Fidel Castro proclaimed Cuba a socialist state in 1961, but it was not until 1976 that Cuba's constitutional framework was updated. By the time a new constitution entered into existence in 1976, there had been a delay of seventeen years from the date of the revolution to the enactment of the first new constitution in Cuba. In October 1974, Castro appointed a commission to prepare a Socialist constitution that would “embody the goals of his revolution.” In February 1975 the First Congress of the Cuban Communist Party approved the commission's draft by an overwhelming majority and Castro promulgated the new constitution in the beginning of the following year.

The rehabilitation of the legal profession in Cuba began in the 1970s. During this time, Castro announced that Cuba was entering a new and “more serious, profound phase” while admitting to mistakes of earlier “revolutionary zeal” and calling for a path of greater Marxist political fidelity. Nevertheless, problems persisted in Castro's government. During the time, Maurice Zeitlin wrote that “Cuban revolutionaries had done little to establish institutions to guarantee that competing points of view could be heard within the revolutionary Socialist consensus.” René Dumont noted the lack of confidence at the popular base, the concentration of decision-making power at the top, and Castro's reluctance to delegate. K.S. Karol, a Polish-British journalist, asserted in 1968 that all mass organizations in Cuba had ceased to exist except on paper. These observations prompted the Cuban leadership to reconsider its previous attitudes.

In Venezuela, the agrarian reform law occupies a rank below the Constitution, but above other legislation. See Alí José Venturini, Derecho Agrario Venezolano 83 (1976).

In response to these changes, the rehabilitation of Cuban lawyers commenced. Castro believed more jurists would be needed “to play a more important role with the advancing perfection of our State.” Upon adoption of the 1976 Constitution, Castro noted the Cuban Socialist state “had assumed a definitive shape, and that the provisional period of the revolutionary process had come to an end.” Consolidation in Socialist states often means an increased reliance on the principle of law. As such, the 1976 Constitution replaced the 1959 Fundamental Law, which the first revolutionary government had drafted immediately upon assuming power.

The relegalization of Cuba may have been the product of a number of factors, including the need to institutionalize governmental functions, the growth of a more advanced stage of socialist development in Cuba, and the need to institutionalize governmental functions, rather than simply relying on a “cult of personalities.” This revival of the legal profession was not so much a return to the old system, but more of an outgrowth of a more advanced stage of socialist development in Cuba. Moreover, theorists note that the Cuban Revolution, like the Russian and Chinese Revolutions before it, outgrew its early period of revolutionary “utopianism, nihilism, sacrifice and aversion to legality” and entered the next stage of Socialist development that featured “consolidation, rationalization, material incentives and endorsement of fundamental principles of law and legality.” Similarly, the rehabilitation of the legal community in Cuba was also the result of movement from one stage of Socialist development to the next.

In 1970, Castro began to criticize the excessive centralization and bureaucracy of government. An Executive Committee was established in 1972, diminishing the Prime Minister's power. In 1973, the judicial system was reorganized. Such reforms ushered in what was called the “new phase of the Revolution.”

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127. Id. at 64.
128. Id. at 67.
129. Id. at 67-68.
130. Id. at 67.
131. During this time, the term “jurist” was used in favor of the term “lawyer” to avoid the widely-held disdain for the legal profession. Bernstein, supra note 2, at 197.
132. Id.
133. MESA-LAGO, PRAGMATISM, supra note 123, at 67.
134. Id.
135. Id.
136. Bernstein, supra note 2, at 203.
137. Id.
138. Id. at 203-04.
3. 1976 Constitution

The 1976 Constitution was primarily produced by a small group of government and Communist party appointees, despite strong declarations throughout the drafting process that all Cuban citizens were participating in the process. In light of its roots, the 1976 Constitution can be seen as consistent with Cuban constitutional history from 1901 to 1976 in that the Constitution was handed down from the government and imposed on the people.

In many respects, the 1976 Constitution is patterned on other Communist or Socialist constitutions. However, it deviates from these constitutions in that it allows for more concentration of power in a single head of state and permits individuals to hold concurrent offices in the Council of State and the legislature. Finally, in areas of civil, political, and cultural rights, the Cuban Constitution of 1976 remained very restrictive, bearing similarity to the 1936 Soviet Fundamental Law. However, like most East European Socialist constitutions in effect during the period from 1960 to 1989, the Cuban Constitution departs from the Soviet Fundamental Law. Nevertheless, it is apparent that the Cuban state viewed elimination of this remnant of capitalism as an immediate task in the construction of socialism.

