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UNDERSTANDING THE IMPACT OF U.S. POLICY CHANGES ON HUMAN RIGHTS AND DEMOCRACY IN CUBA

AND

U.S. CUBAN RELATIONS—THE WAY FORWARD

HEARINGS

BEFORE THE

SUBCOMMITTEE ON WESTERN HEMISPHERE TRANSNATIONAL CRIME, CIVILIAN SECURITY, DEMOCRACY, HUMAN RIGHTS, AND GLOBAL WOMEN'S ISSUES

AND THE

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UNITED STATES SENATE

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UNDERSTANDING THE IMPACT OF U.S. POLICY CHANGES ON HUMAN RIGHTS AND DEMOCRACY IN CUBA

TUESDAY, FEBRUARY 3, 2015

U.S. SENATE, SUBCOMMITTEE ON WESTERN HEMISPHERE, TRANSNATIONAL CRIME, CIVILIAN SECURITY, DEMOCRACY, HUMAN RIGHTS, AND GLOBAL WOMEN'S ISSUES, COMMITTEE ON FOREIGN RELATIONS,

Washington, DC.

The subcommittee met, pursuant to notice, at 10:07 a.m., in room SD–419, Dirksen Senate Office Building, Hon. Marco Rubio (chairman of the subcommittee) presiding.

Present: Senators Rubio, Corker, Flake, Gardner, Boxer, Menendez, Udall, Cardin, Kaine, and Markey.

OPENING STATEMENT OF HON. MARCO RUBIO, U.S. SENATOR FROM FLORIDA

Senator RUBIO. This hearing of the Subcommittee on the Western Hemisphere, Transnational Crime, Civilian Security, Democracy, Human Rights, and Global Women's Issues will come to order.

Today's hearing is titled "Understanding the Impact of U.S. Policy Changes on Human Rights and Democracy in Cuba."

And I want to begin by welcoming Assistant Secretary of State for the Western Hemisphere, Roberta Jacobson, and Assistant Secretary of State for Democracy, Human Rights, and Labor, Tom Malinowski. We appreciate your service to our country and your attendance here today.

I would like to note that the committee invited two other administration witnesses to appear today, the reported negotiators of this deal with the Castro government, Mr. Ben Rhodes and Mr. Ricardo Zuniga from the National Security Council. Unfortunately, the White House Counsel's Office informed us that they would not be allowed to testify at this hearing. And I find this concerning given the fact that these are the two individuals who the administration put forward in negotiating the deal, but we will move forward from there.

We have two excellent panels today. The first, of course, is the official panel that you see seated and ready to go, and then we are going to hear from a number of human rights activists, democracy activists on the island of Cuba who will talk to us about the changes.

Let me preface this by saying that I believe every member of this committee this morning, as I do the vast majority of Americans and policymakers, share the goals of democracy and freedom on the island of Cuba. In fact, the administration, in announcing this policy, stated that the purpose of this new policy is to support the Cuban people to freely determine their own future, to freely determine their political future, and by that, I take it to mean democracy, which we all share, and also to freely determine their economic future. I would point out that a free Cuban people have a right to choose any economic model they want, although there is one that I would suggest. It is up to them to choose that future. So this is a goal we all share.

And the question for us here today, as we review these policy changes, is how effective will these policy changes be in bringing about this shared goal. And so today, we are going to analyze both the process by which this arrangement was arrived at, and we are also going to talk about how effective these policies may, or may not, be in achieving the stated goals.

I think it is no secret and I have publicly stated that I have deep reservations and in many instances direct opposition to many of the changes that we are going to review here today for the simple reason that I believe that they will not be effective at bringing about the sort of political opening on the island of Cuba that all of us desire for the Cuban people.

You know, the Cuban people are the only people in this hemisphere that have not had a free and fair election in the last decade and a half. They deserve the right to have that just like any other people do. They are no less deserving of freedom and democracy than the people of Guatemala, Honduras, the Dominican Republic, Haiti, and a host of other nations, all of whom at some point over the last decade, have at least once had the ability to freely choose their leaders. And the notion that somehow we should be more patient with Cuba than all these other societies is quite frankly unfair and offensive.

And so the goal of this hearing here today is to understand these changes, to understand, first of all, how it came about, what was the process by which they were negotiated, and second, how effective could these policies be in effectuating the change that we all want for the island of Cuba.

With that, I recognize the ranking member, Senator Boxer.

OPENING STATEMENT OF HON. BARBARA BOXER, U.S. SENATOR FROM CALIFORNIA

Senator BOXER. Thank you, Mr. Chairman, for this crucial hearing.

I want to give a warm welcome to our distinguished witnesses, some of whom have traveled a very long way to be with us today. I am very pleased to see Miriam Leiva, whom I first met on a trip to Cuba in 2002.

President Obama's announcement in December that the United States would begin the process of normalizing relations with Cuba will have wide-ranging impacts. But today's hearing will focus specifically on its impact on human rights and democracy in Cuba. By the way, a very legitimate concern.

For more than 50 years, the United States pursued a sanctions policy designed to isolate Cuba. The goal was to undermine the Castro regime and promote human rights and democratic reform. And I well remember when that policy went into place, and I did not have gray hair at that time. That is how long ago it was.

This policy has failed to achieve any of these goals. In fact, I believe it has done just the opposite. Instead of isolating Cuba, America has isolated itself—alienating regional and international partners. For the past 23 years, the United Nations General Assembly has voted to condemn the United States unilateral embargo against Cuba. So rather than undermining the Castro regime, America's embargo has helped the Castros maintain authoritarian control over Cuba by restricting the free flow of information and contacts between Americans and Cuban citizens. And it has given the Castro regime a very convenient scapegoat for the suffering of the Cuban people. Far from ushering in democratic change and improved human rights for Cuba's 11 million citizens, Cuba remains a one-party Communist state that continues to restrict the most basic rights of its citizens and targets its opponents using intimidation, harassment, surveillance, and arbitrary arrest and detention.

It is long past time to abandon this failed policy of the past. And that is why I strongly support President Obama's decision to chart a new course in United States-Cuba relations.

Now, it is important to note that President Obama follows in a long line of United States leaders who pursued diplomatic breakthroughs after years of isolation and conflict, whether it was President Nixon going to China or President Reagan working toward peace with Soviet leader Mikhail Gorbachev or Senator McCain and then Senator Kerry working with President Clinton to normalize relations with Vietnam. These breakthroughs did not result in immediate change, and even years later, as we speak, these efforts have not brought an end to repression or corruption or human rights abuses, but they did provide an opening, a chance for dialogue and real engagement with the people of these nations.

So I strongly agree with the President that the best way to promote American values and ideals and to empower Cuban citizens, as they work toward a free and democratic Cuba, is through a policy of engagement, not isolation. And I believe polls show that the American people agree.

A letter signed by 74 Cuban citizens, including prominent political prisoners, bloggers, independent journalists, clerics, and intellectuals in May 2010 underscores this point. It states that lifting U.S. restrictions would allow Americans to, "first, serve as witnesses to the suffering of the Cuban people; second, be even more sensitized to the need for changes in Cuba; and third, offer solidarity and a bridge to facilitate the transition we Cubans so greatly desire."

Now, I know not everybody in Cuba agrees with that, but these were 74 Cuban citizens, some of whom are prominent political prisoners and clerics. Independent journalist Lilianne Ruiz recently said that, "This flow of people who are going to come, along with the increase in the remittances, means the country's return to normalcy. The Cuban Government is going to weaken; the only thing

left is the repression and the restrictions. This will make people more accurately identify the origin of our difficulties."

So as the United States furthers its engagement with the Cuban people, we will continue to press leaders in Cuba on human rights because all Cubans deserve the right to live without fear of violence or intimidation. That is a right of all people—all people—not just the people of Cuba, but certainly the people of Cuba who have been so repressed. And we will mobilize our regional and international partners in this effort.

And we know this policy is not going to change Cuba overnight, but we have spent the past five decades pursuing a policy that has not worked. I still remember my trip to Cuba in 2002. We would approach people to ask them their views. They would literally run away from us. They were too afraid to speak to us. How is our Nation well served by a policy that does not even allow us to engage with the people we seek to empower?

Now, in closing, I want to leave you with a thought. There is an old saying: "The definition of insanity is doing the same thing, over and over, and expecting a different result." Now, I know no one here is insane. We are all quite sane, and we are all working toward the same thing. And I hope we can unite around this. We owe it to the Cuban citizens who truly aspire to see a free and democratic Cuba to give this new policy a chance.

Thank you very much, Mr. Chairman.

Senator RUBIO. Thank you, Senator Boxer.

We are joined today by both the chairman and the ranking member of the full Foreign Relations Committee. I wanted to recognize them for any comments they might have.

Mr. Chairman.

STATEMENT OF HON. BOB CORKER, U.S. SENATOR FROM TENNESSEE

The CHAIRMAN. I just want to thank the leadership of this committee, the chairman and ranking member. I know that we expect the subcommittee leadership, which we have outstanding leadership on all of our subcommittees, to have robust hearings, which you are doing today. I thank you for the way you framed this. I know there are a lot of divergent views on what has happened relative to the administration's changes in policy on Cuba. And I hope that through these hearings we will converge on a policy that is good for America.

Thank you for your leadership.

Senator RUBIO. Thank you, Mr. Chairman.

Senator Menendez.

STATEMENT OF HON. ROBERT MENENDEZ, U.S. SENATOR FROM NEW JERSEY

Senator MENENDEZ. Well, thank you, Mr. Chairman, for holding the hearing along with the ranking member, and thank you for this opportunity on an issue that I have followed for some time.

Let me be as clear today on this issue as I was in December that 18 months of secret negotiations produced a bad deal, a bad deal for the Cuban people while it may have been done with the best

of intentions, in my view with compromised bedrock principles for virtually no concessions.

And I would just say I do not want to relive 50 years of engagement with China that has brought us forced abortions, prison camp labor, one-child policy, ethnic cleansing in Tibet, exile of the Dalai Lama, and most recently repression in Hong Kong's democracy, as well as arrests of human rights activists and political dissidents—50 years of those engagements. Maybe we can say that we are doing business with China, but we cannot really hold up democracy and human rights as a great success story of that engagement. If that is what we hope for the Cuban people, then it is a sad day.

At the end of the day, 53 political prisoners were released while so many more remain in jail. And the Cuban people, who have suffered most under the regime, still have zero guarantees for any basic freedoms.

I am also concerned that the 53 prisoners were not released unconditionally and continue to force legal hurdles, and that several of them have been rearrested, including Marcelino Abreu Bonora, who was violently beaten by Cuban security the day after Christmas and detained for 2 weeks.

I am concerned that the President announced that the International Committee of the Red Cross and the United Nations would be granted access in Cuba. Yet, we know from the State Department briefings that they will be allowed to travel to Havana but only to discuss prison conditions with regime officials and will not be given access to Cuban jails or Cuban prisoners, which does nothing to improve human rights conditions in Cuba.

I am concerned that there was not one substantial step toward transparent democratic elections, improved human rights, freedom of assembly, or the ability to form independent political parties and independent trade unions. Ironically just 2 weeks after the announcement, the regime arrested more than 50 people who tried to speak about the hopes for the future of their country. That is all they tried to do.

The deal achieved nothing for Americans whose family members have been victims of the Castro regime's crimes and terrorism or for the thousands of United States citizens that hold over $6 billion in claims for properties and businesses confiscated by the Castros or the Americans that are still waiting for Cuba to settle the $2 billion in judgments rendered by United States courts against the Castro regime.

I am concerned that we released a Cuban spy convicted of conspiracy to commit murder. He gets to go back to Cuba, and we get no movement on the dozens of United States fugitives living under asylum in Cuba, including Joanne Chesimard who is still on the FBI's list of most wanted terrorists for killing a New Jersey State trooper. Why was her return not part of the deal?

And I am concerned that on December 17 of this past year, in an article in Politico, Congressman James McGovern said that Raul Castro admitted to giving the order to shoot down two private airplanes with U.S. citizens on board in 1996. Quote. "He said, 'I gave the order.' Castro said, 'I'm the one responsible.' And yet, this is who we are negotiating with."

And now Raul Castro is demanding the return of Guantanamo, a full list of U.S. concessions, including compensation for the impact of the embargo, eliminating our democracy programs, at least in today's press accounts that I was reading. And he concedes nothing.

So how much more are we willing to give? How much more are we willing to do to help the Castro regime fill the coffers of its military monopolies while the Cuban people still struggle to make ends meet.

And that is why, among many other reasons, Mr. Chairman, I think this is a bad deal.

And I ask unanimous consent that the rest of my statement be included in the record.

Senator RUBIO. Without objection.

[The prepared statement of Senator Menendez follows:]

PREPARED STATEMENT OF SENATOR ROBERT MENENDEZ

Thank you, Mr. Chairman, for holding this hearing. Let me be as clear on this issue as I have been since December—18 months of secret negotiations produced a bad deal, bad for the Cuban people. While it may have been done with the best of intentions, in my view, we've compromised bedrock principles for minimal concessions.

At the end of the day, 53 political prisoners were released while so many more remain in jail, and the Cuban people—those who suffered most under the regime—still have zero guarantees for any basic freedoms.

I'm also concerned that the 53 prisoners were not released unconditionally and continue to face legal hurdles and that several of them have been re-arrested including Marcelino Abreu Bonora who was violently beaten by Cuban Security the day after Christmas and detained for two weeks.

I'm concerned that the President announced that the International Committee of the Red Cross and the United Nations would be granted increased access in Cuba. Yet, we know from the State Department briefings that they will be allowed to travel to Havana, but only to discuss prison conditions with regime officials, and won't be given access to Cuban jails or Cuban prisoners, which does nothing to improve human rights conditions in Cuba.

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The deal achieved nothing for the Americans whose family members have been victims of the Castro regime's crimes and terrorism. Or for the thousands of U.S. citizens that hold over $6 billion in claims for properties and businesses confiscated by the Castros. Or the Americans that are still waiting for Cuba to settle the $2 billion in judgments rendered by U.S. courts against the Castro regime.

I'm concerned that we released a Cuban spy convicted of conspiracy to commit murder. He gets to go back to Cuba, and we can get no movement on the dozens of U.S. fugitives living under asylum in Cuba, including Joanne Chesimard, who is still on the FBI's list of Most Wanted Terrorists. Why was her return not part of the deal?

And I'm concerned that—in a December 17, 2014 article in Politico—Congressman James McGovern said that Raul Castro admitted to giving the order to shoot down two private airplanes in 1996. "I gave the order," Castro said. "I'm the one responsible." This is who we are negotiating with.

And now Raul Castro is demanding the return of Guantanamo and a full list of U.S concessions including compensation for the impact of the embargo; and yet, he will concede nothing. How much more are we willing to give? How much more are we willing to do to help the Castro regime fill the coffers of its military monopolies while the Cuban people still struggle to make ends meet?

It was a bad deal, and I will oppose any further changes to U.S. policy, any additional sanctions relief, that are not conditioned on clear, upfront concessions from the Castro regime that moves the Cuban people toward a free and open democratic government.

And, Mr. Chairman, on a personal note, I'm amazed when people say: "Senator, you seem so 'passionate' about Cuba." Yes, I am passionate. I will always be passionate, but no more passionate than many Irish are passionate about Northern Ireland, no more passionate than Armenians who care about the genocide in Armenia, no more passionate than Jewish-Americans about the preservation of the state of Israel. Yes, I am passionate about Cuba, and I will remain passionate until the Cuban people are free.

I will insist that there be no concessions to the Castro regime that do not bring human rights, freedom of assembly, and transparent democratic elections to the people of Cuba.

Finally, I would note that a deal like this is what can happen when members of Congress are notified about the administration's policy decisions, rather than consulted as part of a process. I find it incredibly disconcerting that President Obama made his announcement on December 17th, and I still have not been granted a private discussion with the White House negotiating team, despite weeks of requests.

With that, let me thank you, Mr. Chairman, for holding this subcommittee hearing. I look forward to hearing our witnesses' views on exactly what additional freedoms the people of Cuba hope to enjoy with the administration's new Cuba policy.

Senator RUBIO. Okay, we are ready to move to our testimony. And with that, I recognize Secretary Jacobson. Your full statement is in the record, and we would ask if you could keep the statement to about 5 minutes or so so we can get into the questioning. Thank you for being here today.

STATEMENT OF HON. ROBERTA S. JACOBSON, ASSISTANT SECRETARY OF STATE FOR WESTERN HEMISPHERE AFFAIRS, U.S. DEPARTMENT OF STATE, WASHINGTON, DC

Ms. JACOBSON. Thank you, Mr. Chairman, Ranking Member Boxer, and members of the committee for the opportunity to testify today on the new approach to the United States-Cuba policy.

I appreciate your engagement on issues related to Cuba and to the Western Hemisphere, and I know your strong commitment to democratic values, human rights, and expanding social and economic opportunity in the Americas.

I also want to thank this committee for its assistance in welcoming the long overdue return of Alan Gross to his family. Mr. Gross' 5 long years of detention—during that time, the administration worked closely with many Members of Congress from both Chambers and both parties to secure his release. As the President and the Secretary have said, we are also grateful for the essential roles of Canada, Pope Francis, and the Vatican in reaching an agreement that made Mr. Gross' freedom possible.

On December 17, the President announced the new policy toward Cuba. Our previous approach to relations with Cuba over a half a century, though rooted in the best of intentions, failed to empower the Cuban people. Instead, it isolated us from democratic partners in this hemisphere and around the world and was used by the Cuban Government as an excuse for restrictions on its citizens. As a result, those most deprived were the Cuban people.

The President's initiative looks forward, and it is designed to promote changes that support universal human rights and fundamental freedoms for every Cuban. We also seek to promote our other national interests. These steps emphasize the value of people-to-people contact and very specific forms of increased commerce. We are already seeing indications that our updated approach gives us a greater ability to engage other nations in the hemisphere and

around the world in promoting respect for fundamental freedoms in Cuba.

From the beginning of this administration, we have sought to support the Cuban people in freely determining their own future, their own political and their own economic future, because ultimately it will be the Cuban people themselves who drive political and economic reforms. That is why we lifted restrictions to make it easier for Cuban Americans to travel and send remittances to their families in Cuba and opened new pathways for academic, religious, and people-to-people exchanges. And these changes created powerful new connections between our two countries. Our new steps build on this foundation by increasing authorized travel and commerce and the flow of information to, from, and within Cuba. The regulatory changes will increase the financial resources to support the Cuban people and the emerging Cuban private sector. They will also enable United States companies to expand telecommunications and Internet access into Cuba. United States policy will no longer be a barrier to connectivity in Cuba.

Two weeks ago, I made a historic trip to Cuba, one that helped me understand the burden and hope embodied in this policy when average Cubans and Cuba Americans wished me luck or said God bless you and encouraged our efforts. During talks, we were clear that our governments have both shared interests and sharp differences. On practical issues such as establishing direct mail, counternarcotics cooperation, and oil spill mitigation, among others, we agreed to continue dialogue and increase cooperation.

But this administration is under no illusions about the nature of the Cuban Government. I also raised with our Cuban interlocutors our concerns about its harassment, use of violence, and arbitrary detention of Cuban citizens peacefully expressing their views. I met with dissidents, entrepreneurs, and independent media voices to talk about what they need from their government and what they need from us.

I raised several elements that presently inhibit the work of our U.S. interest section, including travel restrictions on our diplomats, limits on staffing and local access to the mission, and problems receiving shipments. The successful resolution of these issues will enable the future U.S. Embassy to provide services commensurate with our other diplomatic missions around the world.

Having just seen our diplomats in Havana in action, I hope you will not object if I take this opportunity to salute their tireless work to advance U.S. interests on the island. These dedicated public servants have done their jobs under often difficult circumstances.

We have only just begun the official talks on normalizing relations, which will take considerably longer than this first step of the reestablishment of relations. But even while we do so, we will continue to encourage our allies to take every public and private opportunity to support respect for human rights and fundamental freedoms in Cuba, and I encourage Members visiting Cuba to expand their engagement with the independent voices in Cuban civil society and to engage effectively on human rights and democracy.

We know there is a diversity of views in the Congress on this issue, and we hope we can work together to find common ground

toward our shared goal of enabling the Cuban people to determine their own future.

Thank you very much.

[The prepared statement of Ms. Jacobson follows:]

PREPARED STATEMENT OF ROBERTA S. JACOBSON

Chairman Rubio, Ranking Member Boxer, and members of the committee, thank you for the opportunity to testify today on our new approach to U.S.-Cuba policy. I know many of you have a deep interest in U.S. policy toward Cuba and have closely followed the President's announcement on December 17 and subsequent events, including my meetings in Havana 2 weeks ago. I appreciate the committee's engagement on issues related to Cuba and the Western Hemisphere and applaud your strong commitment to democratic values, human rights, and expanding social and economic opportunity in the Americas.

I also want to thank the committee for its assistance in welcoming the long-overdue return of Alan Gross to his family. During Mr. Gross' 5 long years of detention, the administration worked closely with many Members of Congress—from both Chambers and from both parties—to secure his release. As the President and the Secretary have said, we are also grateful for the essential roles of Canada, Pope Francis, and the Vatican in reaching an agreement that made Mr. Gross' freedom possible.

Our previous approach to relations with Cuba over a half century, though rooted in the best of intentions, failed to empower the Cuban people and isolated us from our democratic partners in this hemisphere and around the world. Additionally, the Cuban Government has used this policy as a rationale for restrictions on its people. As a result, unfortunately and unintentionally, those most deprived were the Cuban people.

The President's initiatives look forward and are designed to promote changes that support universal human rights and fundamental freedoms for every Cuban, as well as changes that promote our other national interests. They emphasize the value of people-to-people contact and very specific forms of increased commerce. We are already seeing indications that our updated approach gives us a greater ability to engage other nations in the hemisphere and around the world in promoting respect for fundamental freedoms in Cuba. It has also drawn considerably greater attention to the actions and policies of the Cuban Government.

From the beginning of this administration, our approach has been to implement policies toward Cuba that support the Cuban people in freely determining their own future—their own political and economic future. Because ultimately, it will be the Cuban people themselves who drive political and economic reforms. That is why we lifted restrictions to make it easier for Cuban Americans to travel and send remittances to their families in Cuba, and opened new pathways for academic, religious, and people-to-people exchanges. These changes created powerful new connections between our two countries. The steps we are implementing now build on this foundation by increasing travel, authorized commerce, and the flow of information to, from, and within Cuba. The regulatory changes we announced will increase the financial resources to support the Cuban people and the emerging Cuban private sector. They also enable U.S. companies to expand telecommunications and Internet access within Cuba. U.S. policy will no longer be a barrier to connectivity in Cuba.

This administration is under no illusions about the continued barriers to internationally recognized freedoms that remain for the Cuban people, nor are we under illusions about the nature of the Cuban Government. When we sat down with our counterparts in Havana, we were clear that our governments have both shared interests and sharp differences. From mail service to counter narcotics to oil spill mitigation, we owe our people a diplomatic relationship that allows an effective pursuit of their interests. On these types of practical issues, we agreed to continue dialogue and increase cooperation. At the same time, I raised with the Cuban Government our concerns about its harassment, use of violence, and arbitrary detention of Cuban citizens peacefully expressing their views. I met with dissidents, entrepreneurs, and independent media voices to talk about what they need from their government and from us.

I talked with my Cuban counterpart about several elements that presently inhibit the work of our U.S. Interests Section, including travel restrictions on our diplomats, limits on staffing and local access to the mission, and problems receiving timely shipments to the mission. The successful resolution of these issues will enable a future U.S. Embassy to provide services commensurate with our other diplomatic missions around the world and on a par with the many foreign diplomatic

missions in Cuba. We began a useful discussion and intend to meet again this month.

Having just seen our U.S. diplomats in Havana in action, I would like to take this opportunity to salute their tireless work to advance U.S. interests on the island by conducting educational and cultural diplomacy, monitoring significant political and economic developments, and promoting respect for democracy and human rights, including engaging with Cuba's independent civil society. These dedicated public servants have done their jobs under often very difficult circumstances. Our diplomats unite families through our immigration processing, provide American citizen services, and issue visas for qualified visitors to the United States. Our Refugee Processing Center provides assistance to victims of political repression. Our public diplomacy officers work in partnership with a range of journalists, including those from civil society, and provide hundreds of Cubans each week with uncensored Internet access through our three Information Resource Centers. Our consular officers issue tens of thousands of travel documents annually to Cubans traveling to the United States for the purposes of emigrating or visiting friends and family. These efforts will continue and expand once we establish diplomatic relations with Cuba.

We have only begun the official talks on normalizing relations—which will take considerably longer than the first step, which is the reestablishment of diplomatic relations. But even while we do so, we will continue, both directly and through diplomatic channels, to encourage our allies to take every public and private opportunity to support increased respect for human rights and fundamental freedoms in Cuba. We will continue to use funds appropriated by Congress to support the exercise of political and civil liberties in Cuba, facilitate the free flow of information, and provide humanitarian assistance. We also look forward to increased engagement to empower the Cuban people through authorized contact with Members of Congress, U.S. Government officials, and American travelers. We encourage Members visiting Cuba to expand their engagement with the independent voices in Cuban civil society and, whenever possible, to engage effectively on human rights and democracy with the Cuban Government.

We will continue our discussions with our oversight and appropriations committees as we move toward a new relationship. We appreciate that there is a diversity of views in the U.S. Congress on the new direction toward Cuba. However, we hope that we can also work together to find common ground toward our shared goal of enabling the Cuban people to freely determine their own future.

We appreciate your attention to these important issues. Thank you and I welcome your questions.

Senator RUBIO. Thank you.

Secretary Malinowski.

STATEMENT OF HON. TOMASZ MALINOWSKI, ASSISTANT SECRETARY FOR DEMOCRACY, HUMAN RIGHTS, AND LABOR, U.S. DEPARTMENT OF STATE, WASHINGTON, DC

Mr. MALINOWSKI. Thank you so very much, Mr. Chairman, Senator Boxer, members, for having us today.

It is plain from the debate that we are having that people who care passionately about the cause of freedom in Cuba can disagree, sometimes passionately, about the best way to advance it. I have been working on this cause for many years myself, and I believe with all my heart that the President made the right decision. I have also listened with great respect and care to those who disagree, and I certainly do not dismiss their concerns.

I want to start, though, by making a few points on which I hope we all do agree.

First of all, all of us agree that human rights and the empowerment of the Cuban people must be the bedrock of our new policy toward Cuba, and it will be. As to how we will take our cues from the Cuban people, supporting their vision for Cuba's future, Secretary Kerry has explicitly said that we endorse the objectives that Cuban civil society groups have rallied around.

Second, I trust we all agree that the most immediate result of this new policy, the release of 53 activists who are now back with their families, able to continue their brave work, is a good thing. The released men and women include virtually everybody known to my Bureau for having been prosecuted in Cuba for the peaceful exercise of their political views. And I can assure you that we will spare absolutely no effort to ensure that everybody in this category is free in Cuba, not just from prison but from harassment, threats, and restrictions.

Third, we all agree that the release of these prisoners does not change the fundamental nature of a state that tries to stifle everything it does not control. We have no illusions about the current leadership's desire to keep things just as they are, and we fully agree that none of this, neither Cuba's repression, nor its poverty, nor its isolation is the fault of the United States or of the embargo. The responsibility lies with the Cuban Government. Period.

At the same time, after 50 years of experience with the embargo, we have to face the hard truth that it has not weakened the repressive apparatus of the Castro government or strengthened Cuban civil society. The dominant feature of life in Cuba these last 50 years has been the complete absence of change and of hope day after day, year after year.

I say this as someone who often supports economic sanctions, and I totally agree with you, Senator Rubio, when you say that no country ever became a democracy simply because of trade or tourists.

At the same time, we have all seen how the Castro government has succeeded around the world in making our embargo a bigger issue than its own repression, making it extremely hard to mobilize international pressure for human rights on the island. To its own people, the government has justified Cuba's isolation and poverty as a product of American hostility. These were terrible excuses. They justified nothing. But we have to acknowledge that this has worked for the Castros over the years.

What has changed is that it is not going to work anymore. Every country knows now that the United States is not the obstacle to Cuba's integration or prosperity. Every citizen of Cuba knows that the United States is willing to have normal relations with their country, help them connect with the world. These steps have raised the Cuban people's expectations and shifted the burden for meeting those expectations to the Cuban state.

The state can now respond in one of two ways. It can begin the reforms needed for its people to benefit from this opening to the United States, in which case the Cuban people will be less dependent on their government and have more power to shape their future, or it can keep resisting those reforms, in which case everyone will know who is to blame.

So that is the opportunity. We now have to work together to try to seize it by getting more information to the Cuban people, more resources, by urging other countries to join us in pressing the Cuban Government on human rights and democracy. I was in Bolivia a couple of weeks ago for the inauguration of the new President there, but I went for the express purpose also of meeting with

leaders and Foreign Ministers from throughout the hemisphere to urge them to do just that.

We are working to ensure that civil society from Cuba can engage with governments at the Summit of the Americas in Panama. The Cuban Government has also proposed government-to-government talks on human rights, and I will lead our delegation to that effort. And we will continue our programs that promote the realization of human rights in Cuba just as we do in scores of other countries around the world.

Now, look, none of us can say what will happen next. Some of Cuba's bravest dissidents, people who we profoundly respect for their sacrifices, believe little good is likely to come from these changes. Others who have sacrificed for the cause of democracy believe just as strongly that we have done the right thing. There are different views because the future is uncertain.

But I will close by suggesting that this uncertainty after decades of absolute depressing certainty that nothing can change in Cuba carries with it a sense of possibility. Our task is to seize that opportunity and to realize that possibility.

And I look forward, Mr. Chairman, to working with you and other members to do that in the coming months. Thank you.

[The prepared statement of Mr. Malinowski follows:]

PREPARED STATEMENT OF TOM P. MALINOWSKI

Mr. Chairman, Ranking Member, and members of the committee, thank you for the opportunity to testify today, and to share my thoughts about how we can best stand up for the human rights and fundamental freedoms of the Cuban people.

It is plain from the debate that followed the President's announcement of our new policy that people who feel passionately about freedom for the Cuban people can disagree passionately about how best to advance it. I have long been committed to this cause, and I believe with all my heart that the President chose the right course. I have listened with great care and respect to those who disagree, and while I will try to address their concerns today, I want to be clear that I do not dismiss them.

I want to start by making a few points on which I hope we all agree.

First, the promotion of universal human rights and the empowerment of all Cubans must be the bedrock of our policy toward Cuba. President Obama has made clear that it will be. And here, we will take our cues from the Cuban people, supporting their vision for Cuba's future. As Secretary Kerry has said, we support the key points around which Cuban civil society groups have rallied:

- Cuban ratification and compliance with various U.N. human rights treaties;
- Recognition of independent civil society;
- Implementation of constitutional and legal reforms to ensure full respect for labor rights, freedoms of expression, association, peaceful assembly, and expression, and to allow for free elections;
- Release of prisoners arrested for political reasons; and
- An end to government-sponsored harassment of independent civil society.

Second, the most immediate result of this policy shift—the release from prison of 53 activists who are now back with their families and able to continue their brave work—is unambiguously a good thing. The released men and women included all Cubans designated by Amnesty International as "prisoners of conscience," and many known to my Bureau to have been prosecuted for peaceful expression, association, and assembly in Cuba. Among them is independent rapper "El Critico," arrested after a government-organized counterprotest retaliated against him for painting antigovernment messages on his home and distributing pro-democracy pamphlets; Ivan Fernandez Depestre, arrested for the absurd offense of "precriminal dangerousness," a label the government uses to detain people in anticipation of crimes that supposedly are yet to be committed; and Sonia Garro, who can march again on Sundays with her fellow Ladies in White. We will spare no effort to ensure that everyone still detained for simply exercising their rights to freedom of expression, association, or peaceful assembly is free, not just from prison but from harassment, threats and restrictions on their movement and their work.

Third, we agree that the release of these political prisoners does not of itself change anything in Cuba. Cuba remains a one-party state that tries to stifle virtually all political, cultural, and economic activity that it does not control. The government continues to crack down on everything from art performances in Havana squares, to independent meetings by civil society out in the provinces. It continues to employ short-term detentions—at times with violence—to disrupt free expression and peaceful assembly, and has used this tactic since President Obama's announcement, including against recently released political prisoners. No one should have any illusions about the nature of this system, or about the determination of the current leadership to keep things just as they are for as long as possible.

And let's be clear: none of this, Cuba's repression, its poverty, its isolation, is the fault of the United States or of the embargo. The responsibility lies with the Cuban Government, period.

At the same time, after 50 years of experience with the embargo, we have to face the hard truth that it has not weakened the repressive apparatus of the Castro government. It has not strengthened Cuba's civil society. It has not given us the leverage we need to press for change, or the Cuban people the hope they crave. The Castro government has been happy in its isolation. The Cuban people have not.

I say this as someone who often supports economic sanctions to leverage progress for human rights. I completely agree with Senator Rubio that no country ever became a democracy simply because of trade and tourists.

At the same time, over many years of working on this issue, I have seen how the Castro government has turned our policy against us, and how this has helped an authoritarian form of government survive so close to our shores long after walls of repression from Berlin to Moscow to our own hemisphere came tumbling down.

For decades, in capitals around the world, the Cuban Government has succeeded in making our embargo and its isolation from the United States a bigger issue than its own repression, making it difficult to mobilize international pressure to improve respect for human rights on the island. To its own people, the government has justified Cuba's isolation, poverty and lack of democracy as being a result of American hostility. These were bad excuses; they justified none of what the Cuban people have suffered all these years. But we have to acknowledge that, over the years, shifting the blame to America has worked for the Castro government.

