicion was later confirmed during a personal conversation with the archivists). This trend was further intensified during the 2000s. Very few very yellow form-like letters were put to occasional use by legal practitioners, but they were almost completely replaced by computer-typed personalized letters beginning with the salute "compañero", but ending with the more ideologically moderate forms "fraternalmente" (fraternally) and "atentamente" (sincerely, in the correspondence form).

[43] Granma is the boat used to transport over eighty fighters of the Cuban revolution, among them Fidel and Raul Castro, Ernesto (Che) Guevara and Camilo Cienfuegos, from Mexico to Cuba in 1956. The disembarkation marks the beginning of the Cuban revolution.

The language used in forms and form-like letters imported the ideological messages found elsewhere, therefore cooperating with their reproduction and subsequent reinforcement. Those messages were not just copied in the sense that they were printed en bloc but perfectly replicated, thus becoming static, context-independent and easy to take for granted (similarly to Yurchak's examples). Yet no matter how habituated one becomes to "white noise", it becomes noticeable the moment it fades away, and fade away it did, when paper and ink became scarce, and economic factors and political inclinations began to shift. The effort (and perhaps the availability of new resources) to communicate using different codes during the Special Period and onwards, suggests that the atmosphere of change might have triggered a motivation to evaluate where the legal scene stands and what it is to become in the face of those changes.

Appeal in times of upheaval

To this day, requests for appeal in the Cuban legal system are possible on the grounds of misinterpretation of the law or flaws in the procedure in which a verdict has been given. These (mainly) technical circumstances enable citizens to call for an annulment (basically, re-examination) of the original verdict under what is called "recursos de casación." Appeals based on fundamental disagreement with a previous decision (for example, if an earlier verdict is perceived to be essentially unjust) can be filed by resorting to what is known as "recursos de apelación." Such requests are extremely rare, however, because on principle all unfair decisions could be connected to a basic misinterpretation of the law (Mantecón Ramos, 2012). In fact, many requests for appeal assert a lawyer's (and client's) commitment to the spirit of the law, but a

substantial opposition to the way it was implemented, though that commitment was bound to change over the course of the years. This last point is, in effect, quite consequential to how power and authority were negotiated in court situation and will be discussed at greater length over the following passages.

Appeals were requested in writing, and were, without exception, authored by lawyers (though clearly based on thorough interviewing of the client and perusal of all the documents pertaining to former litigation). They were addressed to both the PPC and the other parties involved in the dispute, thus starting the process of appellation described above. In a small number of cases, the other party's lawyer would draft a reply to the appeal, explaining his side of things. In both cases, letters comprised a short outline of the dispute and verdict under discussion, though there was considerable variance in the length and extent of the summary. The majority of applications for appeal were conserved at the archive, but since a discussion of the grounds for the appeal was included in all transcripts of the final verdicts, it is possible to examine and analyze those petitions, even in the cases where the original request was not to be found in file.

Although regulations concerning appeals have, for the most part, stayed the same for the last four decades, the language and strategies employed in requests seem to have changed considerably over the years, reflecting not only changes in the understanding of law by lawyers, but also in their perception of judges' inclinations – in other words, of legal culture in general. It is hard to speculate on the extent of influence that clients had on the way these letters were written, and it makes sense to assume that some clients had more input than others. Yet after reading the petitions it is clear that they were not drafted

solely by legally-trained representatives, but that they mirror the demands and feelings of litigators.

Appeals that were filed throughout the latter half of the 1980s, that is, at the peak of the rectification campaign generally tended to describe the background to the dispute in great detail, and discuss the moral implications of the previous verdict. Let's examine, for example, a case involving the adoption of a girl of about nine years of age. The child had been removed from the care of her biological parents about eight years earlier and was adopted by a childless couple shortly after. A few years later, the biological parents requested to have the adoption annulled, which was granted by the provincial court of Havana in May of 1986. Struggling to come to terms with the loss of their daughter, the adoptive parents filed an appeal to the PPC. The request for appeal was quite lengthy and revealed both the adoptive parents' emotional state, and their lawyer's surprise at the original verdict. The appeal begins by linking the misinterpretation of evidence regarding the placement of the child for adoption and the final decision reached by judges. "The erroneous interpretation of evidence," writes the lawyer, "affected the final decision, leading to the irrational and arbitrary interpretation of the law." He moves on to criticize the judges' failure to connect between the neglect of a child and their actual abandonment by their parents.

> The word abandonment, when it is done by the parents or other persons in charge of the care of a minor, in civil law means: the act of abandoning; and in the Castilian language, means lack of care, lack of attention, negligence, forsaking and unfulfillment of duty. The verb "to abandon," the way it is defined by the dictionary, means to desert a person, to fail to care for what we should be caring for. Even in the case the child had not been willfully surrendered for adoption (which he challenges later on), the parents' neglect should be taken to mean that she had been abandoned, and therefore available for adoption. Yet the parents did

> surrender the child, and were aware of her growing up, and being thoroughly taken care of by the appellants (…) It is not possible to logically accept that the child was not surrendered for adoption when she remained in the care of the adopting parents for eight years [underline in the original], who publicly provided shelter and protection for the girl, with the full knowledge of her biological parents, which reveals that such care was consented with no opposition from the biological parents, which indicates that the adoption procedure was conducted in a peaceful manner due to the voluntary neglect, desertion and the biological parents' wish that led to their voluntary surrender of the minor; which indicates the failure to fulfill their parental duty to care for their children and keep them by their side, but not the tacit relinquishment of that innate parental duty to want to keep their children at their side at all times which stands in stark contrast to natural instinct which has been seen even in the most irrational of animals, who look for their young whenever they are not near. All this proves that it is abandonment that stands at the heart of this adoption.[44]

It seems significant that the pathos-rich description of the meaning of abandonment does not end in the contrast of the genuine purpose of the law to the case in question. In a rather typical move in requests for appeal, the lawyer leaped from the particular to the collective, emphasizing the importance of a just decision to the true spirit of the law.

> This case is the backbone of civil law because when it comes to family issues … it reinforces the conviction that children find warmth and affection in their adoptive families (…). In our civil law system, neglecting a child, failing to attend to their needs, etc. creates the right for every honest citizen to adopt a child who has tacitly been denied those things by their biological parents, without having the parents bear any criminal responsibility.

Debates revolving around the true spirit of the law, or, more specifically the true intention of particular decrees were not a unique feature of the case discussed above, or of family disputes in general. A case revolving around the forced expropriation of a truck exemplifies this point. The appropriation of property by the state had been rather habitual since the triumph of the revolution in the late 1950s. However, the rectification campaign generated an increase in the number of confiscated properties, especially vehicles (the

[44] Case number 162-86.

special period would witness an even sharper rise due to lack of gas and replacement parts). Many of the expropriations went unchallenged, but those that were can teach us a great deal about how formal policy - which was backed by intensive ideological propaganda – and authority were contested in court situations (and how that changed over time). The case under discussion begins in late 1988, with the confiscation of a truck by the ministry of transportation and the payment of a lump sum (which was set by the state without any involvement of the owner) in exchange for the vehicle. The owner hastened to reverse the situation and demanded his property be returned, but the provincial courts ruled in favour of the state. Unsatisfied with the courts' decision, the owner filed an appeal with the PPC.

> The law states very clearly that the reasons for the acquisition and taking of the property have to be explained in a reasonable manner so as to justify the concrete need to acquire and occupy a property or someone's rights to said property…both the [earlier] verdict and the resolution [to confiscate the truck in question] do not express in a reasonable manner the public utility or social interest of this appropriation, leading to a notoriously erroneous interpretation of the law… [45]

Similarly to the adoption case discussed earlier, the implications of the allegedly flawed understanding and implementation of the law were not portrayed as relevant only to the appellant, but to the state as a whole.

> My client uses the truck to do agricultural work in the sugar harvest, and collect food for the animals in his possession, the derived products of which are sold to the Cuban State [capital letters in the original], basically we are discussing a working tool that belongs to my client but is used not only for his benefit, but for the benefit of the Cuban State and therefore, for the benefit of all Cuban citizens.

The authority of the lower courts was contested both by attempts to recruit a superior to correct a given verdict, and by connecting a specific error to the functioning of society as

[45] Case number 291-88.

a whole. When the misinterpretation of the law is depicted as the cause of unfortunate circumstances for appellants, the underlying argument is that if the law had been understood and implemented rightfully, life would be just and happy - if not for all the citizens of Cuba, as in the second case discussed, then at least for the honest and law abiding, as we saw in the first one. By "blaming the player instead of the game," Cuban appellants found a way to question the authority without challenging the system altogether. By noticeably stressing their status as law abiding, industrious citizen, as well as extrapolating from their particular case to the general, appellants seemed to make an effort to reconcile between their seemingly rebel selves and the state.

The 1990s saw drastic changes in legislation, mainly in all things related with property. The adjustment of policy to the demands of a different world order, coupled with the economic crisis and sense of deprivation experienced by millions of Cubans, appears to have resulted in a shift in the way possessions, as well as the position of citizens vis-à-vis the state are perceived. Those points will be illustrated by two very different cases - one involving the forced expropriation of a truck and one concerning the division of property after a divorce.

The first petition is connected to the following dispute: in 1992, the Matanzas local of Cuban Truck Company (ECM) began the process of expropriation of a truck belonging to a married man of fifty-five years of age. The truck owner hurried to halt the procedure as soon as he was notified of the company's intent, but to no avail; a verdict produced by the provincial courts ordered that the truck be surrendered to ECM as soon as possible. The (former) truck owner did not give up, and attempted to appeal the courts'

decision with the PPC. Many problems seemed to have been associated with the confiscation. Firstly, the truck was not only the property of the man, who indeed used it as a tool of work for years, but "also his wife's, based on community property law." Therefore, "by appropriating the truck, the courts would deprive the appellant and his family of his only means of subsistence." Secondly, while the law regulating expropriations states that these should be conducted based on "public utility and social interest… it has not been yet explained how this specific case … complies with these criteria." Moreover, while

> it has been proved that the truck has been exploited (sic) in favour of the State [capital letter in original], and the ministerial resolution [while the ministry of transport was in charge of deciding how many trucks would be confiscated, when, how, and where- the local companies were those responsible for the actual handling of appropriations] is only limited to stating that the appropriation will result in further efficiency, an end that is not the purpose of the legislation, and can also be achieved without expropriating the property, that is to say, changing the owner. Because this vehicle has been working for the state until now, and putting it to better use would be possible by enacting better regulations and not by expropriating this property.

Thirdly,

> the lower courts have not taken into account the fact that the owner has invested a great deal in the maintenance of the truck, which is a GMC model 1956…and clearly a car from that period requires great investment in parts, reparation and general care…which amount to approximately 10,000 pesos.[46]

Analogously to the adoption and expropriation cases discussed earlier, this request for appeal is also based in the premise that the law was not understood properly. However, this is where the similarities end.

[46] Case number 39-93.

Instead of focusing on technical issues without challenging the spirit of the law, the argument in this case openly questions the need for expropriation, if not in general, then at least in the individual case under discussion. Furthermore, alternative ways to achieve a (neither necessarily social nor socialist) goal are suggested, thus contesting the ability of the state to solve the current crisis in an effective manner. The appellant's work for the state is emphasized in the request, but this too is done with a different purpose in mind; while the appeals mentioned above sought to reconnect the petitioners with the state and its moral objectives, our litigant's indication of his work for the state attempts to underscore the lack of logic underlying the appropriation. Lastly, this petition implies a shift in the perception of property and the rights attached to the ownership of things. Firstly, the petitioner readily underscored technical issues concerning the question of property – it is possible to assume that the proportion of truck owners that were married during the 1980s was the same as during the 1990s,[47] and yet the argument of community property only began to appear during the Special Period. Secondly, and much more importantly, this petition connected the possible yields from use of the truck both to his personal financial state and to the owner's personal investment in the property. This in stark contrast to the earlier case, where the personal benefits to be earned from use of the truck were linked to the collective wellbeing. As we will see below, the relationship between one person's contribution and their entitlement to profit was not exclusive to the realm of business, but was part of the domestic sphere as well.

[47] If anything, it was probably higher given the soar in divorce rates following the crisis (for a more detailed discussion of family trends in Cuba before, during and after the special period, see Skaine, 2004)

The next case concerns the division of property after a divorce, and begins in 1995, with the formal separation of the spouses and the first verdict regarding the way possessions should be allocated; the provincial court in Sancti Spíritus decided to split all the couple's belongings in half, ranging from linen and cutlery to the couple's apartment and car. The request for appeal written by the husband suggests that he was deeply unsatisfied by this decision; he had purchased a car a few months before his marriage, and while he had traded it for a different one over the course of thirteen years, he could not conceive that its value be equally divided between he and his (soon to be former) spouse. "The 14,000 pesos are related to the Ford Consul car purchased by the appellant on May 31st, 1982, that is seven months before the marriage, and it has been proven that this property, acquired before the marriage has been substituted by the car he now possesses, with his own money and not on account of common property,"[48] explained the husband's lawyer. Moreover, "the verdict has set the value of the car as 25,000 pesos, which is the price at which it was purchased, but not the market price at the time the marriage was dissolved." But the vehicle was not the only point of discord. The husband demanded that "the toilet and bathroom fixtures, which had been acquired by the appellant with his own money and is the only thing he needs in order to make his part of the apartment habitable… and re-marry" be given to him. In addition, he asked to note that his former spouse, who "is unemployed and has no income, is allowed to keep part of the apartment…," thus emphasizing the wife's overall gain from the divorce settlement, as well as her lack of contribution to the couple's combined assets.

[48] Case number 14-96.

The arguments set forth by the husband and his lawyer suggest a changing perception of property, or at very least of the perception of what constitutes a legitimate claim in a socialist court of law. Conflicts over the division of property after the dissolution of a marriage had been common in earlier decades and had clearly involved attempts by both parties to keep as many of their belongings as possible. Two things seem to be of significance: firstly, the family code states that all common property should be allocated equally to both spouses. This fundamental tenet was not contested in any appeals preceding the 1990s that were examined in the archive. Disagreements arose involving compensation for things that could not be divided, such as televisions and refrigerators, of which there was only one per household, or payment of child support. The petition for appeal discussed above blatantly disputes that principle and requests that sizable parts of the common property be handed over to the appellant. Moreover, the request to strip the wife of the toilet fixtures in the residence regardless of how much she might need them, further points to the appellants' desire secure a greater part of the assets. [49] Secondly and perhaps more importantly, the justification for the dissent with the prior verdict shows a surprising change of focus – from an apologetic plea to the property based on the appellant's needs and/or privation, to a demand to enjoy their property based on ownership. The husband claimed to have rights to the property because he had earned it, as opposed to his (soon to be former) spouse who had secured herself access to half of their apartment without being employed or having any income, and had been given half of the value of the shared vehicle despite the fact that its purchase is claimed to have been possible due to the husband's original investment in a car before the marriage had

[49] The appellant's mention of his intention to re-marry and bring his new wife into the apartment makes it reasonable to assume that he intended to divide the dwelling into separate units.

occurred. The appellant's argument, which could be summarized as "to each according to his work (needs are irrelevant)," shows that the relationship between a person's contribution and their sense of entitlement had begun to be seen as legitimate in a changing socialist context.

In contrast to earlier years, appeals in the 1990s did not involve a request to reassess a problematic decision based on of the misunderstanding of a shared (or at least, accepted) value, but entailed the examination of those values altogether; the need for expropriation was blatantly questioned, as was the assumption that property should be divided equally after a divorce. Instead of seeking symbolic redemption (or at least sympathy from judges) by linking themselves to a collective, petitioners stressed their individuality by emphasizing their contribution to their own prosperity and, from there, their entitlement to enjoy its fruits. Moreover, the direct challenging of government policy in the expropriation case implies a move from the perception of citizenship as passive reception of political decisions made at the top.

The spirit of entitled citizen continued to take roots throughout the first decade of the 2000s. But instead of being limited to the negotiation of specific principles of resource allocation, petitions during this time appear to begin contesting the procedure - appeal lawyers serving as watchdogs of the system as a whole. A damages claim filed against a local UBPC (Unidad Básica de Producción Cooperativa, or Basic Unit of Cooperative Production)[50] exemplifies this tendency; the case revolves around a dispute

[50] As was mentioned earlier, many state farms were converted into UBPCs following the collapse of the Soviet Union. The change provided workers a greater degree of managerial autonomy, as well as access to a fraction of the UBPCs earnings. Needless to say, UBPCs were subsidiaries of the state.

regarding compensation for the losses incurred by a member of the cooperative during the hurricane season of 1999. The appellant, who had lost his yearly crop due to flooding (that is, he lost the produce that was to be harvested shortly after the hurricane, as well as the opportunity to prepare the land for planting the following crop), felt that if the UBPC had managed the storm differently (i.e., had prepared accordingly and taken all necessary precautions), the consequences would not have been as catastrophic.[51] After some deliberation, he filed a suit for damages against the cooperative, which was turned down on the grounds that the losses were caused by a natural disaster and were therefore not under the responsibility of the UBPC. Convinced that the original trial had been conducted in an unfair manner and that UBPC negligence was the sole cause of his loss, he filed an appeal with the PPC. The petition revolved around these two issues.

The petition begins by emphasizing that the appeal does not request the courts to bend the law, but to operate within its confines. In contrast to appeals filed during earlier years, there is no attempt to discuss the spirit of the law and how the previous verdict has failed it, but to clarify how the appellant is acting within his own right:

> The law does not protect citizens from damages caused by force majeure, such as cyclones and hurricanes, but as it happens in this case, the appellant is not requesting compensation for the losses caused by the meteorological phenomenon that occurred in August 1999 and harmed all the agricultural workers in the area where he lives with his family, he is asking for compensation for the losses caused by UBPC leadership, whose neglectful maintenance of the drainage ditches led to their obstruction…which resulted in the flooding of the land and its remaining in this condition for an unduly long period of time.[52]

[51] Though the arguments raised in this case might seem like a "long shot" to the reader, it is important to note that disputes revolving around the performance of state agencies were quite common during this period. Moreover, as I shall demonstrate in the following two chapters, judges moved from perceiving these claims as unworthy of discussion, to seeing them as legitimate demands that need to be duly addressed and taken care of.

[52] Case number 14-02.

The message of protest against the leadership is repeated further on, not only with the intention of making a point, but to stress the appellant's protest of the leadership's performance:

> this land has been cultivated for years, and no problems have ever arisen, enduring many other meteorological disasters, until UBPC leadership began to neglect the maintenance of the ditches… if the ditches had been in optimum conditions, the rain water would have been quickly evacuated and no flooding would have occurred, and the damages to the appellant and his family would have been minimal, perhaps a small delay in the preparation of the land for next year's harvest, but that would not have been worth complaining about, since that would be a natural consequence of force majeure.

Similarly to earlier years' petitions, a substantive debate of the prior decision occurs in this case, discussing the moral (and logistic) implications of the verdict, not of the law itself:

> the former verdict has given excessive importance…to the fact that the appellant's lands are located in a lower area than the rest of UBPC members'…implying to the existence of a geographic fatalism that the appellant will have to endure forever, as if this was the fundamental and inexorable cause of the damages suffered by the appellant and his family, while this is certainly not the case…if we were to accept the reasoning of the earlier verdict as true and correct, then we would have to accept that only those who have access to more elevated terrains can cultivate the land, and this should not be acceptable. This is in fact the reason why drainage ditches are constructed.

However, in contrast to the other petitions discussed above, the ethical inclinations of the courts are put on the stand. The former verdict is not seen (nor portrayed) as a result of an irrational and illogical decision, but as a consequence of questionable legal practices that might oppress the ordinary citizen. More specifically, the petitioner shows trepidation over the intensity with which the litigant had been questioned:

> My client, like any person who is not used to going through an interrogation of this kind, so extensive, with the accompanying rigor, language and ritualism, coupled with the value of the property at stake in this case, naturally cause a

> mental state of insecurity, confusion and nervousness, especially when he had to reply these questions on his own, with no direction or the help of his lawyer…not to mention that the questions themselves had been phrased in a confusing manner (…) This person is a farmer, all he has ever done in his life is work his land.

The need to protect helpless citizens from injustices in the justice system recurs in requests for appeal filed during the 2000s. In addition to the exposition of flawed procedures and prejudiced decisions, many petitions employed a confrontational, sometimes even acerbic tone. The appeal of a verdict concerning an inheritance illustrates this point; many details regarding the deceased and his relationship with the inheritors are missing from the case. However, it is known that he wrote a testament in December of 2004 of which his nephew, F.B.R. was the sole beneficiary and passed away not long after. Following the man's demise, F.B.R. began to make arrangements to have the property transferred to him, which was approved by the Municipal Courts in Manzanillo Granma province. It was around this time that he found that there were other contenders to the inheritance, M.L.V. and I.S.G., who appealed the Municipal Courts decision and brought the issue to trial with Provincial Courts. At this stage things began to become more complicated: the other contenders had two different testaments to show for, and, while they were signed earlier that the one benefiting F.B.R., none of those mentioned him as beneficiary. Suspicious of F.B.R.'s intentions, the Provincial Courts ruled in favour of the appellants. F.B.R. was furious. Not only had he been deprived of the property he perceived himself to be rightfully entitled to, but he also felt that his character had been defamed. He filed an appeal with the PPC, in which he expressed his dismay at the way his client had been treated at the Provincial Courts.

> The Provincial Courts did not properly and rationally evaluate the written evidence and concluded that my client [F.B.R.] acted in bad faith because he had

> said he only knew of the last signed testament, but later confessed to have heard of the existence of another, which had not been notarized and, at the time they [the other contenders] began to take measures to prevent my client from receiving the property he was entitled to, was not presented before the courts.

The judges' conception of F.B.R. as an ill-intentioned individual was then portrayed as the trigger for further mistreatment by courts: when more written evidence was requested of F.B.R., he "willingly cooperated" by bringing copies of all solicited files – moreover, he eagerly "pointed to a discrepancy in the files…which was not accepted by the judge on the grounds that it [that detail] had not been requested of him, which we think was an incorrect appreciation of the scope of evidence on his part."