Because property relations pertain to the socioeconomic foundation of the state, they are treated in Chapter I of the Cuban Constitution rather than the section describing "fundamental rights" covered in Chapter VI. Article 1 of the 1976 Constitution defined Cuba as a Socialist state of workers, peasants, and other manual and intellectual laborers. Article 7 recognized the Asociacion Nacional de Agricultura Pequenos (National Association of Small Producers) and other base groups. Article 14 affirmed the social approach to Socialist ownership of the means of production. Article 15 defined Socialist state property, which included all land not belonging to small producers or cooperatives. Articles 20 and 21 recognized the property rights of smallholders to their lands, and ensured them the right to associate among themselves for agricultural production and obtaining credit and state services, and the right to sell land with prior state authorization. Like the agrarian reform legislation, the 1976 Constitution also prohibited renting, sharecropping, mortgage credit, and...
other forms of implicit charges or partial transfers to individuals of the rights and actions emanating from smallholder property.\textsuperscript{152}

The government also added Article 23 to the 1976 Constitution, providing the following: “The state recognizes the ownership of mixed enterprises, economic societies, and associations that are created according to law. The use, benefit, and sale of assets belonging to these entities are ruled by law and treaties as well as by their own statutes and regulations.”\textsuperscript{153} The government does not, however, have express constitutional power to authorize small private enterprise.\textsuperscript{154}

Article 24 codifies the belief that land is only inheritable by the person who worked the land.\textsuperscript{155} Finally, Article 25 of the 1976 Constitution provides for expropriation with compensation at something less than fair market value.\textsuperscript{156}

\begin{itemize}
  \item (1) Small farmers have the right to sell their land with the previous authorization of the state agencies, as prescribed by law. In all cases, the state has the preferential right to purchase the land while paying a fair price.
  \item (2) Land leases, sharecropping, mortgages, and all other forms which entail a lien on the land or partialcession to private individuals of the rights and title to the land which is the property of the small farmers are all prohibited.
\end{itemize}

\textit{Id.} art. 21 (translation by author).

152. See Navarrete Acevedo, supra note 59, at 102. To this end, Article 22 provides the following:

\begin{itemize}
  \item (1) The state guarantees the right to personal ownership of earnings and savings derived from one’s own work, of the dwelling to which one has legal title and of the other possessions and objects which serve to satisfy one’s material and cultural needs.
  \item (2) Likewise, the state guarantees the right of citizens to ownership of their personal or family work tools, as long as these tools are not employed in exploiting the work of others.
\end{itemize}

1976 \textit{Constitution} art. 22 (translation by author).

153. Bourque, supra note 149, at 205.


155. See Navarrete Acevedo, supra note 59, at 102. Article 24 provides the following:

\begin{itemize}
  \item The law regulates the right of citizens to inherit legal title to a place of residence and to other personal goods and chattels. The land owned by a small farmer may only be inherited by the heirs who are personally involved in its cultivation, save for the exceptions prescribed by law.
  \item With regard to goods which are part of cooperatives, the law prescribes the conditions under which said goods may be inherited.
\end{itemize}


156. Article 25 provides the following:

\begin{itemize}
  \item The expropriation of property for reasons of public benefit or social interest and with due compensation is authorized. The law establishes the method for the expropriation and the bases on which the need for and the usefulness of this action is to be determined, as well as the form of the compensation, considering the
\end{itemize}

1976 \textit{Constitution} art. 25 (translation by author); see also Travieso-Diaz, supra note 24, at 233 (citing Article 25 of the 1976 Constitution).


158. \textit{Id.}

159. \textit{Id.}


162. \textit{Id.}

163. \textit{Id.}

164. \textit{Id.} at 20-21.

165. \textit{Id.} at 21.