It is not going to work any more.

Now, every country in Latin America and the Caribbean, and indeed around the world, knows that the United States is not the obstacle to Cuba's integration with the hemisphere and its prospects for economic development. Cuban policies are the obstacle. Now every citizen of Cuba knows that the United States is willing to have improved relations with their country, to support private business on the island, and to help connect them to the world. These steps have raised the Cuban people's expectations, and shifted the burden of meeting those expectations back upon the Cuban state.

The Cuban Government can respond in one of two ways. It can begin the reforms needed for its people to benefit from the opening to the United States—by allowing greater Internet access, for example, and easing restrictions on private businesses, on travel, and on civil society—in which case the Cuban people will be less dependent on their government and will have more power to shape their future. This is what we hope will happen. Or it can keep resisting those reforms, in which case it will further lose domestic and international legitimacy, because Cubans and others in the international community will know exactly who is to blame for their country's problems.

Critics of our new policy have argued that we gave away leverage by easing restrictions on engagement with Cuba without demanding democratic reforms up front. But the Cuban Government did not ask for and is not necessarily eager for us to take the steps the President announced, which involve efforts to get more information and resources to Cuban civil society and private citizens, and greater access to Cuba and its people for our diplomats. It should go without saying that the Cuban Government wasn't going to stop repressing its people in exchange for Americans connecting its people to the Internet. These steps were not tradable commodities, but actions we took in our own interest, to help ordinary Cubans, and to shift the attention of the world to the embargo that matters—the one the Cuban Government has imposed on its own people.

Our new policy has opened these new opportunities to engage with the Cuban people; we will now work energetically to seize them and to advance them. In doing so, we will continue to consult with independent Cuban civil society to hear their views and plans for the future activities. And we will urge other countries to join us in pressing the Cuban Government on human rights and democracy.

We have reengaged nations throughout our hemisphere on the importance of supporting genuine progress on human rights and democratic principles in Cuba as a means to advance meaningful and principled regional integration. Last week, I attended the inauguration of Bolivian President Morales where I had the opportunity to meet with leaders and Foreign Ministers from throughout the hemisphere to stress the importance of ensuring we speak with a united voice on Cuba. The common reaction was that we had taken a giant step for the hemisphere and that the time had come to encourage Cuba to do its part.

We are also working with our friends in the region, and directly with the Government of Panama, to ensure that independent civil society, including independent voices from Cuba, can engage meaningfully with governments at the coming Summit of the Americas. I hope to be at the summit and meet with Cuban civil society, as well as other civil society representatives, particularly those who find themselves threatened by repressive governments.

We are also deepening our engagement with Europe to encourage partners there to push for advances in human rights and democratic principles with their Cuban counterparts. We have engaged with European delegations here, and I plan to travel to Europe personally to further these discussions. As you know, efforts by the Vatican were critical to the successful negotiation that secured the release of Alan Gross and of the 53 imprisoned Cuban activists, and we will continue to work with the Vatican to encourage the Cuban Government to follow through on its other commitments. We will also encourage the EU to press for concrete improvements in human rights in their discussions with Havana and to support the agenda of independent civil society on the island. No government—neither that of the Castros nor those of third countries—can credibly make the case that pushing the Cuban Government to respect universal human rights is taking sides in a dispute between Cuba and the United States.

We are also looking for new and innovative ways to responsibly support the emergence of a Cuban private sector as a critical component of civil society. We also envision a role for Latin American and European countries to create links between private small businesses in Cuba and the small businesses in their regions.

Cubans are also entitled to access uncensored information, including through the Internet. As Assistant Secretary Jacobson noted, the administration's regulatory changes will help U.S. and international telecommunications companies provide Internet service to the island. These regulatory changes respond directly to requests made to the administration by civil society to facilitate greater access to telecommunications equipment on the island. The Castro government can no longer argue that its failure to provide Internet access to all Cuban citizens is somehow the responsibility of the United States. And we hope Latin American and European companies can cooperate in our efforts to promote the free flow of information to, from, and within the island.

We are also asking other countries to encourage the Cuban Government to allow greater access by the United Nations and other international organizations. These actors will provide much-needed transparency and are widely seen as credible, objective observers. Cuban dissidents have emphasized the important role that the United Nations can play in advancing human rights in Cuba, and we will use the new opportunities presented by our Cuba policy to mobilize others in the U.N. and other multilateral fora in support.

The Cuban Government has proposed bilateral talks on human rights, and I look forward to leading the U.S. team to these talks. Our objective in such talks will be to develop an agenda of specific reforms that will bring about concrete improvements in compliance with applicable international human rights obligations and commitments. The Cuban side will of course raise its usual allegations about problems in the United States, and I will be proud to defend our record. But we are not interested in an abstract debate; we will continue such talks only if they chart a course for concrete progress on human rights and democratic principles in Cuba. And we will insist that the most important dialogue the Cuban Government should have on human rights is with its own people.

President Obama has also made it clear that the U.S. Government will continue programs that promote the realization of human rights and fundamental freedoms such as freedoms of peaceful expression, association, and assembly in Cuba, just as we do in 95 countries around the world. These programs are a fundamental part of our human rights policy and national security interests around the world. The Cuban Government may continue to object to these efforts, and to try to crack down on those involved with their implementation. But it will find it harder to treat contacts with the U.S. Government and with international NGOs as criminal when Cubans see their own leaders engaging in diplomatic relations with us. In any case, we will continue to manage our programs in Cuba with appropriate discretion to

protect human rights activists from further reprisal, even as we ask the Cuban Government to stop punishing its citizens for activities considered a normal part of life in most other countries. We greatly value the input and coordination of this committee on our programs and we look forward to further conversations.

Of course, none of this will be easy. If I am right, and our new policy succeeds in empowering the Cuban people to shape their political destiny, then the Cuban Government may respond by cracking down harder in the short run but the Cuban people will have the best opportunity in more than half a century to freely determine their own future in the long run.

None of us can say what will happen next. Some of Cuba's bravest dissidents—voices we profoundly respect—believe that we've made a mistake and that nothing good is likely to come from these changes. I hope critics of our policy will acknowledge that others in Cuba who have sacrificed for the cause of democracy believe just as strongly that we have done the right thing. There are many different views on this question, because the future is uncertain.

I'll close by suggesting that this sudden uncertainty, after decades of absolute, depressing certainty that nothing can change, constitutes progress. It carries with it a sense of possibility; an opportunity for debate. This is what most of the Cubans we've heard from in recent days are saying; they don't know if the changes we've announced will bring better days or not, but they feel that something better is at least possible now.

Reinaldo Escobar, a journalist who began his career writing for official Cuban Government media and now writes for the independent Cuban news outlet 14ymedio, summed up this feeling in an essay he titled "A New Dawn."

"The entire world," he wrote, "now has its eyes set on the government of Cuba . . . They know it and will have to choose between loosening the repression or letting the world down. I am betting that they will let the world down, but I am hoping to lose the bet. All the signs and accumulated experience clearly say that this is only a new maneuver to win some time and to allow them to get away with their schemes, but this is also an unprecedented move and things can always turn out differently. The most important thing is that the domino game has been shaken up and it is time to move the pieces."

Mr. Chairman, members of the committee, having shaken up the game, we have a chance now to help things turn out differently for the Cuban people. I hope we can work together to seize that chance.

Senator RUBIO. Thank you both for your testimony.

We will begin now the first round of questions. My hope is to get at least two rounds in. We are going to go 5-minute segments on questions, and we will go by seniority on the committee—or 7 minutes I guess; 7 minutes. So let me begin.

Secretary Jacobson, when did you first learn about these negotiations with regards to a change of policy toward Cuba?

Ms. JACOBSON. Well, I knew throughout the period that there were efforts underway to secure the release of Alan Gross.

Senator RUBIO. When did you know about the policy changes being negotiated?

Ms. JACOBSON. I knew about the policy changes that accompanied that effort some weeks—probably about a couple of months before they were announced.

Senator RUBIO. In the 2 months that you knew about it, were you involved in the negotiations?

Ms. JACOBSON. I was not.

Senator RUBIO. Was anybody in the State Department involved in the negotiations?

Ms. JACOBSON. I cannot speak for the Secretary of State. I know that no one in my Bureau was involved.

Senator RUBIO. Who were the lead negotiators for the United States?

Ms. JACOBSON. To the best of my knowledge, they were the NSC personnel that you mentioned at the beginning of the hearing.

Senator RUBIO. And who were the lead negotiators for the Cuban Government? Were they diplomats or members of the military or intelligence?

Ms. JACOBSON. I do not know that.

Senator RUBIO. Were you consulted or regularly briefed by the negotiators for your input on the policy changes?

Ms. JACOBSON. What I can say is that when we were talking about securing the release of Alan Gross, the State Department was in the lead on that part of the Gross detention. We were in the lead on the conditions of confinement. We were in the lead in contacting his family and working with his family.

Senator RUBIO. But what about the policy changes?

Ms. JACOBSON. Well, there had been a process of looking at potential policy changes with Cuba that had been going on throughout the administration that had brought many agencies together. Much of that discussion was the basis for the conversation.

Senator RUBIO. But as the negotiations were ongoing with the two individuals that I have identified, who are not here today, were you personally contacted? As the person who is now in charge of making this come about, were you involved in interaction with the negotiators giving them input and advice during the last 2 months?

Ms. JACOBSON. In the last 2 months, as we were preparing for—on the policy changes, I was not. As we were preparing to implement the effect of those changes, I was.

Senator RUBIO. So it is fair to say that this negotiation occurred through NSC personnel. The State Department was not in charge or involved—unless the Secretary of State was—in providing advice and counsel on negotiating the policy changes.

Ms. JACOBSON. To the best of my knowledge, most of the preparation on the policy changes had been done through the policy committee that was an interagency policy committee prior to those negotiations, but during that process, we were not.

Senator RUBIO. Now, Secretary Malinowski, when did you learn about these negotiations on the policy changes?

Mr. MALINOWSKI. Like Assistant Secretary Jacobson, I was aware that there were discussions with respect to Alan Gross, but in terms of the policy changes——

Senator RUBIO. Did the negotiators reach out to you as someone in charge of the human rights portfolio for the State Department for a suggestion on who should be on the list of the 53 political prisoners?

Mr. MALINOWSKI. We were involved in every conversation interagency about political prisoners in Cuba about who——

Senator RUBIO. But were you consulted about how the 53 or what the list should be and who should be——

Mr. MALINOWSKI. The list was based on inputs that were provided over time by Cuban civil society organizations.

Senator RUBIO. Were you consulted?

Mr. MALINOWSKI. Not personally, but I can tell you that they asked for exactly the right people to be released.

Senator RUBIO. Which civil society groups in Cuba or opposition figures were consulted, to the best of your knowledge, about the list?

Mr. MALINOWSKI. There are a number of Cuban civil society organizations, Senator, as you know, who document who is in prison in Cuba for the peaceful exercise of their political views. All of those lists from a variety of human rights organizations were consulted and incorporated, and the list was exactly the right list.

Senator RUBIO. So the administration, during these negotiations, consulted with civil society in Cuba about who should be on the list?

Mr. MALINOWSKI. We have been consulting as an administration for years with Cuban civil society and human rights groups.

Senator RUBIO. But specifically with regards to these negotiations, were groups within Cuba consulted and asked who should be the people that are on the list, who should we prioritize, what is the status of each individual on the list?

Mr. MALINOWSKI. Not specifically with respect to the negotiations, which as we all know——

Senator RUBIO. Just in general.

Mr. MALINOWSKI. But in general we based our knowledge of who is in prison in Cuba on their work.

Senator RUBIO. Secretary Jacobson, that takes me back to another question. Which civil society groups in Cuba were in the loop, so to speak, consulted during the process of this negotiation? I know you were not involved, but subsequently you have talked to some of them. Which groups within Cuba, which pro-democracy groups within Cuba were aware of these negotiations and consulted about the subject matter of the negotiations during the negotiations?

Ms. JACOBSON. I think you would probably have to ask some of those groups, but to the best of my knowledge, we continued to consult with those groups throughout that period through our interest section and through Tom and my work in the Bureau, as we always consult with them. But as part of the negotiations, I do not know that any were specifically consulted. The input that we get through our interest section and through our own work was certainly known to the negotiators.

Senator RUBIO. Okay. Let us talk about something you are involved in negotiating now. You traveled to Havana last week—the week before. The lead negotiator for the Cubans is an individual by the name of Josefina Vidal. Correct? You have interacted with her in the past.

Ms. JACOBSON. Yes.

Senator RUBIO. Do you find her to be, as you said, a serious person?

Ms. JACOBSON. Yes.

Senator RUBIO. So when she speaks, you take what she says with some level of authority and seriousness. I mean, she obviously has some level of authority from the government to be at that table and speak on their behalf.

Ms. JACOBSON. Yes.

Senator RUBIO. I wanted to ask you about yesterday. She has a statement. It says, "Cuba's lead negotiator said in an interview broadcast on state television that if the United States want free movement for its diplomats in Cuba, it must stop using them to support the political opposition." This is her quote.

"The way those diplomats," meaning the United States, "act should change in terms of stimulating, organizing, training, supplying, and financing elements within our country that act against the interests of the government of the Cuban people. The total freedom of movement, which the U.S. side is posing, is tied to a change in the behavior of its diplomatic mission and its officials."

Would we accept an embassy in Cuba where our diplomats are not allowed to meet with democracy activists on the island?

Ms. JACOBSON. We would not curtail the activities we are doing now, which is meeting with democracy activist and——

Senator RUBIO. One of the things that we are trying to negotiate is opening an embassy in Cuba.

Ms. JACOBSON. Correct.

Senator RUBIO. And she is saying in order for us to open an embassy in Cuba—and as you have said, she is a serious person who speaks with authority. She made very clear yesterday that in order for us to open an embassy in Cuba and allow our personnel greater freedom than they have now, we would have to agree not to allow them to interact with democracy activists. Can you categorically say today we will never accept that condition on our personnel?

Ms. JACOBSON. What I can say is that I do not yet know whether that is a real condition on their part, but we could not accept that condition——

Senator RUBIO. What do you mean it is not a real condition? You just said she is a serious person who speaks with authority on behalf of the government.

Ms. JACOBSON. I also think that sometimes things are said in public that are not necessarily a position in private, and I do not know that they have made that a condition yet. You have to ask them.

Senator RUBIO. But, in fact, that is their position in public today. Is it not?

Ms. JACOBSON. I saw what she said in public. But what I am saying is——

Senator RUBIO. But in practice that is their position.

Ms. JACOBSON [continuing]. We could not accept not meeting with democracy activists and with the broadest swath of Cubans possible. That is the point of this policy. So, yes.

Senator RUBIO. My time is up. I want to get to Senator Boxer.

I guess what I am trying to get today is the following. Can you say today to people watching this broadcast and here in the audience and to the members of this committee that under no circumstances will the United States ever agree to limit—agree to limit—the ability of our personnel to interact with democracy activists and civil society in Cuba as a condition of expanding our embassy operation?

Ms. JACOBSON. We want to have the greatest possible ability to interact with everybody, including democracy activists all over the island. That is the point of our getting the geographic restrictions lifted.

Senator RUBIO. So we will never agree with the Cuban Government that in order to open an embassy, we will agree to limit our personnel.

Ms. JACOBSON. We are going to keep pushing to get those restrictions lifted as part of getting an embassy in Cuba.

Senator RUBIO. Secretary Jacobson, it is a pretty straightforward question. Would we ever agree in a negotiation to the Cubans that in order to open an embassy, we will agree not to send our people to meet with democracy activists? Yes or no. Will we ever agree to that?

Ms. JACOBSON. I cannot imagine that we would go to the next stage of our diplomatic relationship with an agreement not to see democracy activists. No.

Senator RUBIO. Senator Boxer.

Senator BOXER. Thank you, Mr. Chairman, very much.

On this question of the White House staff not coming here, I would ask unanimous consent to place in the record a White House counsel letter which points out that the administrations of both political parties do not have White House staff at these hearings. I would like to put that in the record.

Senator RUBIO. Without objection.

Senator BOXER. Thank you very much.

[EDITOR'S NOTE.—The document referred to can be found on page 87.]

My friend, the ranking member, seems to say—and I do not know that he meant to say this—that Nixon going to China and normalizing relations was really not a good thing to do. That is what I heard him say. And as I said in my opening statement, clearly whether it is relations with China or Vietnam or Russia, all of which were normalized by Democratic and Republican Presidents, we know human rights abuses are still a heart-wrenching problem. And Assistant Secretary Malinowski—I mean, that is his middle name, "human rights." And we know these countries are tough.

And the question really is what about the citizens of those countries. Does it help them to be isolated from Americans, whether it is through trade or talking on the street or the ability to interact? You know, I think having a policy in which Americans cannot interact with the people that we care about is not only, I think, unintelligent but it does not work. And for 50 years, we have seen it does not work. And I hope that nobody here is considering revisiting relations we have had with other countries that still have human rights abuses. These abuses are a sin against humanity. But I believe if we have contact with the people, we give them hope. We give them the possibility of being empowered.

So I have to say with all my heart and deep respect for my ranking member and my subcommittee chairman, whom I congratulate on the chair—even though I regret that we lost control, I do think he deserves congratulations. The fact of the matter is they represent the status quo and the status quo in Cuba has not worked. And I do not think there is anyone who could argue that it has worked, although we will probably hear a couple of people suggesting that it continue.

I think President Obama had courage, just as Nixon had courage to go to China, just as Reagan had courage to deal with Gorbachev,

just as Bill Clinton and John Kerry and John McCain had courage to fight for normalization with Vietnam.

And I ask unanimous consent to place into the record 46 statements by foreign governments in support of this policy change, including Brazil, Mexico, the European Union, and the Vatican. May I do that, sir?

[EDITOR'S NOTE.—The volume of statements mentioned above was too voluminous to include in the printed hearing. It will be retained in the permanent record of the committee.]

Senator RUBIO. Without objection.

Senator BOXER. Thank you.

And so in light of that, can I ask our panel in either order what effect has the President's new Cuba policy had on our relationship with other countries in the region, and the world?

Ms. JACOBSON. Thank you, Senator Boxer.

I think that the reaction to this was immediate and extremely positive. We saw, certainly as you have noted, widespread throughout Latin America for the policy change. And frankly, there was shock by some of Cuba's allies in the region, Venezuela and others, who were not quite sure what to make of it, and that I think also was a very positive thing. My counterpart in the European Union reached out to me immediately. They are negotiating with Cuba, and he wanted to make sure that we were in sync because he felt immediately that we could work more closely together now, including on democracy and human rights issues.

Senator BOXER. Right. So if I can interrupt you. So our new policy is in line with our allies' policy.

Ms. JACOBSON. Yes, but just as importantly, when I was in Cuba 2 weeks ago, for the first time when we held a large reception for democracy and human rights activists, to which we invited European and Asian and other diplomats, they all came.

Senator BOXER. Where was this held?

Ms. JACOBSON. This was at our principal officer's residence. They never came in the past, not wanting to be associated with our policy.

Senator BOXER. This is in Cuba.

Ms. JACOBSON. Yes.

Senator BOXER. Well, I think that kind of answers the question——

Ms. JACOBSON. Having the opportunity to meet dissidents.

Senator BOXER. Could I hear from you, Mr. Malinowski?

Mr. MALINOWSKI. Certainly. And I have had the same experience. As I mentioned, when Assistant Secretary Jacobson was in Cuba, I was in La Paz in Bolivia where there was this gathering of leaders and ministers from throughout the hemisphere for the inauguration. And I met with probably a dozen of them, again for the express purpose of talking about human rights in Cuba. And I have to say the overwhelming reaction I got was "you have done a great thing for the hemisphere. How can we help?" And for the first time, I think we were able to have conversations at that level about what these countries can do for human rights in Cuba by raising key cases, by urging no more harassment of dissidents, by urging Cuba to meet the commitments that it has made on allow-

ing the U.N. and the ICRC, including, to prisons, which I agree with you, Senator Rubio, is very, very important. On meeting Cuban dissidents themselves, for the first time, we can have a conversation about that without the overhang of the embargo, without anyone being able to say it is your policy that is to blame.

Senator BOXER. Let me just say because I am running out of time. To me, one of the most important statements came from the Vatican and it said, "the Holy See will continue to assure its support for initiatives which both nations will undertake to strengthen their bilateral relations and promote the well-being of their respective citizens."

Now, having this statement from the Vatican is a big deal. I am just wondering. Were you aware that the Vatican was going to make that statement, or was this just a reaction? Was there any discussion with the Pope just to get his views on this prior to this policy?

Ms. JACOBSON. Well, the Vatican's involvement in this policy change was crucial. The support of the Vatican and Pope Francis was something that was crucial to both sides. The respect for this Pope, because he is Latin American, and his importance in Cuba and throughout the hemisphere, I think is part of the reason it is so well-respected not just in and of itself, as Tom said, but because of the emphasis that the Pope has put behind it. And I do think that our work with the Vatican and the Pope has been instrumental in this.

Senator BOXER. Do you think that the Pope's strong support for this is resonating in Cuba itself?

Ms. JACOBSON. Absolutely. I heard about it everywhere from Cardinal Ortega and from others in the church, as well as from Cubans I met while I was there, independent private entrepreneurs and independent media. This has galvanized them as well. They are also encouraged by the fact that the Pope's continuing involvement and the Vatican's continuing involvement as a facilitator and to some extent as a guarantor gives them greater hope that compliance will be assured.

Senator BOXER. I will close with this. I think that is critical. And I am going to write a letter to Pope Francis thanking him for his leadership on this. But he has got to stay involved. And I do not think there is any doubt we are going to have problems with the government there, just like we do, as my friend pointed out, in China. Of course, this is not going to change everything overnight. So I think his involvement, calling it the way he sees it, and being sincere and honest about what is happening is going to help us move forward.

I just want to thank you both of you very much, and I would conclude.

Senator RUBIO. Thank you.

Senator Flake.

Senator FLAKE. Thank you. Thanks for having this hearing.

The chairman and I agree on a lot of things in the Senate. We even agree on taste in ties apparently. [Laughter.]

Senator FLAKE. But we do disagree on this subject.

One of the first pieces of legislation I introduced 14 years ago when I entered the House of Representatives was legislation to lift

the travel ban. I have always felt that we ought to have more Americans traveling to Cuba, not fewer. Cuban American families in particular ought to be able to visit family members. I was pleased to see the President loosen those restrictions a couple of years ago and then take the further step of allowing more people to travel to Cuba. It is not an acknowledgement that things are better in terms of human rights in Cuba or any more democracy. It is a recognition, as was said in your testimony, that we hope that we can improve the situation.

So following on that, Ms. Jacobson, you mentioned in your testimony that you differentiate between normalization of relations and diplomatic relations. Can you expand on that briefly?

Ms. JACOBSON. Certainly, Senator. Full normalization of relations is a process that will take years and has to include a range of issues—and I want to be very clear here—including the issues of claims and expropriations. And that was made very clear to the Cuban Government.

The reestablishment of diplomatic relations is a first step in that process in the nearer term and enables us to have the conversations that can get us to a full normalization. And so those two things I think really have to be understood because sometimes people talk about normalization and things that they may demand in normalization, which is a much longer process than this initial step.

Senator FLAKE. Thank you.

With regard to diplomatic relations, there is some confusion about what we have in Cuba right now. Can you describe our mission in Cuba as it stands, what facilities we have, the number of personnel? I think a lot of people would be surprised to know what a presence that we have had for a while.

Ms. JACOBSON. We have a U.S. interest section. We are under the protection of the Swiss and have been since 1977. The building is the same one that we had as an embassy. We have about 360 people working in that interest section, of whom about 70, 60-something, are Americans. A number of agencies are in that building. I believe we are one of the larger diplomatic presences in Havana. They do extraordinary work processing refugees to come to the United States, obviously, visa processing, protection of Americans who travel there, outreach to dissidents and civil society, and general support for the emerging private sector in Cuba. So it is as much of a range of activities as we can do within Cuba today.

Senator FLAKE. So establishing a formal embassy is not so much a budget issue as it is a change in policy.

Ms. JACOBSON. That is correct. It would not be a budget issue in changing our presence. Over time, there might be other agencies that would be interested in a fuller relationship. It would enable us to do more, pursue additional things, for example, in our law enforcement in getting fugitives returned. There might be a need to have additional presence. But for now, it would be not a major budgetary exercise.

Senator FLAKE. I was glad to see the chairman raise—we have spoken about this previously—that a fully functioning embassy will be expected to have the same requirements and protocols that fully functioning embassies elsewhere in the world have in terms of a

diplomatic pouch and being able to travel freely. Those are part of the negotiations that you are talking about right now to make sure that we have those items. This will be a fully functioning embassy.

Ms. JACOBSON. Right, absolutely. And there are a number of things: that ability to see the entire range of Cuban civil society, including democracy activists; also the fact that free access to the interest section has been controlled by Cuban security. We request security, obviously, to protect our embassy, but that does not mean screening, and right now people are, in essence, screened and their names are taken. That is a feature that we would undertake in the future, as we do in other embassies. But we basically want to ensure that the embassy runs commensurate with embassies all over the world.

Senator FLAKE. Mr. Malinowski, you were talking about the issues that obviously still remain in the area of human rights. Do you believe that with normalized relations or diplomatic relations or improved relations that you can more effectively press on those issues than we have been able to over the past couple of decades?

Mr. MALINOWSKI. Absolutely, with the strong caveat that we have no illusions about this. This is going to be hard. Authoritarian regimes do not just give up their power voluntarily. But change comes by empowering people to demand change. It comes by making the Cuban people less dependent on the Cuban state for their livelihood, for their survival. It comes through information coming from the outside and less control by the Cuban state. And it comes from international pressure, and we will be able to generate more international pressure on the Cuban Government as a result of this policy.

Senator FLAKE. Thank you.

Ms. Jacobson, do you view the policy changes that have been made as a concession to the Cuban Government?

Ms. JACOBSON. Absolutely not, Senator. I think that is a really important point. There is nothing in the policy that we undertook that was not something done in our national interest. Indeed, some of these things are things the Cuban Government would not have asked for, and certainly we do not see them as concessions. They are designed to empower the Cuban people more effectively than we have been able to in the past and to enable us to cooperate on those areas where our interests and the Cuban Government's may overlap.

Senator FLAKE. Well, thank you. I have seen that for a long time, and people see that normalization of relations or allowing Americans to travel to Cuba is somehow a concession to the Cuban regime.

Ms. JACOBSON. Many regimes do not consider U.S. embassies a gift. We are pretty active and pretty outspoken.

Senator FLAKE. And I would view it the same way in terms of travel. We have had various programs. We spend, I think, about $20 million a year on democracy programs trying to give more Cubans access to the Internet, for example. And the way I see it, as Americans travel freely, more freely, and hopefully ultimately completely freely, that we can do more in a week by just allowing Americans to travel than we could spending tens of millions of dol-

lars in untold resources and trouble with the policy that we have had in trying to promote democracy to Cuba.

So thank you for your testimony.

Thank you, Mr. Chairman.

Senator RUBIO. Senator Menendez.

Senator MENENDEZ. Thank you, Mr. Chairman.

Madam Secretary, you know, based on your answers to the chairman, in which largely, it seems to me, the State Department as an institution which is responsible for conducting our Nation's diplomacy was kept in the dark. And you can imagine that I was particularly concerned when your deputy informed my office that the changes to U.S. policy were not used as leverage at the negotiating table, that they were not used to secure any concessions from the Castro regime, that this was not "a transactional process."

Now, I see you made no mention of fugitives in Cuba, no mention of law enforcement issues in your statement, no mention of $6 billion in property rights, no mention of $2 billion in judgments, no mention of indictments in Federal courts in the United States of Cuban officials for the purposes of committing murder. And the same deputy informed my office that the U.S. Government is conducting a review of Cuba's status as a state sponsor of terror in response to a request from the Castro regime.

So despite that everything that we have heard from the regime and its surrogates here who operate relatively freely in this country is that they wanted exactly what you have largely given them. You elicited nothing in return. Even your list of 53, 14 of those 53 were released before the list was ever composed, and several were rearrested. The Red Cross cannot get into Cuban jails. You know, this is my problem in understanding the nature of the decision here not to elicit anything at the end of the day.

So let me ask you, since you are conducting a review at the Cuban Government's petition as it relates to their being on the state sponsor of terrorism, is it not true that the Castro regime provides sanctuary to Joanne Chesimard who is on the FBI's list of most wanted terrorists for murdering a New Jersey State trooper?

Ms. JACOBSON. It is, sir.

Senator MENENDEZ. Is it not true that the Castro regime is providing sanctuary to members of organizations that the State Department has named as foreign terrorist organizations?

Ms. JACOBSON. That has certainly been the case.

Senator MENENDEZ. Is it not true that the State Department considers a foreign government providing sanctuary to a terrorist that has committed a terrorist in another country to be support for international terrorism?

Ms. JACOBSON. Certainly in that past we have used that sanctuary, as that has been clearly noted in our reports on Cuba in our terrorist——

Senator MENENDEZ. And just beyond that in general, that is a standard that you have used, providing sanctuary to a terrorist, because here is what the law says.

Ms. JACOBSON. Yes, yes.

Senator MENENDEZ. Let me read from the Export Administration Act of 1979, which establishes part of the legal foundation for designating a country as a sponsor of terrorism. It defines the term

sponsor of terrorism, "repeatedly provided support for acts of international terrorism to include the recurring use of any part of the territory or the country as a sanctuary for terrorists for terrorist organizations as a sanctuary." And that is exactly what we have here, among others.

Now, let me ask you this. The 18-month-long secret negotiations began in June 2013. The next month Cuba and North Korea got caught smuggling 240 metric tons of weapons through the Panama Canal, the single largest violation of U.N. Security Council resolution sanctions to date. Was this issue, to your knowledge, discussed during the negotiations?

Ms. JACOBSON. I do not know if it was discussed.

Senator MENENDEZ. Has it been discussed since?

Ms. JACOBSON. Has it been discussed with the Cuban Government? It certainly has been discussed with the Cuban Government, since the revelation of that, repeatedly.

Senator MENENDEZ. But since your engagement.

Ms. JACOBSON. It has been discussed with other governments and then with the U.N. with the Cuba Government. Since my engagement, has it been discussed with them? We have certainly discussed the need to comply with international law and requirements of that.

Senator MENENDEZ. Well, good. I am glad we are talking about following international law because in the aftermath of this incident, the United Nations acted forcefully and applied strong sanctions against North Korea——

Ms. JACOBSON. Correct.

Senator MENENDEZ. Let me finish, Madam Secretary. Against North Korea but Cuba got off with nothing more—nothing more—than a slap on the wrist. So you wonder if having the Cubans have the biggest U.N. Security Council violation of sending Migs and missiles and tons of equipment to North Korea—so North Korea gets further sanctions and Cuba gets nothing maybe because that would have upset the secret negotiations that were taking place.

Let me ask you this. You talk about connectivity. Is it not true that Cuba has had Venezuela lay a fiber optic cable to Cuba, that an Italian telecommunications company partnered with ETECSA for several years, and yet dissidents on the island still do not have access to the Internet and other forms of communication? Because even if you think the law allows the investment of U.S. dollars to provide the link to the island, there is no guarantee, as we see in China and other places, that the Government of Cuba will permit such linkages to ultimately take place to the average Cuban. Do you have any guarantees of that in your negotiation?

Ms. JACOBSON. We have no guarantees, but that is why, as Assistant Secretary Malinowski said, it will be clear who is keeping the Cuban people from having that connectivity when they can no longer blame any barrier on us.

Senator MENENDEZ. Well, they do not have a barrier. They already have a fiber optic line directly laid by Venezuela into Cuba. They had an Italian company participating with them. And yet, there is no connectivity for the Cuban people because the Castro regime will not permit that connectivity to take place. If not, I would be the first one to say let us go ahead and do that. But at

the end of the day, you got no concessions from the regime that even if you allow the fiber optic or other technological connections to take place, that they will allow the Cuban people to have access to it.

So this is replete with challenges that we have in terms of not getting anything on behalf of the Cuban people.

And, Mr. Chairman, I would like to include statements in the record by the New Jersey Association of Chiefs of Police, a letter to President Obama from the New Jersey State Troopers Fraternal Association and by various sheriffs of New Jersey as it relates to Joanne Chesimard.

Senator RUBIO. Without objection.

Senator MENENDEZ. Thank you, Mr. Chairman.

[EDITOR'S NOTE.—The submissions referred to can be found beginning on page 89.]

Senator RUBIO. Thank you.

Senator Gardner.

Senator GARDNER. Thank you, Mr. Chairman.

And thank you, Secretary Malinowski and Secretary Jacobson, for your attendance today.

In announcing the policy change, the President stated that this is fundamentally about freedom and openness. While I agree with the President's words and vision, I have questions about the Castro regime which continues to wield absolute power on the island, and I am concerned that they may not see it the same way.

In the briefing material that we received for this hearing, it stated, short-term detentions in Cuba for political reasons have increased significantly over the past several years, a reflection of the government's change of tactics in repressing dissent. The Havana-based Cuban Commission on Human Rights and National Reconciliation reports that there were at least 2,074 such detentions in 2010, 4,123 in 2011, 6,602 in 2012, and 6,424 in 2013. For 2014, the group reported that there were 8,899 such detentions, almost 39 percent higher than the previous year. Since the announcement of this policy, have those detentions lessened or increased?