Things seem to have gone downhill for F.B.R. from this point onwards: the signatures in the two contending testaments appeared to be different. "However, the judges found the 'alleged irregularities' that had been identified, demonstrated and proven, to be irrelevant." Furthermore, one of the witnesses brought by one of the other contenders claimed that the testament in her possession had been signed in front of a third person, which stood in contrast to F.B.R.'s declaration. The lawyer was appalled by the court's tendency to believe that version, since the document had not been notarized and in any case F.B.R. had not discussed the other testament at any point, but only spoken about the one in which he was beneficiary, which was proven to have been signed in front of witnesses and notarized. This information, however, "was not evaluated by the court when they were to assess and judge the evidence, perhaps because it too is an irrelevant 'alleged irregularity'."

Following what was an introductory narration of events, the lawyer then turns to summarize the proceedings as an almost farcical event.

As can be seen, he resumes, the "alleged irregularities" identified by my client, which were blatantly ignored by the lower court on the grounds of irrelevance, can be summarized as follows: according to my client's knowledge of his uncle, who was unable to walk and had become dependent on his visits to go out and see the sun, it is unlikely that he went out on his own to the office of the legal clerk to get his testament notarized. There was a contradiction between the information appearing in one of the testaments and the testimony of one of the contenders with regards to where the will had been signed. There was a seven (7) day gap between the date one of the testaments was signed and the date it had been registered in the legal books, with the inclusion of an additional testimony which had been issued a year and four months prior. The non-presentation [sic] of a [contending-MK] testimony by the contenders…There were notable differences in the characteristics of the signatures in the two contending testimonies and the books of the legal clerk." Yet there is a fine line between the description of a trial as a comedy of errors and the implication of willful cruelty towards the defeated side. The petition ends with direct, confrontational accusations of persecution: "important evidence was said to have been ignored due to their involuntary omission by the courts…but now we know that the omission was not involuntary… evidence was overseen because it was said to have been submitted after period for the evaluation of evidence was over, but it was in fact delayed in the courts' office.

Taking the defiant trend of the 1990s a step further, petitions for appeals in the first decade of the 2000s were considerably different than those of earlier years. Earlier discomfort with allocative decisions gave way to confrontations concerning the just treatment of litigators and citizens in general. Citizens appear to no longer be contented with passively accepting major decisions made by powerful others, but, by questioning the objectivity of procedures and the fairness (and efficiency) of (state) management, they put the system on a stand. Without apologizing or finding excuses for their rebellious arguments, negotiating citizens seek a way to assert their presence in the changing economic, social and political reality.

The analysis of requests for appeal filed to the PPC over the last two and a half decades points to a gradual, but sure, change in the way citizens perceived (and, more importantly, expressed) their roles, duties and rights within a dynamic political environment. Requests for the overturn of verdicts at the height of the rectification

campaign usually involved a denunciation of the ruling of the lower courts, based on their alleged misinterpretation of the law. By expressing their expectation that the PPC would correct the injustice, and by positioning themselves as law-abiding, productive citizens, appellants tended to understate their questioning of the decisions made by other state agencies, therefore reassuring the judges of their allegiance to the revolutionary project. Within the course of a few years, however, this trend was traded by a tendency to criticize decisions made by the state (such as the expropriation of cars and trucks, or the egalitarian division of property in the case of divorce), as well as the performance of state agencies. The apologetic tone of the latter half of the 1980s gave way to explicit demands for better services, transparency, and the right to enjoy one's property; declarations of industriousness were linked to calls for an increased material wellbeing, rather than one's adherence to revolutionary values. All in all, the cases analyzed in this chapter seem to echo the political liberalization of Cuban life over the last twenty-five years. Yet there is much more complexity to the changes in Cuban society than the quasi-linear journey into liberalism (whatever the reader takes it to mean) that this chapter has portrayed; in contrast to 'whig' perceptions of history, changes are not linear, and revolutions (big and small) are never final, but a constant work in progress. The following chapters will place the limelight on the more nuanced aspects of the work of the PPC.

Did the arguments work? Or, a few words about negotiation and power

For all the debate around the challenging of values, procedures and decisions, it is crucial to note that none of the arguments discussed above were successful. Not a single one of the aforementioned petitions was approved and in fact, the overturn of verdicts

was rare; of all the cases analyzed in this dissertation, only one percent of verdicts were overturned. While the subversiveness of all expressions of dissent towards state agencies is indisputable, all the more so in centrally-governed states, judging by the outcome it is clear that these attempts did not meet a sympathetic audience and were repressed for the time being. Yet repression (and resistance) works in a myriad of ways, and judging the success, or even the extent of defiance, by its immediate outcome does not do justice to the complexities of power. In his insightful observation of the dynamics of dominance, Foucault described power as a set of *specific* social relations, in which knowledge and truth are permanently negotiated, shaped and re-shaped; they may be reinforced and reproduced, but never irrevocably. Hence, a closer look at the *process* of negotiation is called for. By examining if, how and to which extent attempts to re-define dominant values and procedures were suppressed, we will achieve a better grasp of the changing subtleties of governance in late socialist Cuba. The next chapter will revolve around testimonies, judicial opinions and verdicts, which consist of transcripts of rather lively interactions between lawyers, litigators and judges in "real time." The seventh chapter will discuss the relationship between the rhetorical forms and their content (or lack thereof), as well as this dissertation's implications for the study of Cuba, on one hand, and state socialism on the other.

Chapter 6: Litigation and Changing Perceptions of Governance and Citizenship

The previous chapter suggested that citizens' views of their position and rights vis-à-vis the state have changed in tandem with the political and economic adjustments taking place in the island over the last few decades. This chapter expands that argument by exploring oratorical debates between clashing visions of social responsibility and legal appropriateness. Focusing on the strategies employed by courts when attempting to resolve a conflict, as well as the rhetorical resources employed during court proceedings, in this chapter I trace the changes in the dominant, acceptable ways of constructing an argument over the last two and a half decades. As we have seen previously, the logic underlying claims made in court changed between the later part of the 1980s and the onset of the Special Period (early 1990s), and then changed again with the intensification (and institutionalization) of liberal measures in the 2000s.

Following the analytic focus presented earlier, this chapter will revolve around three main emphases; the first concerns the rhetorical efforts of litigators. As we have seen previously, the arguments presented by litigators and their direct representatives reflect changing ethical and political perceptions, but as we shall see later on, they also resonate with the emergence of a different pattern of communication with the judges. Secondly, this chapter will focus on the stories told by character and expert witnesses in the cases where they were requested to appear before courts. As will be shown below, those stories not only point to changing views regarding what aspects of a person's personality, life trajectory, personal, work or health circumstances were seen as relevant to the dispute under litigation, but the selection of witnesses in itself also signals a shift in

the court's approaches to resolving disputes. Within the course of only a few years, litigators moved from the pervasive use of testimonies by leaders of mass organizations to choosing professionals as expert witnesses, abandoning ideologically imbued arguments in favour of scientific ones in the process. The final theme revolves around the courts' verdicts and their justification. Focusing on the judges' explanations for their decision, as well as the responses (or lack thereof) to the arguments raised during litigation, I will show that not only citizens' perceptions of the system and its possibilities have undergone substantial change, but that the judges' view of their role as educators has changed considerably as well.

Before we turn to the claims put forth by litigators, witnesses and judges, a brief methodological note concerning the presence of litigators in the proceedings is called for; as the PPC dealt with appeals coming from all over the country, not all involved parties could afford to show up for court dates. In the cases where a litigator could not be in court, a lawyer would appear in his or her stead and convey the client's side of things. The selective turn up of litigators might very well have influenced the way claims were constructed, and perhaps, to some extent or other, determined the amount of "stage time" held by litigators as well. That being said, legal practitioners are known to prepare their clients for their testimonies in any legal situation, and therefore telling a lawyer's responsibility for an argument from a client's is a dicey task at best. The documents analyzed in this chapter demonstrate this point; all appellants were clearly prepared by their attorneys, and often cited the law and, to some extent, legal concepts that it is safe to assume would have been unknown to them otherwise. For this reason, and because

absence from court was not an uncommon occurrence, disregarding a case solely because one of the parties was not present seemed like an unnecessary measure.

This chapter is structured in the following manner; in similarity to the previous chapter, the discussion of cases will be arranged by time periods – beginning with the latter half of the 1980s, succeeded by the Special Period, and finishing with the first decade of the third millennium. Selected disputes[53] will be briefly introduced, followed by the arguments presented by each of the parties participating in the proceedings. An analysis of the statements and patterns of communications will conclude the discussion of each case.

Negotiation in times of rectification 1986-1990

Transcripts of proceedings conducted throughout the latter half of the 1980s, that is, at the peak of the rectification campaign, generally reflect a preoccupation with ideology. Appellants attempted to convince judges that they stood on solid moral ground, and not only were supportive of the revolutionary endeavor, but were fully integrated to it. Litigators tended to address the arguments introduced in their request for appeal, yet strive to add a personal perspective to what had up to that point been only a collection of letters on a page. Judges, on their end, evaluated their claims almost exclusively by political standards and tended to discuss the moral dimensions of a verdict, rather than fixate on legal technicalities. This was evident in all cases found in the archive, from the few feuds revolving around forced expropriations to the many conflicts concerning

[53] Cases for discussion were selected in the same manner as those in the previous chapter; that is, cases that represented a common problematic, method of witness selection and communication pattern between litigators and judges at a given time period.

custody and divorce. Let us examine the case of a dispute revolving around custody and visitation arrangements between a divorced couple, D.H.M. and A.M.V.M. Not many details regarding the couple's marriage are available in the file, but what we do know is that they divorced in March of 1987, and that had a boy of eight years of age. The divorce proceedings, conducted at the Municipal Courts of Colón, culminated in the allocation of sole custody to the mother, with occasional visitation rights to the father, which were mainly dependent on the mother's goodwill. The father, D.H.M., struggled to accept that decision, mainly because A.M.V.M. required that all visits with the son be conducted in her home, where D.H.M. did not feel welcome. He thus filed an appeal with the Provincial Courts of Matanzas, but it was not granted. As a strategy of last resort, he filed a request for appeal with the PPC.

D.H.M. claimed that he was

> a good worker…of impeccable moral behavior" and emphasized that "such traits make him capable of fulfilling his fatherly duties and rights, of working together with [his] ex-wife preparing their son for social life, to inculcate love for the homeland ["Patria"] and other worthy values and norms of coexistence and socialist morality… a father that has these characteristics cannot be deprived of communicating with his son.[54]

He moved on to discuss the previous two verdicts, where his religious views had been seen as convincing reasons against his obtaining a more lenient visitation arrangement. In D.H.M.'s view, however, these were

> no compelling reasons to limit the communication between a father and his eight year-old son, because while the courts argued in very general terms that [D.H.M. has] attempted to introduce a different system to the child's education than the one that is imparted in our schools, they did not specify what that system is or

[54] Case number 138-87.

> what actions [D.H.M. has] done to promote that purpose. And this cannot possibly be assumed based on the fact that [D.H.M. is] a member of the Baptist church.

Moreover, D.H.M. said,

> the last verdict only took into account only one aspect of a psychologist's report concerning the child's behavior, that is, that every time he would return to his mother's house after having spent a weekend with [D.H.M.], he would become aggressive…this interpretation does not take into consideration that perhaps the unrestricted communication with his father would be necessary in order to correct the child's behavior, that the child loves and needs his father, that communication with his father is a positive influence on the child, and that visiting his paternal grandfathers has also been beneficial to the child…this interpretation ignores the father's role as educator, and the problems our society is currently facing, with the behavior of children of divorced parents – the conflicts, the fact that there is no equal division of duties between ex-spouses. And in contrast to other cases, [D.H.M. wants] to fulfill [his] duties, knowing how this will affect the child's future." As a closing argument, D.H.M. asked to remind the courts of his being "a father, integrated to the revolution, a good worker, who fulfills the obligations imposed on him by the CDR, and can therefore fulfill his duties as a good father.

D.H.M.'s declarations of moral capacity were backed by the testimonies of a CDR[55] leader in his neighbourhood, a delegate of his workplace and a CDR functionary in his ex-spouse's neighbourhood. Both the CDR leader in D.H.M.'s district and his co-worker confirmed that D.H.M. "is a hardworking man, a loyal member of the CDR who takes part in each and every one of the activities assigned to honest members of society; who is highly respected by his neighbors and co-workers due to his unimpeachable moral behavior and is not anti-social (...) These characteristics make him able to fulfill his duties as a good father ...." The CDR functionary in the ex-wife's neighbourhood attested that, "there is acrimony between the former spouses, and that the child's mother insists in

[55] As was mentioned in previous sections, the CDRs -Comités de Defensa de la Revolución – are a mass organization established on a geographical basis, given the task to arrange festivals, administrate voluntary community projects, and organize mass rallies. Moreover, and perhaps more importantly, they are to monitor the political activities and moral inclinations of individuals under their jurisdiction.

limiting visitations between father and son to the confines of her house, yet every time D.H.M. comes to the house, A.M.V.M. treats him in a hostile manner."

A.M.V.M. was not present in the trial, and while her lawyer did attend the proceedings, he was not required to testify; A.M.V.M.'s side of things was rendered irrelevant, because it was not her behavior that was being contested, but the Provincial Court's former verdict, which at any rate was perceived as supportive of A.M.V.M. As all present parties were familiar with the verdict under appeal, it was not widely discussed, but referred to in D.H.M.'s testimony and the judges' conclusions.

After studying D.H.M.'s claims, as well as the verdicts produced by the Municipal and Provincial Courts, the judges decided to turn down his appeal. The head judge, M.H.D., explained that

> while the appellant claims that the prior verdicts are based on a unidimensional interpretation of a psychologist's opinion, which is said to be unfavorable to him, and CDR leaders confirm his involvement in the organization and his co-workers corroborate that he is highly regarded in his workplace…and he has claimed to be a good father, it is not true that the prior verdict is solely based in the psychologist's opinion, nor that the other forms of evidence put forth by the appellant manage to dismiss the conclusion reached in the former verdict, which is that the different ideological values imparted by the father to his son, far from benefiting him, harm him…there is no doubt that the ideological formation given by D.H.M. to his son are not leading him to become the constructive citizen, prepared for life in a socialist society that is specified in article thirty-seven of the Republic's constitution. Therefore, the petition for appeal must be rejected.

The appeal to functionaries of mass organizations to serve as character witnesses and the rhetorical connection between loyalty to the revolution and good parenting, were not a unique feature of the dispute discussed above. What distinguishes this case from the majority, however, is the fact that the argument and its confirmation by "reliable" testimonies were not found to be convincing. In comparison to other cases in which

active involvement in mass organizations and a good word from their leaders were enough to get the desired results, it appears that D.H.M.'s declarations of loyalty seem to have failed not because they were deemed irrelevant to his capacities as father, but because they were perceived to be insufficient; a true revolutionary would place socialist ideology above all other values, and would raise his child to value socialism above all else. Arguing commitment to the revolution was then a double-edged sword, as it had the potential to win over a judicial panel, but also to draw attention to less revolutionary aspects of the claimant life. More often than not, however, asserting someone's active participation in revolutionary activities[56] was a winning strategy, as long as it was incorporated in a coherent narrative involving all aspects of the person's life. This feature becomes evident when we observe other cases in which "problematic" attributes needed to be taken into account.

The following case, also revolving around custody arrangements, illustrates this point. In contrast to the dispute discussed above, however, the disagreement was not between the child's separated parents, but between the father and the state prosecutor, who had taken action to remove the child from his care. Not much information regarding the background to the decision was available, but it is implied that the father, H.E.N.F, defected from military service and that following his apprehension, his infant daughter, L., had been taken away and transferred to the care of another couple by the state's prosecutor. H.E.N.F. attempted to get his daughter back through the Provincial Courts of Granma, but they confirmed the decision made by the municipal courts. Eager to change his family circumstances, he filed an appeal with the PPC.

[56] In this case, the kind of revolutionary that sides with the government.

H.E.N.F. argued that he was now serving in the FAR,[57] and that character witnesses would prove his current behaviour to be "far from disorderly or detrimental to the material and moral wellbeing of [his] daughter as had been stated in the previous verdicts…." The testimonies, said H.E.N.F., "would confirm and highlight his good moral and social conduct, the fact that [he] leads a normal life in accordance to the norms of socialist conduct."[58]

Three members of the CDR located in H.E.N.F.'s neighbourhood were called to testify. They all indicated that H.E.N.F. "had always taken part in the organization's activities, such as cleaning, decoration, attendance in meetings" and that "until the FAR took him away, he had never been known to be one who was involved in negative activities." H.E.N.F. was reported to be a person who "maintains a good social conduct in his block, a member of mass organizations, who maintains the social order, has never been heard expressing himself in a negative manner,[59] a member of the CDR that has always carried whichever task he was given…." The witnesses also added that he "was now serving in the FAR and that [they] expected that the case [was] resolved in his favour because he has never had any problems with the CDR."

The chief of police in Bayamo stated that

> the person under discussion has good moral and social conduct, is in good relations with the neighbours in his block, maintains no relations with elements of bad social behaviour, always takes part in the activities planned by mass organizations and no negative comments have ever been heard about him…"

Lastly, the chief of police requested to

[57] Fuerzas Aereas Revolucionarias – Revolutionary Air Force.
[58] Case number 247-88.
[59] It is unclear whether the witnesses use this expression to refer to the fact that H.E.N.F never said anything negative about the revolution and its leaders, or to say that he was not known for using profane language.

note that H.E.N.F. conducts a normal life, according to widespread conventions of socialist coexistence.

The state prosecutor was not present in the proceedings, but sent a letter as soon as he was notified that an appeal had been filed by H.E.N.F. "We know that a father who has committed a severe military offense can have a very negative influence on the education and growth of a minor under his custody," claimed the prosecutor, and moved on to explain how H.E.N.F. was in fact an incapable father at best, negligent at worst: "He has always displayed a complete lack of interest for caring for his daughter, registering her with the authorities months after her birth…and has now joined the compulsory military service and does not have the material resources to provide for her." Ironically, the prosecutor's attempt to prove that H.E.N.F. was not able of fulfilling his paternal duties due to his military service ended up sowing the seed for an outcome that would actually favour him.

After hearing H.E.N.F.'s and the character witness' statements regarding his good behaviour, judges decided to accept the appeal. The head judge, A.N.R., explained their decision in the following manner: "the extreme measure of denying a father his parental rights, demands that it be proven beyond any reasonable doubt that doing so would be the most just decision…the evidence shown in this case, far from proving the appellant's disorderly behaviour, which would be detrimental for his daughter, highlights his good moral and social conduct, the fact that he leads a normal life according to socialist norms (…) As for his fatherly duties… it is clear that since H.E.N.F. is currently serving in the military, the fact that he cannot spend as much time with his daughter as he should cannot and should not be held against him, as the harsh conditions of compulsory military

service are well known. Due to these reasons, the appeal should be accepted and the original verdict annulled."

Both cases discussed above involve the loss of custody and communication with children and a parent holding a potentially damaging "ideological stain." Both appellants argued loyalty to the revolution and participation in its institutions to be the central feature of their capacity as parents, an assumption evidently shared by the judges in charge, as could be seen in the judicial opinions. The relationship between parenting capacity and ideological inclination was not an invention of individual judges, however, but was specified in the country's constitution; following the reform of 1976, parental duties were postulated to involve "the active contribution to the child's education and growth as constructive citizens, prepared for life in a socialist context."[60] Therefore, proving someone's potential for good parenthood in front of a court simply needed, from a legal perspective, to involve a discussion of the parent's possible ideological influence on the child's formation. It was up to the judges to decide what counted as "active contribution," both in terms of what was considered as being "active," and what counted as a "contribution." In cases where such high stakes were involved, little choice seemed to have been left to appellants but to "play the game" and attempt to persuade the court of their prospective input to the education of their children. As state-supported agents of revolutionary ideology and involved in the everyday lives of citizens under their jurisdiction, leaders of mass organization were the natural choice for efforts in convincing, thus reinforcing their relevance and presence in the lives of individuals. Yet

[60] See constitution of Cuba, article thirty-seven in the 1976 version, article thirty-eight in the 1990 amendment.

for all the pressure to conform to a definite standard of parenthood and possibly to implicate pre-designed witnesses, subtle attempts at resistance did take place; D.H.M.'s claims of allegiance to the revolutionary project and descriptions of involvement in mass organizations were not accompanied by apologies and explanations regarding his affiliation to the Baptist church, suggesting that a person could be religious and revolutionary at the same time – a view clearly not shared by judges, as can be seen in the verdict. Judges recurrently commended "normal" lives and behaviours, that is, acting according to socialist conventions, and showed no tolerance for any display of non-conformism; D.H.M.'s understanding of the limits of revolutionary identity was ruled to be illegitimate, and adherence to the revolution was defined in dichotomous terms. Ironically enough, however, D.H.M.'s refusal to adopt a formulaic categorization scheme for his identity, as well as his attempts to re-define the meaning of loyalty to the revolutionary project, suggests an actual concern with the implications of such an allegiance, and an effort to make adjustments to make it work alongside his other spiritual inclinations.

While issues other than custody and parental rights were discussed in court during the latter half of the 1980s, cases revolving around child care comprised the vast majority of disputes in this period (see table in chapter 2, pages 52-53). It could be claimed that the reproduction of revolutionary ideology through the education of one's children was of great political significance, hence the charged ideological language. Yet it can also be claimed that the concept of socialist legality encompassed all other aspects of life in revolutionary Cuba, that all problems concerned the reproduction of ideology and that, therefore, all disputes brought before court had substantial potential for the education of

litigators. As we will see below, a wide variety of issues, not only those strictly related to the management of domestic life, were perceived to be significant by both judges and litigators; economic matters were of great importance for all sides involved due to their relevance to the everyday lives of citizens, as well as the ultimate material survival of the revolutionary project under embargo conditions. Moreover, the connection between economic decisions and political doctrine made the discussion of financial issues an obvious arena for the education of citizens in light of revolutionary values.