During the 1970s and early 1980s, Castro was able to fulfill many of the guarantees contained in the 1976 charter. This was due in part to a huge annual foreign assistance package from the former Soviet Union.\textsuperscript{157} However, in 1989, when the Communist bloc disintegrated and the Soviets canceled the Cuban subsidy, the government’s ability to provide for the welfare of its citizens declined dramatically.\textsuperscript{158} Without favorable trade agreements with Socialist nations, and with the continued trade embargo, Cuba’s social and economic conditions deteriorated dramatically.\textsuperscript{159} One commentator noted that “[a]lmost overnight, the island nation lost $6 billion a year in economic aid, untold billions in military aid, and $10 billion a year in trade.”\textsuperscript{160}

4. The 1992 Constitution

By the time of the 1991 \textit{Partido Comunista de Cuba} (Congress of the Cuban Communist Party) (PCC), the Soviet Union itself was in the process of disintegrating.\textsuperscript{161} With the demise of Lenin’s revolution, there was no longer any hope that Communist forces could wage a successful revolt against capitalism.\textsuperscript{162} In Cuba itself, the PCC was faced with a failing economy with “irreversible difficulties” and “a society slipping further and further away from any possibility of economic prosperity.”\textsuperscript{163} Several political scandals led to purges of high government officials, and a “cleansing” of party organs.\textsuperscript{164} Leadership also began to remove reformers from the party, including members of the Central Committee itself.\textsuperscript{165} As food became less plentiful, demands for private farms increased in force.\textsuperscript{166}
In this context, the Fourth Party Congress sought to renew the party. However, no dramatic changes along the lines of a “Cuban-style perestroika” occurred; the Fourth Party Congress simply restated its commitment to a single party. In short, the masses could expect no fundamental economic or political reforms: capitalism would not return. The top political leadership in the PCC controlled the preparations for the October 1991 Congress, preserving the unity and harmony of the party and meeting the demands of political leaders. Fidel Castro proclaimed, “[T]here will not be a market economy, by whatever name; it has nothing to do with socialism. Our economy will be programmed and planned.” Subsequently, in 1992, a new Constitution was promulgated.

The 1992 Constitution scales back on the scope of State ownership. The new Constitution applies to only the “fundamental” means of production rather than all means of production, allowing for some private divestiture of state-owned assets. In all other respects, however, the new constitution mirrors its predecessors. Articles 20, 21, and 22 of the 1976 Constitution correspond to Articles 19, 20, and 21 of the 1992 document. Article 19 prohibits rental, sharecropping, mortgages or any other lien on agricultural property, and commits the state to support small farmers and private farming. Article 20 pledges the state’s support of agricultural cooperatives, and Article 21 private personal property. Other provisions protect mixed enterprise property and provide for expropriation with compensation.

In summary, Cuba’s several constitutions have preserved strong individual rights in property, beginning with the 1901 Constitution and carried through into the 1992 Constitution. The social function of land was acknowledged and incorporated into the 1940 Constitution. Civil Code legislation clearly expressed the need for compensation for public expropriation. In keeping with the spirit of this social function, Cuban law had evolved to a stage where all means of production were under state control, as presented in the 1976 Constitution. By 1992, however, there had been some retreat from this position, illustrated by changes in the new Constitution requiring only the fundamental means of production to rest in state hands.

### B. The Agrarian Reform and Rural Land Ownership

#### 1. Context for Reform: Prerevolutionary Agriculture

Land tenure was cited as a constraint to development in the 1950s by proponents of agrarian reform. Cuban peasants were well or-