Mr. MALINOWSKI. Since the announcement, from December to January, we have actually seen a significant decrease, but I do not want to say that 1 month represents a trend. We want to be very, very precise and realistic here, and even a single one of these detentions is too many. We are going to be watching this very, very closely.

Senator GARDNER. Has there been a single detention since the announcement of this policy?

Mr. MALINOWSKI. There have been short-term detentions, absolutely, yes.

Senator GARDNER. How many?

Mr. MALINOWSKI. The number for January—this has not come out publicly yet, but I believe it is about 140 or so.

Senator GARDNER. So since the announcement of this opening, this overture, there have been roughly 140 new detentions.

Mr. MALINOWSKI. The nature of the Cuban regime has not changed. Absolutely.

Senator GARDNER. I am sorry. What was that?

Mr. MALINOWSKI. The nature of the Cuban regime has not changed, and we have not claimed so.

Senator GARDNER. Do you believe that it will change?

Mr. MALINOWSKI. I am absolutely confident that the Cuban people who have been fighting for change in Cuba are going to prevail, and I think they will be more empowered to prevail as a result of this new policy.

Senator GARDNER. And do you believe the Castro regime will become your partner in that empowerment?

Mr. MALINOWSKI. I have no indication that they have any desire to become our partner in that. That is not the way this works in any authoritarian state.

Senator GARDNER. Going back to the issue of the political dissidents, Secretary Jacobson, you mentioned that there were divisions with the civil rights community, those people who support the changes being made and those people who do not. The people who do not support these changes that we have been talking about today—why do they not support those changes?

Ms. JACOBSON. Senator, I hesitate to speak for them, but I certainly listened to them when I was there. And it was very important for me to hear from all sides while I was there. Many believe that it was not the right thing to do because they fear that the Cuban Government will not respond to our willingness to have a dialogue. As Assistant Secretary Malinowski said, the policy is not based on the Cuban Government changing or necessarily being our partner here. We would like that to happen. We have no illusions about whether or not it will. It is based on trying to empower them. They also may have felt that we did not get enough in the deal. It was not really a deal. It was what was in our national interests. It was a policy in which we do not believe we conceded anything to the government.

But there are differing views. I would let them speak for themselves, some in the next panel and elsewhere, to the best of their ability. But I heard from them differences in tactics and the way we go about this, but not differences in goals or what we are all hoping to achieve. And I certainly respected their views enormously and learned a great deal from some of them about things we might be able to do together going forward.

Senator GARDNER. Following up on Chairman Rubio's questions on the State Department and the State Department's role in the negotiations. You stated the policy committee is where these policy changes came from. Is that correct?

Ms. JACOBSON. Certainly within an interagency policy committee, many of these changes were discussed broadly before the negotiations began.

Senator GARDNER. And who from the State Department is on that policy committee?

Ms. JACOBSON. Well, either myself or my deputy who works on Cuban affairs or the experts in our Cuba affairs office when we are talking about regulatory changes.

Senator GARDNER. And so are they a part of the conversations you—or the two that you mentioned a part of these changes——

Ms. JACOBSON. We are certainly part of the interagency policy committee when those kind of—yes, when that whole regulatory change conversation was taking place. Yes.

Senator GARDNER. Secretary Jacobson, some critics of the policy have stated that the administration, "threw an economic lifeline to the Castro regime, especially as its two top international backers, Russia and Venezuela, are struggling financially." Do you agree with this assessment?

Ms. JACOBSON. I know that there is concern over the Cuban Government gaining resources in the future because of this. What I can say is that the Cuban Government has been through extremely difficult economic times before, one of which they lost 30 percent of their GDP. They have survived those. In addition, we strongly believe that the benefits of what the Cuban people will gain in resources through this policy outweigh any benefit to the Cuban Government that may be gained in a policy like this, and those will be greater, we think, than what the Cuban Government gains.

Senator GARDNER. How has this affected traditional alliances of Cuba?

Ms. JACOBSON. Their alliances with other countries?

Senator GARDNER. Right, correct.

Ms. JACOBSON. Well, I think that I do not know exactly how it will affect their alliances, whether it is with Russia or Venezuela.

But certainly what our hope is that we can empower the small entrepreneurs, the conversation with the emerging entrepreneurial class separating from the state, gaining access to information. I think that is very powerful. And obviously, the more people who are not reliant on the state for their economic future, make their own economic decisions, I think politically and economically the more it empowers people to think twice about those old alliances.

Senator GARDNER. Thank you, Mr. Chairman.

Senator RUBIO. Thank you.

Senator Udall.

Senator UDALL. Thank you very much, Chairman Rubio and Senator Boxer, and thank you for calling us together in this very important hearing. I really appreciate having the witnesses here.

For over 50 years, the United States has followed a failed policy in Cuba, a policy that has done nothing to lift up the lives of ordinary Cubans. And I think that has been one of the points that has been made over and over again, is that our thrust with an embargo has hurt the Cuban people while it has probably done more to enrich the Cuban Government.

I believe President Obama, with his actions in December, has taken the courageous step toward true change here by opening up the island to Americans, increasing opportunities for business and agriculture, and taking the steps needed to improve telecommunications and access to Internet on the island. We will finally be able to engage Cuba in a way we have not been able to since the embargo.

We, of course, need to go further. And I have been pleased to work with Senator Flake on his legislation and Senator Leahy and others to end the travel ban for Americans. In my mind, the best ambassadors we have or the best diplomats we have are the Amer-

ican people going and directly interacting with Cubans. And that is what we would do by ending this travel ban.

I strongly believe that these new policies will help. A growing number of Cuban entrepreneurs can connect with Americans and Cuban Americans and support the free market. I met with these new business owners last November when I traveled with Senator Flake down to Cuba. There is an entrepreneurial spirit there which we can help foster through partnerships and interaction with U.S. businesses.

Mr. Chairman, I would ask consent to put the rest of my statement in the record.

Senator RUBIO. Without objection.

[The prepared statement of Senator Udall follows:]

PREPARED STATEMENT OF TOM UDALL,
U.S. SENATOR FROM NEW MEXICO

Chairman Rubio, Ranking Member Boxer, thank you for putting this hearing together—to discuss an issue of great importance to this committee. For over 50 years the United States has followed a failed policy in Cuba—a policy that has done nothing to lift up the lives of ordinary Cubans.

President Obama—with his actions in December—has taken the courageous step toward true change. By opening up the island to Americans. Increasing opportunities for business and agriculture. And taking the steps needed to improve telecommunications and access to the Internet on the island. We will finally be able to engage with Cuba—in a way we have not been able to since before the embargo.

We, of course, need to go further. I have been pleased to work with Senator Flake on legislation to end the travel ban on Americans—so that our best diplomats, U.S. citizens, can interact with the Cuban people.

I strongly believe these new policies will help. A growing number of Cuban entrepreneurs can connect with Americans and Cuban Americans—and support the free market. I met with these new businessowners last November when I traveled with Senator Flake. There is an entrepreneurial spirit which we can help foster—through partnerships and interaction with U.S. businesses.

We can also help create the tools for ordinary Cubans to communicate with their families and the world via the Internet. Even the Cuban Government realizes the importance of this. For their economy to be successful—and to attract overseas investment—they have to improve their telecommunications capabilities. Being the least wired country in Latin America is a dead end—and fails to help democracy, human rights, or a free market economy in the 21st century.

The President's regulatory changes take a step in the right direction toward—giving U.S. telecommunications companies the ability to do business in Cuba. But we need to make these changes permanent. I hope to work with members interested in bringing the Internet to Cuba—by passing such legislation in the future.

The Embargo has been used as an excuse by the Castro regime for too long. It has not helped the Cuban people. Instead, it has left them cut off from the world and their families—and prevented change on the island.

Senator UDALL. And I would ask specifically, with regard to these interactions and entrepreneurship down there, what are the things that both of you contemplate in terms of interactions between Americans and Cubans in terms of furthering business interests?

Ms. JACOBSON. Well, Senator, I think you know that in the regulations that have been announced that were implemented in January and were announced by the President in December, the regulations state that support for private entrepreneurs, this emerging class in the 200 or so areas that the Cuban Government permits private businesses, small businesses, to exist, are now permitted, whether it is building materials or other forms of support.

I met with a group of about seven private entrepreneurs when I was there from restaurateurs to barbers to a woman making

soap, and their sense of optimism and freedom and independence was really quite inspiring. Their difficulty at getting reliable supplies was also clearly the biggest part of their challenge. And so the hope is that people can now, whether it is small businesses here or corporations or individuals, connect with some of those small businesses and try and support their work, whether it is equipment or goods, to help them get more reliable supplies. There may be foundations and other organizations that can do that as well, but it is clear that more people may be able to take advantage of the rather Byzantine rules that exist for these entrepreneurs with the new regulations.

And I would also hope—and we have talked about this with some of the partners in the hemisphere—that this is an area where others throughout the hemisphere can support this emerging class and they are keen to do so.

Mr. MALINOWSKI. Let me just add.

Senator UDALL. Please, go ahead.

Mr. MALINOWSKI. This is important because this gets us back to, I think, the central question on the table today, and that is what Assistant Secretary Jacobson just described is not anything that the Cuban Government wanted or asked for. And this gets us back to the issue of leverage. These are steps, the steps that we have announced that are designed to get more resources and information to the Cuban people. And imagine what would have happened if we had gone to the Castro government and said open up your political system or else we will not help connect Cuba to the Internet or else we will not help these small business people. How much do you think we could have gotten for that, even on the question of diplomatic relations?

As Senator Rubio pointed out, they are now, at least rhetorically, trying to put conditions on that. This is not something that they themselves are very comfortable with. They are nervous about it because it does create these possibilities, not guarantees because Senator Menendez is also absolutely right. It now depends on them, on their willingness to unleash this stuff, and they may not be willing to do that. But it does put the burden on them, and that makes them nervous. And that is the point of the strategy.

Senator UDALL. And the important point here is we are trying to empower the Cuban people, and we do that in the business area. We do that in a number of areas with these new policies. And I think that is the thrust of this policy, and it is a very important thrust in terms of moving us forward.

Ms. JACOBSON. If I could, Senator. The other thing I think is critical is, you know, when we held our press conferences after the first round of talks, the Cuban Government held a press conference and I did as well at the talks themselves. But Cuban independent media were not able to come to that press conference, which is why the next day I held a larger one in our principal officer's residence because all of the Cuban independent media that we knew of was invited. We made sure they were there.

But the Cuban Government actually broadcast my press availability in Spanish live for the first time. And so I felt it was important to talk about things like human rights, to talk about things like private businesses because they were airing it live. Cuban peo-

ple were able to hear from an American official for the first time live. And then to have Cuban independent media be at the principal officer's residence to empower them directly that way as well.

Senator UDALL. Thank you.

Thank you, Chairman Rubio.

Senator RUBIO. Thank you.

Senator Kaine.

Senator KAINE. Thank you, Mr. Chairman.

And thanks to our panelists on both panels and all the members of the committee.

Just a moment of personal privilege. This is a subcommittee on the Western Hemisphere, and there was an interesting announcement earlier today from the Vatican that I just wanted to comment on. The Vatican has declared Archbishop Oscar Romero's death a martyrdom, a spiritual martyrdom, which is the first step toward potential beatification. He was killed by death squads in El Salvador in 1980. I think he was one of the towering figures in human rights in the 20th century. I was living in Honduras and El Salvador during this period and came to see the enormous influence that he had for good, standing against violence, standing for advocacy for the least of these. And we are here in a Western Hemisphere Subcommittee meeting, and I think it is an important thing to acknowledge that this just happened a couple of hours ago.

This is a very important hearing and a very important debate. And I have dear friends who are kind of on both sides of it, and it has caused me to grapple both with the United States-Cuba relationship, but also with the whole concept of what do diplomatic relationships mean, what do they stand for, why do we have them.

You know, I conclude, as I grapple with that question, that diplomatic relationships—they are not a Good Housekeeping Seal of Approval. They are not a validation as a star student or a gold star for good behavior. That is not what they are because we clearly have diplomatic relationships with so many nations that we disagree with so strongly about human rights or other issues. They are merely a normalized opportunity to create a channel so that we can raise issues of importance.

Recently seven of us took a trip, under the leadership of Senator McCain, the chairman of the Armed Services Committee, to Saudi Arabia, Qatar, and Israel. In Saudi Arabia, we had an opportunity to raise a very important human rights issue. Saudi Arabia had sentenced a political blogger to a thousand lashes, administered 50 at a time, 1 day a week for 20 weeks, followed by 10 years in prison for something that in this country, you know, it might annoy us what the blogger had to say but would not be punishable in any means, especially in any way so barbaric.

When we arrived in Saudi Arabia, they knew we were going to raise this issue. They had done the first day of the flogging, but they postponed the second day of the flogging the day that we arrived. And when we sat down with the officials, we raised it and we told them that this is an alliance. We are allies in many ways, but this is so counter to our culture. This is so counter to standards of human rights that we just urge you and encourage you to rethink this because it makes the relationship so much more difficult if you do things like this.

The announcement came on Friday they were postponing the second proposed day of the flogging. That does not mean that they are going to not still do it. Just because we raise issues does not mean that anybody will do it because we ask. But we have a channel at the highest level when we have normalized diplomatic relationships to put on the table the things that really bother us and to encourage nations to be better. And whether or not we do, having that channel and that ability to push it is something that I think is very, very important.

These human rights in Cuba are very, very severe. There are human rights issues. I read Oscar Romero's statements about the level of repression in El Salvador that he was dealing with, and he could be talking about El Salvador in 1982. He could be speaking about Cuba in 2015. He could be speaking about a lot of places in the world. These are very serious issues.

But I tend to come down on the side that a more normal relationship will give us more angles and levers to play to promote better behavior.

This was alluded to only briefly. Let me ask you this question. Senator Boxer put into the record a statement of nations that had expressed support. What about the regional reaction? I have worried over time that the United States position vis-a-vis Cuba has put sort of a ceiling on our relationships in the region in ways that could be a challenge, and whether it is in international institutions like the Organization for American States or even in bilateral diplomacy, I think there is so much up-side for more American engagement in the Americas. And we always give the Americas short shrift. We always are paying attention to the Middle East or now we are going to pivot to Asia. It was about Europe, then about the Middle East, and now we are going to pivot to Asia. It seems like we are always—always—making the Americas be the caboose on this train.

But I have felt, to some degree, that our Cuba policy has put a little bit of a ceiling on our relationships in the region. Maybe I am wrong about that. What has been the reaction of regional allies in the Americas about this announcement?

Ms. JACOBSON. I think, Senator, the policy toward Cuba had, in fact, always been—some have called it an irritant in the Western Hemisphere, in our relationships with countries in the Western Hemisphere. Some have called it a weight. I think it has been a problem.

We will always stand for our principles, talk about, and promote and seek to advance human rights. We are not going to give up on that for a moment. And we are going to do that as effectively as we can. But the hostility toward the way in which we have done it in the past five decades vis-a-vis Cuba was a real problem with the countries of this hemisphere. And they sought to distance themselves from us in ways that impeded us getting other things done with them, getting other things done on Cuba, but also getting other things done on human rights elsewhere in the hemisphere, whether it was press freedom throughout the hemisphere or other human rights issues.

So as Tom said, the biggest reaction we got is this has changed—President Santos of Colombia said this has changed the history of

United States-Latin American relations, that it will be really a change throughout the hemisphere. President Roussef in Brazil as well. We see it give lift to our policy objectives throughout the hemisphere.

Senator KAINE. Secretary Malinowski, any additional thoughts on that?

Mr. MALINOWSKI. Sure. You know, let us be clear. There have been too many excuses made for Cuba in the hemisphere over too many years, and I do not like it. And I do not think they were good excuses. To the extent that they used the embargo and our policy as an excuse for being silent about human rights abuses in Cuba, that was not justified.

But we have to be ruthlessly disciplined in analyzing what has been happening and why. The fact is it has been an excuse that has worked for Cuba, and we have now taken that away.

And I think both Assistant Secretary Jacobson and I have already noted in our interactions with Latin leaders and Foreign Ministers over the last few weeks—we talked about that a little bit previously—that there is a completely new reaction from those folks when we ask them to help us on human rights in Cuba. So we are now going to take full advantage of that with your help.

Senator KAINE. Mr. Chairman, if I could just close. Let me just read a quick quote to challenge us all, all Americans, all Cubans, all over the world from Archbishop Romero. "Peace is not the product of terror fear. Peace is not the silence of cemeteries. Peace is not the silent result of violent repression. Peace is the generous, tranquil contribution of all to the good of all. Peace is dynamism. Peace is generosity. It is a right and it is a duty."

Thank you, Mr. Chair.

Senator RUBIO. Thank you.

Senator Markey.

Senator MARKEY. Thank you, Mr. Chairman, very much.

I think we all understand that Cuba is not going to change overnight. We are at the beginning of a process to change the dynamic between the two countries but also to change the dynamic between the United States and Latin America in general. And Cuba has historically been a centerpiece, a reference point that has been used by Latin America in our discussions on many issues. There is no question about that.

Back in the 1980s as the chairman of telecommunications in the House of Representatives, I worked extensively on the issue of Radio Marti and TV Marti, that was a recognition of the role that communications play in opening the minds of Cubans to a world that was outside of their boundaries. And it was a central part of foreign and diplomatic policy in the United States.

What heartens me in the new announcement is this initiative that can deal with greater access to telecommunications for the people of Cuba. Right now, there is only one fiber optic cable coming into Cuba. In the Dominican Republic, a country with almost the same population, they have five fiber optic cables coming in.

So this whole issue of an increase in consumer communications devices, software applications, hardware, updating communications and Internet services, is something that could play a big role in giving information to the ordinary Cuban citizen that right now is

not available to them. For example, it is $5 an hour in Internet cafes in Havana right now for the use of the Internet, and when the average income in Cuba is only $20 a month, that does not lend itself to the use by ordinary Cubans.

So could you talk a little bit about that and what your hopes are for expanded telecommunications policy in Cuba in terms of the impact that it can have upon that country's people?

Ms. JACOBSON. Certainly, Senator. And I think that this is and really can be—and I do not know whether it will have the impact we all want. I know that Senator Rubio, the chairman, and Senator Menendez and I have talked a lot about trying to get more information into Cuba. It has been one of the things we have wanted most.

You know, it allows telecommunications companies for the first time to make commercial sales of things like communications devices, whether that is cell phones or iPads or other forms of equipment, not just to donate them but to make those sales. They can also sell—and I do not want to get myself too far into this because I will get into Commerce or Treasury's regulations and get them wrong. But they also are able to sell other Internet-related items to improve the free flow of information without a license, without a specific license, under general license, without a license from the Commerce Department.

They are also allowed to consolidate gift parcels. They are allowed to sell all sorts of things that the private sector can sell in terms of equipment and hardware that were not allowed before, telecommunications hardware.

Now, the Cuban Government, including Raul Castro, has said they want telecommunications equipment. They want to upgrade their infrastructure in telecommunications. They know that they need that in order for their economic modernization. I do not know whether they really mean that. The point of these regulations is that we believe that they need that to offer more access to their people. We want to push them on that. They need it for their economic modernization. They need it to get economic progress. With that we believe will come an opening of information to more people, even if they are not intending that. And if they resist that, we want to be in the forefront of having made that offer aggressively.

Now, telecommunications firms are just looking at this, and we have been in touch with quite a few. There are some that have already visited and many more that are now interested, as this plays out. So we are optimistic about the interest but not necessarily yet about how the Cuban Government will respond.

Senator MARKEY. And I appreciate that. But I think because we are so close to them, because there are economic synergies that could be created from a telecommunications perspective between our two countries, understanding that it is a threat to an authoritarian regime, you still have this other component where there is a natural yearning, especially among young people, no matter where they are in the world, to have greater access to this modern technology. Americans did not have these devices in their pockets going into 1995, but in Africa in 2001, only 12 million had cell phones. Today in Africa, 1 billion people have cell phones.

And so you can see how a huge paradigm shift can occur in a very brief period of time with access to these technologies and with

the change in the access to technologies. It changes the relationship between the people and the government, notwithstanding their intents to completely control the people——

Ms. JACOBSON. And we have seen that in cell phone. Even though Internet penetration is very low, cell phone use has grown enormously and potentially could grow even more as an information tool.

Senator MARKEY. So I think that trying to engage on that one issue gives us an opportunity to really make a difference. Actually I would add energy as well. There is, I understand, a huge effort to move to wind and solar in Cuba at a very significant level, which would further reduce their need for imports of oil from other countries that then kind of tie them into agendas in other countries as well.

I know I am running out of time, but I do think that ultimately the more that we engage them at the economic level, it tends to then change the country in ways that were unanticipatable by the political leaders of that country.

I thank you so much.

Senator RUBIO. Thank you.

So we still have a second panel that I desperately want to get to. It is important that we hear from them. I am going to recognize for a second round of questions. I would ask that they be limited to 4 minutes. I know not all the members have a question.

But I wanted to begin basically with the following, and I will focus on this. You talk about travel as a key component of this plan because you believe the benefits of travel to the island to the Cuban people outweigh the benefits to the government. So in Cuba, the largest owner of tourist facilities is a group. It is called Grupo de Turismo Gaviota. Recently "Hotel" magazine called it the largest hotel conglomerate in Latin America. In Cuba, they own well over 52 hotels and the largest resorts on the island, 19,000 rooms. Their revenues are estimated at over $650 million a year. They plan 47,000 rooms by the year 2017. They also own marinas, car rentals, restaurants. You name it. They are the single largest player not just in Cuba but in Latin America.

The CEO of that company is an individual by the name of General Luis Perez Rospide. He is also a general in the armed forces.

Mr. Malinowski, let me ask you. Is the armed forces of Cuba a tool of repression?

Mr. MALINOWSKI. Yes.

Senator RUBIO. So the CEO of this company that owns all these hotels on the island is also a general of this repressive government.

But this company Gaviota is actually owned by a larger company, a holding company by the name of GAESA, G–A–E–S-A. GAESA owns various companies including this one, but basically it has a monopoly on the island of Cuba on telecommunications, hotels, restaurants, shops, and gas stations. The CEO of the holding company that owns all of these hotels is an individual by the name of Luis Alberto Rodriguez Lopez Calleja. That is not just an individual with a long name. He is also a general in the repressive armed forces.

Do you know who he is married to, Ms. Jacobson?

Ms. JACOBSON. I do not.

Senator RUBIO. He is married to a lady by the name of Debora Castro Espin. Do you venture to guess who that is?

Ms. JACOBSON. I can venture a guess that it is a member of the Castro family.

Senator RUBIO. It is. It is actually Raul Castro's daughter. So the CEO of the monopoly holding company in Cuba that owns all of these hotel rooms, the single largest conglomerate in Latin America of tourism, is not just a general in the repressive military. He is also the son-in-law of the dictator of Cuba.

So is it not fair to say that if tomorrow an American gets on an airplane and travels to Cuba and stays at a hotel and rents a car and fills up the tank of their rental car at a gas station and eats at a restaurant and shops at his stores, in essence every penny they are spending in those facilities are more likely than not to wind up in the hands of the repressive Cuban military and its officials? Is that not a fair statement given the facts I have just given you here?

Mr. MALINOWSKI. Let me try to address that, Senator Rubio.

I was born in a Communist country, and I have been studying these systems all my life. And what you just described is a common feature of every repressive, corrupt, Communist or otherwise, totalitarian system in the world. When you actually look at the numbers, you find that these hotels that they run, these businesses that they run—they earn hard currency, but they also seep hard currency because they run them inefficiently and that is why they fail. So we actually do not know—none of us know—exactly what the net is.

Senator RUBIO. But whatever the net is——

Mr. MALINOWSKI. But whatever the net is, in all of my experience advocating human rights and as someone who often supports targeted sanctions against the bad guys, I know of no example where we have successfully promoted democratic change somewhere by going after travel and tourism, by going after little people who travel and interact with each other. When we do go after people with those kinds of measures, we go after people at the top.

Senator RUBIO. Give me an example of a policy like this that you are implementing here today that has led, in the 20th or 21st century, into a reluctant tyranny becoming a democracy.

Mr. MALINOWSKI. I cannot think of any policy that we have successfully pursued in which we have gone after remittances and travel. There are plenty of situations where we have used diplomatic engagement. Sometimes we use diplomatic engagement plus sanctions, as we did in Burma, but we did not do it this way. We did it in a smarter way. This is a policy that is modeled——

Senator RUBIO. Is there an example of a country in the modern era that has gone from a tyranny to a dictatorship because of these sorts of economic openings that then have led the government to make political changes?

Mr. MALINOWSKI. In many ways, when I look at Cuba today, it reminds me of my home country Poland in the 1980s where you have a growing black market fed by growing interaction with the outside world with a movement at home that was backed by strong, moral pressure from the United States and the international community and a state that was increasingly corrupt and shrinking

and shrinking all of the time because it could not manage any of this. So, yes, I think the answer is, yes.

Senator RUBIO. So Poland is the example. We will examine that further at a later date.

Senator Boxer.

Senator BOXER. Thank you.

I would ask unanimous consent to place in the record the full statement of Alan Gross, an open letter to President Obama from 78 foreign policy thinkers and leaders, a statement—and I apologize if I do not pronounce this right—Dagoberto Valdes Hernandez, Director—can you help me with this magazine?

Senator RUBIO. Convivencia.

Senator BOXER. As I was saying, Convivencia magazine. [Laughter.]

Senator BOXER. I would ask that those be placed in the record, along with an op-ed in the Miami Herald, "December 17, A Day of Triumph for Cuban Americans," by Rick Herrero, Executive Director of "Cuba Now," a letter from Bishop Oscar Cantu, Chair of the Committee on International Justice and Peace, U.S. Conference of Catholic Bishops. I ask that they go into the record. Is that all right?

Senator RUBIO. Without objection.

[EDITOR'S NOTE.—The documents referred to can be found beginning on page 80.]

Senator BOXER. I thank you.

And I would close with this. I know I want us to get to the panel so much. So I will just close with a partial quote from Alan Gross. And we have to remember that he was held for 5 long years in prison in Cuba. And we are all so glad, no matter what our views are on Cuba, that he is out. And he submitted a written statement for today's hearing, and I am going to read this little part of it now and put the rest of the statement in the record.

He says, "In my opinion"—remember this is someone who was in prison there for 5 years—"In my opinion, access to information is itself a fundamental human right and is essential to empowering the Cuban people . . . Access to information enables people to make better-informed decisions and to give informed consent . . . Insufficient access to information is unhealthy for any citizenry and it materially impacts human rights issues on all levels . . . Reestablishing diplomatic relations with the Government of Cuba is only a first step in reestablishing freedom of information for those who live on that island. However, it is an essential step. Why would anyone not want to take that step?"

And, Mr. Chairman, I so respect all the views. I really do. But I just think this sums it up from someone who suffered at the hands of this corrupt dictatorship. And I stand with him on his views.

Senator RUBIO. Thank you.

Senator Flake.

Senator FLAKE. Assistant Secretary Jacobson, do we prohibit travel to any other country in the world, restrict it in this way? I know we discourage travel sometimes, sometimes for security reasons or others. But do we restrict travel to any other country?

Ms. JACOBSON. I am going to turn to my colleague to make sure, but I think the answer is, no.

Mr. MALINOWSKI. No. I mean, there are plenty of dictatorships that restrict our travel. North Korea is a good example.

Ms. JACOBSON. The sanctions on Cuba are harsher than on many other countries in the world over the years.

Senator FLAKE. There is no guarantee that if we completely got rid of the travel ban—I know the President went about as far as he could statutorily go—correct—in terms of loosening travel, but Congress needs to move to——

Ms. JACOBSON. Correct. He went as far as he felt he could within Executive authority.

Senator FLAKE. But there is no guarantee that if we throw open travel for Americans, allowing them—there is no guarantee that the Cuban Government will allow all travel. They still have control.

Ms. JACOBSON. I think that is exactly right. I think being overwhelmed is a big part of their concern.

Senator FLAKE. They obviously want the revenue that is associated with travel.

Ms. JACOBSON. They want the revenue associated with many of these new measures and are very concerned at how they balance that with control.

Senator FLAKE. I have always said if somebody is going to restrict my travel, it should be a Communist. [Laughter.]

Senator FLAKE. Not my own government unless there is a compelling national security reason otherwise.

It would be untrue and it would certainly be a stretch for me to say that every travel dollar goes into the hand of an ordinary Cuban citizen, a bellhop or a taxi cab driver or somebody else, when Americans travel. Certainly some of that money does end up in the hands of the Cuban Government. Is that true?

Ms. JACOBSON. Yes.

Senator FLAKE. But it would also not be accurate to say that every dollar goes to the Cuban Government, that there is not some kind of seepage. I mean, when you, yourself—you have lived in these kinds of systems—you take the writings of Hernando de Soto, "The Mystery of Capital," and find out how black markets work and how the unofficial economy works. There is tremendous seepage that occurs. Is that not right?

Mr. MALINOWSKI. Absolutely. This kind of interaction encourages the development of a black market in which people, most important, in addition to enriching themselves, become more independent and less dependent on the state. And that is how change happens.

Ms. JACOBSON. Well, and I think Hernando de Soto's point was of entrepreneurship, that individuals become entrepreneurs if the system will not let them do that themselves.

Senator FLAKE. Precisely. That is another point of this policy in some of the changes in unlimited remittances. How much of a change has there been on the island just in the last couple of years as a result of ordinary citizens having access to some of that capital?

Ms. JACOBSON. I mean, that has been a huge difference certainly in the ability of people to start their own businesses. That is the

single reason that people have been able to start their own businesses. It is capital from abroad in remittances and in the growth of cell phones and the ability of people to get information via SMS and other information. And we think that is a crucial part of this, which is why we wanted to accelerate those areas.

Senator FLAKE. We have seen, as you mentioned, a growth in cell phones. The average wage for a Cuban worker is about $20 a month. That is not enough to have a cell phone.

Ms. JACOBSON. Correct, which is why both cell phones and phone cards to charge them to get minutes are critical.

Senator FLAKE. Thank you so much.

Senator RUBIO. Senator Menendez.

Senator MENENDEZ. Thank you, Mr. Chairman.

Secretary Malinowski, will you commit to this committee that human rights and democracy programs in Cuba will not be cut?

Mr. MALINOWSKI. We certainly will not cut them and I trust you will not. So, yes.

Senator MENENDEZ. Secondly, I have here the last human rights report for China. It is dozens of pages long. It talks about, among so many other things, enforced disappearance, strict house arrests, preventing public expression, repression of freedoms against ethnic Uighurs and Tibetans, extrajudicial killings, including executions without due process, enforced disappearance and incommunicado detention, widespread corruption, intense scrutiny and restrictions against NGOs, discrimination against women, minorities, persons with disabilities, a coercive birth limitation policy, and the list goes on and on. So I would like to enter into the record the State Department's human rights report on China.

[EDITOR'S NOTE.—The State Department report mentioned above can be found beginning on page 104.].]

Senator RUBIO. Without objection.

Senator MENENDEZ. And certainly you would not hold that as a standard after 43 years of democracy and human rights. Would you?

Mr. MALINOWSKI. If Cuba resembles what you just described in 20 years, we will have failed. At the same time, if I may add, Senator, if I had a choice right now to say that we should not have diplomatic relations with China or there should be no Internet in China or no private businesses in China, I would certainly not take that choice. So the question is the balance of possibilities is on our side.

Senator MENENDEZ. If 43 years from now this reality is China is the reality in Cuba——

Mr. MALINOWSKI. We will have failed.

Senator MENENDEZ [continuing]. We will have failed.

Mr. MALINOWSKI. Yes.

Senator MENENDEZ. And I agree with you on that.

Now, I do not want to join the "blame America" crowd. So can you tell me is it not fair to say that the difficulties that the Cuban people face is a result of a command and control economy and political repression inside of Cuba?

Mr. MALINOWSKI. Absolutely.

Senator MENENDEZ. It is not because of the United States.

Mr. MALINOWSKI. I explicitly said in my opening statement it is not——

Senator MENENDEZ. Because, you know, the suggestion that the embargo has created this problem—Cuba can buy from many places in the world. It has been able to do so. It just does not have the resources to do so effectively.

Mr. MALINOWSKI. I totally agree.

Senator MENENDEZ. Let me ask you about this economic freedom that we hear all the time. Is it not true, as the chairman referred to—just a couple of items—that in Cuba most of the businesses are monopolies? It is either a monopoly of the Cuban Government and/or its military or a coowner in most cases. You just do not get to have an independent free business, unless it is a small one, of any consequence. Is that not a fair statement?

Mr. MALINOWSKI. That is correct, and we are trying to break that monopoly.

Senator MENENDEZ. Oh, yes, but you cannot break a monopoly unless the regime allows a monopoly to be broken. Even in the former Soviet Union, it was Glasnost and Perestroika, which were internal openings that allowed things to break forward.

Now, you get a dollar from a remittance. And it is true that you get that dollar after the government takes a percentage of it for its transmission. Is it not also true that if you really want to buy anything of value, you have to go to a dollar store inside of Cuba?

Ms. JACOBSON. It is certainly true that the dollar stores are where the goods are.

Senator MENENDEZ. And who owns the dollar stores?

Ms. JACOBSON. The government.

Senator MENENDEZ. So the ultimate flow of that money ends up in the Cuban Government's hands at that dollar store.

Now, is it not true that tourism is the second-largest driver of Cuba's economy?

Ms. JACOBSON. It may be, yes.

Senator MENENDEZ. I can assure you it is.

And so, therefore, when we think about sanctioning any entity in the world, we sanction that which ultimately drives the greatest resources to a country to move them in a different direction.