The following dispute illustrates how judges used the contestation of a prior economic decision made by state officials, namely the forced expropriation of a truck, as an opportunity to indoctrinate the contester about the importance of citizen cooperation with state policy. The fundamentals of the case are as follows: in 1989, the Central local of the Cuban Truck Company (ECC)[61] began the process of expropriation of a truck belonging to a man, R.B.S.S. Surprised that the vehicle, which had only been used for R.B.S.S.'s work in a state-owned enterprise, would be taken away by the state, he filed an appeal with the PPC.

> …the expropriation, which has been justified in terms of the country's economic development, even though it is [R.B.S.S's] personal property, is a notorious act, as it is self-evident that all trucks that are privately owned are in fact linked to the ECC, which is how the vehicle in question has been exclusively devoted to the country's economic development. The former verdict has committed an infraction, as the expropriation has been declared based on the aforementioned reason [the country's economic development-MK], therefore creating a contradiction because a property operated by the ECC, and devoted by it to the economic development of the country, ended being expropriated by the same

[61] Note that this is the Central Local of the Cuban Truck Company, hence the difference between their initials (ECC) and those of the Matanzas local of the Cuban Truck Company (ECM) in p.114.

> body, on the grounds that it is needed for the same task it has been performing until now.[62]

Despite R.B.S.S.'s outright contestation of the expropriation of his truck, R.B.S.S.'s argument neither attempts to separate him from the revolutionary project, nor to criticize it on a fundamental level. Rather (and in contrast to appeals to expropriations filed only a few years later), R.B.S.S's objection reflects an attempt to line up with revolutionary ideology; by emphasizing his contribution to the economic development of the country, R.B.S.S. implied that the expropriation of his particular truck would harm the collective interest rather than promote it. In contrast to formerly analyzed cases, where decisions by lower courts were contested on the grounds that the law had been understood incorrectly and therefore an erroneous (or unjust) decision had been made, the original ruling in this case was contested on the premise that the principle of property under state socialism had not been properly understood by the lower courts. By positioning himself as "more catholic than the pope," the appellant hoped to elude suspicions of rebelliousness and achieve a favourable ruling.

The judges, however, preferred to focus on R.B.S.S.'s challenging of the policy of expropriation, and proceeded to clarify the differences between state and private ownership under state socialism. The head judge, A.N.R. explained that:

> The appellant appears to be opposed, in practice, to the expropriation of vehicles on a fundamental level (…). We do not think it is appropriate that the appellant say that "the vehicle has been dedicated to the economic development of the country" through the expropriating party, that this goal would be fulfilled more fully if the appellant continued to enjoy complete ownership of the truck…which signifies that he would continue to be able to make use of the truck as he sees fit.

[62] Case number 200-89.

In other words, the judges claimed that no matter how dedicated a citizen was to "the economic development of the country," this was a task to be undertaken, and more importantly controlled by the state. In more generalized terms, it was made clear that policy was a task to be left to the government and the government alone was to sort through ideological (and practical) contradictions.

The relative compliance with state policy and revolutionary ideology of appellants were to change dramatically over the course of the years. The arguments of judges, however, and their way of communicating with litigators changed as well, but at a much slower pace.

"Crisis of Faith"? – Litigation in times of economic crisis 1991-1999

Protocols of the hearings that took place throughout the latter half of the 1990s seem to reflect the logistical hardships associated with the organization of proceedings; transportation impediments turned arriving in court into a source of aggravation, for judges, lawyers, witnesses and litigators alike. Shortages of ink and paper made the transcription of court protocols almost impossible.[63] Protocols are therefore relatively short, litigators' words seem too concise not to have been heavily edited, and judges appear to be using their words scantily, if not to save ink and paper, then to save precious time. Witnesses were barely involved in proceedings during this time, possibly due to the difficulties associated with arriving in court. In addition, and as was mentioned in the

[63] Many of the documents at this time (whether transcripts or letters) were written on recycled paper. The use of red ink also became prevalent at this time; the typewriter ribbons that had been used at the courts for years were inked in red and black stripes. As no new typewriter ribbons were purchased during the special period, clerks were compelled to use the red ink left in old ribbons. At some point, these too became scarce and some documents were practically typed in ink-less machines.

previous chapter, the issues at work during this time reflect the realities of an economy of crisis: the need to conduct increasing numbers of forced expropriations (mainly of trucks and cars), and a growing preoccupation with the allocation of property. Similarly to arguments presented in earlier years, litigators tended to address the arguments introduced in their request for appeal, yet add a personal perspective to the claims made in writing. Judges tended to justify their decision in revolutionary-ideological terms, yet tended not to ruminate on their disagreement with what could be seen as problematic arguments from a socialist point of view. Instead, they focused their words and efforts in justifying their decisions based on their own view of the case, regardless of the appellant's arguments. These points will be exemplified by two seemingly different cases: one involving the forced expropriation of a truck and one concerning the division of property after a divorce.

The first case revolves around the following conflict: in 1991, the Central local of the Cuban Truck Company (ECC) began the process of expropriation of a truck belonging to a man, L.E.R.B. Compensation for the appropriation of the truck had been set at a thousand and eight-hundred pesos, which was a serious sum of money at the time, but not enough to purchase a different vehicle or secure an alternative source of income. L.E.R.B. attempted to halt the procedure as soon as he was notified of the company's intent, but was not successful. Therefore, he filed an appeal with the PPC.

L.E.R.B. claimed that the appeal was of "social interest, because a citizen's livelihood is being harmed – a member of this society, which has been created for the benefit of everyone, and there cannot be a resolution that threatens the stability and

normal development of a citizen, as is the case here."[64] L.E.R.B.'s indictment of the decision to expropriate a person's property did not end there. "There needs to be a clearer definition of what public utility and social interest are," continued the appellant,

> It is unclear what kind of benefits the CUBAN STATE[65] and the MINISTRY OF TRANSPORT are reaping from the expropriation of vehicles that are basically still circulating thanks to their owners, that during THIRTY TWO YEARS of our REVOLUTIONARY GOVERNMENT have maintained and conserved them while using them for public service, controlled by the ministry of transport (…) They [the government and ministry of transport] should prove their interest and specific aims for which the truck is needed, as to guarantee and conserve the service that has been presented, err, given for over thirty years, thanks to the excellent work of maintenance and conservation that has made the service possible in the CUBAN STATE (…). In addition, it is clear that the equipment that is being expropriated will never be used to its maximum utility away from the hands of its owner.

The judges heard L.E.R.B.'s claims, and after some deliberation reached the following verdict: "The resolution reached by the ministry of transport includes the explanation and justification of the concrete need to acquire the property discussed in litigation, which is mistakenly claimed to be missing…Therefore, the appeal must be dismissed."

Similarly to the expropriation case (number 39-93) discussed in chapter 5, the appellant in this dispute openly contests the need to confiscate his property. However, by questioning the state's real motives to appropriate citizen's property in general, and by challenging the policy of expropriation altogether, L.E.R.B.'s claims further mirror a shift in the perception of governance and citizenship; the repeated request for clarity concerning the benefits obtained by the state through the confiscation of property seems to be more connected to a demand for transparency than to an expectation to have his

[64] Case number 105-91.
[65] Capital letters were used for all these terms in the original document, possibly due to the appellant's heated tone while mentioning them.

case re-evaluated. L.E.R.B.'s mention (twice) of the owners' (plural) role in the conservation of the vehicles (by no means an easy feat under embargo conditions), as well as the declaration that vehicles will never be utilized at their maximum potential as long as it is not under the control of their owners, appears to be more aimed at reminding judges of the limitations of the state in caring for the material needs of its citizens, and at outlining desired limits to the government's reach into the pockets of citizens, than at merely demanding credit for given services. In addition, L.E.R.B.'s claim regarding the maximum use of expropriated equipment emphasizes a view of private property as more efficient, and leading to more motivated workers than state management, thus further criticizing the system.

Judges were not precisely impressed by L.E.R.B.'s demands and implied accusations; the laconic verdict referring the appellant and his lawyer to the original resolution for expropriation, which might very well have been as vague as it was described by L.E.R.B., did not respond to any of L.E.R.B.'s allegations. The boundaries of resistance were thus drafted; by refusing to have a true conversation about L.E.R.B.'s concerns and even refusing to acknowledge their existence, they made clear that the state's decisions were not open to discussion and most certainly not open for negotiation. Since the judges were those having the last word, and since there were no courts left to appeal with, this is how the exchanges ended.

The next case under discussion concerns the division of property after a divorce, and begins in 1997, with a verdict dictating the divorce and subsequent allocation of property between J.E.Y.F. and M.T.R.C. Not much information concerning the first

verdict is to be found in file, though it is mentioned that it had been contested by M.T.R.C. because it had not included the division of the value of the common car. A later verdict, produced by the Provincial Courts of Villa Clara, ruled that the car be sold and its value divided equally between the parties. It also decided that the rest of the couple's belongings be allocated as evenly as possible, yet since that was a virtually impossible task, a greater share was allocated to M.T.R.C, with the condition that she reimbursed J.E.Y.F for the difference in the value of their shares. The decision seemed unfair to J.E.Y.F., who filed an appeal with the PPC in the hopes of obtaining different instructions for the division of property between him and his ex.

J.E.Y.F. claimed that

> a certificate by the chief of the Provincial Transit Unit in Villa Clara confirms that the car model Nash that was purchased during the duration of the marriage…was sold and registered under that person's name during the divorce proceedings … Therefore, the car and its value should not be considered part of the communal property. M.T.R.C. has admitted in earlier proceedings that the sale took place before the divorce had been finalized …which means that the verdict that included the value of the car in the division of property, despite knowing it had already been sold was erroneous and arbitrary. M.T.R.C's admission is a legitimate source of evidence, but if it does not suffice, there is a contract signed with Mr. A.S., in which it can be seen that the car was sold to him, and that M.T.R.C agreed to the sale on the condition that half of the value of the car was transferred to her, which clearly indicates that she has already received her share (…) The previous verdict was wrong because according to article thirty-eight of the constitution a marriage only ends when the divorce proceedings are finalized, therefore, at the time of the sale the marriage had not legally ended…that too has been recognized by M.T.R.C. Therefore, the property [car] should not be included in the verdict as communal property, and its value should not be divided. Especially since the courts do not have evidence that M.T.R.C. has not received payment for her share of the car, M.T.R.C. admitted that she has, and there is a contract proving that she has. [66]

[66] Case number 34-99.

M.T.R.C. did not appear in court, but was apparently interviewed back in her hometown. Her testimony is missing from the file, except for J.E.Y.F.'s mention of her admission to selling the car and receiving her share before the divorce had been finalized.

The judges heard J.E.Y.F.'s claims and decided not to accept his petition to change the Provincial Courts' verdict. The head judge, M.A.R. justified the ruling by explaining that

> There would have been grounds to accept the appeal if it had been proven that the evidence brought before the courts had been interpreted in an illogical and arbitrary manner, or were not given the value that they deserved. However, this did not happen, and in his appeal, J.E.Y.F. appears to be committing the same errors he attributes to the courts. As courts did not interpret the evidence in a way that was favourable to him, he attempted to replace the court's judgment with his, which is simply unacceptable. In addition, the appellant does not take into account that the evidence demonstrates that the car had been sold after the divorce process had begun. Moreover, it has been proved that when the appellant filed for divorce from his former wife, he stated that they had been separated for five months and that they had not been living together. Therefore, the common property was sold after divorce action had been taken, even if the final divorce verdict had not been issued. This caused the lower courts to reach a wise decision, able to destroy the scheme with which the appellant attempted to harm the interests of the person who was his wife because even if the marriage had not been legally terminated, the couple's circumstances lead to the assumption that since they were in the last stages of their marriage, the property could not have been used and enjoyed by both parties and the appellant has been unable to prove that it was not so. Therefore, it is logical to include the car in the list of communal property and the petition for appeal must be rejected.

The arguments set forth by the husband suggest a changing perception of what constitutes a legitimate claim in a socialist court of law. As was mentioned earlier, conflicts over the division of property after the dissolution of a marriage had been common in the past and had involved attempts by both parties to maximize their share. Two things seem to be of significance in this case, however: similarly to the divorce case discussed in the previous

chapter (case number 14-96), the appellant in this case blatantly attempts to minimize the share to be allocated to his ex-wife and maximize his own. Secondly and perhaps more importantly, the appellant attempts to suggest a different definition of marriage and divorce than was commonly used in court; a marriage was widely understood to be over by the time one of the parties had filed for divorce, all the more so if the spouses had been living separately.[67] The judges did not accept the appellant's claims and appeared to have been angered by them. J.E.Y.F.'s views on marriage and divorce were deemed illegitimate, but it was the attempt to suggest an alternative understanding (which, to make things worse, would in turn harm his ex-spouse) to that held by courts that was most objectionable. Moreover, J.E.Y.F.'s efforts to obtain a more favourable settlement through the court system were depicted in the verdict as a story of good versus evil; the lower courts, in their wisdom, were thus able to thwart J.E.Y.F.'s "harmful scheme." It is then implied that the PPC, as a keeper of justice, was charged with further repressing J.E.Y.F.'s "immoral" attempts.

In contrast to earlier years, proceedings in the 1990s did not involve a request to reassess a problematic decision based on the erroneous view of the appellant as not-confirming to accepted values and standards of conduct, but entailed the examination of those values altogether; the need for expropriation and interests of the expropriators were blatantly questioned, as were commonly accepted understandings regarding marriage and divorce, and the assumption that favourable material conditions should not be fought over so intensely after a divorce. Instead of seeking symbolic redemption (or at least sympathy

[67] Scarcity of housing had been a pressing issue for decades, especially in the cities (Domínguez, 1996). That a person had been willing and able to overcome all the hurdles associated with finding a new place of residence was seen by courts as a sign that permanent separation was imminent.

from judges) by appealing to ideological conventions and summoning ideologically-sanctioned witnesses, appellants stressed their individuality by emphasizing their connection to their property and suggesting alternative understandings of the law to well-established ones. Furthermore, the direct challenging of state policy and the demand for transparency in the expropriation case implies a move from the perception of citizenship as passive reception of political decisions made at the top. Judges did not accept those arguments nor cooperated with them, and responded to them in a concise, almost terse manner, signaling that a conversation about their views and the changing climate in the country was unwelcome.

Yet while a change in the demands of citizens from the state was evident, and the questioning of dominant values and official policy was in the increase, it is worth noting that the moral transformation of Cuban society (at least to the extent that it was performed in court) was not precisely clear cut; litigators did not entirely stop adducing revolutionary ideas the minute that Special Period measures came into effect, and judges' verdicts were not turned into laconic declarations at the stroke of midnight. As we shall see in the following custody dispute, new moral identities, as well as perceptions of citizenship and individualism are a constant work in progress, a continuous struggle. The case can be summarized as follows: B.N.F.E. and C.D.C.R. were the divorced parents of a nine year-old son. While the divorce agreement had granted joint custody to both father and mother, in reality, the father had had virtually no contact with the child since the divorce. Aiming to legalize the existing situation, B.N.F.E. filed a request to have all parental rights transferred to her with the Provincial Courts in Camagüey. Her petition

was denied, prompting B.N.F.E. to appeal that decision with the PPC. B.N.F.E. explained that

> …it is not that he has "a passive attitude toward his relationship with the minor", but has an outrageous attitude toward his son…C.D.C.R. has displayed a behaviour that is incompatible with the proper exercise of his parental rights…C.D.C.R. was never responsible for his health, food, extracurricular activities and general protection, and therefore has done nothing to oversee that he has good conduct, care for his education, he is not known at the child's school, where he has been studying for the last four years, he does not care if he attends school or if he strives to excel there. Throughout the nine years of his life, he has neither educated him for social life, nor has he inculcated any norms of social coexistence, which are the essential duties of a parent. The courts should step up to their role of ultimate regulator.[68]

The mother's claims were backed by E.C.F., B.N.F.E. and C.D.C.R.'s older daughter, who testified that "all the times she had been visited by her father, he had never once asked her about her brother, and had never attempted to forge a relationship with the child," and staff at the child school, who confirmed that C.D.C.R. was not known at the child's school.

The judges were convinced of the veracity of the mother's assertions, but denied her appeal nevertheless. The head judge, O.E.L.P. explained that "…it is not enough that the father fail to fulfill, or that he fulfills in a deficient manner, parts, of all his duties, such as providing or caring for his child…Keeping the interest of the child at heart, it is not right to deprive the father of his rights."

As we have seen in this case, not only did the mother denounce the father's lack of interest and responsibility for his child, but did so both in terms of his material

[68] Case number 165-92.

wellbeing and his ideological preparation for social life; the former greatly resonated with arguments made during this time period, as we saw in the cases analyzed above, yet the latter was strikingly akin to arguments made in custody cases discussed at the height of the rectification campaign. Similarly, the mother's plea that the PCC step up to their role as ultimate regulator is more reminiscent of earlier cases than of the outright denunciations of state policy and court performance that were so common after the onset of the Special Period. The mother's claims therefore remind us that perceptions of morality, parenthood and citizenship did not change immediately, and certainly not uniformly, but were rather a gradual, nuanced process. The judges' verdict, however, stands in stark contrast to decisions made in earlier years; implying that only extreme circumstances would justify the (legal) removal of a parent's presence in their child's life rather than immediately distancing a "potentially harmful" parent, judges presented a new vision of what counts as the benefit of a child. This decision marked the beginning of a trend that was to intensify through the course of a few years, as we shall see in the next section.

"The Times They Are A-Changin'" – negotiation and defiance in an era of change 2000-2010

The questioning spirit (despite judges' reluctance to collaborate with this trend) continued to take roots throughout the first decade of the 2000s. Similar to arguments raised in previous years, litigators appear to doubt the state's ability to attend to the needs of citizens, and therefore the efficacy of the system as a whole. In contrast to earlier cases, however, disputes taking place during this period involve problems concerning the day-to-day management of the country instead of extraordinary occurrences such as

forced expropriations (no matter how prevalent they were at a given point in time, they were still an unusual event in the life of the owner); namely, the administration of UBPCs (Unidad Básica de Producción Cooperativa, or Basic Unit of Cooperative Production - see for example pages 119-123 in the previous chapter), insurance cases, debt payment, and contracts with the telephone company. The transition from complaining over exceptional circumstances to criticizing the way the country is being managed on a daily basis, marks a change in the way citizens view their position vis-à-vis the state. In addition, and as will be seen below, these disputes reflect an enhanced preoccupation with material attainment. The case of a dispute between a citizen and the state's telephone company illustrates these points. The background to the case is as follows: shortly before her demise, a woman named M.A.V.S., resident of the city of Rodas, asked to have her telephone line and contract transferred to another woman, named D.G.M.L., a resident of the city of Cienfuegos. The transfer had been achieved by changing M.A.V.S.'s address to D.G.M.L.'s house in Cienfuegos first, then requesting to move her telephone line to her new place of residence. Following M.A.V.S.'s death, however, M.A.V.S.'s inheritor, a woman named C.L.G.F., claimed that the telephone line was in reality hers, and the transfer had been completed under dubious circumstances. She then filed a complaint against the Cuban Telephone Company (ETECSA) for having agreed to hand over M.A.V.S.'s telephone line to a stranger, when M.A.V.S. was allegedly not mentally capable of making that decision. The Municipal, then Provincial Courts did not accept that line of reasoning, thus motivating C.L.G.F. to appeal these decisions with the PPC.

C.L.G.F. claimed that

> the legal consultant for the Cienfuegos branch of the telephone company, D.F.H., admitted in writing that transfers must be requested by the client and signed by them, while in reality the client's signature is missing in the document, and the space allocated to that purpose is left blank, which means that the document is of no legal value…the erroneous appreciation of this piece of evidence has resulted in an erroneous verdict.[69]

Yet this was not the only piece of evidence C.F.G.L. claimed was overlooked by the lower courts. C.F.G.L. explained that

> The lower courts ignored documents showing that the request to change M.A.V.S's address had been filed by the accused, D.G.M.L., who of course benefitted from the move, as the telephone line was transferred to her place of residence…and was clearly not the person the change of address was requested for…Another piece of evidence ignored by the lower courts, is M.A.V.S.'s death certificate that indicates that she passed away on September 13th, 2001 in her original place of residence, that is [address] in Rodas, and not in Cienfuegos to where it had been changed as part of a scheme with the purpose of obtaining a telephone line… The petition to transfer the telephone line was filed on September 6th, 2001, was filed without the requestor's signature, when the old woman was clearly living in Rodas, and six days before her demise. All this is relevant to the verdict, because it shows that the accused obtained the contract with the telephone company in a fraudulent manner (…) The lower courts ignored testimonies provided by family acquaintances which indicate that the old lady had been in poor health during the last period of her life, which coincides with the time when the transfer of the telephone line was requested. The declarations by E.M.C., enclosed in file number 111 and D.S.C., enclosed in file number 91, claimed to have witnessed a visit by a functionary of ETECSA in the old lady's residence in Rodas, in which she urged her, despite her poor health, to sign a document, and the first witness, that is, D.S.C., certified that M.A. occasionally failed to recognize familiar people, and the witness J.A.M.S., whose testimony appears in file number 119, stated in his condition as family doctor that the old lady had suffered from Senile Dementia and sometimes did not recognize him. The old lady's file at the doctor's clinic shows that, among all other conditions, the old lady suffered from Multiple Sclerosis and Senile Dementia. This is relevant to the previous verdict, as the transfer of the telephone line from the address in Rodas to that in Cienfuegos has clearly been conducted without the conscious consent of the person in whose name these actions were conducted.

[69] Case number 19-03.