<table>
<thead>
<tr>
<th>Range (in hectares)</th>
<th>Number of Units</th>
<th>Percent of total units</th>
<th>Hectares</th>
<th>Percent of land area</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 0.4</td>
<td>1148</td>
<td>0.7</td>
<td>280</td>
<td>0.0</td>
</tr>
<tr>
<td>0.4 to 0.5</td>
<td>1877</td>
<td>1.2</td>
<td>1999</td>
<td>0.0</td>
</tr>
<tr>
<td>1.0 to 4.9</td>
<td>29,170</td>
<td>18.2</td>
<td>84,354</td>
<td>0.9</td>
</tr>
<tr>
<td>5.0 to 9.9</td>
<td>30,305</td>
<td>18.9</td>
<td>210,706</td>
<td>2.3</td>
</tr>
<tr>
<td>10.0 to 24.9</td>
<td>48,778</td>
<td>30.5</td>
<td>725,071</td>
<td>8.0</td>
</tr>
<tr>
<td>25.0 to 49.9</td>
<td>23,901</td>
<td>14.9</td>
<td>789,715</td>
<td>8.7</td>
</tr>
<tr>
<td>50.0 to 74.9</td>
<td>8157</td>
<td>5.1</td>
<td>488,648</td>
<td>5.4</td>
</tr>
<tr>
<td>75.0 to 99.9</td>
<td>3853</td>
<td>2.4</td>
<td>327,681</td>
<td>3.6</td>
</tr>
<tr>
<td>100.0 to 499.9</td>
<td>10,433</td>
<td>6.5</td>
<td>2,193,600</td>
<td>24.2</td>
</tr>
<tr>
<td>500.0 to 999.9</td>
<td>1442</td>
<td>0.9</td>
<td>992,531</td>
<td>10.9</td>
</tr>
<tr>
<td>1000.0 to 4999.9</td>
<td>780</td>
<td>0.5</td>
<td>1,443,500</td>
<td>15.9</td>
</tr>
<tr>
<td>More than 5000.0</td>
<td>114</td>
<td>0.1</td>
<td>1,817,602</td>
<td>20.0</td>
</tr>
</tbody>
</table>
organized to oppose the government and demand expropriation. In addition, demands for expropriation also came from the middle class who felt excluded from economic participation due to massive foreign ownership. For these individuals, upward mobility meant only government service, because private industry was in the hands of foreigners who also occupied most of the best jobs. Perceived to be chronically high, unemployment was a serious problem of the pre-revolutionary economic system. These factors contributed to the change in government and the demand for agrarian reform.

Nevertheless, prior to the Castro revolution, Cuba's economic picture was not as exaggerated as in other countries in Latin America. In terms of land distribution, Cuba was typical of other Latin American countries. Memoria del Censo Agrícola Nacional 1946 [National Agricultural Census Survey 1946] 84 (1951) (on file with the Land Tenure Center Library, University of Wisconsin).

182. Their high degree of organization is demonstrated, for example, in the creation in 1958 of the Agriculture Bureau (Buro Agrario) dedicated to the study of the agricultural problems of the peasantry, along with the Eastern Peasant Federation (Federación Campesina de Oriente) and the Regional Peasant Committee (Comité Regional Campesino). See Navarrete Acevedo, supra note 59, at 79-80.

183. See Valdes Garcia, Socialización supra note 60, at 4; see also Nelson R. Amaro, Mass and Class in the Origins of the Cuban Revolution, in Cuban Communism, supra note 139, at 23. In the first months following the revolution, 90% of the population supported the new government. Id. at 25. In 1962, support for the new government remained high. Id. at 16. In one survey, 80% of Afro-Cubans and 67% of whites favored the revolution. Id. at 16 (discussing Maurice Zeitlin's 1962 study entitled Economic Insecurity and the Political Attitudes of Cuban Workers). Support for the revolution was strongest among blacks who had worked nine months or less before the revolution. Id. (citing the figure as 91%).

184. See Fournier F., supra note 48, at 77.

185. See Brian H. Pollitt & G.B. Hagelberg, The Cuban Sugar Economy in the Soviet Era and After, CENTER FOR DEVELOPMENT STUDIES OCCASIONAL PAPER No. 11 (June 1995) (on file with the Land Tenure Center Library, University of Wisconsin).

186. See id. (discussing the unpleasant conditions for peasants that prompted the infant guerilla government to pass a law stating that the land should be assigned to those who work it).
socioeconomic indicators, with a large middle class and very progressive social legislation for workers and unions. At the same time, "Cuban labor laws, rigidly enforced, were more advanced in almost every respect [in comparison to] those in the United States." Agri-
cultural workers were also well paid. According to the Interna-
tional Labor Organization, the average wage in 1958 was $3 per eight hour day. When adjusted for purchasing power, this compares fa-
vorably with Belgium ($2.70), Denmark ($2.86), France ($2.73), West Germany ($2.73), and the United States ($4.06). These same statis-
tics disclosed that Cuban workers received 66.6% of the gross national income compared with 57.2% for Argentina, 47.9% for Brazil, and 70.1% for the United States.

With the possible exception of Venezuela, Cuba had attained the highest standard of living of any semi-tropical or tropical country in the world by the mid 1950s. By 1956, the U.S. Department of Com-
merce concluded that the Cuban national income had reached levels that gave the Cuban people one of the highest standards of living in Latin America. A 1951 World Bank report noted that the standard of living for farmers, agricultural laborers, industrial workers, store-
kippers, and others were all higher than the standard for corresponding groups in other tropical countries and in nearly all other Latin American countries. Although the report did not say there was no dire poverty in Cuba, it did assert that in comparative terms Cubans were better off than their counterparts abroad.