And finally, the elements of the whole regional reality. Is it not true, Mr. Secretary, that, in fact, many countries in the region violate their own human rights and democratic principles and like to use that as a cover, using the Cuba situation as a cover for their own short-failings? So I would expect then that the democratic charter of the OAS, which talks about the commitment of all the countries in the Western Hemisphere to human rights and democracy is now going to flourish as a result of us changing this policy. Is that a fair statement?

Mr. MALINOWSKI. I think we have a much better chance of advancing our human rights objectives in the hemisphere. We will continue to stand up for them in Cuba. We will stand up for them in Venezuela. You saw yesterday we announced our latest visa ban list for Venezuela. We have the wind at our backs today like we did not several months ago in part because of these changes.

Senator MENENDEZ. And I look forward to those results.

Thank you, Mr. Chairman.

Senator RUBIO. Thank you.

We do have a vote at noon, but I will continue to sit here so our second panel's testimony can be entered into the record. And, of course, I will come back after the vote and preside over the questions that we are going to ask them.

Senator Udall.

Senator UDALL. Thank you very much.

Obviously, the Pope felt very strongly about this. I believe he had a discussion with President Obama when he was at the Vatican. When Senator Flake and I went down, we talked with Cardinal Ortega.

Could you tell us a little more about what—I mean, he felt this was a moral issue and wanted to speak out—more about what activities he took or Cardinal Ortega took in terms of weighing in on this issue?

Ms. JACOBSON. I cannot tell you too much of the details. I can tell you—because I do not know all of the details of the Pope's involvement.

What I can tell you is that Cardinal Ortega was important in conveying messages from the Vatican and from the Pope to both of the leaders, and at crucial moments when it was not clear that this was going to be able to work, I think the Vatican's involvement and the trust that both sides place in the Vatican and in this Pope was crucial.

But I also think that the role that the church has played, whether it is stimulating private sector training or education or at the time working on human rights issues, whether it was Pope John Paul's visit, which was so electrifying, or subsequently the release of 75 political prisoners in 2010, has been a very important fact. And it is also important that in the future the church remain engaged and as part of our own civil society engagement with the church moving forward.

The importance of the Pope in the rest of the hemisphere cannot also be discounted. The importance of Pope Francis as a figure in Latin America just cannot be overstated. Coming from the region, his moral support and encouragement for this deal is critically important.

But I also think that we all now feel an even greater sense of obligation to see it through. Certainly we expect that the Cuban Government will move forward on the basis of respect for the Pope and his imprimatur on this. And that is why we would also like to see the human rights groups within Cuba, many of them affiliated with the church—Dagoberto Valdes who was just referred to has been very involved in the church movement. Moving forward, this is a very important part of civil society and its growth.

Senator UDALL. Secretary Malinowski, did you have anything to say there?

Mr. MALINOWSKI. I have nothing to add to that.

Senator UDALL. Okay, thank you.

Is it not true that in talking about businesses and small entrepreneurs that there has been dramatic growth in the last 6 or 7 years in terms of the small entrepreneurs on the island of Cuba?

Ms. JACOBSON. There has been dramatic growth, but it is from a very small base and it is still relatively small. But there are over

200 professions now authorized for small business. And, Senator Menendez, you are right. The government still has a monopoly in many, many areas. Small businesses still feel as if they sort of get the leftovers, what is left of production or supply. But that is what we are trying to expand. If we can help provide inputs for those small businesses, they will not always be relying on the state for the leftovers because they are authorized to operate.

Senator UDALL. Thank you.

Senator RUBIO. Senator Kaine, do you have a question?

Senator KAINE. No, thank you, Mr. Chairman.

Senator RUBIO. All right. Well, thank you both for being here today. We are very grateful. We are going to get our second panel to come forward. Thank you very much for your testimony.

Mr. MALINOWSKI. Thank you.

Senator RUBIO. Before we welcome the second panel of courageous human rights activists and members of the democratic opposition in Cuba, I would like unanimous consent that a statement by Mr. Antonio Rodiles be included in the record. The subcommittee has received a statement from Mr. Rodiles, but he could not attend the hearing because the Cuban regime denied him his travel documents. Without objection, show that entered into the record.

Senator RUBIO. He is a political activist who has achieved international visibility for his work and created a forum in July 2010 to encourage debate on social, cultural, and political issues in Cuba.

[EDITOR'S NOTE.— The statement referred can be found on page 95.]

Now, our second panel. As they come forward, I will introduce them briefly. Rosa Maria Paya studied physics in Cuba. She was forced into exile in 2013 due to threats following the death of her husband, Oswaldo Paya Sardinas, and her friend, Harold Cepero, in what appears to have been a state security-engineered extrajudicial killing. She is a member of the Christian Liberation Movement and is dedicated to the struggle for a democratic Cuba.

Berta Soler is a hospital technician from Havana. Her husband, Angel Moya Acosta, is a member of the democratic opposition in Cuba and became one of the 75 peaceful activists arrested during the March 2013 crackdown, known as the Black Spring. Berta is founding member and the current president of the Ladies in White, Damas de Blanco. This movement of wives and relatives of the Cuban political prisoners demands the immediate release of the loved ones and advocates for human rights in Cuba. In 2005, the European Parliament awarded the Ladies in White its Sakharov Prize for freedom of thought.

Miriam Leiva is a human rights activist and an independent journalist. She is a founding member of the Ladies in White, although she left the organization in 2008 and since then has concentrated on writing as an independent journalist in the defense of human rights in Cuba. And we mourned the death of your husband in 2003, the late Oscar Espinosa Chepe.

And lastly I would like to welcome Mr. Manuel Cuesta Morua, an anthropologist, philosopher, and historian. He is the secretary

general of the Socialist Democratic Current, a dissident movement in Cuba, and he chairs the progressive Circle Party.

We welcome your insights. And I will begin with Ms. Leiva. Welcome.

STATEMENT OF MIRIAM LEIVA, HUMAN RIGHTS ACTIVIST AND INDEPENDENT JOURNALIST, HAVANA, CUBA

Ms. LEIVA. Mr. Chairman, distinguished Senators, dear Rosa Maria Paya, whose inspiring father was my friend, dear members of the peaceful Cuban opposition and dissidents within the island nation and abroad, ladies and gentlemen, thank you for granting me the opportunity of bringing my voice from Cuba to this important hearing.

I have been a dissident for over 22 years, and I have been subjected to surveillance, interrogations, harassment, and searches of my home. Like my late husband, Oscar Espinosa Chepe, I lost my job and right to a pension.

In 2003, Oscar was imprisoned with 74 other peaceful Cubans and was sentenced to 20 years. Our only crimes have been speaking out, writing, and seeking the well-being of the Cuban people. For us, that means equal opportunities without discrimination and regardless of political opinions and economic prosperity.

As you well know, we have lived under a totalitarian regime since 1959 that brought suffering and exile.

In the United States, 2 million Cubans found that by working hard they could have the opportunity to enjoy the life they were denied in their own country. In return, they have contributed to this society, and today in this room we can address prestigious Cuban American lawmakers.

Meanwhile, for 56 years, the government had been hammering Cubans' minds, depriving them of food, clothes, money, entertainment, and Internet and closely watching and repressing. Because the regime found in the United States the suitable culprit for all its failures, wrongdoings and repression, it said the perils and shortages were due to American imperialism and the embargo.

Despite all this, change has taken place in the minds of the people and not only due to the government's unfulfilled promises and their hopelessness. Since the Obama administration started its proactive people-to-people policy in 2009, beginning with Cuban Americans, a lot has changed. Remittances from relatives and friends help Cubans to survive and even open small businesses.

More important, Cubans are increasingly empowered as they exchange views with Cuban Americans coming to visit and with other Americans on people-to-people programs. The impact on Cubans from all walks of life traveling to the United States is overwhelming. Here they discover the opportunities offered by democracy and work.

It is still hard to describe the amazement Cubans felt on December 17, 2014, when we watched the so-called enemy announcing the new measures and read President Obama's speech published next to Raul Castro's in the newspapers. Now everywhere one goes, there is one main issue in conversations and hopeful expectations broadly shared.

Yet, there is more to be done. How could anyone understand that you can visit North Korea but not Cuba? The ability of Americans to interact with Cubans is impeded by restrictions to travel to our country, and this must be ended.

Raul Castro is stepping down in 3 years, and currently he is paving the way for new leaders. This period is crucial for the transition and the future of Cuba, both for civil society and foreign partners.

Brazil, Russia, and China are already positioned in Cuba. Yet, Americans and Cuban Americans are still prevented by their government from participating in economic and commercial relations with Cuba and from contributing to startups in self-employment that offer independence from state-owned economy.

While many dissidents and opponents support the new American approach, others do not. Nevertheless, our objectives are the same: defense of human rights, democratic values, and friendship and assistance to the Cuban people.

The path to liberty, respect of human rights, and democracy is arduous, and we must always keep in mind that we must not depart from those goals.

We welcome advice and support from our friends as we explain to them how Cuba is now and what can serve it better. I believe that is the reason we gather here now. American policy towards the Cuban Government has failed for 56 years. So it must be changed. The embargo must be lifted to the benefit of our people and nations.

You can only get to know what is going on within the island nation, assist the civil society, and offer expertise of your commercial and economic entrepreneurs by being there.

Reestablishing diplomatic relations will grant a better environment for American diplomats in Cuba to contact the Cuban people and the civil society. Normalizing a 56-year-long estrangement will take a long time. But there is now a unique opportunity to assist the people of Cuba and it must be not wasted.

Thank you very much.

[The prepared statement of Ms. Leiva follows:]

PREPARED STATEMENT OF MIRIAM LEIVA

Mr. Chairman and distinguished Senators, dear Rosa Maria Paya, whose inspiring father was my friend, dear members of the peaceful Cuban opposition and dissidence within the island-nation and abroad, ladies and gentlemen, thank you for granting me the opportunity of bringing my voice from Cuba to this important hearing.

I have been a dissident for over 22 years. I have been subjected to surveillance, interrogations, harassment, and searches of my home. Like my late husband, Oscar Espinosa Chepe, I lost my job and right to a pension.

In 2003, Oscar was imprisoned with 74 other peaceful Cubans, and was sentenced to 20 years. Our only crimes have been speaking out, writing and seeking the well-being of the Cuban people. For us, that means the quest for equal opportunities without discrimination and regardless of political opinions, economic prosperity and a good quality of life. In short, freedom and democracy, and respect for all human rights.

As you well know, we have lived under a totalitarian regime since 1959 that brought suffering and exile.

In the United States 2 million Cubans found that by working hard they could have the opportunity to enjoy the life they were denied in their own country. In return, they have contributed to this society, and today, in this room, we can address one of many prestigious Cuban-American lawmakers.

Meanwhile, 77 percent of Cuba's population was born after 1959. The utopia turned into a nightmare. For 56 years, the government had been hammering Cubans' minds, sending them to trenches through the island-nation and abroad, depriving them of food, clothes, money, entertainment and Internet, and closely watching and repressing. Because the regime found in the United States the suitable culprit for all its failures, wrongdoings, and repression, it alleged the perils and shortages were due to American imperialism and the embargo.

Despite all of this, change has taken place in the minds of the people, and not only due to impoverishment, disbelief in the government's unfulfilled promises, and hopelessness. Since the Obama administration started its proactive people-to-people policy in 2009, beginning with Cuban Americans, a lot has changed.

Remittances from relatives and friends help thousands of Cubans to survive and even open small businesses.

More important, Cubans are increasingly empowered as they exchange views with Cuban-Americans coming to visit and with other Americans on cultural, academic, scientific, religious, sport, and trade activities. The impact on Cubans from all walks of life traveling to the United States is overwhelming; here, they discover the opportunities offered by democracy and work.

It is still hard to describe the amazement we felt on December 17, 2014. On that date, Cubans watched the so-called "enemy" announcing the new measures, and read President Obama's speech published next to Raul Castro's in the newspapers. Now, anywhere one goes there is one main issue in conversations and hopeful expectations broadly shared.

Yet, there is more to be done. Americans are the best assets in people-to-people diplomacy, but we cannot fully benefit from an exchange of ideas, values, and expertise with them. How could anyone understand that you can visit North Korea but not Cuba? The ability of Americans to interact with Cubans is impeded by restrictions to travel to our country, and these must end.

Raul Castro is stepping down in 3 years, and currently is paving the way for the new leaders. This period is crucial for the transition and the future of Cuba, both for the civil society and foreign partners.

Mainly, it is Brazil, Russia, and China who are already positioned in Cuba. Yet, Americans and Cuban-Americans are still prevented by their government from participating in economic and commercial relations with Cuba, and from contributing their know-how and technology to the startups in self-employment that offer independence from the state owned economy.

President Obama has expressed his unwavering commitment to democracy, human rights, and civil society; the continuation of U.S. programs aimed at promoting positive change in Cuba; and the encouragement of reforms in high-level engagement with Cuban officials.

While many dissidents and opponents support the new approach of the American administration in the relations with the Cuban government, others do not. Nevertheless, the objective is the same: defense of human rights, democratic values, and friendship and assistance to the Cuban people. Likewise in the opposition and dissidence, we all seek the well-being and progress of the Cuban people and our country.

The path to liberty, respect of human rights and democracy is arduous, and we must always keep in mind that we must not depart from those goals.

We must also keep on leaving aside personal interests, while we devise programs that reflect the needs and aspirations of Cubans to whom we aspire to reach out.

We welcome advice and support from our friends as we explain to them how Cuba is now and what can serve it better. I believe that is the reason we are gathered here now. The American policy toward the Cuban government has disserved it for 56 years, so it must be changed. The embargo must be lifted for the benefit of our peoples and nations.

You can only get to know what is going on within the island-nation, assist civil society, bring your values, knowledge, and expertise, and offer your commercial and economic entrepreneurs by being there.

Reestablishing relations will grant a better environment for the American diplomats in Cuba, their contacts with the Cuban population and the civil society, and their ability to access a direct channel to the national officials, among other issues. Normalizing the 56 years long estrangement will take a long time. But there is now a unique opportunity to assist the Cuban people and it must not be wasted.

Senator RUBIO. Thank you.

Just to remind the witnesses as well, your full statements are entered into the record. We, obviously, are not going to cut you off,

but to the extent we can keep to the 5 minutes, which you did—it was excellent because it allows us to get all the statements in and then the questions.

The vote will start momentarily. I will stay here obviously. At some point, I may have to briefly recess to go vote and then return, but we are going to continue until we hear from everyone.

With that, welcome, Ms. Rosa Maria Paya.

STATEMENT OF ROSA MARIA PAYA, CUBAN CHRISTIAN LIBERATION MOVEMENT AND DAUGHTER OF SLAIN DISSIDENT, OSWALDO PAYA SARDINAS

Ms. PAYA. Thank you for your invitation and thanks to the whole committee for taking their time to listen to my friends and I.

In recent years, my country has been engaged in a deception. The Cuban Government is changing the law, but ignoring the rights of the people, which were sequestered over half of a century ago.

More people are allowed to enter and leave the country, but the regime decides who can enjoy this privilege. The migratory reform was established as a control mechanism. For instance, the government has invalidated the passport of the artist Tania Bruguera just for attempting a performance in Havana.

The Cuban Government has permitted more people to operate small businesses, but due to the Cuban laws, entrepreneurs cannot be a factor to foster democracy because their existence as private owners depends on their submission to the government. There cannot be free markets where there are not free persons.

The Cuban Government said it would free 53 political prisoners, but instead it released them on parole. Meanwhile, many others were not freed at all. Yosvani Melchor was transferred to a maximum security prison last December. He was put in prison 4 years ago just for being the son of a member of the Christian Liberation Movement, who refused to cooperate with state security.

As my father did 4 months before he was killed, I denounced the regime's attempts to impose a fraudulent change, and I denounced the interests that hamper a real transition. My father also denounced the attempt to link groups of exiles to this fraudulent change. He said, "The diaspora is a diaspora because they are Cuban exiles to whom the regime denied all rights, as they do to all Cubans. In such a context of oppression, without rights and without transparency, the insertion of the diaspora would only be part of the fraudulent changes."

As the engagement would be fraudulent, if the United States were to accept the rule of the Cuban Government. We have never asked our people to be isolated or embargoed, but engagement will only be real if it occurs between free peoples.

We urge you to truly open up to Cuba, but to advance a helping hand is essential to solidarity with the Cuban citizenry. It is essential to support the peaceful and legal changes that thousands of Cubans have presented to their fellow citizens and to the Cuban Parliament, an alternative that allows our people to decide their own future.

There is no respect for the self-determination of the Cuban people when negotiations are a secret deal between elites or when

there is no mention that Cubans can participate or be represented in their own society.

I know that the U.S. Congress and the administration will do what you think is best for this country, which has served as refuge for nearly 20 percent of our population. But only a real transition to democracy in Cuba can guarantee stability for the hemisphere. We, the Cubans, are not the Chinese. We are not Vietnamese, and we definitely will not accept a Putin-like model towards despotism.

The strategy to prevent a mass exodus from Cuba is not by saving the interests of the group now in control. This is an unstable equilibrium that could end in more social chaos and violence. In fact, this country is already facing a Cuban migratory crisis despite the record number of United States visas granted. More than 6,500 Cubans arrived in the United States via the Mexican border since last October, and more than 17,000 did so in the previous year.

With or without the Cuban Adjustment Act, the situation will get worse because of the attempts of those in power in Cuba for self-preservation of the status quo.

We Cubans want real changes, to design the prosperous country that we deserve and we can build.

The way that you can promote stability in the region is through supporting strategies that engage popular will, to reach the end of totalitarianism with dignity for everyone. You have the opportunity to support the petition for a constitutional plebiscite in favor of multiparty and free elections, already signed by thousands of citizens in the Varela Project.

The Cuban Government would not have dared to carry out its death threat against my father if the U.S. Government and the democratic forces of the world had been showing solidarity. If you turn your face, impunity rages. While you slept, the regime was conceiving their cleansing of pro-democracy leaders to come. While you sleep, a second generation of dictators is planning with impunity their next crimes.

That is why we hope that this Congress demands that the petition for an independent investigation regarding the attack against my father be included in the negotiations with the Cuban Government and that we hear publicly what response is given to this point.

Do not turn your backs on Cubans again. Do not earn the distrust of the new actors of our inevitably free future in exchange for complicity with a gerontocracy who belongs to the cold war era.

I want to conclude with the words that my father wrote to President Obama 5 years ago: "Your government must move forward and extend a hand to the people and the Government of Cuba, but with the request that the hands of Cuban citizens not be tied. Otherwise, the opening will only be for the Cuban Government and will be another episode of an international spectacle for hypocrisy. A spectacle that reinforces oppression and plunges the Cuban people deeper into the lie and total defenselessness, seriously damaging the desire of Cubans for the inevitable changes to be achieved peacefully. The pursuit of friendship between the United States of America and Cuba is inseparable from the pursuit of liberty. We want to be free and be friends."

Thank you so much.

[The prepared statement of Ms. Paya follows:]

PREPARED STATEMENT OF ROSA MARIA PAYA

Chairman Rubio, Ranking Member Boxer, and members of the committee, in recent years my country has been engaged in a deception. The Cuban Government is changing the Law, but ignoring the rights of the people, which were sequestered over half a century ago.

More people are allowed to enter and leave the country, but the regime decides who can enjoy this "privilege." The migratory reform was established as a control mechanism. For example, the government has invalidated the passport of the artist, Tania Bruguera, for attempting a performance in Havana. Sonia Garro, a member of the Ladies in White, and one of the political prisoners released during the Washington-Havana secret deal, cannot travel abroad and thus she is still a hostage of the government, as Alan Gross was for 5 years. The same applies to the former prisoners of the Cause of the 75 from the spring of 2003.

The Cuban Government has permitted more people to operate small businesses, but due to the Cuban laws, entrepreneurs cannot be a factor to foster democracy because their existence as "private" owners depends on their submission to the government. There cannot be free markets where there are no free persons.

The Cuban Government said it would free 53 political prisoners, but instead it released them on parole. Meanwhile, many others were not freed at all. Yosvani Melchor was transferred to a maximum security prison last December. He was put in prison 4 years ago for being the son of a member of the Christian Liberation Movement, who refused to cooperate with State Security. The young artist Danilo Maldonado, known as El Sexto, was imprisoned after December 17 without committing any crime. The regime turns political prisoners into pieces to be exchanged, because they can catch-and-release at will more political prisoners, and democratic nations accept this blackmail with innocent citizens.

As my father did, 4 months before he was killed, I denounce the regime's attempt to impose a fraudulent change, and I denounce the interests that hamper a real transition and the recovery of our sovereignty. My father also denounced the attempt to link groups of exiles to this fraudulent change. He said, "The diaspora is the diaspora because they are Cuban exiles to whom the regime denied all rights, as they do to all Cubans. In such a context of oppression, without rights and without transparency, the insertion of the diaspora would only be part of the fraudulent changes."

As the engagement would be fraudulent, if the United States were to accept the rule of the Cuban Government. We have never asked our people to be isolated or embargoed, but engagement will only be real if it occurs between free peoples.

We urge you to truly open up to Cuba, but to advance a helping hand is essential the solidarity with the Cuban citizenry. It is essential to support the peaceful and legal changes that thousands of Cubans have presented to their fellow citizens and to the Cuban Parliament, an alternative that allows our people to decide their own future.

There is no respect for the self-determination of the Cuban people when negotiations are a secret pact between elites, or when there is no mention that the Cubans can participate or be represented in their own society.

I know that the U.S. Congress and the administration will do what you think is best for this country, which has served as refuge for nearly 20 percent of our population. But only a real transition to democracy in Cuba can guarantee stability for the hemisphere. We the Cubans are not Chinese, we are not Vietnamese, and we definitely won't accept a Putin-like model toward despotism.

The strategy to prevent a mass exodus from Cuba is not by saving the interests of the group now in control, this is an unstable equilibrium that could end in more social chaos and violence. In fact, this country is already facing a Cuban migratory crisis, despite the record numbers of U.S. visas granted. More than 65 hundred Cubans arrived in the United States via the Mexican border since last October, and more than 17 thousand did so in the previous year.

With or without the Cuban Adjustment Act, this situation will get worse because of the attempts of those in power in Cuba for self-preservation of the status quo.

We Cubans want real changes, to design the prosperous country that we deserve and can build. The only violence here comes from the Cuban military against Cubans, that's way the solution is a peaceful transition, not an appeasement.

The way that you can promote stability in the region is through supporting strategies that engage the popular will, to reach the end of totalitarianism with dignity for everyone. You have the opportunity to support the petition for a constitutional

plebiscite in favor of multiparty and free elections, already signed by thousands of citizens in the Varela Project, as is allowed for the Cuban Constitution.

There is an active campaign by Cubans from all over the globe, asking for rights for all Cubans and the Plebiscite, which is a first vote for the long-lasting changes that Cuba needs.

On 22 July 2012, Cuban State Security detained the car in which my father, Oswaldo Payá, and my friend Harold Cepero, along with two young European politicians, were traveling. All of them survived, but my father disappeared for hours only to reappear dead, in the hospital in which Harold would die without medical attention.

The Cuban Government wouldn't have dared to carry out its death threats against my father if the U.S. Government and the democratic the world had been showing solidarity. If you turn your face, impunity rages. While you slept, the regime was conceiving their cleansing of the pro-democracy leaders to come. While you sleep, a second generation of dictators is planning with impunity their next crimes.

That is why we hope that this Congress demands that the petition for an independent investigation, regarding the attack against Oswaldo Paya and Harold Cepero, be included in the negotiations with the Cuban Government, and that we hear publicly what response is given to this point. Knowing the whole truth is essential in any transition process, and to tolerate impunity is to endanger the lifes of all Cubans wherever we live.

Don't turn your backs on Cubans again; don't earn the distrust of the new actors of our inevitably free future, in exchange for complicity with a gerontocracy who belongs to the cold war era.

I want to conclude with the words my father wrote to President Obama 5 years ago: "Your government must move forward and extend a hand to the people and government of Cuba, but with the request that the hands of Cuban citizens not be tied. Otherwise, the opening will only be for the Cuban government, and will be another episode of an international spectacle full of hypocrisy. A spectacle that reinforces oppression, and plunges the Cuban people deeper into the lie and total defenselessness, seriously damaging the desire of Cubans for the inevitable changes to be achieved peacefully. The pursuit of friendship between the United States of America and Cuba is inseparable from the pursuit of liberty. We want to be free and be friends."

God bless and protect our peoples. Thank you.

Senator RUBIO. Thank you.

We have 5 minutes left on the vote. So what I think I am going to do is briefly recess for 10 minutes, let the members vote because they do want to hear your testimony, and then we will continue in 10 minutes with you, Mr. Morua and Ms. Soler. We will be back in 10 minutes. The committee stands adjourned.

[Recess.]

Senator RUBIO. The committee will come to order.

We are expecting our colleagues to return momentarily from their vote. And the witnesses are taking their seats. I will give them a moment to do that.

So just by point of process for our witnesses, my colleagues have left to take a vote which should have concluded. They are on their way back I know. And we are going to continue, out of respect for your time, to take your testimony. So if we are ready, Mr. Morua.

STATEMENT OF MANUEL CUESTA MORUA, SPOKESPERSON FOR PROGRESSIVE ARC AND COORDINATOR OF NEW COUNTRY, HAVANA, CUBA

Mr. MORUA. Thank you all for inviting me to this hearing here in the United States. Thank you to Senator Boxer who especially invited me here to stay and to share views with you. And especially I want to thank Senator Menendez who supported me in a hard and difficult moment in Cuba under the oppression of the Cuban Government.

But I am going to continue reading my speech in Spanish because I do not want to see myself smashing the English language. So I ask you to open your ears and try to understand my views.

Mr. MORUA [through the interpreter]. My name is Manuel Cuesta Morua. I am a historian and I tried to be a lawyer until the regime determined that I could not be one. Imagine why. I am 52 years old, 24 of which I have dedicated to fighting for democratic change, establishing fundamental liberties, the struggle for social equity and also racial equality. I am what in Europe and Latin America is called a social democrat. This is someone who believes in liberties, the rule of law, justice, equality, and minority rights. Many things to be accomplished in only one life, but I will persevere.

I am, above all, a Cuban. I have faith that things can be accomplished if we fight hard enough and if we act according to our moral compass and if we put reason above passion.

I am also a politician who believes that politics can change things and that emotions can destroy the best of intentions. I am a politician and I am one in Cuba. Today this means putting the Cuban nation above ideological considerations. This means looking at what I consider to be in the best interest of my country before what I consider to be in the best interest of my party.

Having said that, I believe that in many ways my compatriots here today can have a different focus on how to achieve democracy in Cuba but not a different purpose for the nation and the destiny we share. We are absolutely united on this.

My focus after December 17 is the following. The policy change announced by the U.S. Government, first of all, allows for fostering to make way for political action. That means that all actors are obliged to act according to policy and not epics.

Secondly, this places democratic debate on the main stage in Cuba.

Three, this eliminates the burden of always having the external conflict between states trumping internal conflicts for democracy within the current framework of international relations.

Four, this allows the open discussion about citizens' political sovereignty above the discussion focused on the sovereignty defended by states.

Five, this destroys the narrative that has been peddled by the Cuban state to its society, a narrative that has been based pedagogically, on the natural confrontation between Cuba and the United States.

This disarms the Latin American foreign policy that has allowed in the hemisphere the democratic debate to be disguised by the conflict between north and south.

Seven, regarding the evasive Cuban state and its bad policies towards its citizens, this makes the public discussion over the error and horror of the state more possible.

Eight, this eliminates the alibi of the failed economic model, if such a thing ever existed.

Nine, this frames the debate over human rights in Cuba on the basis of a conflict about values, not a conflict among states.

Ten, this opens the possibility of the soft power of culture and diplomacy and not the hard power of war or civil strife.

Eleven, hyperventilates a closed regime that has been able thus far to control their own dose of oxygen that has allowed it to survive.

Twelve, opens the way for the legitimization of civil society among actors in both Latin America and the United States.

Thirteen, destroys the Cuban regime's victim-tormentor ambiguity, clearly exposing it as the tormentor not only of political and human rights activists but also of 99 percent of its citizens.

There is a premise that I would like to share in order to put my analysis in perspective: Cuban authoritarianism cannot survive an opening the same way that Chinese authoritarianism can and has.

And, of course, the impact of diplomatic normalization can be debated profusely, which is not the same as normalization among two countries, over the structural well-being of the country, which is what should matter the most if a clear vision by the state is assumed.

In this sense, I do not believe that we should confuse economic liberty with economic liberalization. We cannot also confuse freedom of expression and information with greater access to information and better technological infrastructure for citizens to be informed, and moreover, we should not hide the economic lack of productivity with the trade deficit that would come with an avalanche of corn, soy, rice, oil, chicken, and potatoes from the United States to Cuba. However, I believe that it allows the conditions for Cubans to get involved in the struggle for fundamental rights. At the end of the day, the force of example goes a long way to push for change.

I do not believe that the change in U.S. policy will bring us freedom, which would be the best outcome. The freedom of Cuba is exclusively a matter for Cubans. But believe me, that new policy will give us better options for us to obtain it by ourselves.

Obviously, one thing is a new policy and the other is what is perceived about that new policy. The way in which the democratic community in Cuba learned of the new policy introduced by the administration created the sense that the normalization of diplomatic relations between states also supposed an international normalization for the Cuban regime. This immediately led to a new division, an artificial one and one in which in my view between those with a soft focus and those with a hard one, as if this was the equivalent of a division among those who defend human rights and basic freedoms in Cuba.

I would like to break the news to you that this is not the case. My experience in the last few days, together with Cubans on the island, in the United States and Puerto Rico is that we walk and can walk together precisely thanks to our differences. In the past few days, many people have adopted a new mantra: differences enrich nations instead of weakening them.

Miriam Leiva, Berta Soler, Rosa Maria, and Manuel Cuesta are together in the greater goal for democracy and the well-being of Cuba, thanks to the fact that they are all different.

Allow me to make a suggestion. The United States can engage the Cuban democratic community with all its plurality and sustain a frank, measured, and honest conversation with it. You will see that reason prevails.

Mr. MORUA. Thank you very much.

[The prepared statement of Mr. Morua follows:]

PREPARED STATEMENT OF MANUEL CUESTA MORUA (ENGLISH TRANSLATION)

My name is Manuel Cuesta Morua. I am a historian and I tried to be a lawyer until the regime determined that I could not be one. Imagine why. I am 52 years old, 24 of which I have dedicated to fighting for democratic change, establishing fundamental liberties, and the struggle for social and racial equality. I am what Europeans and Latin Americans call a social democrat; which is someone who believes in liberties, the rule of law, justice, equality, and minority rights. Many things to be accomplished in only one life. But I persevere.

Yet above all, I am Cuban. With faith in the things that can be accomplished if we fight hard enough, if we act according to our moral compass, and if we put reason above passion.

I am also a politician who believes that politics can change things, and that emotions can destroy the best of intentions.

I am a politician, and I am one in Cuba. Today this means putting the Cuban nation above ideological considerations.

This means looking at what I consider to be in the best interest of my country, before what I consider to be in the best interest of my party.

Having said that, I believe that in many ways my compatriots here today can have a different focus on how to achieve democracy in Cuba, but not a different purpose for the nation and the destiny we share. In that we are absolutely united.

My focus after December 17 toward that nation that we share is as follows. The policy change announced by the United States Government:

1. Allows for posturing to make way for political action. This means that all actors are obligated to act according to policy, not epics.
2. It places the democratic debate on the main stage: Cuba.
3. Eliminates the burden of always having the external conflict between states trumping internal conflicts for democracy, within the current framework of international relations.
4. Allows the open discussion about citizens' political sovereignty above the discussion centered on the sovereignty defended by states.
5. Destroys the narrative peddled by the Cuban state to its society, a narrative that has been based, pedagogically, on the natural confrontation between Cuba and the United States.
6. Disarms the Latin American foreign policy that has allowed the democratic debate to be disguised by the conflict between North and South.
7. Regarding the evasive Cuban state and its bad policies toward its citizens, this makes the public discussion over the error and horror of the state more possible.
8. Eliminates the alibi of the failed economic model, if such a thing ever existed.
9. Frames the debate over human rights in Cuba on the basis of a conflict about values, not a conflict among states.
10. Opens the possibility of the soft power of culture and diplomacy, and not the hard power of war or civil strife.
11. Hyperventilates a closed regime that has been able thus far to control their own dose of oxygen that has allowed it to survive.
12. Opens the way for the legitimization of civil society among actors in both Latin America and the United States themselves.
13. Destroys the Cuban regime's victim-tormentor ambiguity, clearly exposing it as the tormentor, not only of political and human rights activists, but also of 99 percent of citizens.

There is a premise that I would like to share in order to put my analysis in perspective: Cuban authoritarianism cannot survive an opening the same way Chinese authoritarianism can and has.

And of course the impact of diplomatic normalization can be debated profusely, which is not the same as normalization among two countries, over the structural well-being of the country—which is what should matter the most if a clear vision by the state is assumed.

In this sense, I do not believe that we should confuse economic liberty with economic liberalization. We cannot also confuse freedom of expression and information with greater access to information and better technological infrastructure for citizens to be informed, and, moreover, we should not hide the economic unproductivity with the trade deficit that would come with an avalanche of corn, soy, rice, oil, chicken, and potatoes from the United States to Cuba. On the short run, what is good for U.S. industry and stomachs on the Island, will probably not be good on the

long run for our country's project. However, I believe that it allows the conditions for Cubans to get involved in the struggle for fundamental rights. At the end of the day, the force of example goes a long way to push for change.