The judges were not impressed by C.L.G.F.'s recount of events, and decided not to accept her petition for appeal. The head judge, I.I.A.S., said that

> the documents and testimonies presented by the appellant had been examined by the lower courts, but when analyzed together with all other relevant materials, lead them to accurately arrive at a different conclusion than the one that was presented by the appellant; in connection to her arguments, it is important to note that as far as the missing signature in the request for transfer of the telephone line is concerned, a clarificatory note has been attached to the document, explaining that the requestor had been paid a visit by a functionary of the telephone company who confirms that she [the requestor] was indeed interested in the transfer…As for the claim that the requestor did not necessarily consent to the transfer, the truth is that she passed away without having had a judge declare her devoid of her mental faculties, in fact, she had been examined by a psychiatrist sent by the appellant shortly before the transfer of the telephone line, who declared that she was aware of her surroundings, time and space and therefore it cannot be claimed that the lower courts have misinterpreted any piece of evidence.

Consistently with the complaints against UBPC (Unidad Básica de Producción Cooperativa, or Basic Unit of Cooperative Production) management that were expressed in the dispute discussed in the previous chapter (pages 119-123), C.L.G.F. raised serious concerns with the administrative procedures at the telephone company; employees were reported to be unprofessional at best and inattentive at worst, failing to notice that a request for transfer had been filed by someone other than the owner of the line, that an important signature was missing from the request, and pressuring a dying, senile old lady to sign a form – all that without asking any questions and stopping to consider that the requestor might not have been capable of making a conscious decision. C.L.G.F.'s involvement with, and criticism of internal procedures at the telephone company suggests that citizens viewed themselves not only as recipients of services by the state, but as "citizen-consumers" (Weinreb, 2010), entitled to complain and demand better services. The choice of witnesses for the trial (even though all of them presented short written

declarations instead of appearing in court), as well as their declarations, also connect with a possible change in what counted as an acceptable argument; close acquaintances of the "old lady" were interviewed, rather that functionaries of mass organizations who, according to the logic employed in earlier years should have been expected to be equally involved and knowledgeable of the woman's condition. The argument concerning M.A.V.S.' mental state was reinforced by the opinion of a doctor and her medical file, which adduced clinical, scientific terms – "Multiple Sclerosis" and "Senile Dementia," instead of ideological deficiencies or lay explanations. That each and every one of C.L.G.F.'s complaints were addressed in court (regardless of the final decision) without her being chastised for daring to put the telephone company to trial, points to a changing view of the state as a provider of satisfactory service and justifiable answers. An additional change of perspective concerns the judges' view of material aspirations. It seemed clear to all parties involved that C.L.G.F.'s protests were not only connected to a fundamental apprehension with the company's handling of the line's transfer, but mainly stemmed from a desire to have M.A.V.S.' telephone line transferred to her domicile. No reprimands of C.L.G.F.'s material ambitions were heard, no allegations to evil schemes; it appears that wishing for better material conditions was now deemed acceptable.

The following case also involves a preoccupation with access to material resources, though from a very different angle. More importantly, it demonstrates a significant change in the manner judges viewed and reacted to ideological arguments in the realm of childcare. Similarly to case number 165-92 discussed above, the appellant in this case was the mother, not the father; however in this case the mother was appealing a provincial court decision on a legal action initiated by the father while in 165-92 the

mother was the litigator from the start. The background to the case is as follows: the father, C.W.M.P., had left the house when his daughter was two and a half years-old. The mother, Y.M.G., had kept custody of the child, and eventually remarried. C.W.M.P. did not maintain close contact with his daughter for the following six years, though it remains unclear whether the distance was the result of the father's lack of interest, or had been caused by the mother's interference. In any case, approximately six years later, C.W.M.P. filed a complaint with the Provincial Courts of Havana in order to obtain formal visitation rights with the daughter, and they ruled in his favour. Concerned about the implications of this decision, the mother filed an appeal with the PPC.

Y.M.G. expressed her dissatisfaction with the verdict produced by the lower courts by arguing that

> Five witnesses were interviewed, they had been our neighbours for many years, one was the president of the CDR, and they all agreed that C.W.M.P. had abandoned his daughter, shortly after her birth, and until now, when she is nine years-old, without caring for her material needs and without fulfilling his duty to provide for her and feed her, without forming a meaningful bond with her, characteristic of relations between fathers and daughters, because of his absence. He was absent even in important events such as the child's birthday, or when she was sick, and this is why she has bonded with another person and sees him as her father, a person who has given her love, attention and care; all this implies that C.W.M.P. has not fulfilled his fatherly duties (…) Moreover, the previous verdict has failed to take into account important evidence, which is C.W.M.P.'s police record. C.W.M.P. has criminal antecedents, and according to article ninety-five of the family code, felonious behaviour constitutes one of the grounds for a person's privation of parental rights…therefore, the lower courts' decision shows an error of judgment on part of the judges' (…) The biological father abandoned the house, abandoned the child when she was two and a half years-old, and now she is already nine years-old, and since that moment she has been cared in the material, spiritual and psychological sense by her mother, Y.M.G., and J.E.O.S, as parents united in a stable and exclusive marriage, which can be seen in photographs taken at different stages in the life of the child.[70]

[70] Case number 22-08.

The judges did not accept Y.M.G.'s claims. The chief judge, M.A.R. (whose name we have already encountered in one of the verdicts discussed above – case number 34-99), explained that

> the appellant expected courts to rule favourably to her interests, as a result of the testimonial and documentary evidence she indistinctively adduced, but the evidence did not provide courts with sufficient information to decide that the father had in fact failed to fulfill his duties, to the extent that he should be denied parental rights, therefore, the declarations made by witnesses are irrelevant because, even if they reflect the father's carelessness towards his daughter, they also show that the mother has done nothing to pressure C.W.M.P. to fulfill his fatherly duties, leading courts to assume that she adopted a passive attitude, which might have very well benefitted her, as she has not had to endure the child's biological father's interference in the harmonious relationships in her current family, comprised by her daughter and current husband, whom she understands to have replaced the distant father. On the other hand, it has not been proved that the father has been found guilty of committing different offenses, because a closer look at the file shows that out of eight offenses, only one has been taken place after the child was born, that is, when the appellant decided to have a child with him, he had already been found guilty of a variety of criminal offenses, so she has no right to hold this against him (…) The court wishes to add that the meaning of the concept of "responsible mother or father" comprises not only the selection of a right time to reproduce, and the adequate choice of the person this should be done with, but the need to be consistent with that decision, whether it was the right one or not, to respect that decision at all times, present and future, because parental rights, which are to be understood as a set of rights and duties between parents and children and are anchored in the article eighty-five of the family code, are basically the submission of both parents to the interests of their children and thus society as a whole; therefore, the deprivation of parental rights is undoubtedly an extreme measure when it comes to parental-filial relations, and must be implemented only when there is a correlation between the proved facts regarding a parent's unfulfillment of their duties as they are specified by the law, and the severity of the measure… which is not the situation in this case.

This case shows an interesting turn in the way parenthood and parental duties, and by association the future of society, are perceived. Socialist ideology is neither mentioned by the appellant nor the head judge, and while the testimony of a representative of mass organizations was adduced, it did not comprise any discussion of the appellant, her husband or the biological father's ideological disposition or political activism. Moreover,

the observations of the president of the CDR in the mother's neighbourhood were presented as being in equal standing with those of four additional long-term neighbours. The father's abandonment and criminal activity were reported to stand in the core of the petition to have him removed from his daughter's life, yet those activities were never paired with political issues. The mother never claimed ideological superiority over the father; at no point during the proceedings did she declare herself to be educating the child in light of revolutionary values, inculcating love for the homeland and preparing her to be a constructive citizen in socialist society, and similarly at no point did she contend that the father was a negative figure because of his inability to take part in the ideological formation of the child. Instead, she maintained that she was entitled to have full custody of the child because she had been her sole caregiver for years, and implied that she was better equipped (in terms of her emotional and marital stability and material resources) to provide for the daughter.

The judges did not accept her request, however, but not due to her lack of ideological commitment. In stark contrast to verdicts produced during the latter half of the 1980s, judges claimed that a parent's presence in their child's life was more important than the parent's moral inclinations, and that the mother, having known with whom she was having a child, should have been more proactive in keeping him in the child's life. The notion of "socialist parenthood" was thus replaced with that of "responsible parenthood," suggesting a re-interpretation of article thirty-eight of the constitution;[71] instead of directing attention to the imperative to contribute to the child's ideological

[71] Here it is important to note that the constitutional amendments that were adopted after 1990 did not involve changes in the section pertaining to family issues (see constitution of Cuba, 1990).

formation, judges switched their focus to the need to defer one's own interests to those of their children. The connection between the education and treatment of children and the future of society is then constructed in general terms of compromise and thoughtfulness, instead of revolutionary consciousness.

A short discussion of general trends in litigation over the past twenty-five years

Similar to the prominent examples introduced in the previous chapter, the cases discussed here point to a shift in the way citizens viewed their position and rights vis-à-vis the state. The focus on transcripts of proceedings enabled us to explore not only how litigators attempted to expand the limits of socialist identity, citizen entitlement and acceptable topics of conversation with representatives of the state, but to understand how judges responded to such attempts. Over the course of the past two and a half decades, citizen strategies of resistance to dominant ideology changed rather dramatically, from subtle efforts to re-define acceptable conduct within the boundaries of revolutionary dogma to overt questioning of the system and demands for change. Understated, apologetic attempts to change a particular verdict (erroneously) made in a person's disfavor in the latter part of the 1980s, were traded by overt criticism of state policy and procedures in the 1990s and 2000s. Similarly, the perception of the role of courts as the ultimate moral authority at the height of the rectification campaign gave way to a view of courts as a provider of service, compelled to offer satisfactory results, or at least suitable explanations. Those changes, however, were gradual and not precisely uniform; as we have seen in one of the cases discussed above, forced expropriations were not exactly acquiesced even at the peak of the rectification campaign. By the same token, the PPC

were still referred to as "the ultimate regulator" well after the onset of the Special Period. The cases discussed in this chapter also demonstrate a significant change in citizens' perceptions of morality, individuality and community, in and of themselves no less relevant to the effort to re-define official notions of acceptability. In other words, while arguments made in court throughout the latter part of the 1980s contained no mention of the appellants' aspirations to improve their material wellbeing, those made after the collapse of the Soviet Union revolved almost exclusively around the issue. By (unapologetically) demanding better material conditions for them and their children rather than declaring a commitment to the collective good, appellants in the 1990s and onward made clear that major adjustments were in order. It is important to keep in mind, however, that attempts to recruit revolutionary visions of morality to one's litigatory endeavor did not end the minute the Soviet Union announced its collapse (not that the socialist bloc collapsed in one day, either); rather, they continued to exist side by side with the emerging alternatives. This trend was particularly evident in the custody cases discussed above; while appellants drew on political (i.e., revolutionary) resources to prove their capacity as parents during the latter half of the 1980s, those appearing in court in the 1990s resorted to a mix of material justifications (such as a parent's willingness to provide for their child) and ideological ones (for example, a parent's indifference to their child's conduct, and lack of involvement in his education to fit in his social environment). Political arguments seemed to have disappeared from the litigatory map by the 2000s (though perhaps a look at all the cases instead of a sample would have shown that they were still used here and there), replaced by more materially-oriented ones.

Judges did not stay indifferent to the general atmosphere of change in the island. The ideologically-imbued verdicts of the 1980s were replaced by discursive reticence and unwillingness to discuss contentious issues by the 1990s, then openness and an inclination to address the demands of citizens, even if their petitions were seldom granted. These changes are significant, because they teach us not only that there are more ways than one to repress attempts at resistance, but also that there are more ways than one to adopt them, and remind us that a closer look at the *process* of negotiation in courts was necessary to achieve a better grasp of the changing subtleties of governance in late socialist Cuba.

Having discussed the general trends in the dynamics of courts, the next chapter addresses the relationship between the rhetorical forms employed in court and their content (or lack thereof), as well as the implications of the changes in the work of the PPC for the study of Cuba, on one hand, and state socialism on the other.

Chapter 7: Cuba's Civil Law and the Emergence of Civil Society

Mi padre fue fidelista; / yo, no tanto como él. / Pero quien toque a mi padre / tiene que darme también, / tiene que darme también. / Yo, no tanto como él. / Yo, no tanto como él.
Mi padre fue comunista; / yo, no tanto como él. / Quien le ponga un dedo encima va a conocer mi carey, / va a conocer mi carey.
Mi padre fue cederista; / yo, no tanto como él. / Pero quien toque a mi padre, / tiene que darme también, / tiene que darme también.
Detesto la burocracia / que convirtió la eficacia / en un montón de desgracia. / De vanas prohibiciones / aumentaron los rencores / y mataron mil amores. / ¿Qué ha pasado con la vida, tanta gente arrepentida, arrepentida?
Mi padre en aquel enero / no me sacó del país: / me vistió de pionero, / y me enseñó a combatir, / y me enseñó a combatir. / Yo, no tanto como él. / Yo, no tanto como él.
No voy a pedir perdón por la vida mía: / Yo soy lo que supe ser y ¡qué maravilla!, / ¡qué maravilla!
Mi padre fue fidelista; / yo, no tanto como él. / Pero quien toque a mi padre / tiene que darme también, / tiene que darme también.
Yo, no tanto como él. / Yo, tanto como él.
Tienen que darme también.

My father was a follower of Fidel; / I, not as much as him. / But whoever lays a hand on my father / touches me as well / touches me as well / I, not as much as him. / I, not as much as him.
My father was a communist; / I, not as much as him. / Whoever puts a finger on him will know my wrath / will know my wrath.
My father was a member of the CDR, / I, not as much as him. / But whoever lays a hand on my father / touches me as well / touches me as well.
I detest the bureaucracy / that converted efficacy / into a mountain of misfortune. / Of vain prohibitions / that increased resentment / and killed a thousand loves. / What has happened to life, so many people living in regret?
My father who in that January[72] /did not take me out of the country: / he dressed me as a pioneer, / and taught me to fight, / and taught me to fight. / I am not much like him / I am not much like him.
I will not apologize for my life: / I am all that I could have been and it is wonderful! / It is wonderful!
My father was a follower of Fidel, / I, not as much as him. / But whoever lays a hand on my father / touches me as well
I, not as much as him/I, as much as him.
Touches me as well.
~Pedro Luis Ferrer, "Yo no tanto como él"

[72] The author appears to be referring to the "Peter Pan" operation, during which thousands of children were sent to the US beginning in late 1960 and ending in late 1962.

As we have seen, Cuba has indeed undergone massive changes over the last two and a half decades; the economic and political reforms seem to have shaped the views of both citizens and judges regarding citizenship. These changes were evident in the dynamics of the People's Popular Courts, as was demonstrated in Chapters 5 and 6. This chapter will expand the findings and arguments presented earlier, and discuss how the transformation of the rhetoric employed in court can be situated within a broad context of political, economic and moral change, as well as explore its implications for the construction of a more nuanced type of socialism.

A substantial body of research interprets the changes of recent decades as signs of the country reaching what Alexei Yurchak (1997, 2006) called "late socialism," a state of ongoing conflict between formal socialist doctrine and the everyday, pragmatic practices of individuals. Drawing attention to the rising tensions between the official (socialist) party line and the implementation of capitalist policies, scholars have pointed to the changes in the social relations, leisure activities and patterns of consumption in the island over the last twenty years (Hernández-Reguant, 2004; Weinreb, 2009). The main argument is that the ideological contradictions have resulted in a change of ethical dispositions and political inclinations; from the evasion of political activism and the repeated expression of discontent with state policy and available services and goods, to the increasing participation in unreported trade and employment (Weinreb, 2009). This marked lack of consistency is thus reported to create a sense of uncertainty, disconnect and absurdity (Weinreb, 2009; Casamayor-Cisneros, 2012).

Following this line of reasoning, this chapter will demonstrate how the changes in the dynamic of courts mark the foundation of "*New* New men and women": individualistic, aware-of-their-rights, preoccupied with their family's material wellbeing, rather than the selfless, obedient and non-materialistic model of earlier years (Bunck, 1994). They also signal a move towards a more participatory relationship between citizens and the state; as scholars of Cuban society have deftly shown, the events of the last few decades have resulted in the creation of new spaces "that appropriate the symbolic universe of the state, and re-define it in innovative ways" (Armony, 2005, p. 28), thus opening new avenues for citizen socialization and new forms of involvement (Acada Gonzalez, 2005). In this manner, not only do the criteria for inclusion and exclusion in the collective appear to have been re-defined but also the power to include, exclude and negotiate which seem to have been moved from the complete control of the state and state mechanisms, reinforcing the claim for the existence and growth of civil society in Cuba.

The discussion of the emergence *New* New men and women and the new, evolving state will be supported by two major themes that arise from the analysis of court documents: the first revolves around changes in the political socialization of citizens. Over the course of twenty-five years, the importance placed on the ideological indoctrination of citizens, both through the discussion of the concept of "good" or "true" socialist citizenship in judicial opinions and through the prioritization of the education of the new generations, seems to have faded; as we have already seen, court decisions gradually moved from involving overtly political notions, to being justified in moral and ethical terms. In addition, judges appeared to have re-defined the objective of their

decisions, preferring to focus on the specifics of a case and ignoring details that would have warranted a great deal of attention only a few years earlier. The second theme revolves around changes in citizen views of citizenship and entitlement. In other words, the ways in which notions of proper government management, community, individuality and individual rights were performed, defined, negotiated and transformed by citizens and judges alike. The economic crisis and subsequent liberal measures resulted in an enhanced concern with possessions and consumption options; these found their way into court proceedings, both as part of the arguments of litigators and the opinions of judges (or lack thereof). Therefore, the construction of material welfare in court situations will be an integral part of the discussion, as it reflects a growing trend towards individualism. Yet the discussion of resources in court not only reflects the concern of citizens about their personal position, but may also point to an effort to participate in the definition and creation of the new (neither socialist by orthodox definitions nor precisely capitalist) Cuba that is being constructed in these very moments; the responses of judges to those concerns imply that a more participative, open to negotiation "second wave" of nation-building under the Castro government is taking place.

Similar to previous chapters, the further discussion of these themes will be supported by the analysis of court documents. It is worth noting that some of the cases mentioned in earlier chapters will be making a reappearance here, though they will be examined from a slightly different angle. (This decision was based on my desire to avoid bewildering the reader with seemingly never-ending summaries of disputes, as well as to take full advantage of the analytic potential of those cases). In order to further demonstrate the extent to which the cases mentioned earlier are indeed representative of

trends taking place in Cuba's legal system, as well as avoid a feeling of repetition, new cases will be explored as well.

Changes in the political socialization of citizens

A widespread tradition in the scholarship of state socialism views government mechanisms as central agents in the political indoctrination of citizens (Cheng, 2009). A vast body of socio-historical research has shown that following the triumph of a revolutionary coup, educational initiatives (such as literacy campaigns) are conducted, mechanisms of mass organization are established, and formal apparatuses are adjusted and recruited to the edifying endeavor. These steps, originally pursued by the revolutionary government in the Soviet Union and followed (though not in identical form) by subsequent socialist projects in China and Cuba, stemmed from the assumption that human nature could and should be molded through education (see for example Bunck, 1994 and Cheng, 2009). A new socialist society, asserted various political leaders, could neither be erected upon the foundations of the old regime nor by its old subjects. Therefore, citizens were to be transformed into "new men and women," politically conscious, collaborative, obedient and loyal to the socialist enterprise. Drawing from the premise that re-education is an ongoing, complex process, long-term provisions were taken for the political socialization of citizens of all ages and walks of life; children were incorporated in the activities of mass organization from an early age and were expected to retain this affiliation - to some extent or other - throughout their lives. Given the special weight placed on political indoctrination under state socialism, it is safe to assume that changes in its implementation are to be indicative of a significant

transformation in the system's values and goals. As the cases discussed in earlier chapters demonstrate, the last few years have witnessed a shift from the perception of state mechanisms as active contributors to the formation of good socialists (creating, in turn, active citizens-contributors) to a recognition of the realities of life under increasing liberal reforms. This trend is noticeable in two main aspects. Firstly, the arguments of both litigators and judges reflect a move away from the construction of citizens as political agents in the building of socialism. Within a few years, citizen claims of allegiance to the revolutionary project and active contribution to the education of others ground to a halt. Concomitantly, judges' expectations of citizens (both in terms of the arguments raised in court and the actions outside of it) to be fully committed to socialist ideology and its promotion seemed to have been replaced by an acknowledgment of other, more pressing priorities. Secondly, the verdicts of judges exhibit a lessening concern with the indoctrination of citizens for socialism, either by focusing on legal-administrative aspects of the dispute, or offering alternative moral justifications instead.

The debate surrounding the role of citizens as important agents of indoctrination to revolutionary ideology was nowhere more evident than in custody cases; the assumption that the family was a main agent of socialization and the fear that a disloyal parent would produce a disloyal child culminated in the legislation of article thirty-seven of the Cuban constitution in 1976 (Evenson, 2004), according to which a parent's main duty is to have an "active contribution to the child's education and growth as constructive citizens, prepared for life in a socialist context" (Constitution of Cuba, 1976, art. 37). Verdicts administered during the latter half of the 1980s (and it is safe to assume that this was the case in earlier years as well) stressed and re-enforced that expectation by

assessing a person's parenting capacity in terms of ideological activism and commitment. As the cases discussed in the previous chapter demonstrate, parents taking the stand reinforced the construction of citizens as expected promoters of socialist ideology by repeatedly adducing their intent and actual steps taken "to inculcate love for the homeland ["Patria"] and other worthy values and norms of coexistence and socialist morality," both by conversation and personal example. As the case of the father who had defected military service discussed in the previous chapter (case number 247-88 in pages 133-136) deftly exemplifies, past indiscretions (even as serious as draft evasion) needed to be taken into account and compensated for, to ensure that a child was exposed not only to suitable political values, but to proper civic conduct.