Countries marked with an asterisk indicate reduced reliability of calculation due to the data sets. Gini coefficient is defined as a measure of inequality in distribution. It ranges from zero to one: the closer the value to 1, the greater the inequality. Gini coefficients calculated by Marco Castillo, Research Assistant, Land Tenure Center, University of Wis-

In the areas of education and literacy, Cuba was also near the top in Latin America. Cuba was first in the region in terms of the percent of national income spent on education. It was less expensive to obtain a college education in Cuba than in the United States. Similarly, compared with the United States, Cuba had twice as many physicians and surgeons—and twice as many teachers—in relation to its population. Its infant and adult mortality rates were lower than the United States. Food was abundant and the island was nearly disease-free. No nation except the United States had as many television sets per capita as Cuba.

The positive condition of the Cuban economy relative to other countries in the region was not well understood. Pre-Castro Cuba is often depicted as a country in which a wealthy few exploited illiterate and poverty-stricken masses and where large farms were becoming larger, with the small farmers getting pushed out of the market, a view underscored by Columbia University Professor C. Wright Mills. Eleanor Roosevelt asserted that "perhaps a Socialist government would be the best solution [for Cuba]." President John F. Kennedy remarked:

I think that there is not a country in the world, including all the regions of Africa and including any country under colonial domina-
tion, where the economic colonization, the humiliation, the ex-
ploration have been worse than those which ravaged Cuba, the result, in part, of the policy of my country, during the regime of Batista. I think that we spawned, constructed, entirely fabricated without knowing it, the Castro movement. I think that the accumu-
lation of such errors has endangered all of Latin America ... I will
tell you something else: In a certain sense, it is as though Batista were the incarnation of some of the sins committed by the United States. Now, we must pay for those sins ...
Despite Kennedy’s remark, the United States had supported Cuba for years by purchasing sugar at considerably above world market prices. In 1958, only about five percent of invested capital in Cuba was from the United States. During the 1950s, there was a marked trend in Cuba away from American ownership in favor of national ownership of sugar mills. In 1958, Cuban-owned mills accounted for sixty-two percent of the total sugar production, while in 1939 the figure was only twenty-two percent. Despite this fact, U.S. private capital and technology served as the “principal contributing factor in making Cuba the most industrialized country in Latin America in ratio to population, and in raising its living standards to one of the highest.” In this context, it appears Kennedy and others were mistaken about the economic state of affairs in Cuba, perhaps reflecting the success of Castro’s propaganda campaign.

Nevertheless, before the 1959 agrarian reform, Cuban agriculture did suffer from wealth concentrations. During the period between 1940 and 1959, Cuba tripled its national income. Tourism was becoming an increasingly important source of income for the island. Yet a 1951 World Bank report indicated that reform of the agriculture sector was urgent: if measures to reform the sector were not implemented, the chances for an institutional takeover provoked by the right or left would increase. Owners of 46% of the land comprised 1.5% of the general population, while 70% of farms occupied less than 12% of the island. Sharecropping, tenant farming, and illicit farming by squatters were common, leading to complaints about social injustice and questions about efficiency in production. A 1957 survey by the Catholic University Association found that the peasant class expected its economic problems to be resolved politically, equating the ultimate economic power with the highest political authority. Peasants began to question the nation’s legal order, because the legal structures they identified with political power supported the elite groups.

The new Organic Law echoed the Constitution of 1940 in prohibiting large landholdings. Both permitted subsequent legislation to abolish them. In this context, the agrarian reform sought to approximate the technical advantages of large-scale production through cooperatives, while taking advantage of the intensive cultivation practices found on smaller farms.

Studies carried out by the United Nations noted the extremes in property distribution and the plight of the poor. The United Nations report looked to diversify agricultural production and promote productivity, especially for export crops. Further, the study looked for increased standards of living for Cuban nationals. The review singled out resource concentration as the major impediment and

<table>
<thead>
<tr>
<th>LAND DISTRIBUTION AT THE TIME OF THE FIRST AGRARIAN REFORM LAW (1959)</th>
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<tbody>
<tr>
<td>Farm Size</td>
</tr>
<tr>
<td>-----------</td>
</tr>
<tr>
<td>Up to 5 Caballerías</td>
</tr>
<tr>
<td>From 5 to 30 Caballerías</td>
</tr>
<tr>
<td>More than 30 Caballerías</td>
</tr>
<tr>
<td>Totals</td>
</tr>
</tbody>
</table>

Navarrete Acevedo, supra note 59, at 85 (sworn declarations of property owners). 1 caballería = 13.4 hectares = 33 acres.