I do not believe that the change in U.S. policy will bring us freedom, which would be the best outcome. The freedom of Cuba is exclusively a matter for Cubans. But believe me, that new policy will give us better options for us to obtain it by ourselves.

Obviously, one thing is a new policy and the other is the way it is percieved. The way in which the democratic community in Cuba learned of the new policy introduced by the administration created the sense that the normalization of diplomatic relations between states also supposed an international normalization for the Cuban regime. This immediately led to a new division—an artificial one in my view—between those with a soft focus and those with a hard one, as if this was the equivalent of a division among those who defend human rights and basic freedoms in Cuba.

I should break the news to you that that is not the case. My experience in the last few days together with Cubans on the Island, in the United States and Puerto Rico is that we walk and can walk together precisely thanks to our differences. In the last few days many people have adopted a new mantra: differences enrich nations, instead of weakening them.

Miriam Leyva, Berta Soler, Rosa Maria, and Manuel Cuesta are together in the greater goal for democracy and the well-being of Cuba, due to the fact that they are different.

Allow me to make a suggestion: the United States can engage the Cuban democratic community, with all its plurality, and sustain a frank, measured, and honest conversation with it. You will see that reason prevails.

Senator RUBIO. Thank you.

And Ms. Soler.

STATEMENT OF BERTA SOLER, PRESIDENT, CUBAN LADIES IN WHITE, CUBA

Ms. SOLER [through the interpreter]. Senator Marco Rubio, distinguished Members of the Senate, before all, I want to thank you for listening.

We live presently a particularly defining moment for the future of our country in the wake of the recent announced reestablishment of diplomatic relations between Cuba and the United States.

I am appearing here as the leader of the Ladies in White, a group of women activists who support change toward democracy in our country through nonviolent means, inspired by the example of women such as Rosa Parks and Coretta King, among others, who with courage and determination blazed paths for the full enjoyment of civil rights in this country. Now 50 years after the events in Selma, AL, and testifying before a subcommittee whose mandate includes global women's issues, it is a great honor and an historic opportunity for me to appear before you.

I also speak on behalf of numerous leaders and activists from Cuban civil society who have entrusted me with speaking for them before you. It is a civil society that is particularly repressed by the intolerance of a government whose exercise of power consists of systematic violation of the human rights of the Cuban people. Just before I left Cuba in order to prepare for this event, last January 28th, we celebrated the birth of our founding father, Jose Marti, and just before I left Cuba, dozens of activists were arrested in Havana and other provinces for attempting to place offerings of flowers at statues of Jose Marti. In its totalitarian vision, the dictatorship seeks a monopoly on our national identity through the use of force against all independent activists.

The most respected international human rights organizations have documented violations of human rights in Cuba. On October 28, 2013, the Inter-American Commission on Human Rights issued an injunction on behalf of members of the Ladies in White to afford protection in the face of systematic repression by Cuban authorities. I submit the official Precautionary Measure issued by the commission for these purposes, as well as the report submitted to the commission by the Association of Independent Cuban Lawyers, Cubalex, which initiated the case before the commission. I request that these reports be made part of the record of this hearing as documentary evidence of our testimony.

These documents demonstrate that the subject of political prisoners, one of the most sensitive issues in Cuba today, reaches far beyond the occasional or periodic release of some of them. Resolving this matter requires the unconditional freeing of everyone who has been jailed for political reasons on the island and the elimination of all legal restrictions used to repress those who think differently from the regime.

Cuba continues to be a country with a one-party government where fundamental freedoms that are an absolute right in North American society are crimes against what they regard as state security. Separation of powers does not exist in Cuba. Freedom of expression and association continue to be repressed and the constitution establishes the Communist Party as the driving force for society. The right to strike is regarded as a crime, with workers on and off the island subject to conditions of labor slavery which have been denounced by international organizations. While these conditions prevail, it is not possible to speak of a willingness to change on the part of the Castro regime.

That same January 28, during his appearance before the third Summit of the Community of Latin American and Caribbean States, CELAC, held in San Jose, Costa Rica, the dictator, Raul Castro, stated that Cuba will not give up one millimeter. For us, this signals the continuation of beatings, jailing, forced exile, discrimination against our children at school, and again, all manner of patterns of intimidation we suffer daily for wanting to see a pluralistic society, democratic, and inclusive in Cuba.

Our aspirations are legitimate because they are undergirded by the Universal Declaration of Human Rights to which Cuba is a party, and the signed international pacts on civil and political rights which have not been ratified by the dictatorship. Our demands are quite concrete: freedom for political prisoners, recognition of civil society, the elimination of all criminal dispositions that penalize freedom of expression and association, and the right of the Cuban people to choose their future through free, multiparty elections.

We believe these demands are just and valid. Even more importantly, for us they represent the most concrete exercise of politics, a step in the direction of democratic coexistence. Cuba will change when the laws that enable and protect the criminal behavior of the forces of repression and corrupt elements that sustain the regime change.

In the name of those who have been executed by firing squads, in the name of Cuban political prisoners, in the name of the pilots

from the humanitarian organization, Brothers to the Rescue, murdered on Fidel Castro's orders, in the name of the victims from the March 13th tugboat, in the name of the victims of Cuba's Communist regime, Cuba yes, Castro no.

[The prepared statement of Ms. Soler follows:]

PREPARED STATEMENT OF BERTA SOLER (ENGLISH TRANSLATION)

Honorable Senator Marco Rubio, chairman of the Subcommittee on Western Hemisphere, Transnational Crime, Civilian Security, Democracy, Human Rights and Global Women's Issues, distinguished members of the subcommittee, above all, I want to thank you for listening to me and also to thank all of the people and organizations who have made it possible for me to testify on the human rights situation in my country, Cuba. We are presently living through a particularly defining moment for the future of our country in the wake of the recent announced reestablishment of diplomatic relations between Cuba and the United States.

I am appearing here as the leader of the Ladies in White, a group of women activists who support change toward democracy in our country through nonviolent means, inspired by the example of women such as Rosa Parks and Coretta King, among others, who with courage and determination blazed paths for the full enjoyment of civil rights in this country. Now 50 years after the events in Selma, Alabama, and testifying before a subcommittee whose mandate includes Global Women's Issues, it is a great honor and an historic opportunity for me to appear before you.

I also speak on behalf of numerous leaders and activists from Cuban civil society who have entrusted me with speaking for them before you. It is a civil society that is particularly repressed by the intolerance of a government whose exercise of power consists of the systematic violation of the human rights of the Cuban people. Just before I left Cuba to be here, last January 28th, the day we celebrate the birth of our Founding Father Jose Marti, dozens of activists were arrested in Havana and other provinces for attempting to place offerings of flowers at statutes of Jose Marti. In its totalitarian vision, the dictatorship seeks a monopoly on our national identity through the use of force against all independent activists.

The most respected international human rights organizations have documented violations of human rights in Cuba. On October 23, 2013, the Inter-American Commission on Human Rights issued an injunction on behalf of members of the Ladies in White, to afford protection in the face of systematic repression by Cuban authorities. I submit the official Precautionary Measure issued by the Commission for these purposes, as well as the report submitted to the Commission by the Association of Independent Cuban lawyers (Cubalex) which initiated the case before the Commission. I wish also to submit a report prepared by Cubalex on Cuba's prison system.

I request that these reports be made a part of the record of this hearing as documentary evidence for our testimony.

These documents demonstrate that the subject of political prisoners, one of the most sensitive issues in Cuba today, reaches far beyond the occasional or periodic release of some of them. Resolving this matter requires the unconditional freeing of everyone who has been jailed for political reasons on the island and the elimination of all legal restrictions used to repress those who think differently from the regime.

Cuba continues to be a country with a one-party government where fundamental freedoms that are an absolute right in North American society are crimes against what they regard as "State Security." Separation of powers does not exist in Cuba, freedom of expression and association continue to be repressed and the constitution establishes the Community Party as the "driving force" for society. The right to strike is regarded as a crime with workers on and off the island subject to conditions of labor slavery which have been denounced by international organizations. While these conditions prevail, it is not possible to speak of a willingness to change on the part of the Castroite regime.

That same January 28, during his appearance before the third Summit of the [Community of Latin American and Caribbean States] (CELAC), held in San Jose, Costa Rica, the dictator Raul Castro stated that [Cuba] ". . . will not give up one millimeter . . ." of its system of government as negotiations between Cuba and the United States begin, and that it would make no sense to demand that he make changes to a military, dynastic dictatorship that has been in power for more than half a century. For us, this signals the continuation of beatings, jailing, forced exile, discrimination against our children at school, and all manner of patterns of intimi-

dation and abuse we suffer daily for wanting to see a pluralistic, democratic, and inclusive Cuba.

Honorable Mr. Chairman, honorable members of the subcommittee, our aspirations are legitimate because they are undergirded by the Universal Declaration of Human Rights to which Cuba is a party, and the signed international pacts on civil and political rights which have not been ratified by the dictatorship. Our demands are quite concrete: freedom for political prisoners, recognition of civil society, the elimination of all criminal dispositions that penalize freedom of expression and association and the right of the Cuban people to choose their future through free, multiparty elections.

We believe these demands are just and valid. Even more importantly, for us they represent the most concrete exercise of politics, a step in the direction of democratic coexistence. Cuba will change when the laws that enable and protect the criminal behavior of the forces of repression and corrupt elements that sustain the regime change.

In the name of those who have been executed by the firing squads.

In the name of Cuban political prisoners.

In the name of the pilots from the humanitarian organization, Brothers to the Rescue, murdered on Fidel Castro's orders.

In the name of the victims from the "March 13th" tugboat.

In the name of the victims of Cuba's Communist regime.

Cuba yes, Castro no.

Thank you very much.

Senator RUBIO. Thank you, and that last sentenced needed no translation. It was well understood.

Thank you all for being here today.

I have some questions. I know that my colleagues do as well. So let me begin.

For all four members of the panel, this is in respect to time. If you wish to elaborate, of course, you can, but this is a pretty straightforward question. No matter how you feel about the new policy toward Cuba, do I take it that all four of you agree that it would be a mistake to move forward on these policies without direct consultation and step-by-step partnership with civil society and the democratic opposition on the island?

Ms. LEIVA. If I understand you is that if the American Government has to ask to talk with us for each step it takes. Is that what you mean?

Senator RUBIO. No. My question is would it be a mistake to move forward on changes with policy toward Cuba without direct and ongoing consultation with civil society and the democratic opposition on the island.

Ms. LEIVA. I still see it the same way.

Senator RUBIO. Okay. Anybody else?

Ms. PAYA. Yes. If I understand, you are putting the step of talking with us, of consultation with civil society and with the opposition. And I think that, of course, that is important for the future of this engagement if this engagement is going to be for the good of the Cuban citizens, but not just. What I want to be clear is that I think it is important to talk with the civil society, to talk with the opposition, and also to put onto the table of negotiations the voices of the citizenry. We are not just asking for recognition for the civil society and the opposition. This is not a partition scene. But the Cuban citizens have very specific demands, which are the demands of the Varela Project but are elemental demands that we share with the democratic countries. And I hope that the demands also be on the table of negotiation.

Thank you.

Senator RUBIO. Mr. Morua.

Mr. MORUA [through the interpreter]. I believe that it is very important to maintain a continuous channel, a systematic approach for communication with the Cuban community both within and outside of Cuba in this process.

Ms. SOLER [through the interpreter]. I believe it is very important to note that really the Government of Cuba is not sovereign because it was not elected. It is the people who are the owners or the possessors of the sovereignty of the nation. And so it is very important that we, the Cuban people, be listened to and heard during this process.

Senator RUBIO. My second question of the panel is there are some in American politics who believe the democracy program and aid on behalf of the United States to the opposition in Cuba and civil society is an irritant that complicates and poisons the relationship between the United States and Cuba. Do you agree or disagree with my position that these democracy programs are essential to help the civil society and the democratic opposition in Cuba flourish and be prepared to take part in what hopefully will be a free and democratic Cuba in the future?

Ms. LEIVA. Well, I think that the programs should be directed directly to the Cuban civil society. The problem is that a great budget has been destined to these goals and most of them, most of the money has not gone directly to the opposition. And the problem is again that the Cuban Government says that we are mercenaries. We are paid by the American imperialists and the American Government, and we have been taken to prison because of that.

So I think the best is to analyze what would be the best to support, to help the civil society. Listen to us. It is a very wide range. I think up to now, the exchange of views, the way we have been having relations with the interest section, with the government, and with delegations from Senate, Congress, et cetera, and also the way the new measures of the administration can take place, can be promoted—well, I think it should be the whole idea, not only we will send money through channels and maybe some get to you and you go to prison. That is what I felt all these years.

My husband, Oscar Espinosa Chepe, was sentenced to 20 years in jail, and some of the crimes he was supposed to be committing was receiving money from the American Government, which was not true. So that is why I think it is very, very serious. It is a very serious matter and it should be very well treated and analyzed.

Senator RUBIO. Ms. Paya.

Ms. PAYA. Yes. I think that if the Government of the United States were to accept all the repressive rules of the Cuban Government, that is not going to be good for our people. This engagement would be another part of the fraudulent changes if the United States just said all this repressive and unfair rules that the Cuban Government has with their own citizenry. I think that you have the opportunity to support the real demands of the citizens, but this approach, this engagement only be true, only be good if it is performed between free persons.

Mr. MORUA [through the interpreter]. I believe that it is very important to maintain global solidarity with regard to helping Cuba with this struggle. It is very important to help the people within

the country and outside of the country. And we see examples of how different states do this with programs, et cetera involved with the people.

Senator RUBIO. And my final question for you, Ms. Soler——

The INTERPRETER. Excuse me. The interpretation.

Senator RUBIO. I am sorry. I understood it, but I am sorry. [Laughter.]

Ms. SOLER. It is very important that the U.S. Government continues to help Cuba but that the aid be directed to the people, to civil society and not to the government because, unfortunately, the government uses the resources that are sent to repress the people. So this is a problem when the funds go to help the government. Things like cell phones and the contributions made by the exiles are a very good will and this is helpful. And the information that we receive from TV Marti and Radio Marti is wonderful because it lets us know what is going on in the world. It helps civil society. So it is very important that the resources go directly to the people and civil society because in Cuba they will always say that we are mercenaries and that we are anti-Communist and anti-imperialist. But the truth is I am anti-Communist but not anti-imperialist.

Senator RUBIO. Thank you. And what I have told Senator Flake is do not worry about the translation. I will let him know later what they are saying. [Laughter.]

Senator RUBIO. My final question, Ms. Soler. You have met President Obama before. Correct?

Ms. SOLER [through the interpreter]. Yes, correct.

Senator RUBIO. And I believe it was in November of 2013?

Ms. SOLER [through the interpreter]. Yes, correct.

Senator RUBIO. At that time, did President Obama indicate to you that any changes of policy toward Cuba would first be consulted with groups like yourselves, like the Ladies in White?

Ms. SOLER [through the interpreter]. No, that is really not the way it was. I am actually just another woman, another Cuban woman. There is no reason for a government to count on me for any type of opinions and things like that.

The important point is that the Government of Cuba is really not sovereign because they are not elected. They are a totalitarian government. They were not elected by the people. And what is important is for the people to be listened to. That is what really needs to be happening. And you cannot do business with a tyrant. It just does not work that way. And rather than establishing conditions from the United States to Cuba, Raul will be establishing conditions for the United States if you let him.

Senator RUBIO. Thank you. Thank you very much.

Senator Menendez.

Senator MENENDEZ. Well, thank you, Mr. Chairman. It is regretful, the way the time has gone, that so many of our colleagues cannot be here because this is the part of Cuba that members need to hear because there is this romanticism but not the harsh reality of heroic individuals like these who every day languish inside of Cuba to create a greater space for civil society, human rights, and democracy. And we sweep that away. And people will say, oh, yes, I know there are violations and then we go on to let us do business. Let us travel. Let us do everything else. And this needs to have,

in my mind, the equal stature. And so I appreciate you continuing the hearing and making sure all of these people are heard.

I have a great deal of respect for all of you because it is easier to talk about democracy and human rights outside of a country that represses it. It is much more difficult to fight and languish inside of a country that ultimately does not allow its citizens their basic rights.

And, Mrs. Leiva, you have my deep condolences on the loss of your husband, who I greatly admired.

Mrs. Paya, you have my condolences on the loss of your father, who I also admired.

And Mr. Cuesta Morua, I appreciate that you acknowledge my recognition of what you did in creating a parallel effort in civil society when Central and Latin American leaders were meeting, even though your efforts were repressed. But I am really thankful to individuals like you who actually tried to do that under a repressive system and tried to create an independent voice for civil society. So my thanks go to you, not to me.

Now, I want to just take a couple of minutes here because those of us who follow these issues are deeply immersed in it, but I do not know necessarily that others are.

So, Mrs. Paya, your father led a civil society effort inside of Cuba by seeking to petition the government under the existing Cuban Constitution for a redress of certain grievances and got thousands of signatures. Is that a fair statement?

Ms. PAYA. Yes, it is.

Senator MENENDEZ. Basically, what he was trying to do is create greater openings for the Cuban people within the context of the Cuban constitution. Is that fair to say?

Ms. PAYA. It would be, yes.

Senator MENENDEZ. And can you briefly describe what some of those openings that your father was petitioning for were?

Ms. PAYA. Of course. The most elemental ones. We—when I said "we," it is because even when my father was the center of the Varela Project, the Varela Project does not belong to my father or to the opposition. It belonged to the citizenry, to the Cuban citizens. And more than 25,000 of Cuban citizens in the middle of the culture of fear and facing repression dared to put their names, their address, and their ID number and asked the Cuban Parliament for ask to the rest of the Cubans in a plebiscite for changing the law, to guarantee free association, free expression, the liberation of the political prisoners, the real right to have free and private enterprises, and change the electoral law in order to have free, competitive, and multiparty elections.

Senator MENENDEZ. So 25,000 Cubans signed onto this petition.

Ms. PAYA. The constitution asks for 10,000 of Cubans and more than 25,000 signatures were delivered.

Senator MENENDEZ. To seek those basic democratic and human rights principles that we enjoy here at home and observe throughout most of the world. And he did this with others following him under the existing Cuban Constitution. Is that right?

Ms. PAYA. Yes. We are actually still waiting for the answer of the Cuban Parliament. They are obligated by the constitution to answer, and they have not.

Senator MENENDEZ. And there was an answer in one respect, and that was you believe that your father was assassinated.

Ms. PAYA. I know that my father was assassinated.

Senator MENENDEZ. And can you say why you believe that?

Ms. PAYA. Well, we have accumulated a lot of evidence. We have talked with the survivors. One of them actually has published a book talking about how the state security hit their car and then moved the two survivors—first hid the survivors and then moved them away. And they just know that my father and Harold Cepero were alive and, I think, pretty much uninjured after the car was hidden. And 4 hours later, my father was dead and my dear friend, Harold Cepero, died in the hospital. We know that it was without medical attention.

Senator MENENDEZ. So that was the regime's answer.

Mrs. Soler, the Ladies in White march every Sunday on their way to church in a peaceful manner. Is that fair to say?

Ms. SOLER [through the interpreter]. Yes, correct.

Senator MENENDEZ. And the purpose of your peaceful march is to protest the arrests of your sons or husbands who have been arrested simply because of their political views or statements or activities.

Ms. SOLER [through the interpreter]. Well, no, that is not exactly how it was. The truth is that the Government of Cuba represses our right to religious freedom, represses our right to movement, freedom of movement and association. Every Sunday the Ladies in White are going out to participate in religious activities.

One example would be on the 18th of January, on Sunday two Ladies in White were detained in a patrol car and kept there for 4 hours without oxygen. The government is constantly repressing not only the Ladies in White but many activists who are trying to exercise these rights of gathering together to discuss matters of importance to them.

For example, on December 10, Ladies in White who wanted again to exercise their right to freedom of association were thrown in jail by the repressive forces of the Cuban Government just because they said "long live human rights."

Senator MENENDEZ. Mr. Chairman, I have one final question if I may.

Mr. Cuesta Morua, this effort at creating a parallel civil discourse of civil society of Cuba, which you tried with the last Latin American summit of CELAC—are you going to try to do that at the upcoming Summit of the Americas? And how can we be helpful if there is any way to be helpful without impinging on it? Because I assume even your testimony here today can be considered mercenaries if the Castro regime wants to claim it as such. So that is a challenge. But I am interested in your continuous effort to create a parallel civil society. The voices of all of you and many others can be heard in these discussions in the days ahead.

Thank you, Mr. Chairman.

Mr. MORUA [through the interpreter]. Yes, of course.

The Cuban Government does not have much credibility. People do not pay much attention to what they say.

We did try to carry out a parallel summit.

The INTERPRETER. The interpreter corrects.

Mr. MORUA [through the interpreter]. We are going to try to carry out a parallel summit following the tradition of the time when we tried to do the same when CELAC was held in Panama. We tried to do the same thing there following that tradition. In fact, we are going to attempt to have two parallel summits, one in Cuba and the other in Panama. We are working with democratic society groups in New Jersey, Miami, Puerto Rico, and other places to be able to attend and to have one voice and also to carry out a summit, a parallel one, in Havana for those Cubans who cannot go to Panama in order to participate as well and have their voices heard with the OAS.

And, of course, we welcome the solidarity of the United States. It is welcomed in the manner in which this solidarity can be accomplished.

Senator MENENDEZ. My admiration to all of you.

Senator RUBIO. Thank you, Senator Menendez.

Senator Flake.

Senator FLAKE. Again, Mr. Chairman, thank you for holding this hearing. And this has been very enlightening. I wish, as was said, that all of our colleagues could hear what you said. I am sure they are following it and their staff is as well.

But I just want to say how much I admire all of you for what you are doing. I have traveled to Cuba a number of times and have met with Ms. Leiva and your husband in prior years, and I have seen what the Ladies in White have done and the work of your father was just inspiring to everyone. And I just cannot say enough about what you do and continue to do in the face of very trying circumstances.

But, Ms. Leiva, in a letter to the "New York Times," you noted that, "since the Obama administration started people-to-people policy or expanded the people-to-people policy in 2009, encouraging exchanges between Americans and Cubans, a lot has changed and that Cubans are feeling empowered by exchanges of views with Cuban Americans coming to visit and Americans on cultural, academic, scientific, religious, sports, and other trade trips."

How do trips like that, particularly since Cuban Americans can travel freely back to Cuba—how has that changed things?

Ms. LEIVA. Well, not only because they have sent remittances or they bring presents, but mainly because they talk to the families, to the friends of how, working hard, they have great possibilities of improving their lives and also helping the Cubans in Cuba. And also, these remittances help open the new businesses, the very small businesses. It is true. But I think, let us say, the seed for a future bigger business in Cuba, and that is what we expect.

So when somebody has a small business, then he has to hire others or he has to sell. And it is like a web. They get to be independent. And now, after these new measures taken by the President, there is a sense of happiness, of hope in Cuba among the population, most of the people, because there is not going to be this atmosphere of confrontation but also because they sense that there could be opportunities for everyone.

Of course, there was a great frustration because the government of Raul Castro promised a lot of changes and almost nothing was fulfilled. And people said, well, this is the same and we are not

going to be able to build our future. At present, we are not going to have a future.

So now people see other possibilities. Of course, they know that this depends on how the Cuban Government is willing to admit the new measures of the United States because you can open for someone to send tools for a new business and maybe in the customs you cannot get them in. So, of course, people are afraid and also people are afraid that if here in the United States you change the law—how do you call it—for coming to Cuba—Cuba to the United States——

Senator RUBIO. The Cuban Adjustment Act.

Ms. LEIVA. The Cuban Adjustment Act is changed or if this dry/wet——

Senator RUBIO. Wet foot/dry foot.

Ms. LEIVA [continuing]. Is cancelled, they are afraid that they will not be able to get to the United States, those that want to get here. So I think that that is one of the causes that is increasing the flow of Cubans coming more rapidly since December because they are afraid that if it is closed, they would not be able to get here. So I think this is also something that should be thought because this could create a tense atmosphere between the governments. And imagine a new flow of Cubans coming to the United States, a tough situation in the United States.

So I think that all this is very complex, I know, and we are hoping that we can help solve all.

Senator FLAKE. Well, thank you. Thank you.

Mrs. Paya, as I mentioned, I am a huge admirer of your father and what he did. I have quoted him often in a piece in the "New York Times" in 2003 I think. And then I was fond of a quote that ran in the "Time" story on him. It said Paya reiterated his opposition to the U.S. trade embargo against Cuba because he said it gave Castro the convenient excuse for his economic failures. I think that is something that a lot of us have always believed. But he also pointed out. He said I am for all Americans traveling to Cuba, but he said please do not think that Cuba will be democratized by people coming to dance salsa and smoke cigars. And so I think that is certainly true as well.

For Americans who are able now—more Americans—to travel to Cuba, what would be your advice to how they can help the Cuban people?

Ms. PAYA. Well, with mojitos and Cuba Libres, we are not going to free our island. I think that it would be great if there are more relations with the real Cubans, with the people that are suffering the repression of the Cuban Government, which are all the citizenry. But what is also important to pay attention to is it is not the American Government and not the Americans laws, the ones who have kidnapped the strides of the citizenry. And there are no more opportunities for the Cuban people because the Cubans know how things change.

I think that this new policy—I think that this new dialogue could be good if it is addressed with responsibility and with transparency, not more secrets. And I actually hope that the voice of the Cuban citizens that has been rising in the past for very specific and concrete demands be on that table of negotiation. Otherwise,

mojitos, Cuba Libres, and salsa—that is just going to be more of this long history.

Senator FLAKE. Well, thank you. My time is up. I appreciate this.

Senator RUBIO. Thank you all for your patience today. I know it has been a long hearing. We have spent more time today on Cuba than we have the 4 years that I have been here, and if there is a silver lining in all this, it is that for the first time, certainly in my time in the Senate and probably in a decade, when something is going on in Cuba now, a human rights abuse, any sort of outrage, it now is news in the United States. And I hope that today's hearing served not just to educate my colleagues but a broader sector of the American public about the Cuban reality, what the people of Cuba are facing, and hopefully what the opportunities are moving forward.

But I want to thank all four of you for being here. I recognize that being here today—and we take this for granted. We have witnesses before this committee all the time who may something that leads them to criticism in a blog or in the press. But appearing here today, testifying here today puts many of you in real danger of being detained or being harassed and the people who you love, the same. In fact, all of you have experienced that in the past as well. It is a liberty that sometimes those of us who have been born and raised here in this country take for granted. And we should not. Just 90 miles from our shores is a place where the sorts of things that we do here as a matter of course, disagree in open with our Government, with our leaders, is punishable by imprisonment and, throughout its history, death on the island of Cuba.

All of us share the same goal. I do not think that is in dispute. Every single member of this committee, I believe the vast majority of American people, and this administration, as well as my leadership of my party, all share the goal of a free and democratic Cuba. What we are having now is a debate about the best way to bring that about, and differences of opinion, as exhibited not just by our panel but by those here today on this committee, as to best way to achieve it.

The good thing is that those of us on the American side of the debate are able to debate those differences openly, democratically. And we hope that in a future Cuba, all of civil society and all Cubans will be able to disagree with their leaders and do so without risking imprisonment or jail, but also to be represented by elected representatives who will work for you, who are accountable to you in the votes that they take and the decisions that they make. I hope that in a future Cuba there will be a free press so that you can gather news from any sources you want. I hope that in a future Cuba, you will be able to organize yourselves into political parties if you so choose. I hope that in a future Cuba everyone will be able to participate in the future of the country.

And that is our hope here, to see what we can do with American foreign policy to bring that day about soon. It has been a very long time. Many generations, many people have seen mothers and fathers, brothers and sisters pass away without being able to be reunited. Many people hope that future will come soon. We have been waiting a long time.

Thank you. God bless all of you for being here. Muchisimas gracias. Thank you.

[Applause.]

Senator RUBIO. The record will remain open until the close of business tomorrow, February 4.

With that, this hearing is adjourned.

[Whereupon, at 1:30 p.m., the hearing was adjourned.]

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

Responses of Roberta S. Jacobson to Questions
Submitted by Senator Marco Rubio

Question. Deputy Secretary of State Tony Blinken has committed to provide a list of Members of Congress consulted about the negotiations with Cuba.

- What Members of Congress were consulted prior to the President's announcement on December 17?

Answer. The administration has and will continue to regularly brief and consult with Congress regarding its Cuba policy.

Prior to the President's announcement on December 17, the administration briefed the congressional leadership, key committees, and other Members.

We will continue to work closely with Congress in a bipartisan manner to bring positive change to Cuba.

Question. It appears that the administration secured no concessions on key issues of interest to the United States.

- What commitments were secured regarding return of fugitives from justice, property claims, and political reforms in Cuba?
- Were these issues raised with the Castro regime? What was their response?

Answer. Reestablishing diplomatic relations with Cuba is in the U.S. national interest. This new approach is not about what the Cuban Government will do for us, but rather what we can do for the Cuban and American people. The reestablishment of diplomatic relations, including reopening our Embassy in Havana, will allow us to more effectively represent U.S. interests, including property claims, fugitives, human rights, and needed political reforms and increase our engagement with the Cuban people. Cuba remains a one party, authoritarian state. We have no illusions about the nature of the Cuban Government. We will continue to condemn any example of Cuban Government-sponsored harassment, use of violence, or arbitrary detention of Cuban citizens peaceably exercising their freedoms of expression and association.

We proposed to the Cubans starting discussions of outstanding claims, in the event we reestablish diplomatic relations. Although reaching agreement on the resolution of outstanding claims is often a lengthy process, the Department is strongly committed to advancing this effort. On the issue of fugitives, the Department repeatedly raises fugitive cases with the Cuban Government and will continue to do so at every appropriate opportunity. We raised several cases with the Cubans when we met with them January 22.

Question. A month after the beginning of the secret negotiations, Cuba was found smuggling 240 tons of weapons to North Korea (DPRK) in violation of multiple United Nations Security Council resolutions.

- Was this issue discussed during the negotiations?
- Did Cuba agree to halt its illicit relationship with North Korea as part of the negotiations?
- Did the U.S. negotiators asked the Cuban Government to do so?
- When the next North Korean ship docks in Havana, carrying weapons or other illicit cargo, what action does the United States plan to take?
- Has the United States made any commitments to not interfere in Cuban-North Korea relations?

Answer. The United States remains concerned about attempts by North Korea (DPRK) to circumvent international sanctions and strongly condemn, and will continue to condemn, any efforts by states such as Cuba to assist in the illegal evasion of binding decisions of the U.N. Security Council.

At the same time, the administration believes that through a policy of engagement with Cuba, we can more effectively stand up for our values and those shared by the international community, promote human rights and fundamental freedoms, and help the Cuban people help themselves.

With respect to the Chong Chon Gang shipment to the DPRK, the administration has worked to ensure that those responsible for this egregious violation of U.N. sanctions pay a price for their wrongdoing. The United States pushed for the U.N. DPRK sanctions committee to designate the Ocean Maritime Management Company, a DPRK entity that played a key role in managing the Chong Chon Gang. The committee designated Ocean Maritime Management Company for sanctions last year.

The administration worked to maximize the diplomatic cost to Cuba for its role in the incident, including by using meetings of the U.N. Security Council to repeatedly condemn Cuba's role in the violation. We applauded the U.N. DPRK Sanctions Committee's release of an Implementation Assistance Notice to publicize the facts of the case and advise states on how to protect themselves from future arms smuggling attempts. The United States ensured that this Implementation Assistance Notice also highlighted Cuba's role. The international community has unequivocally refuted Cuba's claim that this arms shipment was allowed under U.N. Security Council resolutions.

Question. Since the President's announcement of his unilateral changes to Cuba policy, Gen. Raul Castro has made a series of demands that he believes the United States should agree to as part of this "normalization" process.

- Is the administration prepared to negotiate with Cuba changes to U.S. immigration policy, specifically the Cuban Adjustment Act?
- Is the administration prepared to negotiate with Cuba U.S. assistance to Cuban dissidents and human rights activists?
- Is the administration prepared to negotiate with Cuba Radio and TV Marti broadcasting to Cuba?
- Is the administration prepared to negotiate with Cuba the U.S. immigration program that allows Cuban medical personnel forced to work overseas the opportunity to emigrate to the United States?
- Is the administration prepared to negotiate with Cuba the lifting the broader U.S. embargo of Cuba, which requires an act of Congress?
- Is the administration prepared to negotiate with Cuba the return of the U.S. naval facility at Guantanamo Bay?
- Is the administration prepared to negotiate with Cuba the $181 billion in reparations that Castro demanded in 1999 for the claimed "damages" brought by the embargo?

Answer. Reestablishment of diplomatic relations with Cuba will strengthen our ability to press the Cuban Government on important issues, including human rights, democratic governance, and property claims. Reestablishing diplomatic relations is a first step toward normalization, a long-term process that will address long-standing issues that have complicated our bilateral relationship for the last half-century. Through a policy of engagement, we can more effectively stand up for our values, and those shared by the entire hemisphere, and help the Cuban people better help themselves.

Safe, orderly, and legal migration remains a top policy priority for the United States and is also shared by the Government of Cuba. The administration has no immediate plans to alter its Cuba migration policy and recognizes that the Cuban Adjustment Act is a law that can only be altered by Congress. We support Cuban nationals' ability to freely travel and will continue to monitor how Cuba implements its January 2013 migration reforms, specifically with respect to medical professionals and their families as well as peaceful civil society actors.

We will continue to use U.S. foreign assistance funds to support adherence to democratic principles and norms, the promotion and protection of human rights, the exercise of political and civil liberties, and the free flow of information to, from, and within Cuba, and to provide humanitarian assistance. We will also continue Radio and TV Marti broadcasting to provide the Cuban people with the uncensored news and information they are denied due to Cuban Government policies.