The perception of citizens as champions of socialist morality was replaced by a view of individuals as moral beings in a dynamic state by the early 2000s; none of the custody disputes discussed during this time involves a parent's declaration of his ability to educate their child in light of socialist values. In fact, the two most prevalent arguments revolved either around a parent's capacity to provide for their child and having done so during times of need (see case number in 22-08 chapter 6 – pages 153-156 for a vivid example), or around a child's need (and right) to be near their parent. The following dispute illustrates this last point. I will not tire the reader here with the details of the case, but in a nutshell, it comes down to these crucial developments: P.G.M.N. and M.A.D. were a divorced couple sharing custody of their ten year-old daughter. Over the course of time, P.G.M.N. came to the decision to leave the country and began investigating the possibility of taking his daughter with him. M.A.D. strongly refused to let her daughter go and did not agree to grant the requested permits for the daughter's move. Her position

was readily understood and accepted by P.G.M.N., who did not change his plans but tried to spend as much time as possible with his daughter before his departure. He requested the mother to allow him to spend more time with his daughter before he left the country, portraying the benefits of the arrangement in terms of the psychological wellbeing of both daughter and father. Despite the fact that emigrating from Cuba was not precisely a legal concern at the time of proceedings (late 2000 and early 2001), P.G.M.N. did not attempt to hide his plans or justify them in patriotic terms; moreover, his aspiration to leave the country was the backbone of his argument, and his desire to have his daughter join him abroad was construed as proof of his fatherly love and extent of attachment to his child - this instead of advocating for his attempts to educate the child to love of country and socialism.[73] Both the case discussed in Chapter 6 (number 22-08 in pages 153-156) and this case demonstrate that, at least from the point of view of litigators, the significance of educating the next generation was increasingly associated with parental love and allocation of resources rather than indoctrination to socialist ideology.

The opinions of judges seemed to undergo a similar turn; rather than penalizing parents for not being sufficiently committed to the education of their children to socialism, or forgiving past transgressions on the grounds of their having been ideologically rehabilitated, judges in the 2000s prioritized the parents' presence in the life of their children over all else. The last verdict discussed in Chapter 6 (case number 22-08 in pages 153-156), shows that judges expected parents to be "responsible" rather than involved in "revolutionary" activities. Worthy fathers and mothers were portrayed as those who forsook their desires and preferences for the sake of their child, making it clear

[73] Case number 33-01.

that a child needs the love and attention of both parents more than anything else. The judges expressed their expectation that parents be proactive about including an estranged parent in the life of their child whether the parent was perceived by them as morally fit or not; in contrast to earlier years, the exclusion of a parent from the life of their child was portrayed as having more detrimental consequences for the child than interacting with an "ethically impaired" parent. A similar view was reflected in the decision made in response to P.G.M.N.'s request to spend more time with his daughter before he moved abroad: the father's petition was denied on the grounds that the original custody agreement allocated identical amounts of time to both parents, keeping both equally involved in the daughter's life regardless of their circumstances and abilities. More importantly, the agreement prioritized the needs of the child over those of the parents. Therefore, said the judges, there was no justification for changing the original ruling.

The arguments raised in the custody cases indeed reveal a profound change in the construction and communication of the roles and duties of citizens, especially when it came to instructing others in light of socialist values. Yet the educative task was not entrusted to citizens alone, as those same cases clearly teach us. The verdict given in the 1988 custody case involving a father who was affiliated with the Baptist church (discussed in chapter 6, case number 138-87, pages 130-132), shows that the judges at that time viewed themselves not only as a protectors of children from exposure to possibly "harmful ideologies," but as instructors on good parenting and good citizenship as well. As the reader might remember, the judges denied the father custody of his child due to his connection with the church, claiming that "the different ideological values

imparted by the father to his son, far from benefiting him, harm him…"[74] and that "the ideological formation given by D.H.M. to his son are not leading him to become the constructive citizen, prepared for life in a socialist society that is specified in article thirty-seven of the Republic's constitution." While in actuality courts only had the power to shelter the child from bad influences, their verdict also made it clear that, in their view, there was only one way to be a good parent: to be a good citizen. That could only be achieved by exclusive devotion to the revolutionary faith. The concrete punishments for not adhering to that view demonstrated that beyond the abstract feelings of exclusion from the collective of "good" revolutionaries, being labeled as disloyal had very real, personal implications. This case is of great significance, because it not only presents us with a definite official view of "good" citizenship, but confronts us with the possible penalties of not conforming to them.

Yet education to good citizenship was not only relevant to custody disputes. If society as a whole was to be "converted into a gigantic school" (as had been declared in the years following the triumph of the revolution), then the education of citizens was to be applied everywhere and for every aspect of life. The reaction of judges to the request for appeal in the following expropriation case (case number 291-88, first discussed in chapter 5 of this thesis, pages 113-14) demonstrates how the courts perceived their role as educators before the advent of the Special Period. As was mentioned in the earlier discussion of the case, the dispute revolved around the expropriation of a truck, which was appealed by the owner on the grounds that the reasons (i.e., the public utility and social interest) for the confiscation had not been properly explained and therefore the law

[74] Case number 138-87.

had been misinterpreted. The appeal was not granted. Judges justified their decision based on the conviction that "the constitution authorizes the expropriation of property for reasons of public utility of social interest, without indicating precisely what these might be, and in those cases the law requires the proper compensation…taking into consideration the interests of the state as well as the social and economic needs of the owner…These requisites have been strictly fulfilled in the case under discussion (…). The expropriation decree states very clearly that the state needs to acquire the property under discussion and states that the compensation is consistent with the prices set by the state committee ...." While the judges did not explicitly mention their role as educators in their verdict, their position on the matter is quite clear; policies are to be designed by government, not citizens, and concepts such as public utility and social interest need not be explained, detailed or clarified, but accepted (and internalized) by citizens as is. Education, according to this view, did not involve a thought-provoking process, but was mostly comprised of a concrete reminder that the socialist projects (and derivative concepts) were ubiquitous and of enduring value.

The perception of courts as educators of the populace was exchanged, in later years, for a pragmatic turn focused on the well-being of citizens rather than their indoctrination; in contrast to earlier times, it was quite common to encounter allusions to illegal activities undertaken by the parties involved in a dispute (such as unreported employment or trade), yet these were readily ignored by judges when they were not directly relevant to the dispute under discussion. A dispute involving breach of contract, which took place in 2001, illustrates this change. The case can be summarized as follows: M.M.C.P. had verbally agreed to buy eighteen strings of garlic from O.C.B. for ninety

Pesos each. Yet, while O.C.B. did deliver the produce in a timely manner, M.M.C.P. refused to pay him. The conflict over O.C.B.'s compensation reached the Provincial courts, which decided in his favour: he had provided a product and therefore deserved payment. M.M.C.P. appealed that decision, on the grounds that the purchase had been conducted "under the table," and was not only injurious to the state due to tax evasion, but was also illegal. The courts rejected M.M.C.P.'s petition, both because there had been a verbal contract between the parties, and because M.M.C.P. had received and enjoyed the garlic, and had therefore no justification for not paying for it.[75] In the judges' view, contracts must be respected, regardless of the circumstances where they had been drafted. That this verdict reflects an increasingly pragmatic perception of the practicalities of life in the new economy is an interesting finding in itself which will be discussed later on, but it also reflects a shifting understanding of the role of the courts as educator. The judges chose not to address the illegality of the transaction, or the implications of tax evasion for the future of the country. It seems as though increasing tolerance towards the economic needs and actual practices of Cubans was translated into a tendency to compartmentalize information and consider different type of information as relevant to a case.

From the cases discussed throughout this dissertation, it becomes clear that the emergence of *New* New Men and Women cannot be entirely attributed to the edifying abilities of the Cuban legal system, but is rather the product of ever-changing political, social and economic factors. However, it also becomes clear that the courts' move from placing great emphasis on the education of citizens to merely accepting what came to be perceived as an existing (and perhaps permanent) state of affairs may have played a

[75] Case number 22-01.

substantial role in the intensification of that model. Yet at no point did the courts abandon their role as regulators of citizen behaviour, and verdicts continued to reflect a very clear (albeit rather dynamic) stance concerning morality and governance. This dynamic will be addressed in the following section.

Changes in citizen views of citizenship and entitlement

As we saw in chapters 4, 5 and 6, the last two and a half decades witnessed a major shift in the perception of proper government management, community, individuality and individual rights. These ideas were performed and negotiated during court proceedings, thus pointing to a changing relationship between citizens and the state. Within the course of the years, citizens appear to have traded their somewhat apologetic requests for the revision of their cases for rather forceful demands for transparency, revision of procedures, and better service from state agencies. A more striking change, however, occurred in the judges' reactions to said arguments; judges moved away from repeatedly attempting to either ignore those demands or re-educate the demander, to addressing them at great length, in the manner of well-trained customer representatives. This argument was discussed at great length in chapter 6, so here I will merely expand the argument to address its significance for the consolidation of civil society in Cuba. The demands of citizens (and the responsiveness of judges to those demands) indicate a major change in the formula for inclusion in political society and the community in general. In the 1980s, based on the assumption that love for the 'Patria' equaled socialist consciousness, state mechanisms excluded from membership in society and greatly penalized citizens who did not display the expected traits of a

conscious citizen: involvement in mass organizations, devotion to the socialist project, obedience and non-materialism. This notion appears to have changed in later years, as not only did the courts begin to enable the discussion of the performance of state-run agencies, but also moved from criticizing the material inclinations of citizens to their eventual acceptance. These developments imply that a) socialist consciousness has ceased to be a prerequisite for acceptable citizenship (or, at the very least, the meaning of the notion of socialist consciousness has changed drastically) and b) the marginalization of citizens from participation in the shaping of state policy and procedures seems to have come to an end. The cases discussed below illustrate this highly significant shift toward increasing the inclusion and participation of citizens, as well as some of the characteristics of the New State.

The following two cases, which took place in the very early 1990s (that is, not long after the beginning of the Special Period), deftly illustrate the efforts of citizens to question some of the state's most common policies at the time (the forced expropriation of trucks), and the reaction of judges to such attempts. Since both disputes revolve around precisely the same issue and almost identical arguments were made by both litigators and judges, they will be synthesized here for the sake of discussion (for a more detailed discussion of the first case see chapter 5, case number 39-93, pages 114-116, for a discussion of the second see chapter 6, case number 105-91, pages 141-143). Following the expropriation of the trucks in 1991-92 by regional locals of the Cuban Truck Company, compensation packages were set in cases as per standard procedures, but they were not found to be to the (former) owners' satisfaction. Appeals with the PPC were soon to follow. Both claimants contested the decision to confiscate citizen

property, stating that the "social need" for the truck had not been properly clarified and implying that there was something "fishy" about the expropriation of their property. Both owners stressed their contribution to the maintenance of their cars, underscoring a connection between private ownership and efficiency. That being said, however, both claimants underscored their difficulty to make ends meet, rather than a desire to obtain access to improved material conditions. While highly critical of state government policy and performance and surprisingly audacious at the time, neither argument was thoroughly attended to by the PPC, to say the least. Both appeals received laconic and rather tautological responses, mainly revolving around the argument that the government had confiscated the trucks based on their "social interest and public utility," and had thus established their "social interest and public utility." No further discussion was warranted (or welcome) on the matter. The boundaries of conversation, and participation were therefore drawn; by refusing to conduct a genuine discussion of whether the government was responding properly to a crippling economic crisis, judges made clear that the state's decisions and performance were not open for debate with citizens.

This trend was bound to change within a few years, in tandem with the intensification of economic and political reform. The following case, which was discussed at relative length in chapter 6 (case number 19-03, pages 150-153), illustrates an inclination to address the complaints of citizens, even when they involved outright criticism of state agencies. The dispute involved a woman's contention of the transfer of a telephone line from the house of an elderly relative, whose property she was entitled to inherit, to the house of a non-family member, before the relative's apparently impending demise. The inheritor protested the telephone's company lack of attention of the line's

owner's circumstances (evident illness, diagnosis of senile dementia, lack of proper documentation), without hiding, at any point, that her denunciation of the company's procedures stemmed from her interest in gaining access to the telephone line (quite a desired commodity, which could not be easily purchased at the time). The judges, in turn, did not find any wrong in the claimant's desire to have the telephone line transferred to her; in fact it appears as though this was perceived as a legitimate aspiration. The request for appeal was declined, however, on the grounds that the telephone company's management of the case was not found to be deficient, yet by making this argument, the judges dealt with every one of the claimant's complaints, thus reinforcing the idea of increased transparency in state agencies and supporting the claimant's right to demand better service.

The case discussed above (case number 19-03) not only demonstrates a newfound openness to citizen participation in the developing policy and economy, but a growing tolerance of citizen preoccupation with their material conditions of existence. It demonstrates that the new model of men and women has not only emerged at the grassroots level, but has gained increased legitimacy at the level of the state as well. This relationship appears to be crucial for the construction of the new, late-socialist and post-revolutionary Cuban state, which may not be fixated on an orthodox socialist agenda, but does not appear to have dismissed it altogether, either; a preoccupation with human decency and, for lack of a more accurate Cuban term, "mentschood" (the Yiddish term for gracious and ethical conduct toward others) is present on disputes taking place on recent years. In order to outline this developing moral stance, we shall look at a few new cases from the 2000s.

The first case involves a conflict regarding payment for a given service. The fundamentals of the case were as follows: a man named F.M. hired an acquaintance, P.I.M.G., to do a few repairs in his apartment. Those included the painting of walls, polishing of floors and installation of a fence. Both men agreed on a fee to be paid to the worker, but after the job had been finished, F.M. refused to pay the entire sum. He asserted that the floors had not been polished and the fence had not been installed when the payment was due. However, F.M. admitted, the floors were polished, and the fence was installed, albeit by someone hired by P.I.M.G. and a little later than he had initially envisioned. Demanding the amount they had agreed upon previously, P.I.M.G. took the matter to the provincial courts. He argued that he had started working on the required repairs, but had been requested to halt the work by F.M., who was not satisfied with the way they were coming along. The courts ruled in favour of the worker. F.M., outraged by the prospect of having to pay for a service he claimed to not have received, appealed this decision with the PPC. The judges did not accept F.M.'s petition, on the grounds that

> F.M.…had made a commitment with P.I.M.G., which regulated the specific works of repair, maintenance and renovation to be made in his apartment, as well as the obligation to pay for the labor. F.M. only fulfilled part of his obligation, and failed to provide evidence for any of his arguments - that the work had been conducted in an unsatisfactory fashion or had been halted at any point. This is a clear attempt by F.M. to ignore his obligations…Moreover, his complaints regarding the job itself are obviously irrelevant to the case (…) These arguments compel us to dismiss the appeal. [76]

The demand to pay for a received service regardless of the circumstances where it was given or whether the outcome was found to be satisfactory resonates with the case

[76] Case number 44-09.

discussed above, regarding garlic sold “under the table” (case number 22-01). While profoundly linked to socialist ideals concerning labor, the notion that no citizen should deny another a rightfully-earned remuneration appears time and time again in verdicts produced in the 2000s. However, these decisions were not justified in political terms, but in terms of a contractual commitment between two (or more) parties. Despite the fact that no explicitly humanistic rationalizations for the verdict emerge from the documents, it is clear that the decisions were not based on a purely technical view of the law, but were connected to a general moral outlook regarding human relations. This view was not exclusively tied to labour and remuneration issues, but generalized to all aspects of life involving relationships with others. The custody case (number 22-08) discussed in chapter 6 (pages 153-156) and in this chapter (pages 167-168) concerning two parents who had been divorced exemplifies this point; the expectation to compromise and take the needs of others under consideration were at the core of the judges’ decision.

Yet this discussion would be incomplete without an illustration of the explicit connection made by judges between “mentschood” and justice. The following dispute concerning a “house swap” exemplifies that association, and can be summarized as follows: D.P.M., his siblings and their father, used to live together in an apartment registered under the father’s name. At some point, they all agreed to trade that apartment for a larger one, resorting to the common strategy of “house swap”; they made a contract with L.V.M. which stipulated the prompt move between residences, followed by the registration of the transfer with the authorities, all under the umbrella of the law. Before the change of title took place, however, the father, under whose name the apartment was registered, passed away. For reasons unbeknownst to both L.V.M. and his siblings,

D.P.M. chose not to inform L.V.M. of the father's demise, therefore creating a problem when she attempted to register the dwelling under her name; the complication stemmed from the stipulation (by law) that the inheritors to a property remain in it until the inheritance is finalized. If the legal inheritors abandon the dwelling before the inheritance has been settled, they become ineligible to inherit it, and the dwelling is then confiscated by the state (Pérez-Gallardo, 2007). At this point, and without the consent of either his siblings or L.M.V., D.P.M. demanded that the house swap be cancelled, and filed a suit with the Havana Provincial Courts, who ruled in his favour. This decision was problematic for L.V.M., who had already moved to the father's apartment, and for D.M.P.'s siblings, M.S.B. and R.C.R., who had moved to L.V.M.'s apartment. Neither party intended to move back, and therefore filed an appeal with the PCC hoping that it would overturn the verdict produced by the lower court.

The judges were utterly dismayed by D.M.P.'s actions; they saw his insistence that everybody move back to their old residences as extremely inconsiderate and his actions as indicative of bad intentions on his part:

> The evidence points to the sneaky manner in which he [D.M.P.] has acted, and is acting now, especially when questioning the contract between all parties that clearly proves the commitment that had been reached previously (…) It is clear that all appellants acted in good faith, and we cannot ignore the fact that, if we were to accept the position of someone who was involved in nearly-criminal actions, we would be cooperating with a vague synonym [sic] of justice, one that lacks the equity and rationality that are needed in order to prevent the erroneous application of the law…it is one of the duties of the legal system to apply some degree of judgment when the law is applied in a dysfunctional manner, or against its social content and end.[77]

[77] Case number 12-09.

As this verdict clearly shows, justice in this case was not only linked to behaving decently towards others, but also required prioritizing that behaviour over the strict following of the law; while it was evident that L.V.M., M.S.B. and R.C.R., were not acting in accordance with the law concerning inheritance, it was D.M.P.'s behaviour that was considered almost-criminal and sneaky. Justice, as the judges saw it, was therefore not connected with following the law (either as citizens or as judges) to the letter, but was achieved through being civil to others.

The country's political structures seem to be evolving in the direction of implementing new forms of participation and socialization of power. While the end of the story is yet to be written, it remains clear that, at the time these lines are being printed, the socialization of citizens through the legal system is not devoid of moral, and to some extent, political content. Socialism, or, more precisely, socialist morality, appears to be a common thread in the decisions of judges, ranging from strictly financial issues to the raising of a child. It seems as though a struggle over the national identity is now in the making and its repercussions will likely be profound.

Conclusions

The analysis of court protocols raises interesting questions concerning the role of the law and the legal system in the construction and maintenance of moral and citizenship regimes. As we have observed throughout this study, while judges did have the final say on whether a verdict would be reversed, their perception of reality was not the only one discussed in court. It is obvious that the changes in citizen perceptions did not originate in whatever was or was not said in court, but in critical changes in society at large. However, the question raised by my research is not what accounts for citizens' "break" with revolutionary ideology or, more precisely, the gap between official doctrine and everyday behaviours and attitudes (though that is an interesting question in its own right and has been thoroughly researched in the past). Rather, the key questions highlighted are: how do courts promote or challenge changes that are already taking place in society; and, to what extent is the power given to the courts effective in repressing attempts at resisting the official party line?

The answers to these questions are not devoid of complexity, yet a starting point must be the realization that there are two reasons to believe that the PPC was quite successful at implementing government-endorsed values. Firstly, the majority of cases brought before the lower courts did not reach the PPC. When the provincial or municipal courts made a decision, it then became a fact for all people involved, unless someone filed an appeal. As the vast majority of verdicts by the PPC reinforced decisions made by the lower courts, it becomes clear that, at least in this significant sense, their rulings tended to support the position of other state mechanisms rather than that of appealing

citizens. Secondly, it is apparent that the official line, as well as dominant (i.e., government-supported) values, ideas of morality and so on, have changed substantially over the course of two and a half decades. If we assume that the courts were not the harbingers of change, but rather a mirror for transformation taking place outside the court's walls, there is good reason to infer that they did an excellent job of conveying the government's changing moods.

Yet this conclusion is complicated by the fact that, while the attitudes of judges did change over time, court protocols show us that it was the attitudes of people that changed *first*. This is quite remarkable because it is clear that the appellants aimed to win their cases, not make arguments that would be considered unworthy of consideration; and yet "unacceptable" arguments arose in courts time and time again during the 1990s, even when they would almost without a doubt result in the rejection of an appeal. Strikingly enough, by the 2000s judges not only were not outraged by the use of these arguments, but also began incorporating them in their verdicts; for example, a father's argument that his son loves and needs him, and that their communication has a positive influence on the child was deemed insufficient during the 1980s (due to the father's "deficient" allegiance to the revolutionary project, case number 138-87), but became a significant component of verdicts imparted during the 2000s, regardless of the father's political orientation (see case numbers 22-08 and 33-01).

As the documents analyzed throughout this dissertation demonstrate, official (i.e., revolutionary) discourse became increasingly challenged both outside and inside the courts regardless of the ultimate decision to be made by judges, thereby demonstrating

that contemporary Cubans are in no way prisoners of official language, values and ideas. This shows that for all the state efforts at educating and instilling "proper" values in the populace, such values were not always absorbed and internalized in the way they were aimed to be. The dissertation therefore demonstrates that in contemporary Cuba power never goes unchallenged, and that notions of morality and community are anything but static entities. That the court situations investigated in this study take place in a socialist state points to the evolutionary potential of a supposedly ossified political system.

These findings have significant theoretical implications, in addition to the analysis of the particular case of Cuba. First and foremost they suggest that there is more nuance to Gramsci's conceptualization of hegemony as an exclusive force; while the idea of hegemony rightfully points to the ways in which dominant ideology and discourse is readily used and reproduced by all sectors of society, it not only fails to account for the instances where it is blatantly rejected, but for those where it is subtly manipulated with the intention of achieving change. Michael Burawoy (2003) does a great job of expanding Gramsci's view to include these occurrences, by explaining that while struggles do take place on the territory of hegemonic ideology, slow and gradual change is possible. The cases analyzed in this dissertation support this view; while litigators in the 1980s did challenge the authority of the courts, they did so within the confines of "acceptable" revolutionary discourse, stressing their allegiance with the revolutionary project and clarifying that their disagreement lay with the way the law had been implemented by a lower court, not with the law itself. This trend began to change in the 1990s, when citizens challenged government decisions and procedures in a more explicit manner and

was taken a step further in the 2000s, when court arguments involved an unconcealed concern with the material wellbeing of claimants, as well as clear demands for change.