213. Id. note 183, at 13 (noting that before the Castro revolution of 1959, Cuba marked with a general malaise of class disequilibrium).
called for land reform. It should be noted that poverty was an increasing problem by the time of the Revolution; unemployment and underemployment had increased throughout the 1940s and 1950s, reaching a combined total of thirty percent of the labor force by 1956-57.

The Batista government recognized that tenant smallholders and holders of precarious title had been excluded from participation in the benefits of the established rural economy and promulgated Decree Law No. 247 to protect their interests. In 1952, the Cuban government launched a new program to force landowners to rent the land. This new legislation was passed in the belief that land access and security for smallholders would stimulate and promote production. At that time, it was recognized that "private property [was] subject to restrictions dictated by considerations of national necessity." The authors of the law understood that the existing legislation had not been adequate to prevent the eviction of the peasants and their families from the lands cultivated by them, so that a state of unrest in public opinion and disturbances of public order [had] occurred in the areas of conflict, to the detriment of agricultural production and national supplies, so that the usefulness of the estates concerned [had] been impaired, and the inalienable right to work and to a decent subsistence, vouch-safed to citizens under the Basic Law, [had] been prejudiced.

Rental of these private properties was stipulated by law to be at a rate of not more than five percent of its sale value, as recorded by the Government. Thus, restrictions on the use of private property began before the Castro government's coming to power. Further, as subleasing was also prohibited, restrictions on the ownership rights of beneficiaries also predated the 1959 revolution.

Although many Latin American governments maintained similar restrictions on land, revolutions did not occur in these countries. In contrast, the Batista government's failure to extend land reform likely led to its overthrow. Subsequent agrarian reform legislation should be properly understood as an extension of earlier policy, rather than a revolutionary reversal of law. From a 1990s perspective, Batista deserves some credit for his consideration of the poor. On the other hand, critics of Castro cannot hearken back to a golden age of property rights prior to Castro when property rights were absolute.

2. The 1959 Agrarian Reform Law

a. Farm Sizes and Expropriation

By May 1961 more than forty percent of land that had been in private hands was expropriated, representing some four million hectares of land. Unlike the Mexican agrarian reform, which allowed owners to retain the best land, the Cuban nationalization included land in the most fertile areas. Large farms were prohibited under the reform law. In general, each person, either natural or juridical, was limited to thirty caballerías of land. Any excess could be expropriated for distribution to landless peasants. Exceptions to this rule were introduced for the

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227. Id., see also Fournier F., supra note 48, at 77-78 (discussing reform proposals after the promulgation of Law No. 3).
229. See Decreto Ley No. 247 whereas cl. 2 (G.O. No. 171, July 23, 1952) (Cuba), translated in Food and Agriculture Organization of the United Nations (on file with the Land Tenure Center Library, University of Wisconsin) (hereinafter Decree Law No. 247).
230. See id. The compulsory nature of this rental obligation is found in Article 6. Id.
231. Id. whereas cl. 2.
232. Id. whereas cl. 3.
233. Id. whereas cl. 4.
234. Id. art. 3.
235. Decreto Ley No. 247 and its restrictions were promulgated in 1952, while the Revolution did not occur until 1959. Decreto Ley No. 247.
following: (a) high yield sugar cane plantations,242 (b) cattle production meeting minimum standards set by the Agrarian Reform Institute,243 (c) high yield rice plantations,244 and (d) produce or stock that required land areas larger than thirty caballerías for efficient production from a technical and economic vantage.245 The law specified an absolute size limit of one hundred caballerías for properties falling into the first three of these exceptions.246 Any excess beyond one hundred caballerías could be expropriated.247 As for the fourth exception, the National Agrarian Reform Institute (INRA) was empowered to monitor the farm to insure production was maintained.248 Other land was exempt entirely: cooperative land, land owned by states, provinces or municipalities, national forest reserves, and rural community land for social welfare, education, health or other similar purposes.249