As the President said in his State of the Union Address, he believes Congress should begin working to lift the embargo.

Reaching agreement on resolving outstanding claims is often a lengthy process, but the Department is committed to pursuing a resolution. We proposed to the Cubans starting discussions of outstanding claims once we have established diplomatic relations. In our discussions with the Cubans, we have made it clear that there are no plans to alter the existing lease agreement for the Naval Station at Guantanamo Bay.

Question. Raul Castro has been clear about his demands for normalization of relations with the United States. So, what are our demands of this dictator?

- Is the administration demanding free and fair elections of the only country in our hemisphere that has not been elected for the last 53 years?
- Is the administration demanding full respect for human rights and that the regime honors their obligations under international law?
- Is the administration demanding that the regime release all political prisoners and that they furthermore not arrest any further prisoners for exercising their basic human rights?

- Is the administration demanding freedom of information, assembly, and expression, and restitution for confiscated American property, and restitution for those who have suffered for years at the hands of that oppressive regime?
- Many of these are codified in U.S. law as preconditions for normalization of relations. If the administration has not made these demands, why not?

Answer. The administration fully recognizes that the Cuban people have long been deprived of the freedom that they deserve, and the fundamental goal of our policy is to advance a Cuba that is democratic, prosperous, and well-governed. We also recognize, however, that our previous approach over a half century, though rooted in the best of intentions, did not work. Our new approach is not about what the Cuban Government would do for us, but rather what we can do for the Cuban and American people. Reestablishing diplomatic relations and reopening embassies are just the first steps in the complex, long-term process of normalization of relations.

This administration is under no illusions about the continued barriers to internationally recognized freedoms that remain for the Cuban people, but we are convinced that, through a policy of engagement, we can more effectively promote our interests and values, and help the Cuban people begin to enjoy more independence from the Cuban state. Diplomatic relations will provide us the opportunity to engage more effectively on a range of important issues, including claims, fugitives, and human rights. Our discussions with the Cuban Government will include promoting respect for universal human rights and fundamental freedoms.

Question. You may be aware that the President of the Fraternal Order of Police recently sent a letter to President Obama saying, "The blood of American law enforcement officers doing their job on American soil is too high a price to pay for closer ties with the Cuban regime."

- Do you agree with this statement?
- Do you have any qualms about allowing a convicted accessory to murder out of prison?
- Are you aware of any other cases where a foreign national convicted by a U.S. court and sentenced to life in prison for crimes that led to the murder of American citizens, was traded in a hostage negotiation?
- What steps did the administration take to contact the families of the Americans who lost their lives in 1996 at the hands of the Cuban regime before an individual involved in their family member's murder was set free?
- What steps did the administration take to consult the families of the law enforcement officers who were murdered by fugitives currently in Cuba as you negotiated with the people harboring those who killed their love ones?

Answer. The reestablishment of diplomatic relations will allow us to more effectively represent U.S. interests, including pressing for the return of fugitives, and increase our engagement with the Cuban people. The Department repeatedly raises fugitive cases with the Cuban Government and will continue to do so at every appropriate opportunity. We raised several cases with the Cubans in Havana January 22, and we will continue to press for resolution. Our repeated efforts to address fugitive issues with the Cuban Government have met with limited success in recent years. Cuba has expelled to the United States at least four U.S.-national fugitives since 2011.

When it is deemed to be in the U.S. national interest, the United States has exchanged imprisoned intelligence agents with other countries in the past, including those countries where we have historically had difficult or limited relations. In the exchange of intelligence agents that took place with Cuba on December 17, the United States released three Cuban intelligence agents to secure the release of an important intelligence asset, a man that provided key information to the United States about systematic Cuban espionage and efforts to penetrate the U.S. Government. In light of his sacrifice on behalf of the United States, securing his release from prison after nearly 20 years is fitting closure to this chapter of U.S.-Cuban relations.

Question. The Cuban regime confiscated U.S. private property and owes damages exceeding $8 billion in restitution to rightful owners and more than $2 billion in judgments awarded in U.S. courts.

- What progress was made on this issue during 18 months of secret negotiations?
- Will you commit to not open an embassy or normalize relations with Cuba until a process has been established for these claims to be addressed, as has been the case in past instances when the United States restored diplomatic relations with countries with outstanding claims, such as Libya?

- If not, why would Cuba have any motivation to settle the claims at all if the embargo is already lifted or Americans can freely travel to Cuba and diplomatic ties exist?
- Can you cite another instance where the United States normalized relations with a country that had billions of dollars in outstanding claims and judgments without an agreed process in place for resolution of those claims?
- What protections is the administration willing to provide current American citizens who had stolen property in Cuba so that U.S. and foreign entities do not exploit and traffic in their stolen property? Would it be fair to allow these Americans full access to U.S. courts to prosecute traffickers, foreign and domestic?
- As you may know, many licenses granted by OFAC result in the trafficking by Americans in the stolen property of other Americans, which includes hotels and even the art in Havana's major museums. Is trafficking not a violation of U.S. law, or at least the American moral and ethical principles? Should we allow American visitors and business interests to have commercial relations with Cuba without any concern that this involves the stolen property, brands and trademarks of Americans? Should traffickers be liable for these acts?
- Did you traffic in stolen U.S. property at all when you were in Cuba? If not, how are you sure? Has the U.S. Interests section and any diplomats serving there ever trafficked in stolen property, even if unintentionally?

Answer. Following the President's December 17, 2014, announcement of a new course in Cuba policy, Assistant Secretary Jacobson raised the need to resolve outstanding property claims with the Cuban Government during January 22 talks in Havana. The Department is committed to pursuing a resolution of claims and firmly believes the reestablishment of diplomatic relations will provide the United States and Cuba the opportunity to engage more effectively on a range of important issues, including claims.

With Cuba, the discussion of claims will be part of our broader normalization efforts, a long-term process. As in all claims settlement discussions, a range of issues will need to be considered. The Cuban Government agreed to begin a dialogue on claims in the months following the reestablishment of diplomatic relations and reopening of our respective embassies.

Claims are not necessarily addressed as part of the reestablishment of diplomatic relations. In fact, diplomatic relations are generally in place when governments embark on claims discussions. We did not resolve claims with Libya or Iraq as part of establishing diplomatic relations. In both cases, we already had diplomatic relations before we began discussing claims. In Libya, we had not severed diplomatic relations; claims discussions were simply part of normalizing our bilateral relationship, along with discussing other pressing matters such as weapons of mass destruction.

Title III of Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (Public Law 104–114; 22 U.S.C. 6021–6091) creates a private cause of action and authorizes U.S. nationals with claims to confiscated property in Cuba to file suit in U.S. courts against persons purported to be trafficking in that property. The President has repeatedly exercised the authority under the act to suspend the lawsuit provisions for periods of 6 months, as necessary to the national interest of the United States and to expedite a transition to democracy in Cuba. At this juncture, we continue to believe that claims discussions with the Cuban Government will afford the best opportunity to address issues regarding claims for property.

Question. There have been many press reports in recent weeks about what the administration would like to see happen in Cuba as a result of the President's announcement, but very little on how it intends to get there.

- What benchmarks or metrics has the administration developed to determine your progress in achieving its objectives with its new Cuba policy?
- In other words, how will the administration determine whether the policy is working or not?

Answer. Our enduring objective remains the emergence of a democratic, prosperous, and stable Cuba that respects and adheres to human rights norms. The President's new approach to Cuba moves beyond decades of unsuccessful efforts to isolate Cuba and is designed to empower the Cuban people. Over time, the success of our policy can be judged in terms of its success in empowering the Cuban people to determine freely their own future, including in the areas of greater political space to express dissent, democratic accountability, access to information, and respect for human rights. The intensive discussions between the United States and the Cuban Government in January on the reestablishment of diplomatic relations were only

the initial step in what is likely to be a long and complex process of normalization of relations.

Question. The administration announced that the Cuban Government released 53 political prisoners as part of the President's new approach toward Cuba. However, according to reports from various independent groups, the Cuban Government has jailed over 250 other individuals for peacefully demonstrating against the dictatorship. These include two new long-term political prisoners, Cuban artist Danilo Maldonado "El Sexto" and rapper Maikel Oksob "El Dkano."

According to news reports and independent organizations, Danilo Maldonado, known as El Sexto (the Sixth one, is a satirical reference to the five Cuban spies portrayed as heroes by the Cuban Government) was arrested on December 26 as he was on his way to Havana's Central Park to do an art performance with two pigs, named Fidel and Raul. The Cuban regime is accusing El Sexto of "disrespect" and he has been sent to the Valle Grande prison to await trial. Thus, Cuba is clearly refilling its jails to continue using political prisoners as pawns.

- Does the administration believes that the Cuban Government will stop detaining and imprisoning those who advocate for freedom and democracy?
- If not, why did the administration encourage them to continue taking more political prisoners as pawns by succumbing to the regime's coercion?
- A/S Malinowski, the President has signed into law sanctions imposed on human rights abusers in Venezuela and we have human rights sanctions against other rogue regimes around the world. Would it be appropriate to impose sanctions on Cuban officials involved in human rights abuses? If not, why?
- Why did your delegation to the recent normalization talks not include A/S Malinowski or someone from his bureau?
- Does the administration plan to raise human rights in any sustained and direct way with Cuba in the months to come?
- How will you implement your public commitment to not abandon the Cuban opposition when the regime has expressed disapproval of a simple breakfast you shared with some of the democratic leaders, and the regime snubbed CODEL Leahy because it met with dissidents on its recent trip to Cuba?
- Josefina Vidal says the dissidents do not represent Cuban society. Do you agree?

Answer. The United States is committed to promoting universal human rights and democratic reforms in Cuba. We condemn any example of Cuban Government-sponsored harassment, use of violence, or arbitrary detention of Cuban citizens peaceably expressing their views. We continue to call on the Cuban Government to end these practices. We have no illusions the Cuban Government will change its behavior overnight. We believe reestablishing diplomatic relations will help remove a pretext the Cuban Government has used, for many years, to successfully counter pressure from the Cuban people for more freedom, access to information, economic prosperity, and other legitimate demands. We encourage all Members of Congress to engage all Cubans, including those who may have significant differences with their government.

We expect that Assistant Secretary for Democracy, Human Rights, and Labor Malinowski will lead the U.S. delegation to the planned bilateral dialogue on human rights. Our objective in such talks will be to advance an agenda of specific reforms that will bring about concrete improvements consistent with applicable international human rights commitments. Regarding targeted sanctions, we are willing to consider those tools that we deem most effective for achieving our national interests.

Question. Even as you were negotiating in secret with the Cuban regime, that regime stepped up its repression and incarceration of peaceful pro-democracy activists. Your Cuban interlocutors have yet to allow an international investigation into the murders, at the hands of the Cuban regime, of Oswaldo Paya and Harold Cepero, which the Cuban regime has prevented from taking place. By not investigating this tragedy, and by not requiring that the Cuban regime allow for such an investigation, we are sending a signal that they can enjoy impunity for these murders, and we are endangering the lives of every single pro-democracy activist on the island, who tell us that they are at the mercy of that lawless regime.

- Will you pledge to require the regime to allow these international investigations to take place, as well as investigations into the mysterious deaths of Laura Pollan, founder of the Ladies in White, and Orlando Zapata Tamayo, among many other innocent victims of that regime, as pre-conditions for normalization of relations with the United States?

Answer. We have the greatest respect for all democracy activists in Cuba who are working to create a better future for the Cuban people. Furthermore, we continue

to call for an independent and credible investigation into the deaths of Oswaldo Paya and Harold Cepero, including giving the Paya family access to the autopsy report. An independent investigation would help address concerns about lack of transparency and possible involvement of Cuban security officials in their deaths. Our policy of engagement and empowerment of the Cuban people is better positioned to help Cubans to develop, over the long term, an independent judicial system that could address in a transparent, impartial manner cases like the ones you raise.

Question. The administration has couched many of its changes in U.S. travel, banking, and trade with Cuba as part of an effort to empower the supposed Cuban "private sector" and "microentrepreneurs."

- What is the administration's definition of the "private sector" in Cuba?
- Will it define enterprises run by the Cuban military or operated by the offspring of Cuban regime officials to be the "private sector"?
- Will it define entities owned by the Cuban Government, but operated by an individual with a "self-employment" license to be the "private sector"?

Answer. The policy changes announced December 17, 2014, which build on President Obama's 2009 and 2011 Cuba policy changes, create new opportunities for Cuba's nascent private sector. These measures are intended to support the ability of the Cuban people to gain greater control over their own lives and freely determine their country's future.

We consider the private sector in Cuba to encompass economic activity generated by private individuals and enterprises for profit as well as nonprofit organizations and charities. For example, Cubans who are self-employed, own independent small businesses, or form private cooperatives that are not part of Cuba's state sector are included in this category. We do not consider entities owned or operated, in whole or in part, by the Cuban Government or military to be part of the private sector.

Question. Article 18 of the Cuban Constitution states that all foreign trade and commerce must be owned and operated by the state.

- How are U.S. exports to benefit the Cuban people if they must all be funneled through the state?
- Do you believe the Cuban Government will provide the Cuban people access to these goods?
- Did the Cuban regime share the billions worth of goods from the former Soviet Union and Venezuela with the Cuban people?
- Why would it act differently now?

Answer. U.S. exports in authorized areas will benefit the Cuban people. For example, while Cuban Government import agencies and other government owned, operated, or controlled companies and corporations may act as consignees to receive and effect delivery of certain eligible items to the private sector, the Cuban Government may not be the end user of such items. U.S. exporters would be subject to civil and/or criminal penalties if they were to export, with prior knowledge, ineligible items to Cuban Government end users. The Department of Commerce's new license exception "Support for the Cuban People (SCP)" would not apply to items exported to Cuban Government end users, except in the area of telecommunications. Similarly, consumer communications devices may be sold to Cuban Government owned, operated, or controlled companies and corporations for resale to the Cuban people.

While most U.S. exports to Cuba remain prohibited under the embargo, past practice under the Department of Commerce's licensing exception for agricultural products and the general policy of approval for medicines and medical devices similarly permitted Cuban Government entities to import and effect delivery of certain products to the benefit of the Cuban people. In these cases, the Cuban Government did provide the Cuban people access to these goods, per the terms and conditions of those export authorizations. The Department of Commerce will continue to investigate and take appropriate action against any U.S. exporters that violate the terms of their licenses or the Export Administration Regulations.

Question. The administration has stated a desire to see Cuban residents have access to Internet. The Cuban Government is one of the most oppressive in the world and the rate of Internet penetration in Cuba is among the lowest in the world. The Internet in Cuba is controlled by a state monopoly, ETECSA. This monopoly has clearly shown that the only obstacle to connectivity is the regime's unwillingness to do so. Despite the new fiber optic cables (Venezuela and Jamaica) and investments by foreign companies (Telecom Italia and Alcatel), ETECSA has yet to provide more access to the Cuban people. The only reason the Cuban people are unable to access the Internet is because the Castro regime won't allow them to.

- What specific commitments has the administration obtained from the Cuban regime about how U.S.-provided telecommunications equipment will be utilized?
- Has the Cuban regime pledged to allow unrestricted access to the Internet as a result of this change in U.S. policy?
- If not, what makes you think that even more cables and investments will increase the Cuban people's connectivity?
- Did Telecom Italia help the Cuban people access the Internet through its investment in ETECSA?
- Has France's Alcatel-Lucent helped the Cuban people access the Internet? If not, why?
- Is the administration willing to move forward with authorizing the provision of telecommunications infrastructure in Cuba without the guarantee that the Cuban people will have the ability to speak freely over that infrastructure?
- Instead of providing telecommunications infrastructure in ways that will only enrich the Cuban regime, why not push for companies like Google to provide Internet connectivity via satellite or other programs that circumvent the regime?

Answer. Unrestricted access to information through the Internet and other means is a U.S. priority in Cuba and around the world. The President announced in December our intention to facilitate telecommunication and Internet development and access in Cuba. In January, the Departments of Commerce and Treasury released amended regulations allowing U.S. companies to engage in more activities with Cuba to support better communications and access to information for the Cuban people. These regulatory changes respond directly to requests made to the administration by civil society to enable greater access to telecommunications equipment on the island.

Internet access in Cuba remains extremely limited, in large part, because the Cuban Government has chosen not to offer its public widespread access to a high-speed fiber-optic cable from Venezuela. It is also true that U.S. sanctions made it difficult for U.S. telecom companies to engage with Cuba. While we cannot address what non-U.S. companies have done on the island, we are encouraging U.S. companies to consider the Cuban market and continuing to work to address their concerns. In addition, we will work with Cubans, including civil society actors, to promote uncensored Internet access.

We are aware that efforts to facilitate access to uncensored information in Cuba have been, and will likely continue to be, opposed in various ways, including government censorship of the Internet. In those areas of the world where repressive governments have attempted to restrict Internet freedom, the U.S. Government has implemented programs to help promote such freedom. The U.S. Interests Section provides free, uncensored access through its Internet Resource Centers.

The Cuban Government indicated it would like to develop communications and Internet on the island. We and our partners will encourage it to follow through. We proposed that Ambassador Daniel Sepulveda, U.S. Coordinator for International Communications and Information Policy, travel to Cuba to begin a dialogue on broadening telecommunications and Internet on the island with the objective of advancing unfettered Internet access for the Cuban people. We do not know if the Cuban Government will follow through on its stated intention of expanding Internet access in Cuba, but we want to be clear that we support and are doing all we can to facilitate that access.

Question. The Cuban regime has been contracting monitoring technologies through state-entities, Albet, Xetid, and Datys. These companies have obtained lucrative contracts and operate in Venezuela, Bolivia, Argentina, Ecuador, and Nicaragua.

- Why are they able to export software and technology, but not provide basic connectivity to their people?

Answer. Internet access in Cuba is expensive, of very poor quality, and available to a small number of people due to deliberate choices of the Cuban Government which, among other things, has chosen not to offer its citizens widespread access to a high speed fiber-optic cable from Venezuela. It is revealing that Cuba both limits its citizens' access to the Internet and devotes resources to developing monitoring technologies.

Unrestricted access to information through the Internet and other means is a U.S. priority in Cuba and around the world. The United States supports greater connectivity for the Cuban people. In January, the Department of Treasury promulgated regulatory changes authorizing transactions incidental to telecommunications and Internet linkages between the United States and Cuba, including telecommunications facilities in Cuba under an OFAC general license, as opposed to the more

restrictive specific license. Under a Department of Commerce license exception, the export of items for Cuba's telecom infrastructure is also permitted under certain conditions. Under new policies, U.S. companies may also make commercial sales of personal communication devices and software (e.g., telephones, computers, and Internet technology/applications) to Cuba, and can also send certain tools, equipment, and supplies to private enterprises in Cuba. These regulatory changes respond directly to requests made to the administration by civil society to enable greater access to telecommunications equipment on the island.

We are encouraging U.S. companies to consider the Cuban market and continuing to work to address their concerns. We proposed that Ambassador Daniel Sepulveda, U.S. Coordinator for International Communications and Information Policy, travel to Cuba to begin a dialogue on broadening telecommunications and Internet on the island with the objective of advancing unfettered Internet access for the Cuban people. In addition, we will work with Cubans, including civil society actors, to promote uncensored Internet access. This is an important part of our efforts to enhance and strengthen the fundamental right to freedom of speech and expression.

Question. General Castro has launched a public diplomacy campaign with other Latin American countries defending his interests in normalizing relations with the United States. The administration said it wanted to remove "the Cuba distraction" in order to improve relations with the countries of the Western Hemisphere.

- Can you provide a detailed administration strategy to capitalize on its Cuba policy shift as part of its diplomatic engagements in the Western Hemisphere?
- In what specific ways do you expect countries in the Western Hemisphere to qualitatively modify their efforts to support political freedom in Cuba, especially in the runup to the April Summit of the Americas in Panama?
- What specific commitments has the administration obtained from any government, anywhere in the world, to join the United States in support of greater political freedom in Cuba?

Answer. As was the case before the administration's change in policy toward Cuba, we will continue to engage our hemispheric partners intensively in an effort to promote human rights, prosperity, and democracy not only in Cuba, but throughout the region at every appropriate opportunity. We have reinforced with other countries in the hemisphere the importance of supporting genuine progress on human rights and democratic principles in Cuba as a means to advance meaningful and principled regional integration. Assistant Secretary for Democracy, Human Rights, and Labor Malinowski carried this message to Bolivia during his attendance at the Presidential inauguration in January, as I did with numerous Foreign Ministers in Brazil at the Presidential inauguration, and indeed the Vice President did with heads of state as well. We will continue to engage regional partners at events including the Summit of the Americas and the associated Youth, Business, Civil Society, and Educators forums in April, the World Economic Forum for Latin America in April, the OAS General Assembly in June, and the Pathways to Prosperity Ministerial in October. We are confident our efforts will no longer be blunted by discussions of whether our own Cuba policy is effective.

We cannot speculate on the diplomatic stance others will take going forward, but we have already seen indicators that with our Cuba policy more closely aligned with others in the hemisphere, we are in a much better position to seek cooperation from our partners both in the Americas and elsewhere.

Announcing our new policy in December, the President said, "Through these changes, we intend to . . . begin a new chapter among the nations of the Americas." The response from partners throughout the region and around the globe has been overwhelmingly positive. We are already seeing signs that the updated approach will give us a greater ability to engage other nations in the hemisphere and around the world to join us in promoting respect for human rights and fundamental freedoms in Cuba. Canada, our closest ally and neighbor, said "the more American values and American capital that are permitted into Cuba, the freer the Cuban people will be." The common reaction from leaders at the Brazilian inauguration was that the President's announcement was historic, and changed the nature of U.S.-Latin American relations for the better. Many leaders offered strong support and their assistance in advancing our common objectives. The same was heard at the Bolivian President's inauguration, underscoring that the time had come to encourage Cuba to do its part. The OAS, along with the Inter-American Commission on Human Rights, also expressed support for the updated approach the President announced. We appreciate these statements, and look to continued support from the entire Inter-American system and community as we implement these historic changes and continue to promote democracy, human rights, and fundamental freedoms in Cuba.

Question. We are nearing the 1-year anniversary of the political protests in Venezuela and the jailing of opposition leader Leopoldo Lopez. President Obama signed the Venezuela Defense of Human Rights and Civil Society Act of 2014 on December 18.

- Why has the administration not yet imposed the financial sanctions authorized under the act?
- Now that the administration is engaging the Castro regime, do you plan to pressure the Cuban regime to end its support for the Maduro government and its involvement in the ongoing repression of the Venezuelan people?

Answer. We are expeditiously working with the National Security Council, the Department of the Treasury, and other relevant agencies to implement the Venezuela Defense of Human Rights and Civil Society Act of 2014. Fully implementing this law is a complex undertaking. A determination to sanction someone under this law must be supported by credible information and meet certain legal thresholds.

Separate from requirements outlined in the sanctions law, the Department took steps in February to impose visa restrictions against individuals believed to be responsible for, or complicit in, human rights abuses and public corruption pursuant to Section 212(a)(3)(C) of the Immigration and Nationality Act. These actions may also affect family members of some of these individuals. We will not publicly identify these individuals because of U.S. visa confidentiality laws, but we are sending a strong message that human rights abusers, those who profit from public corruption, and their families are not welcome in the United States.

We continue to call on the Venezuelan Government to release Leopoldo Lopez, Mayor Daniel Ceballos, and others it has unjustly jailed and to improve the climate of respect for human rights and democratic norms. We firmly believe the enjoyment of fundamental freedoms, such as the freedoms of expression and peaceful assembly, is essential to a functioning democracy and Venezuela must protect these fundamental freedoms.

In our engagement with countries throughout the region, including Cuba, we press governments to live up to the hemisphere's shared commitment to democracy and convey our view that Venezuela is falling short of what is articulated in the OAS Charter, the Inter American Democratic Charter, and other fundamental instruments related to democracy and human rights.

Question. Almost 2 months ago, the United States transferred six detainees from Guantanamo Bay to Uruguay. The President of Uruguay has downplayed the backgrounds of these men, raising concerns about how seriously Uruguay takes its responsibility to ensure they don't return to the fight. I have been asking for our agreement with the Government of Uruguay governing their acceptance of these detainees for several weeks now but the Department has been unresponsive.

- Will you make this document available to interested Members of Congress, especially in light of the news that members of the so-called "Taliban Five" are attempting to circumvent the restrictions imposed on them?

Answer. The Department has consistently informed Congress, and represented to U.S. courts, that disclosing foreign government assurances pertaining to Guantanamo detainee transfers outside limited channels within the executive branch would likely have a chilling effect on the U.S. Government's ability to negotiate detainee transfers and the willingness of foreign governments to continue cooperating on these sensitive matters. As required by the NDAA, each detainee transfer notification letter sent to Congress provides a description of the arrangements to be implemented.

Responses of Tomasz Malinowski to Questions
Submitted by Senator Marco Rubio

Question. It appears that the administration secured few, if any protections for the 53 political prisoners who were eventually released.

- (a) A number of the released prisoners have been rearrested and harassed since their releases. What commitments did the Cuban regime make regarding treatment of prisoners after their release?
- (b) In your long career working on human rights issues, is it standard for the release of political prisoners to be negotiated by the United States that does not result in complete freedom of movement and actions after their release?

Answer. We condemn any conditions or restrictions placed on citizens who peacefully exercise their fundamental freedoms, whether they are recently released political prisoners or not. Neither these 53 individuals, nor other Cubans, should be sub-

jected to harassment, arrest, or violence for simply exercising their universal human rights.

We have no illusions the Cuban Government will change its behavior simply because of our new policy approach. The purpose of our new approach is to better equip us and Cuban independent civil society to press the Cuban Government for real change. We are constantly monitoring reports of arrests of human rights defenders. I also said in my statement that we will spare no effort to ensure that everyone still detained for simply exercising their rights to freedoms of expression, association, or peaceful assembly is free, not just from prison but from harassment, threats, and restrictions on their movement and their work.

When discussing prisoners of concern with repressive governments, we always push for full freedom of movement and actions, but those governments often do not fulfill that request. In Burma, for example, after the administration succeeded in obtaining the release of hundreds of political prisoners, it took months of more work for the Burmese Government to issue them passports; and most were released under a rule that allowed the government to put them back in jail at any time to finish their original sentence if they did anything out of line. Indeed, no one released from prison, or any person for that matter, in a country that is not free has complete freedom of movement and action. Our goal is to get dissidents out of prison, then push for the next step, and the next one after that.

We will continue to raise prisoners of concern and object to any conditions attached to release, and we look forward to working with you and your committee to press for the release of all political prisoners in a Cuba that respects human rights.

Question. The Cuban regime has yet to follow through on the other supposed human rights concessions—visits by ICRC and U.N. agencies.

- (a) How many ICRC or U.N. visits have occurred, to Cuba, since December 17 to discuss human rights?
- (b) If none, when will the first visits occur?
- (c) Which prisons will the ICRC be able to visit?
- (d) We have been told by several of the relevant U.N. agencies that in the wake of the President's announcement in December, they engaged the Cuban regime and were told that they were not able to visit the island. Can you explain why the administration would herald this as a Cuban concession when the Cubans appear to deny any agreement on this issue?

Answer. The Cuban Government agreed to talk to the U.N. and other international organizations. They have not yet agreed to allow them to do all of the important work in Cuba we would like to see them carry out on human rights. So we need to work to take advantage of this development. The administration, including Assistant Secretary Jacobson during her January 22 visit to Cuba, has urged the Cuban Government to provide access to the U.N. and other international organizations. We have urged others to also press them in this regard. We will continue to press for greater access—and for the Cuban Government to live up to Raul Castro's statement that "Cuba reiterates its willingness to cooperate in multilateral bodies, such as the United Nations."

ADDITIONAL MATERIAL SUBMITTED BY SENATOR MARCO RUBIO

Internet in Cuba Only for the Rich—or Resourceful, by Alexandre Grosbois, AFP, Business Insider

HAVANA (AFP).—With smartphones and tablet computers, they look much like young people anywhere, but Cubans have to go to extremes just to get an Internet connection and somehow get around the strict control of the Communist authorities.

In the capital Havana, clusters of young Cubans can be spotted at weekends in groups near hotels, embassies, and business centers in a desperate attempt to get online—somehow.

"Some people capture wireless signals after getting the codes from friends who work here, but I know there are others who manage to crack passwords with special software," one computer enthusiast said, speaking on condition of anonymity at the foot of an office block.

Lurking down a small street abutting a hotel, another strategy is at work. Several youngsters tap away furiously on their devices—they are online thanks to a shared connection courtesy of a classmate posted at hotel reception.

Suffice it to say that in Cuba, wireless signals—or failing that, any Internet connection—are highly coveted.

They are under strict control, reserved for companies, universities, and institutions. A privileged few—journalists, artists, and doctors, in particular—are entitled to a particular connection. And that's it.

PROHIBITIVE PRICES

In 2013, only 3.4 percent of Cuban households were connected to the Internet, according to the International Telecommunication Union (ITU), which rates the connectivity of countries.

Since June last year, the Cuban authorities have gone a small way to affording the island's 11.3 million population a rare chance to access the Internet, opening about 100 centers for the public to get online.

But at $4.5 per hour, rates are prohibitively expensive in a country where the average monthly wage is around $20.

Previously, only hotels could offer the Internet to the public, but again with a prohibitive rate of up to $10 an hour that only foreign visitors could afford.

The state telecommunications service provider, ETECSA, does not offer mobile Internet to its customers, while the 3G network is only for foreign visitors using roaming and offers often patchy performance.

ETECSA has now allowed subscribers to access their mail from their smartphones, but it only applies to the domain @nauta.cu. The company has also opened a service to send pictures from phones to any email address.

They are minor concessions in a country where foreign-branded smartphones are increasingly visible.

"AMONG MOST RESTRICTIVE"

"Cuba remains one of the most restrictive countries in the world in terms of Internet freedom," Sanja Tatic Kelly, project director for Freedom on the Net, at the American NGO Freedom House, told AFP.

"Rather than relying on the technically sophisticated filtering and blocking used by other repressive regimes, the Cuban Government limits users' access to information primarily via lack of technology and prohibitive costs," she said.

The Cuban authorities do censor certain websites—press and blogs that are against the Castro leadership, pornography, and Skype—but Tatic Kelly noted: "The total number of blocked websites is relatively small when compared to many other authoritarian states like China, Iran, or Saudi Arabia."

The more tech-savvy Cubans have found a way around that too, downloading software that can hide their IP addresses to avoid detection and mislead snooping eyes into thinking they are surfing the net in another country.

For those who are less tech-smart, they can always rely on the "paquete"—USB sticks packed with pirated films, TV shows, pop music, and games and sold on the black market for a few U.S. dollars.

Cuba's rulers say they need to keep a tight rein on the Internet to protect the island from cyberattacks.

Over 18 months, Havana has been the victim of cyberattacks from thousands of addresses registered in over 150 countries, according to deputy minister of communications Wilfredo Gonzalez.

That brooks no argument with Tatic Kelly.

"Cuba does not register as one of the leading countries experiencing cyberattacks," she said, citing data from online security experts Kaspersky Lab, which ranks Cuba 199th in terms of countries hit with counterattacks.

At number one, the most targeted, is Russia, it says, with the United States third.

U.S. Products Help Block Mideast Web, by Paul Sonne and Steve Stecklow, Wall Street Journal, Mar. 28, 2011

As Middle East regimes try to stifle dissent by censoring the Internet, the U.S. faces an uncomfortable reality: American companies provide much of the technology used to block websites.

McAfee Inc., acquired last month by Intel Corp., has provided content-filtering software used by Internet-service providers in Bahrain, Saudi Arabia, and Kuwait, according to interviews with buyers and a regional reseller. Blue Coat Systems Inc. of Sunnyvale, Calif., has sold hardware and technology in Bahrain, the United Arab Emirates and Qatar that has been used in conjunction with McAfee's Web-filtering software and sometimes to block websites on its own, according to interviews with people working at or with ISPs in the region.

A regulator in Bahrain, which uses McAfee's SmartFilter product, says the government is planning to switch soon to technology from U.S.-based Palo Alto Networks Inc. It promises to give Bahrain more blocking options and make it harder for people to circumvent censoring.

Netsweeper Inc. of Canada has landed deals in the UAE, Qatar and Yemen, according to a company document.

Websense Inc. of San Diego, Calif., has a policy that states it "does not sell to governments or Internet Service Providers (ISPs) that are engaged in government-imposed censorship." But it has sold its Web-filtering technology in Yemen, where it has been used to block online tools that let people disguise their identities from government monitors, according to Harvard University and University of Toronto researchers.

Websense's general counsel said in a 2009 statement about the incident: "On rare occasion things can slip through the cracks."

Web-filtering technology has roots in the 1990s, when U.S. companies, schools and libraries sought to prevent people from surfing porn, among other things.

Today, that U.S. technology is now among the tools used in the clampdowns on uprisings across the Middle East. In Egypt, Syria, Tunisia, and elsewhere, bloggers have been jailed and even beaten as governments try to repress online expression.

In Bahrain, Nabeel Rajab, head of the banned Bahrain Human Rights Center, which runs a website the government blocks, says he was briefly thrown in a car and roughed up after authorities raided his house last week. The men threatened him with a pipe, he says, and slapped him when he refused to say he loved Bahrain's king and prime minister.

For the U.S., the role of Western companies in Internet censorship poses a dilemma. In a speech last year, Secretary of State Hillary Rodham Clinton said, "Censorship should not be in any way accepted by any company from anywhere. And in America, American companies need to take a principled stand."