More significantly, however, the cases analyzed in this dissertation support Foucault's views on the ubiquity of power and resistance; the revolutionary government in Cuba undoubtedly falls under the category of authoritarian, the local press is limited to two newspapers (whose reports are almost identical) and access to the internet is prohibitively expensive and highly controlled, and dissident movements are frequently harassed by government officials, thus significantly restricting the possibility of opposition to government policy (although in the case of the majority of said movements, the intention is to oppose the government altogether). Yet this dissertation demonstrated that resistance did occur even within such limiting circumstances, subtly and perhaps hesitantly at first, but brazenly and unwaveringly later on. While the arguments shown in this dissertation are not covered by the international media and are not connected to any of the dissident movements, they are no less important in demonstrating that the exertion of state power is a complex, dynamic process and that state power can be negotiated and resisted with varying degrees of success.

The dissolution of the Soviet Union in the early 1990s ignited the academic (and popular) imagination as to its possible implications. A vast body of research has focused on the changes in political and economic doctrine in Eastern Europe, Asia and (though less extensively) Cuba, drawing scholarly attention to the different causes and implications of such changes, and generally pointing to the demise of state socialism (see for example Dowdle, 2013; Stark and Bruszt, 1998). The overwhelming majority of ex-

Soviet republics and members of the Eastern bloc have been quick to relinquish control of prices and currency, withdraw state subsidies, liberalize trade and privatize previously public-owned assets, celebrating and promulgating the transition to free market capitalism and western democracy (Burawoy, 1999). While other (non-European) socialist states have adopted widespread liberal reforms, they seem to be more oriented towards incorporating them in a reformed socialist doctrine, rather than moving in a similar direction to their European counterparts/former allies.

Deeply influenced by the execution of increasing liberal reforms in the Soviet Union, as well as its subsequent collapse, Vietnam has been effecting political and economic changes since the late 1980s; an all-encompassing reform aptly proclaimed as *Doi Moi* (renovation), urged party leaders not only to acquiesce to the idea of opening the economy to global forces, but also to re-structure the political apparatus and protect the civil rights of citizens. Yet although the reforms suggest that Vietnam has embarked on a journey into a certain capitalist future, it is important to note that the Vietnamese government has adamantly affirmed its commitment to socialist doctrine ever since the beginning of *Doi Moi* (Gillespie and Chen, 2010).

China has increasingly deepened the market-oriented reforms that it begun implementing in the late 1970s; starting by de-collectivizing agriculture, granting permission for private businesses and opening the country to foreign investment, China has proceeded to privatize the majority of state-owned enterprises, and de-regulate prices. Yet instead of embracing a transition to capitalism, China has managed to retain political control under the Communist Party and has incorporated its financial re-organization into

a new official ideology that adapts Marxist concepts to the country's current economic vision. By doing so, China has managed to add a layer of legitimacy (or at the very least, consistency) to both its ongoing political control and its integration of the country's economy with that of the capitalist world (Gillespie and Chen, 2010).

In her renowned work on citizenship and the state, Jane Jenson (2000) traces the existence of historical and geographic differences in the practice of citizenship to variations in what she calls *citizenship regimes*, namely the "institutional arrangements, rules and understandings that guide and shape concurrent policy decisions and expenditures of states, problem definitions by states and citizens, and claims-making by citizens" (p.55). Citizenship regimes are of significance, argues Jenson, not only because they define the extent of financial and moral responsibility of the state toward its citizens (in contrast to that of individuals, families, and markets), but because the very acknowledgment of the rights and duties of both citizens and the state establishes who is worthy of inclusion (and by extension, exclusion) from a political community, and furthermore shapes members' sense of identity and belonging. Citizenship regimes enact these rules by coordinating the governance arrangements of a given state, such as the extent and forms of citizen participation in civic life, and the acceptability of specific kinds of claims.

The documents analyzed in this dissertation suggest that while liberal policies were initially implemented in order to solve a temporary crisis, they resulted in the redesign of Cuba's citizenship regime; the highly centralized polity of the 1980s (and surely that of earlier years) placed financial and political responsibility solely on the shoulders of the state and left virtually no room for citizen participation or true criticism

of the system. This began to change in the early 1990s. The deep economic crisis that followed the collapse of the Soviet Union and eastern bloc and the liberal reforms that ensued, resulted in the gradual (but apparently definite) transfer of responsibility – from state to citizens. As the state increasingly relinquished its role as provider of basic services (and although healthcare and education are still entirely subsidized by the state, private providers have entered the market), and the responsibility to secure basic services were passed on to citizens, the participatory rights of citizens grew as well, albeit at a slower pace.

While the benefits of enhanced citizen participation in government decisions are clear, it is also clear that participation comes at a price; while the shrinking government has been a breeding ground for individual choice and outspokenness, it has also bred uncertainty and inequality. Therefore the change in Cuba's citizenship regime is not without tension. It seems fair to argue that Cuba is in the midst of "late socialism" not because there is conflict between the (socialist) official line and the (liberal) practices and attitudes of the populace,[78] but because the official line remains unclear; liberal inclinations and market-based practices are no longer the exclusive realm of citizens, but are increasingly accepted by state officials as well. However, while liberal reforms have been formalized by individual decrees, the law (along with its recurrent assertions of loyalty to socialist doctrine) remains practically unchanged. As a consequence, while the interpretation of the law has changed dramatically over the years (as we have seen in the cases analyzed throughout this dissertation), it leaves the status of the reform "hanging in the air," and certainly easy to revert. Adding to the sense of ambiguity about Cuba's

[78] As scholars of Cuba have pointed out in the past -- see Hernández-Reguant, 2004 and Weinreb, 2009.

political direction are Raul Castro's public declarations, which on one hand fete the country's liberalization and announce the implementation of further reforms, and on the other contend that state socialism will never be abandoned.

The findings of this dissertation suggest that we need to rethink our assumption that socialism is homogeneous. There is not only one way to implement socialist doctrine, and, in fact, there exist more than one socialist doctrine (the significant differences between the implementation of Marxism-Leninism in Cuba, the Soviet Union, eastern bloc states and Vietnam illustrate this point, as do the disparities between Maoism and Marxism-Leninism). It is also clear that socialist theory is not fixed, evolving over time and adjusting to ever-changing circumstances. (The pink tide in South America which attempts to establish "twenty-first century socialism" exemplifies this argument). Cubans have adapted and pushed the boundaries of socialism, through the central axis of reconstructed, evolved, state-society relations. These relationships have evolved, not only because of decisions or policies devised by the state, but as a response to pressure from below as well.

That citizen views of governance and rights change as a result of market-based reforms is not unique to the Cuban setting; studies conducted in Vietnam show that the general atmosphere of *Doi Moi* has enabled civil society to bloom – indeed, laws recognizing economic and social organizations, social and charitable funds and other voluntary groups as legal entities were legislated in the mid-1990s. More importantly, as the media was granted greater autonomy and alternative associations became part of the political landscape, public opinion began playing a crucial role in shaping state policy

(Sidel, 2008, p. 74-91). Yet while state officials in Vietnam and China have openly re-assessed the need for socialism and have made ideological adjustments before implementing new policies, changes in Cuba seem to have "begun with the end" – initiated in practice, but with no theory to support them. Until the transition is institutionalized, theorized, or at least addressed in a consistent manner by public officials, there remain more questions than there are answers.

Nevertheless this limbo may be exactly what Cuba needs in order to survive as a (nominally) socialist state in an increasingly globalized and capitalistic economy, and only ninety miles from the world's most powerful capitalist country; the dissolution of the Soviet Union left the socialist world without a great protectionist power (China seems to be uninterested in fulfilling this role so far), forcing Cuba to singlehandedly cope with the ongoing U.S embargo and the possibility of (violent or economic) annexation. While Cuba's involvement in the international economic and political community has grown over the past two decades, the country's economy is necessarily focused on subsisting. Furthermore, in comparison to China it does not have any international political or financial clout.

It is not surprising, therefore, that Cuba has not been quick to either revise or abandon its socialist base; doing so could be perceived as demonstration of weakness, an invitation to (hostile) foreign powers to feast on the spoils of state socialism. As Louis Pérez (2013) has deftly demonstrated in his study of the construction of Cuban history, the negative connotations associated with American interventionism are difficult to dissipate, and the possibility of losing sovereignty for the second time is still a source of

great anxiety. At the time these lines are being written, Cuba appears to be over-cautious about the implications of revisionist declarations, and is more focused on finding practical solutions to its everyday needs, while defending its right (and need) to make such decisions in an independent manner.

Nicolás Guillen Landrián, a prominent Cuban cinematographer (whose controversial relationship with the revolutionary government merits a separate discussion) had a habit of concluding his (extremely avant-garde and complicated) films with the note: "Fin pero no es el fin" (The End but not really the end), to remind the audience that although the film had ended, the ideas in it would germinate and be carried forward in the minds of the audience. Very modestly, I will end my dissertation on a similar note, hoping that my work will be valued for having vividly captured one pivotal phase in a long process.

Appendix 1 – Images of Cuba

Photos of the Special Period

It can be difficult to capture financial difficulties in photographs, but the following two images do a great job of portraying two of the most prevalent problems in 1990s Cuba: the transportation crisis, and the shortage of energy.

The first photo cleverly depicts the inconvenience of transportation during the Special Period. The second not only captures the annoyance associated with standing in line to receive kerosene, but also manages to convey the sense of uncertainty amid the ubiquitous shortages.

"Pasando Trabajo Para Trabajar" (facing trials and tribulations on the way to work), La Habana, c. 1992. Photograph courtesy of "Bohemia" magazine archive.

Citizens standing in line to receive kerosene, La Habana, c. 1992.

Photograph courtesy of “Bohemia” magazine archive.

Life in present day Cuba

The following two images, taken during my trip of 2012, portray the increasing liberalization of life in the island. The first photo captures an independent vendor selling Valentine's Day paraphernalia on the streets of the Old Havana neighbourhood. While far from being a novelty, the celebration of the holiday underscores the changing consumption preferences, as well as the widening inequalities in the country. Gifts vary between small chocolates, artificial flowers and stuffed animals (though real flowers and animals were seen to be advertised on the streets of Old Havana as possible gifts) and costly jewelry. Celebratory dinners are held in various venues in Havana, with prices for three-course meals ranging from 10$ to 100$. The second photo portrays two independent vendors (one sells sunglasses, the other pirate copies of CDs and DVDs), out of hundreds to set shop on the Calzada de la Infanta area in Havana. Notice the items in the prospective buyers' hands: a pressure cooker, disposable cups, and groceries, all possibly purchased from self-employed merchants in the same area.

Shopping for Valentine's Day presents in the streets of Old Havana.

Photograph taken by author in February 2012.

Shopping in Cuba’s new self-owned stands.

Photograph taken by author in January 2013.

Appendix 2 – An Overview of the Sampled Appeal Cases

1986

Serial Number	Issue	Use
1	Expropriation	Not cited but supports Chapters 5,6 argument
2	Expropriation	Not cited but supports Chapters 5,6 argument
3	Adoption	Cited in Chapter 5
4	Expropriation	Not enough detail to be useful
5	Custody	Not cited but supports Chapter 5 argument
6	House swap	Not cited but supports Chapters 5,6 argument
7	Expropriation	Not cited but supports Chapters 5,6 argument
8	Expropriation	Not enough detail to be useful
9	Expropriation	Not enough detail to be useful
10	Expropriation	Not enough detail to be useful
11	Custody	Not enough detail to be useful
12	House swap	Not enough detail to be useful
13	Expropriation	Not cited but supports Chapter 6 argument
14	Expropriation	Not enough detail to be useful
15	Expropriation	Not cited but supports Chapter 6 argument
16	Custody	Not enough detail to be useful
17	Custody	Not cited but supports Chapter 6 argument
18	Custody	Not cited but supports Chapter 5 argument
19	House swap	Not cited but supports Chapter 5 argument
20	Expropriation	Not enough detail to be useful
21	Expropriation	Not enough detail to be useful
22	House swap	Not enough detail to be useful
23	House swap	Not enough detail to be useful
24	Custody	Not enough detail to be useful
25	Expropriation	Not cited but supports Chapter 6 argument
26	Expropriation	Not cited but supports Chapter 5 argument
27	Expropriation	Not cited but supports Chapter 5 argument
28	Custody	Not cited but supports Chapter 6 argument
29	Expropriation	Not cited but supports Chapter 6 argument
30	House swap	Not enough detail to be useful

1987

Serial Number	Issue	Use
1	Custody	Not cited but supports Chapters 5,6,7 argument
2	Recognition of Marriage	Not cited but supports Chapters 5,6,7 argument
3	Custody	Not cited but supports Chapters 5,6,7 argument
4	Recognition of Marriage	Not cited but supports Chapters 5,6,7 argument
5	Privation of Parental Rights	Anomalous - not much (but some) emphasis on revolutionary rhetoric
6	Custody	Not cited but supports Chapters 5,6 argument
7	Recognition of Marriage	Not cited but supports Chapters 5,6,7 argument
8	Recognition of Marriage	Not cited but supports Chapters 5,6,7 argument
9	Paternity	Not enough detail to be useful
10	Custody	Not cited but supports Chapter 5 argument
11	Paternity	Not cited but supports Chapters 5,6,7 argument
12	Custody	Anomalous - use of expert witness (along with CDR)
13	Recognition of Marriage	Not cited but supports Chapter 5 argument
14	Custody	Not enough detail to be useful
15	Custody	Cited in Chapters 6,7
16	Recognition of Marriage	Not cited but supports Chapters 5,6 argument
17	Custody	Not cited but supports Chapters 5,6 argument
18	Inheritance	Not cited but supports Chapters 5,6 argument
19	House swap	Not cited but supports Chapters 5,6 argument
20	Expropriation	Not cited but supports Chapters 5,6 argument
21	Intellectual Property	Not cited but supports Chapter 6 argument
22	Expropriation	Not cited but supports Chapter 5 argument
23	Land	Not cited but supports Chapter 5 argument
24	House swap	Not enough detail to be useful
25	Division of Property after Divorce	Not cited but supports Chapters 5,6 argument
26	Division of Property after Divorce	Not enough detail to be useful
27	Inheritance	Not cited but supports Chapter 5 argument
28	Inheritance	Not enough detail to be useful
29	Division of Property after Divorce	Not cited but supports Chapters 5,6 argument

1988

Serial Number	Issue	Use
1	Custody	Not cited but supports Chapters 5,6 argument
2	Paternity	Not cited but supports Chapters 5,6 argument
3	Custody	Not cited but supports Chapters 5,6 argument
4	Recognition of Marriage	Not cited but supports Chapter 5 argument
5	Paternity	Not cited but supports Chapters 5,6 argument
6	Paternity	Not cited but supports Chapters 5,6 argument
7	Divorce	Anomalous - focus on technicalities (though this could be interpreted as apologetic appeal)
8	Paternity	Not cited but supports Chapters 5,6 argument
9	Expropriation	Not cited but supports Chapters 5,6 argument
10	Donation	Not cited but supports Chapters 5,6 argument
11	Expropriation	Not cited but supports Chapter 6 argument
12	Expropriation	Not cited but supports Chapter 6 argument
13	Nullification of marriage	Not cited but supports Chapters 5,6,7 argument
14	House swap	Not cited but supports Chapters 5,6,7 argument
15	House swap	Not cited but supports Chapter 6 argument
16	Paternity	Not enough detail to be useful
17	Expropriation	Not cited but supports Chapters 5,6 argument
18	Custody	Not cited but supports Chapters 5,6 argument
19	Recognition of Marriage	Not cited but supports Chapters 5,6 argument
20	Custody	Not cited but supports Chapters 5,6 argument
21	Paternity	Not cited but supports Chapters 5,6 argument
22	Paternity	Not cited but supports Chapters 5,6 argument
23	Custody	Cited in Chapters 6,7
24	Expropriation	Cited in Chapters 5, 6,7
25	Expropriation	Not enough detail to be useful
26	Expropriation	Not cited but supports Chapter 5 argument
27	Expropriation	Not cited but supports Chapters 5,6,7 argument

1989

Serial Number	Issue	Use
1	Paternity	Not cited but supports Chapter 6 argument
2	Expropriation	Not cited but supports Chapter 6 argument
3	Paternity	Not cited but supports Chapters 6,7 argument
4	Expropriation	Not cited but supports Chapter 6 argument
5	Expropriation	Not cited but supports Chapters 5,6,7 argument
6	Paternity	Not enough detail to be useful
7	Recognition of Marriage	Not enough detail to be useful
8	Paternity	Not cited but supports Chapter 5 argument
9	Paternity	Not cited but supports Chapter 6 argument
10	Recognition of Marriage	Not enough detail to be useful
11	Recognition of Marriage	Not cited but supports Chapters 5,6,7 argument
12	Expropriation	Cited in Chapter 6
13	Expropriation	Not cited but supports Chapters 5,6,7 argument
14	Custody	Not cited but supports Chapters 6,7 argument
15	Custody	Not cited but supports Chapter 6 argument
16	Custody	Not cited but supports Chapter 6 argument
17	Paternity	Not cited but supports Chapter 5 argument
18	Expropriation	Not cited but supports Chapter 6 argument
19	Adoption	Not enough detail to be useful
20	Paternity	Not cited but supports Chapter 5 argument
21	Recognition of Marriage	Not cited but supports Chapters 5,6,7 argument
22	Paternity	Not enough detail to be useful
23	Custody	Not cited but supports Chapter 5 argument
24	Recognition of Marriage	Not cited but supports Chapter 6 argument
25	Paternity	Not enough detail to be useful

1990

Serial Number	Issue	Use
1	Paternity	Not cited but supports Chapters 6,7 argument
2	Paternity	Not cited but supports Chapter 6 argument
3	Recognition of Marriage	Not cited but supports Chapter 6 argument
4	Custody	Not cited but supports Chapter 6 argument
5	Paternity	Not cited but supports Chapter 5 argument
6	Custody	Not cited but supports Chapter 6 argument
7	Land	Not enough detail to be useful
8	Recognition of Marriage	Not enough detail to be useful
9	Paternity	Not cited but supports Chapter 5 argument
10	Recognition of Marriage	Not cited but supports Chapter 7 argument
11	Housing	Not enough detail to be useful
12	Financial	Not enough detail to be useful
13	Land	Not enough detail to be useful
14	Land	Not enough detail to be useful
15	Paternity	Not cited but supports Chapter 6 argument
16	Recognition of Marriage	Not cited but supports Chapter 6 argument
17	Custody	Not cited but supports Chapter 6 argument
18	Paternity	Not cited but supports Chapter 5 argument
19	Paternity	Not cited but supports Chapter 5 argument
20	Paternity	Not cited but supports Chapter 6 argument
21	Housing	Not cited but supports Chapter 6 argument
22	Recognition of Marriage	Not enough detail to be useful
23	Recognition of Marriage	Not enough detail to be useful
24	Financial	Not enough detail to be useful
25	Land	Not enough detail to be useful
26	Custody	Not enough detail to be useful

1991

Serial Number	Issue	Use
1	Expropriation	Not cited but supports Chapters 6,7 argument
2	House swap	Not enough detail to be useful
3	Expropriation	Not cited but supports Chapters 6,7 argument
4	Recognition of Marriage	Not cited but supports Chapter 7 argument
5	Custody	Not enough detail to be useful
6	Paternity	Not cited but supports Chapter 6 argument
7	Paternity	Not enough detail to be useful
8	Custody	Not cited but supports Chapter 7 argument
9	Expropriation	Not cited but supports Chapters 6,7 argument
10	Expropriation	Not cited but supports Chapters 6,7 argument
11	Expropriation	Not cited but supports Chapters 6,7 argument
12	Expropriation	Cited in Chapters 6,7
13	Expropriation	Not cited but supports Chapters 6,7 argument
14	Expropriation	Not cited but supports Chapters 6,7 argument
15	Recognition of Marriage	Not enough detail to be useful
16	Recognition of Marriage	Not enough detail to be useful
17	Recognition of Marriage	Not enough detail to be useful
18	House swap	Not enough detail to be useful
19	Expropriation	Not cited but supports Chapter 6 argument
20	Custody	Not cited but supports Chapter 5 argument
21	Expropriation	Not enough detail to be useful
22	Paternity	Not enough detail to be useful
23	Expropriation	Not enough detail to be useful
24	Paternity	Not enough detail to be useful
25	Custody	Not cited but supports Chapters 6,7 argument
26	Expropriation	Not cited but supports Chapters 6,7 argument
27	Expropriation	Not cited but supports Chapter 6 argument
28	Expropriation	Not cited but supports Chapter 6 argument
29	Expropriation	Not cited but supports Chapter 6 argument
30	Expropriation	Not cited but supports Chapter 6 argument

1992

Serial Number	Issue	Use
1	Paternity	Not cited but supports Chapter 6 argument
2	Paternity	Not cited but supports Chapter 6 argument
3	Paternity	Not cited but supports Chapter 6 argument
4	Custody	Cited in Chapter 6
5	Expropriation	Not cited but supports Chapter 6 argument
6	Custody	Not cited but supports Chapter 6 argument
7	Expropriation	Not cited but supports Chapter 6 argument
8	Expropriation	Not cited but supports Chapter 6 argument
9	Expropriation	Not cited but supports Chapter 6 argument
10	Paternity	Not enough detail to be useful
11	Expropriation	Not cited but supports Chapter 6 argument
12	Expropriation	Not cited but supports Chapter 6 argument
13	Expropriation	Not cited but supports Chapter 6 argument
14	Expropriation	Not cited but supports Chapter 6 argument
15	Expropriation	Not cited but supports Chapter 6 argument
16	Expropriation	Not cited but supports Chapter 6 argument
17	Expropriation	Not cited but supports Chapter 6 argument
18	Expropriation	Not cited but supports Chapter 6 argument
19	Expropriation	Not enough detail to be useful
20	Custody	Not enough detail to be useful
21	Paternity	Not enough detail to be useful
22	Paternity	Not enough detail to be useful
23	Expropriation	Not enough detail to be useful
24	Custody	Not cited but supports Chapter 6 argument
25	Paternity	Not cited but supports Chapter 6 argument
26	Paternity	Not cited but supports Chapter 6 argument