Sharecropping and land rental were expressly forbidden.250 Farms of thirty caballerías or less and with no leases, subleases, sharecropping, or squatting were not in danger of expropriation.251 On farms of thirty caballerías or less, expropriation remained a threat if the land was leased, subleased or sharecropped, or occupied by squatters.252

Expropriation of excess land was priority ranked.253 First, expropriation began only on state lands and private lands where farmers were working the land with leases, subleases, sharecropping or squatting.254 Once this source of land was exhausted, then expropriation could proceed to farm areas exceeding the maximum size limits.255 The law also provided that, when in doubt, the law should be construed in favor of the person working the land.256

Under the second Agrarian Reform Law, agricultural properties larger than five caballerías were subject to expropriation.257 Special rules were set up to allow for the voluntary sale of property to the state, for persons preferring a process other than forced expropriation.258 Similarly, special rules allowed for indemnification of smallholders of five caballerías or less who were affected by the agrarian reform law and who relied on rental income from that plot as their only means of income.259 In cases of forced expropriation, INRA was charged with carrying out the appropriate procedures until a land court could be organized.260

Other takings of land came from nationalization. In February 1960, Cuba entered into a trade agreement with the Soviet Union allowing Cuba to receive Soviet crude oil.261 At that time, the Cuban government owed the American refineries about $60 million.262 Ernesto “Che” Guevara, then President of the National Bank, notified

| SOURCES OF LAND EXPROPRIATED FOR THE AGRARIAN REFORM (1959-1961) |
|-----------------|----------|----------|
| Legal Instrument | Caballerías | Hectares | Percent |
| Agrarian reform law | 89,358 | 1,199,184 | 27.0 |
| Ley de Recuperación de Bienes Malversados | 12,162 | 162,214 | 3.7 |
| Donations to INRA | 24,038 | 322,990 | 7.3 |
| Voluntary sales | 43,350 | 581,257 | 13.1 |
| Nationalization Law 851 | 94,008 | 1,261,587 | 28.4 |
| Nationalization Law 890 | 67,850 | 910,547 | 20.5 |
| Modifications to art. 24, Ley Fundamental | N.A. | N.A. | N.A. |
| TOTALS: | 330,766 | 4,438,879 | 100 |

MENJIVAR, supra note 241, at 405-06. Modifications to Article 24 were made in December 1959 to permit the confiscation of property of Cubans who had participated in the Bay of Pigs invasion. 1959 Fundamental Law.
the refineries that they would have to process the Soviet crude oil.\textsuperscript{263} When they refused, the Cuban government not only canceled the prior $60 million debt, but also seized their facilities, valued at the time at about $140 million.\textsuperscript{264}

In July 1960 Nationalization Law Number 851 was passed in response to the sugar quota cancellation by the U.S. State Department.\textsuperscript{265} Compensation was paid in bonds to be backed, ironically, by proceeds from future sugar purchases from the United States.\textsuperscript{266} Presumably, this amount would be zero.\textsuperscript{267} The United States classified this nationalization as a confiscatory action.\textsuperscript{268} In fact, Castro had expected the cancellation of the sugar quota for some time, and "Che" Guevarra had urged the United States to make the move "the sooner the better."\textsuperscript{269} Nationalization Law No. 890 affected any lands belonging to foreigners or Cuban citizens not previously affected, particularly sugar cane engineers, the majority of whom were U.S. citizens.\textsuperscript{270}

The Ley de Recuperación de Bienes Malversados (Law to Recover Usurped Properties) provided for confiscation of properties of national patrimony that the new government thought had been usurped by functionaries of the outgoing Batista government.\textsuperscript{271} From 1952 to 1959, Batista and many of his officials had become wealthy, and the new law was directed at recovery of those assets.\textsuperscript{272} For these properties, there was no compensation or indemnification. As a result of this law, about $200 million worth of property was confiscated from Batista government officials and their alleged support-

\textsuperscript{263} See Menjivar, supra note 241, at 404 (discussing Ley de Nacionalización 851 of July 1960).
\textsuperscript{264} Menjivar, supra note 241, at 404.
\textsuperscript{266} Id. at 765.
\textsuperscript{267} Id.
\textsuperscript{268} Lazo, supra note 38, at 228.
\textsuperscript{269} Harper, supra note 266, at 765.
\textsuperscript{270} Lazo, supra note 38, at 228.
\textsuperscript{272} Consuegra-Barquin, supra note 109, at 900.