Lately the State Department has spent more than $20 million to fund software and technologies that help people in the Middle East circumvent Internet censorship that is sustained by Western technology.

Asked about that policy, a senior State Department official said the U.S. is responding to "a problem caused by governments abusing U.S. products." When governments repurpose U.S.-made tools "to filter for political purposes, we are involved in producing and distributing software to get around those efforts."

A Bahrain official defended censorship. "The culture that we have in the Middle East is much more conservative than in the U.S.," says Ahmed Aldoseri, director of information and communication technologies at the Telecommunications Regulatory Authority.

Freedom of speech is guaranteed in Bahrain, Mr. Aldoseri says, "as long as it remains within general politeness."

Makers of Web-filtering technology say they can't control how customers use their products. "You can add additional websites to the block list," says Joris Evers, a McAfee spokesman. "Obviously what an individual customer would do with a product once they acquire it is beyond our control." A spokesman for Blue Coat made similar points.

There are no special export restrictions on Web-filtering technology. Anti-censorship advocates say there needs to be a way for companies to track how their filtering software is used.

"They could build into the software something that signals and, in fact, sends back to them exactly what kind of filtering is taking place," says Jonathan Zittrain, a professor of law and computer science at Harvard Law School. "There's no rocket science there, it's just their customer wouldn't like it."

Web-blocking companies declined to name their Middle Eastern customers, but The Wall Street Journal identified a number of them through interviews with ISPs, a reseller and former employees. In addition, OpenNet Initiative, made up of Harvard and University of Toronto researchers who study Internet filtering, identified three ISPs in Yemen, Qatar, and the UAE that were using Netsweeper in January. ISPs provide Internet access to households and companies.

A Netsweeper official said the company doesn't comment on its clients.

According to a forthcoming report from OpenNet, ISPs in at least nine Middle East and North African countries have used "Western-made tools for the purpose of blocking social and political content, effectively blocking a total of over 20 million Internet users from accessing such websites."

Employees at ISPs in the Middle East said in interviews that government ministries give them databases of Internet addresses, including, at times, antigovernment sites, for blocking and that they must comply. The number of requests varies by country.

Mishary Al-Faris, quality assurance manager at Qualitynet in Kuwait, says his ISP, which uses SmartFilter, receives several requests a year from the government to block content deemed religiously offensive. "It's kind of a gentlemanly understanding: 'We're going to honor your requests,'" he says.

Web filtering isn't exclusively a tool of Internet censorship. As companies like McAfee, Blue Coat, and Netsweeper note, their technology can prevent youngsters from encountering pornography and protect ISPs from malicious cyber attacks.

In recent years, American companies aggressively have sought new customers abroad.The global Web-security market, including filtering, was valued at $1.8 billion in 2010, according to Phil Hochmuth of market-research firm IDC. The Middle East and Africa accounted for about $46 million and is growing at about 16 percent a year, he says.

China is considered the king of Web filtering, with its elaborate censorship system dubbed the "Great Firewall." China's technology remains unclear but its reach is vast: Local Chinese sites must be licensed and are required to remove any content the government deems objectionable. In addition, some major foreign sites, including Facebook, Twitter, and Google Inc.'s YouTube, have been blocked for more than a year.

Middle East Web blocking has some differences. Government licenses for websites typically aren't required. Another difference: In the Middle East the ISP will generally show an explicit notice saying a site has been blocked, whereas in China it is often unclear why a site becomes inaccessible.

Blocking websites can be done with hardware, specialized software or a combination of the two. On a basic level, Web filtering works this way: First, a list is built that groups websites into categories such as "gambling," "dating" or "violence." Netsweeper says it has categorized more than 3.8 billion Web addresses and adds 15 million a day. Then, a user of the software can use that list to block access to specific sites or categories.

Companies like Websense and Netsweeper can now scan and categorize the content of an uncategorized page in real time. They can also block pieces of a site, rather than whole pages, if only a certain image or text is considered objectionable.

The use of filtering to block websites could be seen this month in Bahrain, where a group of mostly Shia protesters took aim at the country's Sunni ruling family and met a violent crackdown. Batelco, Bahrain's main ISP, filters the Web using McAfee SmartFilter software and Blue Coat technology, according to Ali AbuRomman, who works on the network team. He says the government regularly uploads lists of websites to block, including some political sites, to the country's ISPs.

In a test on a Batelco connection in Bahrain in recent days, The Wall Street Journal found that online-community forums for Shia villages and the websites of at least two human-rights groups were censored.

"Site blocked," the screen read in English and Arabic when a Journal reporter tried to view the sites. "This website has been blocked for violating regulations and laws of Kingdom of Bahrain."

Since 2009, Bahrain has had the power to order the blocking of websites for "transgressing local values and impairing national unity," according to the U.S. State Department.

Also blocked during the Journal test was Malkiya.net, a news site and discussion forum for Malkiya, a mostly Shia fishing town that has seen antigovernment protests in recent years. Its owner, Ali Mansoor Abbas, says the site also was blocked after it covered protests over the seizure of part of a local beach by a cousin of Bahrain's king.

Mr. Aldoseri, the Bahrainian telecom official, says his country plans to switch in the next few months from SmartFilter to technology from Palo Alto Networks. It can block activities within websites, like video or photo uploading, or Internet tools that let users bypass blocking altogether, which are illegal in Bahrain.

Middle East Web filtering has sparked a cat-and-mouse game to outfox the censors. Website owners like Mr. Abbas of Malkiya.net sometimes create "mirror" sites, with slightly different names.

Walid Al-Saqaf, a graduate student and former journalist from Yemen who now lives in Sweden, engineered his own circumvention tool after his news-aggregation site, YemenPortal.net, which included antigovernment content, was blocked by the country's filters. Known as Alkasir, the Arabic word for "circumventor," his free program has attracted at least 16,000 users in Yemen, China, Iran and elsewhere, he says.

Two years ago, OpenNet Initiative researchers found that Yemen was using filtering software from Websense to block privacy tools. In response, the company said it stopped providing the ISPs involved with its latest website-block lists since the ISPs violated its anticensorship policy.

The new OpenNet report says Websense tools and services appeared to still be used in Yemen as recently as August. The company declined to comment. The report also found that in January, new filtering software was being used in Yemen from Canadian firm Netsweeper.

"Filtering decisions are made by the entity that decides to filter," says Scott O'Neill, Netsweeper's director of sales and marketing. "Much as Ford Motor Co. can't decide how [its customers] are going to drive their cars."

An informational company document says telecom companies can use Netsweeper to "block inappropriate content using [a] pre-established list of 90+ categories to meet government rules and regulations—based on social, religious or political ideals."

Emirates Integrated Telecommunications Co., or Du, one of the UAE's main ISPs, decided last year to switch to Netsweeper from the filtering system it had been using with Blue Coat devices, says Abul Hasan Jafery, a technical consultant who helped implement Netsweeper's filtering system there.

"We block malware, alternative lifestyles, profanity," says Mr. Jafery. "If something is offensive to the religion, we block it."

Until recently, Tunisia had some of the most pervasive Internet filtering in the world, according to OpenNet. Then, a January popular revolt forced the resignation of the country's president—triggering the wave of protests that have spread across the Middle East.

Tunisia has since pulled the plug on its Web-blocking gear. The new head of the Tunisian Internet Agency, Moez Chakchouk, says he was astounded when he recently visited a secured room at the state telephone company where the filtering equipment was kept.

The room was full of unfamiliar gear, says the 36-year-old computer engineer, who took the job last month. "I don't know" what it all does, he says. Mr. Chakchouk says the Interior Ministry controlled the filtering equipment since 2004, and the entire country's Internet traffic flowed through it.

For several years, according to Mr. Chakchouk, the Tunisian government used SmartFilter, which McAfee acquired in 2008. The McAfee spokesman confirmed the product has been sold in Tunisia, but declined to disclose its customers.

For better or worse, says Mr. Chakchouk, part of the legacy of Tunisia's former regime has been to leave Tunisia with some of the most sophisticated Internet-filtering equipment in the world. "I had a group of international experts from a group here lately, who looked at the equipment and said: 'The Chinese could come here and learn from you.'"

Cuba's $6B Debt to Americans for Seized Properties Hangs Over U.S. Talks, by Kelley Beaucar Vlahos, FoxNews, Jan. 27, 2015

A $6 billion sticking point could create headaches for the U.S.-Cuba talks.

Though concerns over human rights, press freedoms and U.S. fugitives living free on the island have dominated debate over the Obama administration's negotiations on restoring diplomatic ties, the Castro regime also still owes Americans that eye-popping sum.

The $6 billion figure represents the value of all the assets seized from thousands of U.S. citizens and businesses after the Cuban revolution in 1959. With the United States pressing forward on normalizing relations with the Communist country, some say the talks must resolve these claims.

"The administration has not provided details about how it will hold the Castro regime to account for the more than $6 billion in outstanding claims by American citizens and businesses for properties confiscated by the Castros," Sen. Robert Menendez, D–Fla., top Democrat on the Senate Foreign Relations Committee, wrote in a letter to Secretary of State John Kerry ahead of historic talks in Havana last week.

Menendez urged the U.S. to "prioritize the interests of American citizens and businesses that have suffered at the hands of the Castro regime" before moving ahead with "additional economic and political concessions."

Beginning with Fidel Castro's takeover of the Cuban Government in 1959, the Communist regime nationalized all of Cuba's utilities and industry, and systematically confiscated private lands to redistribute—under state control—to the Cuban population.

The mass seizure without proper compensation led in part to the U.S. trade embargo.

Over nearly 6,000 claims by American citizens and corporations have been certified by the U.S. Foreign Claims Settlement Commission, totaling $1.9 billion.

Today, with interest and in today's dollars, that amount is close to $6 billion.

U.S. sugar, mineral, telephone and electric company losses were heavy. Oil refineries were taken from energy giants like Texaco and Exxon. Coca-Cola was forced to leave bottling plants behind. Goodyear and Firestone lost tire factories, and major chains like Hilton handed over once-profitable real estate for nothing in return.

Assistant Secretary of State Roberta Jacobson, after leading the talks in Havana last week, did not mention the U.S. property claims at a press briefing. But a State Department spokesperson later told FoxNews.com the claims "were addressed" in the talks and "will be subject to future discussions."

In Dec. 18 remarks, Jacobson said, "registered claims against the Cuban government" would be part of the "conversation."

She also noted Cuban claims of monetary losses due to the 50-year-old U.S. embargo.

"We do not believe those things would be resolved before diplomatic relations would be restored, but we do believe that they would be part of the conversation," she said. "So this is a process, and it will get started right away, but there's no real timeline of knowing when each part of it will be completed."

The billions are owed, in part, to an array of major companies.

U.S. banks ranging from First National City Bank (which became Citibank) to Chase Manhattan lost millions in assets. According to the list of claimants, the Brothers of the Order of Hermits of St. Augustine even lost $7.8 million in real estate when they were expelled from the island.

According to a government study commissioned in 2007, however, some 88 percent of the claimants are individual American property and asset owners, many of whom would probably like to see some sort of compensation out of the diplomatic deal-making.

"I think this is a significant issue and it has more resonance today than it would have had 20 years ago," as nationalization has seen a resurgence throughout Latin America in recent years, said Robert Muse, a Washington, DC, attorney who has represented corporate clients whose assets were seized. "You have to take seriously the notion that a government must support their companies when their [property] is expropriated. You have to have some consistency on that."

Experts who spoke to FoxNews.com agree that fully compensating everyone on the list would be a complicated, if not impossible, endeavor.

First, the Cuban Government, even if it did agree in spirit to pay, probably would not be able to afford it.

Some individual claimants may be long dead. Further, some of the original corporations no longer exist, thanks to mergers, buyouts, and bankruptcies over the years.

Such is the case with the Cuban Electric Company, which has the largest claim—$267.6 million in corporate assets (1960 dollars). The company was part of the paper and pulp manufacturer, Boise Cascade Company (which also has a claim for $11.7 million), at the time of the seizures.

But Boise Cascade has since spun off and the part of it that held a subsidiary with a majority stake in Cuban Electric became Office Max—which later merged with Office Depot in 2013. Company officials reached by FoxNews.com had no comment on the original Cuban Electric claims.

Muse and others, like Cuba analyst Elizabeth Newhouse at the Center for International Policy, say that companies that still have an active interest in getting compensated might agree to more creative terms—whether it be for less money, or tax breaks or other incentives on future investments if and when the U.S. embargo is lifted.

"My sense is that some corporations are more interested in having a leg up in any trade arrangements than they are in getting their money back," Newhouse said.

Thomas J. Herzfeld, who heads the 20-year-old Herzfeld Caribbean Basin Fund which trades shares of firms that would have an interest in Cuba if the embargo is lifted, said his life-long goal has been "to rebuild Cuba." He has approached claimants about taking their claims in exchange for investment shares. He said his fund is "well-prepared" for when normalization resumes.

But others warn about popping the corks too soon, particularly if the Castro regime is unwilling to take the compensation seriously. According to the Helms-Burton Act, which enforces the sanctions, the embargo cannot be lifted until there is "demonstrable progress underway" in compensating Americans for their lost property. (Congress also would have to vote to lift the embargo.)

"This is an issue where they are going to have to put their heads together and figure out how to resolve it," Newhouse said. "I think everyone wants to see it resolved."

Jacobson, at the close of last week's opening talks, said there was some progress on opening up embassies, but there continue to be "areas of deep disagreement," particularly on Cuban human rights and fugitives from U.S. justice in Cuba.

"Let me conclude," said Jacobson, the highest-ranking U.S. diplomat to visit Cuba in more than three decades, "it was just a first step.

ADDITIONAL MATERIAL SUBMITTED BY SENATOR BARBARA BOXER

Dec. 17: A Day of Triumph for Cuban Americans, by Ric Herrero, op-ed from the Miami Herald, Dec. 29, 2014

The most damaging legacy of the Helms-Burton Act is not that it codified the bulk of U.S. sanctions into law, but that it codified the way we are supposed to think about solving the Cuban puzzle. It zapped our creativity and told us we must consider only one zero-sum, all-or-nothing course of action to foster change in Cuba—a course that never had a serious chance of succeeding.

Far worse, it codified our identity as victims. It denied us the freedom to take credit for the ground we've gained until the day the Castros are driven from power and there is a functional democracy in Cuba. It blinded us to the series of small victories that freedom advocates have won in Cuba over the past five years, and from recognizing the historic victory that the Cuban-American community won on Dec. 17.

Cuban Americans played a key role in the negotiations

Some claim that Cubans and Cuban Americans were left out of the negotiations between our two countries. While I can't speak for what may have transpired in Havana, on the American side, that is not true. Over the better part of the last two years, Obama administration officials sought out the advice of prominent Cuban-American professional, civic and religious leaders on how to best chart a new course on Cuba policy. These talks often included members of distinguished organizations such as the Cuba Study Group, Roots of Hope, the Cuban American National Foundation and our own #CubaNow.

A priority for the White House was that any new measures had to advance the cause of human rights in Cuba. To that end, they started meeting with visiting Cuban opposition leaders, including Yoani Sanchez and Berta Soler, shortly after the Cuban government reformed its migratory policy in February 2013.

From the beginning it was clear that these officials understood something we all knew, but many refused to accept: Our policy wasn't working. They were particularly receptive to calls for a new approach that advanced three objectives: empower the Cuban people so they could become the authors of their own destinies; place the right kind of pressure on the Cuban government to improve human-rights conditions; and promote the interests of the United States in the region.

Those Cuban Americans and visiting Cubans who shared creative and constructive ideas during these talks saw their recommendations reflected to varying degrees in the policy changes. Those who called for more of the same received less attention. Perhaps if Sens. Marco Rubio and Robert Menendez had spent less time defending a failed "moral" policy and more time working with the President to develop an effective moral policy, they might have held more sway over the outcome.

The Cuban government did not set the terms of the prisoner swap

Others are complaining that the United States allowed the Cuban regime to set the terms of the negotiations and received nothing in return. Again, this is wrong. For years the Cubans called for a three-for-one prisoner swap as the only option, and the United States repeatedly rejected it. This was largely because of pressure from the Cuban-American community. While the rest of the country seemed accepting of a three-for-one, our community wouldn't settle. Some of us instead called for a more creative approach, one that went beyond the fates of Alan Gross and the Cuban Three—one that called for a larger bargain that would place us on the road to better relations. There are more than 50 years of unresolved conflicts, grievances and restrictions between our two nations. We said, let's put some of those on the table.

In the end, the Cubans did not get the deal that they wanted. Instead, they agreed to release Gross, plus a CIA spy and 53 political prisoners. They also agreed to allow the International Red Cross and United Nations to monitor human rights inside the island and to re-establish diplomatic relations, something that must have rattled their hardliners as much as it did ours. Had it not been for the pressure exerted by Cuban Americans, it is quite possible that the United States might have opted for the easy swap to bring Gross home.

All eyes are now on Cuba

What Dec. 17 has taught us is that as long as we are willing to recognize when something has failed and remain open to exploring new ways of promoting democratic values in Cuba, Cuban Americans will always have a seat at the table.

It will be increasingly difficult for Havana to explain to the Cuban people—and to the rest of the world—why it must maintain or tighten its internal embargo now that the United States has opened up.

Our job as a community is to be flexible, creative and, most of all, strategic. We have to explore the wealth of new opportunities presented by this era of diplomatic relations and expanded travel, trade and telecommunications flows to help empower Cubans.

Every Cuban who is actively seeking to increase his or her autonomy—from artists and entrepreneurs, to religious groups and democracy advocates—deserves our help. As barriers continue to be lifted, let's do more to contribute to their success.

In the process, we do not have to trust Cuban officials to get them to take steps in the direction we'd like to see. But we must trust that they, too, want a better future for their children and that they can recognize a good deal when they see one.

Our goal has been, and always will be, to facilitate peaceful changes that lead to a free and pluralistic Cuba. Let's be smart about how we seize new opportunities to advance this goal. But by all means, let's not give into despair and let's shed the veil of victimhood, because small victory by small victory, the Cuban-American community is winning.

Ric Herrero is executive director of #CubaNow. He lives in Miami.

January 19, 2015
The Honorable Barack Obama
The White House
Washington, DC 20500

OPEN LETTER TO PRESIDENT OBAMA: SUPPORT FOR A NEW COURSE ON CUBA

Dear Mr. President,

We write to commend you on the historic actions you are taking to update America's policy toward Cuba and Cuban citizens. Our new posture of engagement will advance our national interests and our values by empowering the Cuban people's capacity to work toward a more democratic and prosperous country—conditions that are very much in the U.S. interests. Many of the signers of this letter wrote to you last year calling for exactly these types of changes. We appreciate that you not only recognized that the moment had come to act but did so boldly.

Both that original letter and this one are examples of the broad support these changes have from across the political spectrum. We may disagree on a number of issues, but we've found common ground for a simple reason; our fifty-four-year-old approach intended to promote human rights and democracy in Cuba has failed.

It has also been clear that the reforms you announced in 2009 have helped to build the foundation for positive change by helping Cuban-Americans reunite with and better support their families on the island. The free flow of information, improved communications, expanded remittances and commerce, and support for Cuban civil society have also helped the Cuban people take greater ownership of their own lives. Access to the Internet and modern communications tools in today's world have become basic rights, because they are paramount to socioeconomic freedom and mobility.

Accordingly, we are encouraged by your declaration that the U.S. Government will continue to call on Havana to respect the human rights of the Cuban people. We applaud your guarantees that the UN Special Rapporteur for Torture and the International Red Cross will travel to the island. Your clear support for facilitating people-to-people engagement affirms the enduring belief that the American people are the best ambassadors of our values. We hope future efforts by the Administration will be matched by quick adoption of streamlined regulations that fulfill your intent and we will continue to monitor those developments.

Bringing Alan Gross home to his loved ones was an indisputable testament to the power of principled diplomatic engagement. That same creativity in the face of seemingly insurmountable challenges must be brought to the human rights arena, where recent experience shows the importance of transparent and principled approaches.

The Summit of the Americas presents one such opportunity. America should never shy away from defending and promoting our values, and your decision to attend the gathering in Panama was the correct one. After several decades in which democracy and the rule of law have been strengthened throughout the hemisphere, the United States must continue to lead and challenge our partners to ensure that this region remains a beacon for human rights in the world.

Mr. President, we also call on you to work with Congress to update the legislative framework with regard to Cuba so that it, too, reflects 21st century realities. In the meantime, we look forward to continued progress in improving U.S.-Cuban cooperation on matters of national interest and stand ready to support this new policy of constructive engagement and U.S. outreach to the Cuban people.

Respectfully,

John Adams, *Brigadier General, U.S. Army (Retired); former Deputy U.S. Military Representative to NATO; former Assistant Deputy Chief of Staff for Intelligence, U.S. Army*

Gustavo Arnavat, *former U.S. Executive Director at the Inter-American Development Bank*

Joe Arriola, *former Manager, City of Miami, Florida*

Ricky Arriola, *CEO, Inktel*

Bruce Babbitt, *former Governor of Arizona; former U.S. Secretary of the Interior*

Harriet Babbitt, *former U.S. Ambassador to the Organization of American States*

Samuel R. Berger, *Chair, Albright Stonebridge Group, National Security Advisor (1997-2000)*

Tomas Bilbao, *Executive Director, Cuba Study Group*

Carol Browner, *former EPA Administrator; former Director of White House Office of Climate Change and Energy Policy*

Paul L. Cejas, *former U.S. Ambassador and Chairman, PLC Investments, Inc.*

Gustavo Cisneros, *Chairman, Cisneros Group of Companies*

Jon Cowan, *President, Third Way*

Chet Culver, *former Governor of Iowa*

Jeffrey Davidow, *former U.S. Assistant Secretary of State for the Western Hemisphere*

Howard Dean, *former Governor of Vermont*

Larry Diamond, *Director, Center on Democracy, Development and the Rule of Law, Stanford University*

Tom Downey, *former U.S. Congressman*

Anita Dunn, *Managing Director, SKDKnickerbocker Communications*

Alfonso Fanjul, *Fanjul Group*

Andres Fanjul, *Fanjul Group*

Christopher Findlater

Richard Feinberg, *former Latin American Advisor to the White House; Professor, University of California, San Diego*

Mike Fernandez, *Chairman, MBF Healthcare Partners*

The Right Reverend Leo Frade, *Episcopal Bishop of Southeast Florida*

Pedro A. Freyre, *Partner, Akerman LLP*

Francis Fukuyama, *Olivier Nomellini Senior Fellow, Freeman Spogli Institute for International Studies, Stanford University*

Joe Garcia, *former U.S. Congressman; former Executive Director, Cuban-American National Foundation*

Maria Garcia Berry, *CEO, CRL Associates, Inc.*

Tim Gill, *Founder and Chairman, Gill Foundation*

Dan Glickman, *former U.S. Secretary of Agriculture; former U.S. Congressman*

Felice Gorordo, *CEO, Clear Path*

Lee Hamilton, *former U.S. House Chairman of the Committee on Foreign Affairs and the Permanent Select Committee on Intelligence*

David Hernandez, *Co-Founder and CEO, Liberty Power*

Ricardo Herrero, *Executive Director, #CubaNow*

Vicki Huddleston, *former U.S. Ambassador and Chief of the U.S. Interests Section, Havana*

Peter J. Johnson, *Associate to David Rockefeller*

James R. Jones, *Chairman, ManattJones Global Strategies*

Wendy W. Luers, *President, The Foundation for a Civil Society*

Thomas F. "Mack" McLarty III, *Chairman, McLarty Associates*

Sascha Meinrath, *Founder, Open Technology Institute at New America*

Eduardo Mestre, *Senior Advisor at Evercore; Board member of Avis Budget and Comcast Corporation*

Scott Miller, *Board Member, Gill Foundation*

Luis Miranda, *former White House Director of Hispanic Media; Managing Director, MDC Strategies*

Marcelino Miyares, *President, MM Communications Inc.*

Frank Mora, *Director of the Latin American and Caribbean Center, Florida International University*

Moisés Naím, *Distinguished Fellow, Carnegie Endowment for International Peace*

Michael Parmly, *former Chief of the U.S. Interests Section, Havana*

Ralph Patino, *Civil Trial Attorney; Futuro Fund Board Member*

Ted Piccone, *Senior Fellow, Brookings Institution*

Thomas Pickering, *former U.S. Under Secretary of State for Political Affairs*

Bill Reinsch, *President, National Foreign Trade Council*

Cecile Richards

Bill Richardson, *former U.S. Ambassador to the United Nations; former Governor of New Mexico*

Bill Ritter, *former Governor of Colorado*

David Rockefeller, *Honorary Chairman, Americas Society/Council of the Americas*

Hilary Rosen, *Managing Director, SKDKnickerbocker Communications*

Christopher Sabatini, *former Editor-in-Chief, Americas Quarterly; Adjunct Professor, Columbia University's School of International and Public Affairs*

Carlos Saladrigas, *Chairman of Regis HR Group and Concordia Behavioral Health; Chairman of the Cuba Study Group; member of the board of Duke Energy Corporation and Advance Auto Parts, Inc.*

Ken Salazar, *former U.S. Secretary of the Interior; former U.S. Senator; former Colorado Attorney General*

Francisco "Frank" Sanchez, *former U.S. Under Secretary of Commerce*

George P. Shultz, *Fellow, Hoover Institution; former U.S. Secretary of State, Treasury and Labor; former Director, Office of Budget & Management; former CEO, Bechtel*

Susan Segal, *President and CEO, Americas Society/Council of the Americas*

Hilda L. Solis, *former U.S. Secretary of Labor; former Congresswoman; member of the Los Angeles County Board of Supervisors*

Enrique Sosa, *former President, Dow Chemical North America*

Admiral James Stavridis, *USN (Ret); Dean, The Fletcher School, Tufts University; Supreme Allied Commander, NATO (2009-2013); Commander, U.S. Southern Command (2006-2009)*

Sarah Stephens, *Executive Director, Center for Democracy in the Americas*

Alan Stoga, *President, Zemi Communications, LLC; Vice Chairman, Americas Society/Council of the Americas*

Ted Strickland, *former Governor of Ohio*

Strobe Talbott, *former U.S. Deputy Secretary of State*

Neera Tanden, *President, Center for American Progress*

Ted Trimpa, *Principal and CEO, Trimpa Group*

Raul Valdes-Fauli, *Partner, Fox Rothchild; former Mayor, City of Coral Gables, Florida*

Arturo Valenzuela, *former U.S. Assistant Secretary of State for Western Hemisphere Affairs*

Melanne Verveer, *former U.S. Ambassador for Global Women's Issues*

Bill Vidal, *former Mayor of Denver, Colorado*

Alexander Watson, *former U.S. Assistant Secretary of State for Western Hemisphere Affairs*

James Williams, *Director of Public Policy, Trimpa Group; Board Member, Project on Middle East Democracy*

Timothy Wirth, *former U.S. Senator; Vice-Chair, The UN Foundation*

The above signatories have signed this letter in their personal capacities; they do not reflect the views of their company, organization or university, current or past.

Committee on International Justice and Peace
3211 FOURTH STREET NE • WASHINGTON DC 20017-1194 • 202-541-3160
WEBSITE: WWW.USCCB.ORG/JPHD • FAX 202-541-3339

February 2, 2015

The Honorable Bob Corker
Chair
Senate Committee on Foreign Relations
425 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Ed Royce
Chair
House Committee on Foreign Affairs
2185 Rayburn House Office Building
Washington, DC 20515

The Honorable Robert Menendez
Ranking Member
Senate Committee on Foreign Relations
528 Hart Senate Office Building
Washington, DC 20510

The Honorable Eliot L. Engel
Ranking Member
House Committee on Foreign Affairs
2161 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Corker, Chairman Royce, Ranking Member Menendez and Ranking Member Engel:

As Chair of the Committee on International Justice and Peace of the United States Conference of Catholic Bishops (USCCB), I write to express our support for the recent changes to the U.S. trade and travel embargo against Cuba announced by President Obama on December 17, 2014, and to oppose any Congressional action to undermine this new policy toward Cuba.

USCCB, the Cuban Conference of Catholic Bishops and the Holy See have been outspoken proponents of engagement with Cuba for many years. The Church believes that engagement is the way to encourage and support religious freedom, human rights and civil society in Cuba. Greater, rather than less, contact with Cuba can foster positive change in that country. There is a need for dialogue, reconciliation and interaction between the peoples of the United States and Cuba, and for more dialogue and reconciliation within Cuban society. To encourage such engagement, the trade embargo must be lifted in its entirety. To this end, we support the passage of The Freedom to Travel to Cuba Act, which would make it easier for all U.S. citizens to journey to that country.

As our Conference of Bishops said when the new Cuba policy was announced publicly, "We believe it is long past due that the United States establish full diplomatic relations with Cuba, withdraw all restrictions on travel to Cuba, rescind terrorist designations aimed at Cuba, encourage trade that will benefit both nations, lift restrictions on business and financial transactions, and facilitate cooperation in the areas of environmental protection, drug interdiction, human trafficking and scientific exchanges. Engagement is the path to support change in Cuba and to empower the Cuban people in their quest for democracy, human rights and religious liberty."

I strongly urge that Congress refrain from taking actions which would prevent the implementation of the recently announced travel, trade and diplomatic efforts to normalize relations between the United States and Cuba. Rather, what is needed is legislation to eliminate the remaining vestiges of outmoded and failed policies of isolation.

We are proud of the role that Pope Francis and the Vatican played in facilitating the agreement between Cuba and the United States. As the Holy Father said at the time of the President's announcement, "[T]oday we are all happy because yesterday we saw two nations, who were estranged for so many years, take a step to bring them closer together." We share in the view of the Catholic bishops of Cuba that dialogue and reconciliation will be the path to greater democracy and respect for human rights in this nation, and endorse the bishops' long-standing commitment to vindicating those rights. Please resist any effort to return to the failed policies of the past and support engagement as the path to a better future for both Americans and Cubans.

Sincerely yours,

Most Reverend Oscar Cantú
Bishop of Las Cruces
Chair, Committee on International Justice and Peace

WHITE HOUSE LETTER REGARDING WHITE HOUSE STAFF ATTENDANCE AT COMMITTEE HEARINGS

THE WHITE HOUSE

WASHINGTON

January 30, 2015

The Honorable Marco Rubio
Chairman
Subcommittee on Western Hemisphere, Transnational Crime, Civilian Security, Democracy, Human Rights, and Global Women's Issues
Committee on Foreign Relations
United States Senate
Washington, DC 20510

Dear Chairman Rubio:

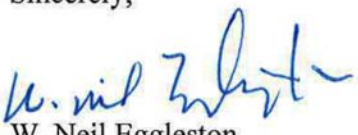
I am writing in response to your letters of January 27, 2015 regarding the Senate Foreign Relations Subcommittee February 3, 2015 hearing on "Understanding the Impact of U.S. Policy Changes on Human Rights and Democracy in Cuba." In those letters, you invited Assistant to the President and Deputy National Security Advisor for Strategic Communications and Speechwriting Ben Rhodes and Special Assistant to the President and Senior Director for Western Hemisphere Affairs Ricardo Zuniga to testify.

We are committed to working with you to make sure that the Subcommittee has relevant information about the Administration's policy changes in Cuba. As the President announced in December, these changes will end more than fifty years of stalemate and will begin the process of normalizing relations between our two countries, creating more opportunities for the American and Cuban people while continuing to advance American values and principles and supporting the ability of the Cuban people freely to determine their futures. Shortly after the announcement, representatives from the Departments of State, Treasury, and Commerce, along with White House staff, participated in multiple briefings of House and Senate staff, including the staff of your Subcommittee to explain the proposed diplomatic and economic changes.

I believe that we can work together constructively to address the Subcommittee's interests, but it has long been the policy of Administrations from both political parties to decline requests for congressional testimony by White House staff. As a general matter, such requests raise separation of powers concerns, and these concerns are particularly strong with respect to White House staff who have advised the President and where the requested testimony could implicate the President's core constitutional prerogatives.

I understand that representatives of the Department of State have confirmed their attendance and will testify at the Subcommittee's February 3 hearing about the impact of "U.S. Policy Changes on Human Rights and Democracy in Cuba." The State Department, in coordination with other Executive Branch agencies, has primary responsibility for implementing the Administration's policy changes towards Cuba and is in the best position to continue to provide information relating to that progress.

Sincerely,



W. Neil Eggleston
Counsel to the President

cc: The Honorable Barbara Boxer, Ranking Member

ADDITIONAL MATERIAL SUBMITTED BY SENATOR ROBERT MENENDEZ

State Troopers' Fraternal Association of New Jersey, Inc.

MICHAEL P. ZANYOR
1st VICE PRESIDENT

DANIEL M. OLIVEIRA
2ND VICE PRESIDENT

WAYNE D. BLANCHARD
VICE PRESIDENT FOR LEGISLATION AND GRIEVANCES

JAMES E. NUZZI
TREASURER

WILLIAM D. LEGG
SECRETARY FOR RESOLUTIONS

CHRISTOPHER J. BURGOS
PRESIDENT

STEVEN KUHN
CORRESPONDING SECRETARY

CHARLES LEWANDOWSKI
RECORDING SECRETARY

RICHARD MONDRAGON
SERGEANT-AT-ARMS

ROBERT H. PAVELCHAK
SERGEANT-AT-ARMS

RICHARD D. LOCCKE
ASSOCIATION COUNSEL

December 22, 2014

The Honorable Barack Obama
President of the United States
The White House
Washington, D.C. 20500

Dear President Obama:

We at the State Troopers Fraternal Association of New Jersey represent the interests of approximately 8,000 NJ Troopers since our founding in 1921, which includes active, retired, deceased, and the Sixty-Seven NJ State Troopers who paid the ultimate price of being killed in the line of duty.