1993

Serial Number	Issue	Use
1	Inheritance	Not cited but supports Chapter 6 argument
2	Recognition of Marriage	Not enough detail to be useful
3	Division of property after divorce	Not enough detail to be useful
4	Halt of construction	Not cited but supports Chapter 6 argument
5	Claim to property	Not enough detail to be useful
6	Division of property after divorce	Not cited but supports Chapter 6,7 argument
7	Inheritance	Not enough detail to be useful
8	Recognition of Marriage	Not cited but supports Chapter 6 argument
9	Division of property after divorce	Not enough detail to be useful
10	House swap	Not cited but supports Chapter 6 argument
11	Usucaption	Not enough detail to be useful
12	Recognition of Marriage	Not cited but supports Chapter 6 argument
13	Divorce	Not cited but supports Chapter 6 argument (overspending HIS money)
14	Expropriation	Cited in Chapters 5,7
15	Division of property after divorce	Not cited but supports Chapter 5 argument
16	House swap	Not cited but supports Chapter 6 argument
17	Division of property after divorce	Not cited but supports Chapter 6 argument
18	Inheritance	Not cited but supports Chapter 6 argument
19	Inheritance	Not cited but supports Chapter 6 argument
20	Recognition of Marriage	Not enough detail to be useful
21	Division of property after divorce	Not cited but supports Chapter 6 argument
22	Recognition of Marriage	Not cited but supports Chapter 6 argument
23	Claim to property	Not enough detail to be useful
24	Division of property after divorce	Not enough detail to be useful
25	Recognition of Marriage	Not enough detail to be useful

1994

Serial Number	Issue	Use
1	Inheritance	Not enough detail to be useful
2	Neighbour dispute	Not enough detail to be useful
3	Donation	Not enough detail to be useful
4	Recognition of Prop	Not cited but supports Chapter 6 argument
5	Halt of construction	Not cited but supports Chapter 6 argument
6	Division of property after divorce	Not cited but supports Chapter 6 argument
7	Recognition of Prop	Not cited but supports Chapter 6 argument
8	Division of property after divorce	Not enough detail to be useful - almost no ink
9	Division of property after divorce	Not cited but supports Chapter 6 argument
10	Inheritance	Not cited but supports Chapter 6 argument
11	Inheritance	Not enough detail to be useful - almost no ink
12	Inheritance	Not cited but supports Chapter 6 argument
13	Inheritance	Anomalous - (minimal) allusion to intention of revolutionary legislator
14	Procedural	Not enough detail to be useful
15	Paternity	Not enough detail to be useful
16	Recognition of Prop	Not enough detail to be useful
17	Rent	Not cited but supports Chapter 6 argument
18	Division of property after divorce	Not enough detail to be useful
19	Division of property after divorce	Not cited but supports Chapter 6 argument
20	Child support	Not cited but supports Chapter 6 argument
21	Recognition of Marriage	Not enough detail to be useful
22	Procedural	Not cited but supports Chapter 5 argument
23	Financial	Not enough detail to be useful
24	Paternity	Not cited but supports Chapter 6 argument
25	Inheritance	Not cited but supports Chapter 6 argument

1995

Serial Number	Issue	Use
1	Contract	Not enough detail to be useful
2	Division of property after divorce	Not cited but supports Chapter 6 argument
3	Inheritance	Not enough detail to be useful
4	Recognition of Prop	Not cited but supports Chapter 6 argument
5	Trade contract	Not enough detail to be useful
6	Contract	Not cited but supports Chapter 6,7 argument
7	Neighbour Dispute	Not enough detail to be useful
8	Division of property after divorce	Not enough detail to be useful
9	Breach of contract	Not enough detail to be useful
10	House swap	Not cited but supports Chapter 6,7 argument
11	Neighbour Dispute	Not enough detail to be useful
12	Expropriation	Not cited but supports Chapter 6 argument
13	Recognition of Prop	Not enough detail to be useful
14	Recognition of Marriage	Not cited but supports Chapter 6 argument
15	Expropriation	Not cited but supports Chapter 6 argument
16	Contract	Not cited but supports Chapter 6 argument
17	House swap	Not enough detail to be useful
18	Halt of construction	Not cited but supports Chapter 6 argument
19	House swap/inheritance	Not cited but supports Chapters 5, 6 argument
20	Procedural	Not cited but supports Chapters 5, 6 argument
21	Recognition of Prop	Not cited but supports Chapter 6 argument
22	Contract	Not enough detail to be useful
23	Custody	Not cited but supports Chapter 6 argument
24	Inheritance	Not cited but supports Chapter 5 argument
25	Divorce	Not enough detail to be useful

1996

Serial Number	Issue	Use
1	Neighbour dispute	Not enough detail to be useful
2	Procedural	Not enough detail to be useful
3	Inheritance/division of property after divorce	Not cited but supports Chapter 6 argument
4	Inheritance	Not cited but supports Chapter 6 argument
5	Paternity	Not enough detail to be useful
6	Division of property after divorce	Cited in Chapter 5
7	Paternity	Not cited but supports Chapter 6 argument
8	Contract	Not cited but supports Chapter 6 argument
9	Recognition of Prop	Not cited but supports Chapter 6 argument
10	Neighbour dispute	Not enough detail to be useful
11	Division of property after divorce	Not enough detail to be useful
12	Damages	Not enough detail to be useful
13	Division of property after divorce	Anomalous case because CDR is called to testify (though no revolutionary rhetoric is employed
14	Recognition of Marriage	Not enough detail to be useful
15	Contract	Not cited but supports Chapter 6 argument
16	Neighbour dispute	Anomalous case because CDR is used for registry (though no revolutionary rhetoric is employed)
17	Procedural	Not enough detail to be useful
18	Paternity	Not enough detail to be useful
19	Division of property after divorce	Not enough detail to be useful
20	Inheritance	Not enough detail to be useful
21	Paternity	Not enough detail to be useful
22	Division of property after divorce	Not cited but supports Chapter 6 argument
23	Paternity	Not enough detail to be useful
24	Contract	Not enough detail to be useful
25	Division of property after divorce	Not cited but supports Chapter 6 argument

1997

Serial Number	Issue	Use
1	Financial	Not cited but supports Chapter 6 argument
2	Recognition of Prop	Not cited but supports Chapter 6 argument
3	Recognition of Prop	Not enough detail to be useful
4	House swap	Not cited but supports Chapter 6 argument
5	Neighbour dispute	Not cited but supports Chapter 5 argument
6	Procedural	Not enough detail to be useful
7	Recognition of Prop	Not enough detail to be useful
8	Procedural	Not enough detail to be useful
9	Financial	Not enough detail to be useful
10	Inheritance	Not cited but supports Chapter 6 argument
11	House swap	Not cited but supports Chapter 6 argument
12	Recognition of Marriage	Not cited but supports Chapter 5 argument
13	Recognition of Marriage	Not cited but supports Chapter 5 argument
14	Division of property after divorce	Not cited but supports Chapter 6 argument
15	Inheritance	Not cited but supports Chapter 5 argument
16	Recognition of Marriage	Not cited but supports Chapter 5 argument
17	Inheritance	Not cited but supports Chapter 6 argument
18	Usucaption	Not cited but supports Chapter 6 argument
19	Damages	Not cited but supports Chapter 6 argument
20	Custody	Not cited but supports Chapter 6 argument
21	House swap	Not cited but supports Chapter 6 argument
22	Recognition of Marriage	Not cited but supports Chapter 5 argument
23	Recognition of Marriage	Not cited but supports Chapter 5 argument
24	Recognition of Prop	Not enough detail to be useful
25	Recognition of Prop	Not enough detail to be useful

1998

Serial Number	Issue	Use
1	Recognition of Prop	Not cited but supports Chapter 6 argument
2	Recognition of Prop	Not cited but supports Chapter 6 argument
3	Inheritance	Not enough detail to be useful
4	Procedural	Not enough detail to be useful
5	Division of property after divorce	Not cited but supports Chapter 6 argument
6	Recognition of Marriage	Not cited but supports Chapter 6 argument
7	Joint venture	Not enough detail to be useful
8	Damages	Not enough detail to be useful
9	Recognition of Prop	Not cited but supports Chapter 6 argument
10	Neighbour dispute	Not enough detail to be useful
11	Procedural	Not enough detail to be useful
12	Recognition of Prop	Not enough detail to be useful
13	Division of property after divorce	Not enough detail to be useful
14	Neighbour dispute	Not enough detail to be useful
15	Divorce	Not enough detail to be useful
16	Procedural	Not enough detail to be useful
17	Damages	Not enough detail to be useful
18	Division of property after divorce	Not enough detail to be useful
19	Division of property after divorce	Not cited but supports Chapter 6 argument
20	Financial	Not cited but supports Chapter 7 argument
21	House swap	Not enough detail to be useful
22	Trade	Not enough detail to be useful
23	Inheritance	Not cited but supports Chapter 5 argument
24	Division of property after divorce	Not cited but supports Chapter 6 argument
25	Recognition of Prop	Not cited but supports Chapter 6 argument

1999

Serial Number	Issue	Use
1	House swap	Not cited but supports Chapter 5, 6 argument
2	Recognition of prop	Not enough detail to be useful
3	Inheritance	Not cited but supports Chapter 6 argument
4	Divorce	Not enough detail to be useful
5	Recognition of Marriage	Not enough detail to be useful
6	Custody	Not enough detail to be useful
7	Joint venture	Not cited but supports Chapter 5 argument
8	Damages	Not cited but supports Chapter 5 argument
9	Procedural	Not enough detail to be useful
10	Procedural	Not enough detail to be useful
11	Neighbour dispute	Not cited but supports Chapter 5 argument
12	Procedural	Not enough detail to be useful
13	Halt of construction	Not enough detail to be useful
14	Divorce	Not enough detail to be useful
15	Financial	Not cited but supports Chapter 6 argument
16	Inheritance	Not enough detail to be useful
17	Usucaption	Not enough detail to be useful
18	Expropriation	Not cited but supports Chapter 6 argument
19	Inheritance	Not enough detail to be useful
20	Division of property after divorce	Cited in Chapter 6
21	Recognition of Marriage	Not cited but supports Chapter 6 argument
22	Recognition of Marriage	Anomalous because there is lengthy mention of informal marriage in the "Sierra Maestra"
23	House swap	Not enough detail to be useful
24	Custody	Not cited but supports Chapter 6 argument
25	Halt of construction	Not cited but supports Chapter 6,7 argument
26	Halt of construction	Not cited but supports Chapter 6 argument
27	Recognition of Marriage	Not cited but supports Chapter 7 argument
28	Recognition of Prop	Not cited but supports Chapter 6 argument

2000

Serial Number	Issue	Use
1	Inheritance	Not enough detail to be useful
2	Recognition of prop	Not cited but supports Chapter 5 argument
3	Usucaption	Not cited but supports Chapter 5 argument
4	Divorce	Not enough detail to be useful
5	Procedural	Not cited but supports Chapter 6 argument
6	Recognition of marriage	Not enough detail to be useful
7	Inheritance	Not cited but supports Chapter 6 argument
8	Recognition of marriage	Not cited but supports Chapter 5 argument
9	Inheritance	Not enough detail to be useful
10	Debt	Not enough detail to be useful
11	House swap	Anomalous case because CDR is called to testify (though no revolutionary rhetoric is employed)
12	Donation	Not enough detail to be useful
13	Recognition of prop	Not cited but supports Chapter 6 argument
14	Recognition of prop	Not enough detail to be useful
15	Procedural	Not enough detail to be useful
16	Custody	Not enough detail to be useful
17	Inheritance	Not enough detail to be useful
18	Recognition of marriage	Not cited but supports Chapter 5 argument
19	Recognition of property	Not cited but supports Chapter 6 argument
20	Division of property after divorce	Not enough detail to be useful
21	Recognition of property	Not cited but supports Chapter 6 argument
22	Damages	cited in Chapters 6 and 7
23	Inheritance	Not cited but supports Chapter 6 argument
24	Damages	Not cited but supports Chapter 6,7 argument
25	Property	Not cited but supports Chapter 6 argument
26	Damages	Not enough detail to be useful
27	Donation	Not enough detail to be useful
28	Financial	Not enough detail to be useful
29	Procedural	Not enough detail to be useful
30	Inheritance	Not cited but supports Chapter 5 argument

2001

Serial Number	Issue	Use
1	Division of property after divorce	Not enough detail to be useful
2	Recognition of marriage	Anomalous case because CDR is called to testify (though no revolutionary rhetoric is employed
3	Recognition of marriage	Not enough detail to be useful
4	Debt	Not cited but supports Chapter 6,7 argument
5	Division of property after divorce	Not cited but supports Chapter 5 argument
6	Inheritance	Not cited but supports Chapter 5 argument
7	Procedural	Not enough detail to be useful
8	Inheritance	Not enough detail to be useful
9	Division of property after divorce	Not cited but supports Chapter 6 argument
10	Inheritance	Not cited but supports Chapter 6 argument
11	Procedural	Not enough detail to be useful
12	Recognition of marriage	Not cited but supports Chapter 6 argument
13	Debt	Cited in Chapter 6, 7
14	Neighbour dispute	Not enough detail to be useful
15	Inheritance	Not cited but supports Chapter 6 argument
16	Division of property after divorce/inheritance	Not enough detail to be useful
17	Property	Not cited but supports Chapter 6 argument
18	Usucaption	Not enough detail to be useful
19	Damages	Not cited but supports Chapter 5 argument
20	Custody	Cited in Chapter 6, 7 (father might leave the country)
21	Custody	Not cited but supports Chapter 6, 7 argument
22	Inheritance	Not cited but supports Chapter 6 argument
23	Division of property after divorce	Not cited but supports Chapter 6 argument

2001 – continued

Serial Number	Issue	Use
24	Neighbour dispute	Not enough detail to be useful
25	Property	Not cited but supports Chapter 6 argument
26	Damages	Not cited but supports Chapter 6 argument
27	Procedural	Not enough detail to be useful
28	Contract	Not cited but supports Chapter 5 argument
29	Halt of construction	Not enough detail to be useful
30	Damages	Not enough detail to be useful

2002

Serial Number	Issue	Use
1	Inheritance	Not enough detail to be useful
2	Recognition of property	Not enough detail to be useful
3	Property	Not enough detail to be useful
4	Neighbour dispute	Not cited but supports Chapter 6 argument
5	Debt	Not cited but supports Chapter 6 argument
6	Inheritance	Not enough detail to be useful
7	Recognition of marriage	Not cited but supports Chapter 6 argument
8	Procedural	Not cited but supports Chapter 5 argument
9	Inheritance	Not cited but supports Chapter 5 argument
10	Inheritance	Not enough detail to be useful
11	Inheritance	Not cited but supports Chapter 6, 7 argument
12	Damages	Cited in Chapter 5
13	Neighbour dispute	Not enough detail to be useful
14	Divorce	Not enough detail to be useful
15	Division of property after divorce	Not enough detail to be useful
16	Division of property after divorce	Not cited but supports Chapter 6 argument
17	Divorce	Not cited but supports Chapter 6 argument
18	Inheritance	Not cited but supports Chapter 6 argument
19	Recognition of marriage	Not enough detail to be useful
20	Damages	Not enough detail to be useful
21	Neighbour dispute	Not enough detail to be useful
22	Damages	Not enough detail to be useful
23	Neighbour dispute	Not enough detail to be useful
24	Neighbour dispute	Not enough detail to be useful
25	Recognition of property	Not enough detail to be useful
26	Damages	Not enough detail to be useful
27	Damages	Not enough detail to be useful
28	House swap	Not enough detail to be useful
29	Neighbour dispute	Not enough detail to be useful
30	Property	Not cited but supports Chapter 6 argument

2003

Serial Number	Issue	Use
1	Damages	Not enough detail to be useful
2	Halt of construction	Not enough detail to be useful
3	Property	Not enough detail to be useful
4	Inheritance	Not cited but supports Chapter 6 argument
5	Damages	Not enough detail to be useful
6	Damages	Not enough detail to be useful
7	Donation	Not cited but supports Chapter 6 argument
8	Property	Not enough detail to be useful
9	Division of property after divorce	Not enough detail to be useful
10	Damages	Not enough detail to be useful
11	Custody	Not cited but supports Chapter 6, 7 argument
12	House swap	Not enough detail to be useful
13	Vehicle sale	Not cited but supports Chapter 5 argument
14	Procedural	Not enough detail to be useful
15	Contract with tel company	Cited in Chapters 6, 7
16	Procedural	Not cited but supports Chapter 5 argument
17	Inheritance	Not cited but supports Chapter 6 argument
18	House swap	Not enough detail to be useful
19	Inheritance	Not enough detail to be useful
20	Procedural	Not enough detail to be useful
21	Debt	Not cited but supports Chapter 6 argument
22	Inheritance	Not cited but supports Chapter 5, 6, 7 argument
23	Inheritance	Not cited but supports Chapter 5 argument
24	Inheritance	Not enough detail to be useful
25	Damages	Not cited but supports Chapter 5, 6, 7 argument
26	Inheritance	Not cited but supports Chapter 5, 6, 7 argument
27	Inheritance	Not cited but supports Chapter 6, 7 argument

2003 – continued

Serial Number	**Issue**	**Use**
28	House swap	Not cited but supports Chapter 5 argument
29	Expropriation	Not enough detail to be useful
30	Recognition of marriage	Not enough detail to be useful
31	Debt	Not cited but supports Chapter 6 argument
32	Inheritance	Not cited but supports Chapter 7 argument
33	Donation	Not enough detail to be useful
34	Neighbour dispute	Not cited but supports Chapter 6, 7 argument

2004

Serial Number	Issue	Use
1	Inheritance	Not cited but supports Chapter 6, 7 argument
2	Inheritance	Not cited but supports Chapter 5 argument
3	Recognition of Property	Not enough detail to be useful
4	Recognition of marriage	Not cited but supports Chapter 5, 6, 7 argument
5	Inheritance	Not enough detail to be useful
6	Neighbour dispute	Not cited but supports Chapter 6, 7 argument
7	Recognition of Property	Not cited but supports Chapter 6 argument
8	Inheritance	Not enough detail to be useful
9	Division of property after divorce	Not cited but supports Chapter 6, 7 argument
10	Financial	Not enough detail to be useful
11	Procedural	Not enough detail to be useful
12	Neighbour dispute	Not cited but supports Chapter 6, 7 argument
13	Neighbour dispute	Not cited but supports Chapter 6, 7 argument
14	Inheritance	Not cited but supports Chapter 5, 6, 7 argument
15	Division of property after divorce	Not cited but supports Chapter 6, 7 argument
16	Division of property after divorce	Not cited but supports Chapter 6 argument
17	Neighbour dispute	Not cited but supports Chapter 7 argument
18	Halt of construction	Not enough detail to be useful
19	Recognition of marriage	Not enough detail to be useful
20	Inheritance	Not enough detail to be useful
21	Halt of construction	Not cited but supports Chapter 6, 7 argument
22	Inheritance	Not enough detail to be useful
23	Procedural	Not cited but supports Chapter 6, 7 argument
24	Neighbour dispute	Not cited but supports Chapter 6, 7 argument

2004 – continued

Serial Number	Issue	Use
25	Custody	Not enough detail to be useful
26	House swap	Not enough detail to be useful
27	Neighbour dispute	Not enough detail to be useful
28	Neighbour dispute	Not cited but supports Chapter 7 argument
29	House swap	Not enough detail to be useful
30	Neighbour dispute	Not cited but supports Chapter 5 argument

2005

Serial Number	Issue	Use
1	Debt	Not cited but supports Chapter 5, 6, 7 argument
2	Neighbour dispute	Not enough detail to be useful
3	Inheritance	Not enough detail to be useful
4	Debt	Not enough detail to be useful
5	Breach of contract	Not cited but supports Chapter 5, 6, 7 argument
6	Neighbour dispute	Not enough detail to be useful
7	Halt of construction	Not enough detail to be useful
8	Halt of construction	Not enough detail to be useful
9	Procedural	Not enough detail to be useful
10	Expropriation	Not cited but supports Chapter 7 argument
11	Recognition of marriage	Not enough detail to be useful
12	Breach of contract	Not enough detail to be useful
13	Custody	Not cited but supports Chapter 6, 7 argument
14	Neighbour dispute	Not cited but supports Chapter 7 argument
15	Damages	Not enough detail to be useful
16	Inheritance	Not enough detail to be useful
17	Recognition of marriage	Not cited but supports Chapter 7 argument
18	Custody	Not cited but supports Chapter 6, 7 argument
19	Neighbour dispute	Not enough detail to be useful
20	Recognition of marriage	Not cited but supports Chapter 5 argument
21	Recognition of marriage	Not enough detail to be useful
22	Divorce	Not enough detail to be useful
23	Procedural	Not enough detail to be useful
24	Inheritance	Not cited but supports Chapter 5, 6, 7 argument
25	Insurance (financial)	Not cited but supports Chapter 5, 6, 7 argument
26	Inheritance	Not cited but supports Chapter 6, 7 argument
27	Recognition of marriage	Not enough detail to be useful
28	Inheritance	Not cited but supports Chapter 6 argument
29	Custody	Not cited but supports Chapter 6, 7 argument
30	Recognition of marriage	Not enough detail to be useful
31	Procedural	Not enough detail to be useful

2006

Serial Number	Issue	Use
1	Neighbour dispute	Not enough detail to be useful
2	Recognition of marriage	Not enough detail to be useful
3	Neighbour dispute	Not cited but supports Chapter 6, 7 argument
4	Neighbour dispute	Not cited but supports Chapter 6, 7 argument
5	Recognition of marriage	Not enough detail to be useful
6	Neighbour dispute	Not enough detail to be useful
7	Procedural	Not enough detail to be useful
8	Damages	Not cited but supports Chapter 6, 7 argument
9	Procedural	Anomalous case because CDR is used for registry (though no revolutionary rhetoric is employed)
10	Neighbour dispute	Anomalous case because CDR is used for registry (though no revolutionary rhetoric is employed)
11	Inheritance	Not enough detail to be useful
12	House swap	Not enough detail to be useful
13	Neighbour dispute	Not cited but supports Chapter 5 argument
14	Neighbour dispute	Not cited but supports Chapter 6 argument
15	Recognition of marriage	Not enough detail to be useful
16	Divorce	Not enough detail to be useful
17	Breach of contract	Not enough detail to be useful
18	House swap	Not enough detail to be useful
19	Procedural	Not cited but supports Chapter 5 argument
20	Vindication of property rights	Not cited but supports Chapter 5, 6, 7 argument
21	Damages	Not enough detail to be useful
22	Procedural	Anomalous case because CDR is used for registry (though no revolutionary rhetoric is employed)
23	Custody	Not cited but supports Chapter 5 argument
24	House swap	Not cited but supports Chapter 5, 6, 7 argument
25	Contract	Not cited but supports Chapter 5, 6, 7 argument
26	Paternity	Not cited but supports Chapter 5, 6, 7 argument
27	Property	Not cited but supports Chapter 5, 6, 7 argument

2007

Serial Number	Issue	Use
1	Debt	Not enough detail to be useful
2	Procedural	Not cited but supports Chapter 5 argument
3	Recognition of property	Not enough detail to be useful
4	Property	Not cited but supports Chapter 5, 6, 7 argument
5	Debt	Not enough detail to be useful
6	Division of property after divorce	Not cited but supports Chapter 5, 6, 7 argument
7	Inheritance	Not enough detail to be useful
8	Inheritance	Anomalous case because CDR is called to testify (though no revolutionary rhetoric is employed
9	Procedural	Not enough detail to be useful
10	Paternity	Not cited but supports Chapter 5 argument
11	Neighbour dispute	Not enough detail to be useful
12	Contract	Not enough detail to be useful
13	Recognition of marriage	Not enough detail to be useful
14	Neighbour dispute	Not cited but supports Chapter 5 argument
15	Breach of contract	Not cited but supports Chapter 5 argument
16	Debt	Not enough detail to be useful
17	Vindication of property rights	Not cited but supports Chapter 5, 6, 7 argument
18	Halt of construction	Not enough detail to be useful
19	Property	Not cited but supports Chapter 5, 6, 7 argument
20	Division of property after divorce	Not cited but supports Chapter 6 argument
21	Halt of construction	Not cited but supports Chapter 6, 7 argument
22	Property	Not cited but supports Chapter 5, 6, 7 argument
23	Inheritance	Not cited but supports Chapter 6, 7 argument
24	Neighbour dispute	Not cited but supports Chapter 6, 7 argument

2008

Serial Number	Issue	Use
1	Inheritance	Not enough detail to be useful
2	Procedural	Not enough detail to be useful
3	Custody	Not enough detail to be useful
4	Technical error	Not enough detail to be useful
5	Paternity	Not cited but supports Chapter 5, 6, 7 argument
6	Recognition of marriage	Not cited but supports Chapter 5 argument
7	Procedural	Not enough detail to be useful
8	House swap	Not enough detail to be useful
9	Custody	Not cited but supports Chapter 6, 7 argument
10	House swap	Not cited but supports Chapter 7 argument
11	Procedural	Not cited but supports Chapter 6 argument
12	Technical error	Not enough detail to be useful
13	Custody	Cited in Chapters 6,7
14	Annulment	Not enough detail to be useful
15	Inheritance	Not enough detail to be useful
16	Custody	Not cited but supports Chapter 6, 7 argument
17	Privation of parental rights	Not cited but supports Chapter 6, 7 argument
18	Inheritance	Not cited but supports Chapter 6, 7 argument
19	Property	Not enough detail to be useful
20	Property	Not enough detail to be useful
21	Damages	Not cited but supports Chapter 6, 7 argument
22	Procedural	Not enough detail to be useful
23	Procedural	Not cited but supports Chapter 6 argument
24	House swap	Not cited but supports Chapter 6 argument
25	Recognition of marriage	Not enough detail to be useful
26	Procedural	Not enough detail to be useful
27	Inheritance	Not cited but supports Chapter 6, 7 argument
28	Procedural	Not enough detail to be useful
29	Annulment	Not enough detail to be useful
30	Procedural	Not cited but supports Chapter 6 argument

2009

Serial Number	Issue	Use
1	Procedural	Not enough detail to be useful
2	Procedural	Not cited but supports Chapter 7 argument
3	House swap	Not cited but supports Chapter 6, 7 argument
4	House swap	Anomalous case because CDR is used for registry (though no revolutionary rhetoric is employed)
5	Recognition of marriage	Not cited but supports Chapter 6, 7 argument
6	Debt	Not cited but supports Chapter 6 argument
7	Debt	Not cited but supports Chapter 6 argument
8	Inheritance	Not cited but supports Chapter 6, 7 argument
9	Procedural	Not enough detail to be useful
10	Procedural	Not cited but supports Chapter 5, 6, 7 argument
11	House swap	Cited in Chapter 7
12	House	Not enough detail to be useful
13	Recognition of marriage	Not cited but supports Chapter 6, 7 argument
14	Property	Not enough detail to be useful
15	Recognition of marriage	Not enough detail to be useful
16	Inheritance	Not cited but supports Chapter 5, 6, 7 argument
17	Procedural	Not cited but supports Chapter 5, 6, 7 argument
18	Privation of parental rights	Not cited but supports Chapter 6, 7 argument
19	Inheritance	Not enough detail to be useful
20	Recognition of marriage	Not enough detail to be useful
21	Technical error	Not enough detail to be useful
22	Inheritance	Not cited but supports Chapter 7 argument
23	Property	Not cited but supports Chapter 6, 7 argument
24	Custody	Not cited but supports Chapter 5, 6, 7 argument
25	Property	Not enough detail to be useful
26	Debt	Cited in Chapter 7
27	Procedural	Not cited but supports Chapter 6, 7 argument
28	Inheritance	Not cited but supports Chapter 5, 6, 7 argument
29	Recognition of marriage	Not cited but supports Chapter 5, 6, 7 argument

2010

Serial Number	Issue	Use
1	Technical error	Not enough detail to be useful
2	Illicit gain	Not cited but supports Chapter 6, 7 argument
3	Procedural	Not enough detail to be useful
4	Procedural	Not cited but supports Chapter 6 argument
5	Procedural	Not enough detail to be useful
6	Paternity	Not cited but supports Chapter 6 argument
7	Property	Not enough detail to be useful
8	Recognition of marriage	Not enough detail to be useful
9	Trade	Not cited but supports Chapter 6 argument
10	Paternity	Not enough detail to be useful
11	Inheritance	Not cited but supports Chapter 6 argument
12	Procedural	Not enough detail to be useful
13	Technical error	Not cited but supports Chapter 5, 6, 7 argument
14	Procedural	Not enough detail to be useful
15	Custody	Not cited but supports Chapter 6, 7 argument
16	Property (car reparation)	Not cited but supports Chapter 7 argument
17	Privation of parental rights	Not cited but supports Chapter 6, 7 argument
18	Procedural	Not cited but supports Chapter 6 argument
19	Technical error	Not cited but supports Chapter 6, 7 argument
20	Recognition of marriage	Not enough detail to be useful
21	Neighbour dispute	Not cited but supports Chapter 5 argument
22	Custody	Not cited but supports Chapter 5, 6, 7 argument
23	Neighbour dispute	Not enough detail to be useful
24	Contract	Not cited but supports Chapter 6, 7 argument
25	Procedural	Not cited but supports Chapter 6, 7 argument
26	Recognition of property	Not cited but supports Chapter 6, 7 argument
27	Procedural	Not enough detail to be useful
28	Debt	Not enough detail to be useful
29	Recognition of marriage	Not cited but supports Chapter 6 argument

Appendix 3 - A few reflections on undertaking research in Cuba (or, why it is a journey worth embarking despite the uncertainty, anxiety and lack of reliable internet connection)

It was one early September afternoon that it hit me. I was sitting in my home office, browsing the internet for inspiration and a possible case study for my dissertation and all of a sudden the answer to all my (atheist) prayers just popped up: instead of looking for a trade union that conducted arbitration at some point in time, or, worse yet, trying to find an innovative focus of analysis for cases that had been studied ad nauseam, why not try Cuba? A quick internet search showed that not much research on the Cuban legal system had been conducted, possibly due to the difficulties associated with the U.S. embargo on the island. Yet (embarrassingly enough) the lack of a substantial intellectual basis[79] did not discourage me; far from it. It filled me with a (delusional) sense of purpose. I felt as if I had been preparing for this throughout my entire life; growing up in 1980s and 1990s Argentina, I had been practically raised to foster unwavering sympathies for the working class and left-leaning regimes, and my experience analyzing arbitration in the Jewish Labour Movement in Palestine in the 1940s for my Masters' thesis clearly prepared me for the challenges of studying the intricacies of the law under state socialism (thinking about it now, I can't help feeling tremendously grateful to all my friends and colleagues for not laughing in my face).

The feeling of euphoria quickly dissipated. I did not know how to even start organizing a research project, and after e-mailing a few prominent Cuban scholars (who

[79] All such studies had been conducted in the late 1960s, 1970s and early 1990s, except for Debra Evenson's second edition of her book, which mostly focused on the procedural aspects of the legal system (for more details, see Chapter 3 in this dissertation).

were gracious enough to take my project seriously, but could not provide much logistical help),[80] I learned that I needed to secure a researcher's visa, or else I would risk deportation by the Cuban authorities. Traveling without a proper visa did not seem as a viable option; if I was to request access to legal protocols at the People's Popular Tribunals (the equivalent of a North American Supreme Court) all my documents were to be in order. Researcher visas, I was told, were to be granted by the government to individuals conducting academic investigations that were sponsored (at least nominally), by a respected Cuban institution, such as the University of Havana or the Cuban Institute for Friendship with the Peoples (Instituto Cubano de Amistad con los Pueblos). Devoid of contacts in Cuba (and, without a background in Latin American Studies, neither in North America), I reached out to whomever I could in order to connect to someone in a Cuban institution.

A dear friend and mentor at the University of Calgary, who had extensive experience conducting international research (albeit in Thailand), put me in contact with the director of International Studies at the University of Calgary, who in turn introduced me to the Director of the Study Abroad Program on campus, Catherine Fisher. Coincidentally, she had been traveling to Cuba since the early 1990s, had written her Masters on practices of coping during the Special Period, and taken several groups of students in fieldtrips to Cuba. She was happy to share her experiences and contacts with me and for that I am, and will always be deeply indebted to her. In addition to her many friends, Catherine had a contact at the FLACSO (Facultad Latinoamericana de Ciencias Sociales – Latin American Faculty of Social Sciences) Institute of the University of

[80] Notably John Kirk and Luis Salas.

Havana. One of her friends, Mary, not only had worked at the University of Havana for many years, but had traveled extensively outside of Cuba and had helped researchers (including Catherine) in the past. One of her closest and oldest friends was a well-connected lawyer (whose office was conveniently located five minutes from the University of Havana). It became clear that I could not make significant progress by staying in Canada; firstly, except for the contact at the University of Havana, none of the other possible contacts had access to a reliable internet connection. Going online was an expensive, time consuming affair and obviously nobody in their right mind was particularly willing to invest all these resources for someone they did know. Moreover, my project sounded rather unusual and there was no chance that someone would take it seriously unless they got to meet me first. Most of all, it felt wrong (ethically and professionally) to expect help from Cubans without taking the trouble of visiting their country and becoming immersed in the travails of daily life there. Suddenly the future looked very promising and I felt ready to fly to Havana (on my own dime) to meet with all those people and examine the possibility of a) obtaining legitimate sponsorship for my research project and b) gaining access to archival documents.

Today it is both stunning and embarrassing to admit to how little I knew about Cuba before arriving there (and possibly before my second field trip). I arrived in Varadero overwhelmed with paranoia about my lack of researcher visa (which I assumed was not only needed to conduct research, but to inquire about the possibility of conducting research – and in any case, just being in the island could count as "doing research" as far as I knew). I was thoroughly questioned by the immigration officer (this was to become a routine every time I flew in and out of Cuba), though not because of my

intentions but because of my Israeli passport. Surprisingly enough, there are not as many Israelis tourists in Cuba as one would expect, and in any case Israel does not have proper diplomatic relations with Cuba – the lack of explicit (or perhaps the right term should be institutionalized?) procedures regarding handling of Israeli nationals (more than a construction of Israelis as the absolute enemy) seemed to have prompted the lengthy interrogation. I was equally paranoid about discussing my research or my intentions with strangers and about getting "caught" doing something untoward on campus. Yet as soon as I could afford to remove my "researcher hat" and become yet another run away from the Canadian bitter cold, I became the risk-taking tourist I have always been, walking through streets and alleys, photographing every possible bodega and dollar store, checking prices, house foyers, walking inside strange buildings, carrying local currency, taking local buses, talking with locals, making shady deals in shady corners.[81] I learned many things about life in Cuba, certainly more than the average tourist, yet I still felt I did not fully succeed at peeling the veneer of self-presentation that Cuba has become so skillful at these past couple of decades (though perhaps this is true for all other places we visit). After all, I had only been there for two weeks.

My meetings in Havana proved to be invaluably helpful. Soon after my arrival I learned that I could enroll as an international student at the University of Havana (through FLACSO) for a semester or two, and that would grant me legal status in the country. Moreover, FLACSO would find me a suitable supervisor (probably in the law school), with which I could consult during my stay there. My researcher visa (and possible contact at the law school) would make it easier to obtain access to archival

[81] Buying art and posters on display in state-run stores.

materials at the People's Popular Courts. Even though the plan to work with FLACSO did not materialize, the meeting nonetheless proved to be significant because it was there that I was advised to focus on civil law (both because of supervisor availability, but more importantly because it looked "harmless" enough to be easily granted permission to carry the project). My visit at the PPC was equally fruitful; the staff at CENDIJ was very curious to see a foreigner roaming the halls of the (usually) quiet basement, and were fascinated by the idea of an Argentinean-Israeli-who lives in Canada being interested in Cuban legal practices. The archivist was equally friendly and showed me around the archive so that I could make sure that their materials would suit my project. She gave me her home phone number, and explained how to request permission to use the facilities (and promised to help anyway she could).

Back in Canada, I became overwhelmed with my program's requirements and my time in Cuba seemed like a distant memory. It took months to come up with a satisfactory research prospectus, and another month until I could translate it to Spanish and send to FLACSO. I was notified that it was too late for them to find a supervisor and make all arrangements so I could begin my data collection in January and was offered to enroll in one of the Study Abroad programs at another University – which would take me to Cuba on time, but would also require a great deal of money, coursework (including Spanish classes, which I did not need), and all kinds of program activities that I did not find particularly appealing (as I was in my early thirties). I was compelled to decide between waiting another year or flying without FLACSO having my back. I chose the second. But then the question of how I would obtain permission to use the PPC archive arose. I then recalled that when I had visited the CENDIJ, one of the librarians had shown me a few

PPCs bulletins and lawyer's journals and I had considered using them in case I was denied access to the archive. Thinking I had enough alternatives to work with, I set to Cuba in January of 2012, literally hours after passing my candidacy exam.

Following a few weeks of touring the country and gallivanting around Havana with an old friend (though occasionally photographing PPC bulletins at the Union of Jurists in the city), I felt I had gained enough courage to face the archive and CENDIJ, sans visa. I was allowed to use all available materials at the library (lawyers journals, PPC bulletins, decrees, statutes, laws), and was given electronic copies of former verdict and pieces of legislation by the immensely helpful staff. Later on, I was encouraged to apply for permission to use the archive and was repeatedly told that the lack of visa was not an issue. Now by "encouraged" I mean virtually forced; the head of the CENDIJ went to the president of the PPC's office to find out exactly what I should write and how long it would take for me to get permission. One of the secretaries graciously typed and printed out letters for me to sign. In a country where ink and paper are used scantily (and definitely hard for a foreigner to come around), this move was particularly moving. As I was told that it would only take days to get the permit, I was advised by both my supervisor and CENDIJ staff to postpone my return to Canada. I was extremely ambivalent about this. The lack of reliable and affordable internet connection (i.e., contact with the world outside of Cuba) had already got the best of my seemingly cool self. So did the absence of familiar food items (though a friend, Mary, who I had known through Catherine, generously invited me to their house for meals every now and then). Most of all, I was bewildered by the sense of being in a social (and economic) "limbo"; I was not precisely a tourist, but a rather sedentary dweller of Havana, and a tired one at

that. I had lost all interest in “must-see” attractions, not only because I had already seen them all, but also because I found the gap between “tourist Cuba” and “Cuban Cuba” to be extremely alienating.

The dual economy, that is, one that was aimed at tourists – or wealthy Cubans (i.e., with access to foreign currency) – and another that was aimed at locals, frustrated and distanced me. I felt unbearably guilty to spend so much time with locals and then go out and spend a local’s monthly wage on a couple of drinks, a cigar and a music show. I hated my apartment – running water was scarce and the landlord, who became disappointed with my reluctance to buy (overpriced) meals at the house never cleaned the place, or replaced the towel or toilet paper. I could no longer ignore the plight of the ubiquitous sex workers, from all ages, genders and sexual orientations, and I lost the ability to be polite when local men would not let me walk, read, or eat by myself. I missed my friends, I missed my family, I wanted to get out of Cuba. But more than all those things, I wanted to get access to the archive. So I stayed.

Things got much better, though. I decided to “go local,” using local money almost exclusively (except for paying for the internet and other occasional small perks). I got acquainted with wonderful small private pizza places that sold to local students, and began frequenting local cinemas, the cinematheque, and theatres. I moved to a friendly, affordable hotel which cost the same as my apartment, but included breakfast, cable TV and was located a few steps from the archive and a relatively big local food market. I enjoyed getting to know my new neighbourhood, gain knowledge about local bus routes and prices at the market. I got my hair done at a local beauty parlor and, while they were

not as attractive as the ones in touristy or higher-end areas of town, the work was done just as well. Moreover, I had incredibly enlightening interactions both with other women who were waiting in line and hair-dressers. I also had the opportunity to visit quite a few houses when receiving beauty services (such as waxing or a manicure) or tagging along with friends who received such services. I went to avant-garde music concerts, and even attended a heavy metal festival in the city, and thus learned about other, less obvious sides of Cuban life. I gained weight. I lost weight. I walked a lot.

It did not take a few days to get the permit. It did not take a few weeks, either. Almost three weeks after having requested authorization to use the archive, it became known to the CENDIJ staff that until formally allowed to use the archive, I was not allowed in the premises (there is no such requirement for Cuban citizens). So I could not use the library anymore, and I could not visit the staff, with which at that point I had become quite friendly. I came back to Canada without having achieved very much in those three weeks, other than a promise to get a response in the (uncertain future) regarding my permit.

Fast forward six months. I had begun writing the first chapters of my dissertation, and after having followed up for a few months after I had left Cuba, I had already given up on receiving a response from the PPC. I had made my peace with it, and had begun exploring the possibilities of using only the PPC bulletins, which would have made for a different, perhaps just as unique, research project, but not the one I had in mind when I set on this journey. And then I received an e-mail from an unknown address. It took me a few minutes to recall who the person was, and after I did, I decided that I preferred not to

know if I had been granted the permit or not, that some things are best left…open. It was my partner who did not stop nagging until I agreed that "closure would be better" for me, and so, four days and quite a few drinks later, I finally opened that email and found out that my permit had indeed come through and that I could fly to Cuba whenever I chose to. I was lucky enough to receive financial support from my department for (yet another) trip, and for that I will be eternally grateful.

By the time I got to Havana for the third time, I was already a "pro". I walked up to the guy with a walkie-talkie that was hovering around the immigration booths and told him that since I'm usually taken aside for questioning why don't we save us both some time and do the questioning now. He glanced at the passport, winked at me and passed me through immigration. I also knew how much the cab fare was to my hotel (where I had slept before), and could expect every turn, roundabout and propaganda sign on my way there. My friends were waiting for me in the hotel, and we went to the market to get my much fantasized about coconut ice cream as soon as we were done unpacking/present giving. We went to their house for dinner, and I felt surprisingly at home as I stepped on the local bus, way after dark, to go back to my place.

This trip was different than the former two. While I had been a real tourist during my first visit and part of the second, this excursion felt very much like a homecoming. Not a flashy, postcard-like place, but one where you could feel comfortable enough to crash by the end of a work-day and not feel guilty about lost excitement. And work I did – I was the first to arrive at the archive, and the last to leave, I went to the archive at the National Library to see if I could find photos for my dissertation during lunch breaks and

after the archive closed. I moved to my friend's house after a few days. At nights, after walking for a while in my "old neighbourhood" (close to campus) and finishing my daily dose of internet connection, I would either see a film (which got old very soon as for some reason they screened the same great new Cuban comedy - "Ana's Movie" - in all the cinemas in the city during the time I was there), or go to my friends for dinner, then start again. On weekends, I tagged along when my friends went to see their family, feeling too alienated from touristy spots after becoming so enmeshed in real Cuban life (I did go to "Old Havana" the evening before I flew back, but got there by bus, and could not spend more than ten minutes there. I preferred to do my "old walk" one last time, strolling on San Rafael Street until I got to campus and my beloved internet joint).

Almost eight months have passed. My dissertation is already written, and as I write these lines, I no longer live in Canada but in the very much Cubanized city of Miami. When I first began putting this project together, I did not see it as anything else than another possible case for the study of law and society. Looking towards the future, I realize that the project of studying Cuban society (with and without connection to the law) is not as finite as I thought, but could last an entire career, an entire lifetime. The future of Cuba is uncertain, as is my own, but I need to admit, it was quite a ride. And, looking at all the effort it took to get this project going, all I can say is that it was definitely worth it.

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