There is no doubt that the Castro regime has a long history of repression, despotism and brutality that has forced countless Cubans to seek refuge in the U.S. in search of a better life. We do not share your view that restoring diplomatic relations without a clear commitment from the Cuban government of the steps they will take to reverse decades of human rights violations will result in a better and more just Cuba for its people. However, despite our profound disagreement with this decision, we believe there is an opportunity for Cuba and its government to show the American people and the citizens of the State of New Jersey, it is serious about change.

The Cuban government has been providing safe haven to convicted murderer Joanne Chesimard, a woman designated by the Federal Bureau of Investigation as a domestic terrorist, and the first woman ever placed on the FBI's Most Wanted Terrorist List.

In New Jersey, Joanne Chesimard is notorious for her role in the cold-blooded execution-style killing of New Jersey State Trooper Werner Foerster, Badge #2608, and seriously wounding New Jersey State Trooper James Harper, Badge #2108. On May 2, 1973, Chesimard, Clark Squire and Zayd Shakur were pulled over on the New Jersey Turnpike by Troopers Foerster and Harper for a motor vehicle violation. Chesimard and both men in the car were armed with semi-automatic handguns, and possessed fictitious identification. During the motor vehicle stop, Chesimard initiated a gun battle, wounding Trooper Harper. In the shootout that followed, Chesimard's weapon was used to shoot Trooper Foerster in the abdomen and then, as he lay incapacitated on the ground, Trooper Foerster's own weapon was used against him and he was brutally executed with two bullets to the head.

Chesimard was convicted in 1977 of first-degree murder and a number of other charges stemming from this horrific incident and sentenced to life in prison. Chesimard, aided and abetted by armed accomplices,

escaped from a NJ prison in 1979 and has been a fugitive from justice ever since. It is believed that she moved to Cuba in 1984 and has, since that time, lived freely there, attending government functions and being provided with housing, food, transportation and security by the Cuban government.

A long history of bipartisan support exists for the need to bring this convicted murderer back to the United States so she can be made to serve the prison time she was sentenced to more than thirty-seven years ago. A few important points to consider:

- In 1998, the US. House of Representatives passed Concurrent Resolution 254 by a vote of 371-0 requesting that the Cuban government return Chesimard to the United States;
- In 1998, the US. Senate passed Concurrent Resolution 254 by unanimous consent requesting that the Cuban government return Chesimard to the United States;
- In 2005, the Department of Justice approved an increase in the reward for Chesimard's capture to $1 million; and
- In 2013, the Federal Bureau of Investigation placed Chesimard on its Most Wanted Terrorist List, designated her as a "domestic terrorist" and increased the reward for her capture to $2 million.

Cuba's provision of safe harbor to Chesimard by providing political asylum to a convicted cop killer, and her ability to elude justice, is an affront to every resident of our state, our country, and in particular, the men and women of the New Jersey State Police, who have tirelessly tried to bring this killer back to justice.

We urge you to demand the immediate return of Chesimard before any further consideration of restoration of diplomatic relations with the Cuban government. In addition, there certainly can be no review of Cuba's designation as a State Sponsor of Terrorism until Joanne Chesimard, a person designated by the FBI as a domestic terrorist, is returned to the United States.

If, as you assert, Cuba is serious about embracing democratic principles then this action would be an essential first step. We ask you to use this opportunity to engage with the Cuban government to get this resolved, as we are very disappointed that returning a convicted killer of a State Trooper was not already demanded and accomplished in the context of the steps you announced regarding this despotic dictatorship.

The family of her victims, like so many of those who have, and continue to suffer under the Castro regime, deserve this basic human decency before further steps towards Cuba are taken by the U.S.

Sincerely,

Christopher J. Burgos, President
New Jersey State Troopers Fraternal Association
President@stfa.org
www.stfa.org

RESOLUTION

NEW JERSEY STATE ASSOCIATION OF CHIEFS OF POLICE

RESOLUTION OPPOSING NORMALIZING RELATIONS WITH THE GOVERNMENT OF CUBA UNTIL CONVICTED FELON AND POLICE OFFICER MURDERER JOANNE CHESIMARD IS EXTRADITED TO THE UNITED STATES OF AMERICA

WHEREAS, the New Jersey State Association of Chiefs of Police (NJSACOP) is dedicated to advancing and promoting the highest levels of professionalism and ethics in police services in the state of New Jersey and the United States of America; and,

WHEREAS, the NJSACOP is further dedicated to supporting and advocating for the safety and wellbeing of all law enforcement officers in the state of New Jersey and the United States of America; and

WHEREAS, we, the undersigned NEW JERSEY STATE ASSOCIATION OF CHIEFS OF POLICE support calling on the Government of Cuba to extradite to the United States convicted felon Joanne Chesimard and all other individuals who have fled the United States to avoid prosecution or confinement for criminal offenses and who are currently living freely in Cuba; and

WHEREAS, on May 2, 1973, Joanne Chesimard and two friends were stopped in their vehicle by New Jersey State Troopers James Harper and Werner Foerster on the New Jersey Turnpike; and

WHEREAS, while being questioned, Chesimard and the driver opened fire with automatic pistols striking Trooper Werner Foerster twice in the chest and Trooper James Harper in the left shoulder; and

WHEREAS, the suspects then turned Trooper Foerster's own weapon on him firing an additional two bullets into his head execution style; and

WHEREAS, this heinous and premeditated act resulted in the tragic death of New Jersey State Trooper Werner Foerster; and

WHEREAS, Trooper Foerster left behind a wife, Rose Foerster, and family; and

WHEREAS, in 1977, after a six week trial, a jury found Chesimard guilty of first-degree murder for the slaying of Trooper Foerster, a respected New Jersey State Trooper; and

WHEREAS, as a result of this conviction Chesimard was sentenced to life in a New Jersey State prison; and

WHEREAS, after escaping prison, Chesimard fled to Cuba for political asylum; and

WHEREAS, people in the State of New Jersey were shocked and outraged to see television interviews showing Chesimard living freely in Cuba, portraying herself as the victim and denying any crimes against Trooper Foerster; now, therefore be it,

RESOLVED, that the New Jersey State Association of Chiefs of Police, at its Business Meeting of January 8, 2015, strongly urge the President and Congress of the United States of America to delay normalizing relations with the government of Cuba until such time as convicted felon and Joanne Chesimard is extradited to the United States;

BE IT FURTHER RESOLVED that a duly authorized copy of this Resolution signed by the President and attest by the Executive Director of this Association be transported to the President of the United States, the members of the Congress of the United States of America, the Governor and State Legislature of the State of New Jersey, the Superintendent of the New Jersey State Police, members of the press and the general public.

SIGNED: CHIEF KEVIN SAUTER
President

ATTEST: MITCHELL C. SKLAR
Executive Director

DATED: January 8, 2015

OFFICE OF THE SHERIFF

ARMANDO B. FONTOURA, SHERIFF
ESSEX COUNTY VETERAN'S COURTHOUSE
NEWARK, NJ 07102
www.essexsheriff.com
(973)621-4105
(973) 621-4066 Fax

UNDERSHERIFFS
JESUS A. PADILLA
JAMES W. PITTS
KEVIN J. RYAN

CHIEF
JOHN D. DOUGH

January 7, 2105

The Honorable Robert Menendez
One Gateway Center, Suite 1000
Newark, New Jersey 07102

Dear Senator Menendez:

I thank you for inviting me as a law enforcement officer for more than four decades to provide you with a comment regarding Joanne Chesimard, a fugitive from justice.

My comment follows:

"I join with Senator Menendez and law enforcement across our nation in demanding that the fugitive from justice, Joanne Chesimard, who has been found guilty of the murder of New Jersey State Trooper Werner Foerster, be returned to the United States before we further continue in the normalization of relations with Cuba."

If I can provide you with further information or insight into this matter please do not hesitate to contact me. In closing, I extend my very best wishes to you.

Sincerely,

Armando B. Fontoura
Essex County Sheriff

ABF/hmo

ADDITIONAL STATEMENTS SUBMITTED FOR THE RECORD

STATEMENT SUBMITTED BY ALAN P. GROSS, U.S. CITIZEN IMPRISONED IN CUBA FROM 2009 UNTIL 2014

Chairman Rubio, Ranking Member Boxer, and members of the subcommittee, I appreciate the opportunity to submit this brief statement for the record. As the members of the subcommittee know, I recently concluded 5 years of imprisonment in Cuba due to my participation in a USAID-sponsored program authorized and funded pursuant to the Helms-Burton Act. Prior to my incarceration, I spent more than 30 years in 54 countries working to bring about positive change through USAID and other development programs. Much of my work involved increasing the availability of information access to populations around the world. Indeed, this was the fundamental purpose of the project in Cuba for which I ultimately was forced to forfeit 5 years of my life. I fully support what the President is doing to meaningfully improve international relations, particularly with Cuba. My 5 years in Cuba did not deter me from wanting to bring about change through development and engagement. To the contrary, I believe more strongly than ever that the President's decisive first steps need to be followed by congressional action ultimately repealing Helms-Burton and related statutes.

I understand that this hearing is to focus on Cuba and human rights. In my opinion, access to information is itself a fundamental human right and is essential to empowering the Cuban people.

It bears emphasis that all people are decisionmakers in various ways, even if their decision is to do nothing. Decisions are made, correctly or not, on knowledge and perceptions derived from information to which individuals have access. Access to information enables people to make better-informed decisions and to give informed consent. The accuracy of such decisions depends upon the availability of information, and the quality, timeliness, and cost of access to that information. Based on my experience, the citizens of Cuba could, and likely would, be more decisive if they had better access to information. Information is food for the brain; nothing can reach its full capabilities without food. Insufficient access to information is unhealthy for any citizenry and it materially impacts human rights issues on all levels.

If access to information is considered a human right, the Govemment of Cuba's legalization of access to the Internet in June of 2013 represented a step forward for Cubans in this regard. The Internet, that information highway, is one of the most impactful paths an individual can take in order to obtain and communicate information.

It is probable that the Government of Cuba is finally recognizing that the intellectual and competitive capabilities of its population will be enhanced with less-restrictive practices involving information. It is probable that the Government of Cuba is beginning to understand that Cubans cannot compete in world markets without the same tools that nearly everyone who competes has at his or her disposal, and that Cuba must compete if it is to survive economically.

By easing Internet restrictions, even if ever so slightly, the Cuban Government is beginning to show some new-found respect for the fundamental right of its people to access information, even if the Government does not necessarily like it. Reestablishing diplomatic relations with the Government of Cuba is only a first step in reestablishing freedom of information for those who live on that island. However, it is an essential step. Why would anyone not want to take that step?

LETTER SUBMITTED BY DAGOBERTO VALDES HERNANDEZ, DIRECTOR, CONVIVENCIA MAGAZINE

Esteemed Members of the Senate Foreign Relations Committee of the United States of America. Honorable Senators, my name is Dagoberto Valdes Hernandez and for more than 20 years I have led a Civic Education project to prepare citizens for democracy in Cuba. I am also the founder and editor of two magazines: Vitral and Convivencia (www.convivenciacuba.es). Currently, I live and work in Cuba.

The purpose of this letter is to convey to you my opinion and that of the Convivencia project's team regarding the current negotiations between the Governments of the United States and Cuba.

1. Convivencia magazine welcomes the reestablishment of diplomatic relations between the Republic of Cuba and the United States of America.

We hope that this climate of dialogue and negotiation would also be established between the Government of the Republic of Cuba and independent Cuban civil soci-

ety, respecting both unity and diversity, the right to self-determination, and the exercise of citizens' sovereignty.

2. Convivencia magazine is happy for the liberation of political prisoners and feels that all political prisoners should be freed, including those who are free on bail or parole in Cuba.

Similarly, all acts of political repression must stop. The Cuban Government should ratify the U.N.'s Human Rights Treaties and the Conventions of the ILO, as outlined under the four consensus points identified by a growing and significant group of Cuban civil society.

3. Convivencia magazine is grateful for His Holiness Pope Francis' mediation efforts to reestablish diplomatic relations between the Republic of Cuba and the United States of America.

4. Convivencia magazine believes that the reestablishment of diplomatic relations between the Republic of Cuba and the United States of America removes a serious obstacle so that the world can clearly see that the fundamental differences exist between the Cuban Government and its citizens, not between Cuba and the United States. That way, people will understand that the most important thing for our people is inclusion, civil, political, economic, social, and cultural liberties, and the exercise of an ever more participatory democracy in Cuba.

5. Convivencia magazine also hopes that this historic milestone, and the lifting of all embargos—especially the one that the Cuban Government inflicts upon the initiative and entrepreneurial character of its citizens—creates the necessary conditions for the Cuban people to write their own history and that it can lead the entire nation, including our compatriots on the island and the diaspora, to a future of peace, liberty, progress, and social justice.

I appreciate your attention to this important matter, and remain respectfully yours.

CUBA-U.S. RELATIONS, NEO-CASTROISM, AND REGIONAL AUTHORITARIANISM, BY ANTONIO G. RODILES

When the Communist bloc in Eastern Europe collapsed in 1989, many sociologists and analysts shared in the vision of the end of history. It appeared that liberal democracies would triumph over any other system that opposed the modernization of nations; 25 years later we see a different reality.

After a period in which the number of democracies increased on a global scale, we have seen a revival of authoritarianism, with some market freedoms, particularly in Latin America. It is not a return to crude military dictatorship, but it is a return to the structures that subject fundamental rights and freedoms to the interests of strongmen and populist groups.

The argument that certain economic freedoms always allow for the development of civil and political liberties is false. The use of state institutions to dismantle democratic mechanisms has become a very useful and effective machinery.

In this sense, the situation of Venezuela in our region is most alarming. Unfortunately, the mechanisms that have been tested there have become models for others. Electoral processes are now tools that are used to legitimize the power of these groups. The use of paramilitary members as a method of ensuring social control permits that the violation of fundamental rights and liberties have no legal consequences for the authorities.

Furthermore, the formation of regional organizations such as ALBA and CELAC provide the necessary international support to said regimes to pressure democratic nations to accept these spurious democracies.

The case of Cuba is very symbolic, as the regime in Havana managed to survive the collapse of the Communist bloc. Poor decisions made by the international community and a fragmented society allowed Fidel Castro to manipulate the situation and prevent the end of the dictatorship. One of these decisions, made by the Clinton administration, facilitated the drainage of all internal pressure through a mass exodus at a moment when Cubans demonstrated a clear sense of being fed up with the regime. The subsequent appearance of Hugo Chavez and his oil guaranteed the survival of the Castro regime for the next 15 years, amid a regional context more favorable to dictatorship.

Twenty years later, Castroism dies. Neo-Castroism, which for some time now has been pressing for greater legitimacy, has found a path in President Barack Obama's measures. The presumed family and political heirs of Castro begin to find the urgent legitimacy they need.

The outlook on the island is complex. The transition from totalitarianism to authoritarianism will have to muddle through an already miserable situation, a nation completely de-capitalized, growing social unrest, and widespread corruption. To sustain the transfer of power, they utilize repressive bodies trained in impunity, judicial power subject to State Security, structures that influence peddling, and social groups prostituted to political power.

There are other warning signs, such as the significant increase in the human trafficking of Cubans through Mexico in coordination with organized crime, especially the Zetas narcotrafficking group. There is strong evidence of a possible connection between the Cuban military and intelligence services with a Venezuelan military involved in the growing drug trade. However, suspicions of this link begin to appear, above all, due to the great influence that the former group has over these military institutions.

The opposition on the island and in exile has to prevent that the regime achieves a transfer of power. Our work is focused on seeking a democratic transition and the establishment of the rule of law in the midst of a very complex external and internal environment. Internally, we confront a regime that enjoys full impunity in abusing its population. Externally, we are in a situation where democratic principles have taken a serious hit.

In the international arena we have made some progress regarding the demand that the regime ratify and implement the United Nations' Covenants on Human Rights, especially those on civil and political rights. Such ratification would oblige a change in key elements of the judicial and legal system prevailing on the island and that violate, even in writing, fundamental freedoms. This demand has already been heard by the European bloc that is presently working on a bilateral agreement with the regime.

In the present context, the steps taken by President Obama are not wise and prove very dangerous. They grant legitimacy and additional resources to a regime that has shown ample capacity to adapt at crucial moments. For this reason we have expressed our disagreement with the lack of transparency, the unconditional character, and the ignoring of vital players both in the internal opposition and in exile during these discussions.

A change of direction is fundamental in this political process; that concrete demands are made to the regime and that the process involves the active participation of indispensable leaders of the opposition. Recently, the "Forum for Rights and Freedoms" was created in Havana and brought together an important assembly of leaders and groups within the island and in exile, who demanded a Roadmap with seven points that we consider to be of vital importance. The logic of this document lies in the ratification and implementation of the Covenants on Human Rights of the United Nations.

The upcoming Summit of the Americas in April will be a defining moment. Raul Castro expects to arrive with the support of all regional allies. His hopes are pinned on that President Barack Obama, in a second and symbolic handshake, provides him with the necessary support for the new authoritarian monstrosity that has its essential core based around his family and political descendants.

We are convinced that the United States, with its global leadership in the promotion of democracy, will provide great support to those on the island and in exile who ask for real and measurable changes toward a true democracy.

The future of the region will have much to do with the democratization or non-democratization of Cuba. Prioritizing rights and fundamental freedoms, and promoting the idea that these are key elements in the structuring of our nations, is vital at this crucial moment in time. We are debating the next 20 or 30 years as a country and region. Taking steps toward the consolidation of Neo-Castroism implies tacit validation of authoritarianism as an alternative to democracy throughout the region.

ATTACHMENT

FORUM FOR RIGHTS AND FREEDOMS

The announcements made by U.S. President Barack Obama and his administration have triggered an intense debate about the Cuban problem. Many of those in the opposition and activists from civil society, both inside the island and in exile, have lamented, above all, the lack of transparency and unilateral and unconditional character of the new measures announced.

It is indisputable and indispensable that Cubans be primarily responsible for the fate of our nation, but we also expect an effective commitment from the democratic

community for the defense of fundamental freedoms and the establishment of the rule of law in Cuba.

Those of us who experience the abuses of the Cuban regime daily and those in exile who suffer and have suffered from the totalitarianism in their home country, are vital players in the process of transition. Ignoring many of our voices and acting from only one perspective of the problem weakens objectivity and endangers any political dialogue.

We are faced with two options. First, to accept the transformation of the regime to authoritarian capitalism where Cubans will have to settle for meager handouts, while the inheritors of Castroism dispose of our rights and wealth. Second, to demand concrete and measurable changes that are conducive to the establishment of a true democracy.

The demand for the restoration of our freedoms is a necessary prerequisite for achieving a successful political transition. During these 56 long years of one-party dictatorship, activists and the opposition have repeatedly demanded the full exercise of freedoms inherent to human beings, often paying a high price for such claims.

The violation of fundamental rights in our country is validated under the current legal system. We therefore believe that the ratification and particularly the legal implementation of the Covenant on Civil and Political Rights and the Covenant on Economic, Social and Cultural Rights, with their optional protocols, serves as a key instrument and roadmap for solving the Cuban problem. Similarly, the guidelines of the International Labor Organization will provide us with an accurate idea of how to work on the legal system regarding labor issues and trade union freedoms.

We hope that Latin American countries, the European Union, Canada, the Holy See and the United States, as important political actors in the Cuban issue, join us in this fair and urgent demand. We have used as a reference the association agreement signed between the EU and Central America in 2012, with a clear emphasis on respect for human rights and democracy promotion.

Upon ratification of these agreements, we propose the following roadmap to ensure the effective and prompt implementation of the commitments made:

- The immediate release and cancellation of sentences against all prisoners arrested for political reasons (to decree amnesty).
- On the Constitution, laws, regulations, procedures and administrative practices: the abolition of all articles that violate the International Covenants and restrict liberties on freedoms of expression, association, assembly, movement, conscience and religion, economic and cultural rights. To establish full guarantees for the exercise of those freedoms.
- On the Penal Code: the elimination of the clause of pre-criminal dangerousness, as well as all rules that can contribute to arrests, arbitrary detentions and acts of harassment that violate the agreements made.
- The restoration of constitutional-level judicial guarantees and the right to due process.
- New Law of Association that includes a multiparty system and guarantees for freedom of assembly. Concerning trade union rights, standards set by the International Labor Organization should be taken into account.
- New Media Law guaranteeing freedom of expression and the free flow of information.
- New Election Law (Restoration of National Sovereignty).

We believe that every step should be conditioned on the progressive advance of the roadmap indicated above, sustained on the Universal Declaration of Human Rights.

Our ultimate goal is to move toward becoming a true democracy, with political pluralism, judicial independence, freedom and human rights. Where a Cuban, through consultations and a process of free and transparent elections, as well as the creation of a constitutional assembly, can define the destiny of our nation.

All genuine actors of the opposition and civil society, through their projects and demands both on the island and in exile, must play an active role in any process that seeks a solution to the Cuban problem. At stake is the very future of the nation. We exercise this great responsibility which has fallen to us.

Ada Maria Lopez Canino; Adelma Guerra; Adis Niria Dallet Arguelles; Adnaloy Rodriguez Diaz; Adonis Salgado Perez; Adrian Perez Mendoza; Agustin Lopez Canino; Aida Norma Roque; Aide Gallardo Salazar; Ailer Gonzalez Mena; Alberto Sanchez Martiatu; Alejandro Garcia Arias; Alejandro Raga; Alexander Perez Rodriguez; Alexis Jardines; Alexis Perez Lescailles; Alfredo Guillermo Rodriguez; Aliette Padron Antigua; Alina Brouwer; Alina de la C Garcia; Aliuska Gomez Garcia; Amelia Suarez Naranjo; Ana Maria Socarras Pinon; Ana Olema; Ana Torricella Morales; Anay Penalver Subit; Andres Perez Suarez; Angel De Fana; Angel Luis

Diaz; Angel Luis Martin; Angel Moya Acosta; Angel Santiesteban Prats; Anislay Escalona Polo; Antonio G. Rodiles; Antonio Jose Ponte; Arelis Blanco Coello; Arelis Rodriguez Silva; Ariadna Mena Rubio; Ariel Gonzalez Cuevas; Ariobel Castillo Villalba; Armando Abascal Serrano; Armando Peraza Hernandez; Barbara Rodriguez Vizcaino; Barbara Viera Rodriguez; Benito Fojaco Iser; Berta Soler Fernandez; Boris Larramendi; Camilo Ernesto Olivera Peidro; Caridad Ramirez; and Caridad Valdes Soriano.

Carlos Lazaro Tamayo Frias; Carlos M Figueroa Alvarez; Carlos M Hernandez; Carlos Manuel Figueroa; Carlos Orlando Olivera Martinez; Carlos Rodriguez Seruto; Cecilia Guerra Alfonso; Cesar Reynel Gomez; Ciro Javier Diaz Penedo; Claudio Fuentes Madan; Cristina Xiomara Duques; Dairon Moises Torre Paz; Dairy Coello Basulto; Daisy Artiles del Sol; Damaris Reve Rodriguez; Damarys Moya Portieles; Damian Albert Suviaut; Danai Lopez Perdomo; Danaise Munos Lopez; Dandy Lazo; David Aguila Montero; Delises Gonzalez Borrego; Digna Rodriguez Ibanez; Duvier Blanco Acosta; Edely Orlando Suarez; Eduardo Gonzalez Molina; Eduardo Marcos Pacheco Ortiz; Egberto Angel Escobedo Morales; Elena Larrinaga; Elias Amor; Enrico M. Santi; Enrique del Risco; Enrique Diaz Rodriguez; Enrique Martinez Marin; Enrique Rafael Valido; Eralidis Frometa Polanco; Ernesto Fonseca Garcia; Ernesto Gutierrez; Ernesto Hernandez Busto; Esteban Ajetes Abascal; Eugenia Diaz Hernandez; Eugenio Hernandez Hernandez; Evelin Pineda Concepcion; Felix Navarro; Felix Perez Palenzuela; Francisco Rangel Manzano; Francisco Valido; Frank Calzon; Frank Cosme Valdes; Gisela Sanchez and Banos.

Gladis Capote Roque; Gloria Samper Oliva; Gorki Aguila; Guillermo Farinas Hernandez; Guillermo Garcia V; Gustavo Garabito Gomez; Haymee Moya Montes de Oca; Hugo Damian Prieto Blanco; Igdariz Perez Ponciano; Ignacio Blanco Jimenez; Iris Quindelan; Ivan Founier Costa; Ivonne de las Mercedes Abreu; Jaime Suchlicki; Jaqueline Bone Hechevarria; Jaqueline Cutino Leite; Jeovani Diaz Lopez; Jeovany Jimenez Vega; Jesus Aristides Hernandez Perez; Joel Brito; Jordanca Borquinelis; Jorge Enrique Carbonell; Jorge Luis Artiles Montiel; Jorge Luis Garcia Ostia; Jorge Luis Romero Becerra; Jorge Luis Trujillo Gonzalez; Jorge Olivera Castillo; Jorge Rodriguez Rivero; Jose Agustin Benitez Lopez; Jose Alberto Gutierrez; Jose Azel; Jose Diaz Silva; Jose G. Ramon Castillo; Jose Hernandez Lopez; Jose Ignacio Brito; Jose Luis Leon Perez; Jose Ramon Polo Borges; Jose Raul Rodriguez Rangel; Juan Alberto de la Nuez Ramirez; Juan Antonio Blanco; Juan Carlos Linares Balmaseda; Juan Gonzalez Febles; Juan Manuel Lora Vidal; Julia Herrera Roque; Julio Aleaga Pesant; Julio Antonio Ramirez; Julio Herrera Roque; Julio Rojas Portal; Kessell Rodriguez Rodriguez; and Kirenia Molina.

Laritza Olivares Dinza; Laudelina Alcalde Garcia; Laura Marante; Laura Marante Delgado; Lazara B. Sendina Recalde; Lazara M Borrego Guzman; Lazaro Diaz Sanchez; Lazaro Fresneda Fernandez; Lazaro Luis Ruiz Hechevarria; Lazaro Mendoza Garcia; Lazaro R Armenteros Martorel; Lazaro Yosvani Montesino; Lazaro Yuri Valle Roca; Leon Padron Azcuy; Lia-Lianelis Villares; Liset Naranjo; Lismeirys Quintana Avila; Liu Santiesteban; Livan Serafin; Lourdes Esquivel; Lucia Molina Villegas; Lucinda Gonzalez Gomez; Luis Alberto Cruz Silva; Luis Barbaro Ortega Avenza; Luis Cino Alvarez; Luis Enrique Labrador Diaz; Luis Jesus Gutierrez Campos; Luis Trapaga; Luisa R Toscano; Lupe Busto; Maikel Norton Cordero; Mailen Gonzalez Gonzalez; Manuel Aguirre Labarrere; Manuel Zayas Martinez; Marcelino Lorenzo Fernandez; Margarita Rodriguez Diaz; Maria Acon Sardinas; Maria cristina Labrada Varona; Maria Josefa Sardinas; Maria Rosa Rodriguez Molina; Marislaidys Sanchez Vargas; Maritza concepcion Salmiento; Mark Alonso Parada; Marta Belquis Rodriguez Gonzalez; Mayelin Pena Bullain; Mayelin Santiesteban Lopez; Maylin Gonzalez Gonzalez; Melvia Aguilera; Mercedes Perez; and Merenis Herry Garcia.

Miguel Angel Tamayo Frias; Miguel Daniel Borroto Vazquez; Miguel Farinas Quey; Mijail Bonito; Mista Ricardo Torres; Nelson Rodriguez Chartrand; Nilo Gilbert Arencibia; Noelvis Leon Lopez; Normando Hernandez; Odelin Alfonso Torna; Olaida del Castillo Trujillo; Olga Lidia Torres Iglesias; Omar Suarez Campo; Orlando Rodriguez Rodriguez; Orlando Villar de Armas; Oscar Luis Milian Reinoso; Oslien Noda Fonseca; Osmal Laffita Rojas; Osmani Diaz Cristo; Oylin Hernandez Rodriguez; Paquito de Rivera; Paulino Estevez Jimenez; Pedro Fontanal Miranda; Pedro Roig; Quirenia Diaz Arguelles; Rachel Gamboa Campos; Rafael Hernandez Blanco; Rafael Rodriguez Rivero; Raisel Rodriguez Rivero; Ramon Alejandro Munoz Gonzalez; Ramon Jimenez Arencibia; Ramon Mor Hernandez; Ramon Zamoza Rodriguez; Raquel Maria Rodriguez Morejon; Raul Borges Alvarez; Regla Rios Casado; Reinaldo Figueros; Reinaldo Martinez; Ricardo Almira; Roberto Arsenio Lopez Ramos; Roberto Pupo Tejeda; Rogelio Fabio Hurtado Rodriguez; Rolando Ferrer Espinosa; Rolando Pulido; Rolando Reyes Rabanal; Rolando Rodriguez

Rivero; Ronny Gamez Luna; Rosalinda Visiedo Gomez; Roxilene Sotolongo Cruz; and Santiago Jordan Rios.

Saul Gonzalez; Sebastian Arcos; Serafin Moran Santiago; Serafin Moran Santiago; Sergio Girat Estrada; Smith Cantillo Perez; Sodrelis Torruella Poncio; Sonia Alvarez Campello; Sonia Garro Alfonso; Stewe Maikel Pardo Valdez; Tamara Rodriguez Quesada; Ubaldo Herrero Hernandez; Vicente Campanioni; Vicente Sebastian Borges; Virgen Coello Basulto; Vladimir Ortiz Suarez; Vladimir Turru Paez; Xiomara de las M Cruz Miranda; Yadelys Montano Leon; Yaimel Rodriguez Arroyo; Yamile Borges Hurtado; Yamile Garro Alfonso; Yamile Naranjo; Yaneisi Herrera Cabrales; Yanisel Bosa Garrido; Yanitza Estrada Liranza; Yasil Fernandez Denis; Yasmani Barroso Bergolla; Yasmani Barroso Pergolla; Yasmani Cuesta Gonzalez; Yelky Paez Rodriguez; Yeniset Aguilera; Yoan Guzman Diaz; Yoisy Jaramillo Sanchez; Yolanda Santana Ayala; Yoraida Pena Padilla; Yosbani Arce Blanco; Yuleidis Ortiz; Yuliet Margarita Rodriguez Baez; Yulinne Tamayo Frias; Yuneisis Coto Casino; Yuniesqui Gainza; Yuniset Amores Aguilera; Yurineisi Aleman; Yurleani Tamayo Martinez; Yuslaidis Balero Concepcion; Zaqueo Baez Guerrero; Zenen Daniel Cruz; Zulema Lay; and Ivan Garcia Quintero.

INTER-AMERICAN COMMISSION ON HUMAN RIGHTS RESOLUTION N.6/2013, SUBMITTED BY BERTA SOLER, PRESIDENT, CUBAN LADIES IN WHITE, CUBA

INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION N. 6/2013

PRECAUTIONARY MEASURE No. 264-13
Topic Ladies in White regarding the Republic of Cuba[1]
October 28, 2013

I. INTRODUCTION

1. On June 13, 2013, the Inter-American Commission on Human Rights (hereinafter "the Inter-American Commission", "the Commission" or "IACHR") received a request for precautionary measures submitted by the "Cubalex Legal Information Center" (hereinafter "the petitioners"), seeking that the Republic of Cuba (hereinafter "Cuba" or "the State") protect the life and physical integrity of the members of the organization "Ladies in White" (hereinafter "the proposed beneficiaries" or "the organization"). According to the request, due to a series of peaceful demonstrations that the proposed beneficiaries held for the purpose of exposing the situation of suspected political dissidents in Cuba, their members are subjected to threats, harassment and violence against them, in retaliation for their activities.

2. After requesting additional information from the petitioners, they provided information on September 17 and 26, 2013.

3. After analyzing the factual and legal arguments presented by the petitioners, the Commission considers that the information presented shows *prima facie* that the members of the "Ladies in White" organization are in a serious and urgent situation, as their lives and physical integrity are threatened and at severe risk. Consequently, in accordance with Article 25 of its Rules of Procedure, the Commission requests that the Government of Cuba: a) adopt the necessary measures to guarantee the life and physical integrity of the members of the "Ladies in White" organization; b) agree on the measures to be adopted with the beneficiaries and their representatives; and c) report on the actions taken to investigate the facts that gave rise to the precautionary measures, in order to prevent future incidents.

II. SUMMARY OF ALLEGATIONS BY THE PETITIONERS

4. According to the request and subsequent communications presented by the petitioners, the "Ladies in White" is an organization of women who hold peaceful gatherings, in order to protest and expose the human rights situation that their families are facing, as alleged political dissidents in Cuba. The petitioners claim that their members attend Mass every Sunday in different Catholic churches, dressed in white and usually carry pictures of their relatives and flowers. After church services, they march silently through various streets throughout various locations in Cuba. In the request for precautionary measures, the following allegations are made:

a) There is a context of violent repression against the "Ladies in White". Specifically, they claim that the marches and rallies of the proposed beneficiaries are known as "counterrevolutionary demonstrations" by the State authorities, who make threats, and perpetrate acts of harassment and violence against them, in order to prevent them from executing their activities. According to the petitioners, the State authorities operate, together with civil society groups known as "repudiation meetings" and "Rapid Response Brigades" (hereinafter BRR). These groups are "formed institutionally, in centers of work, study and neighborhoods, through social organizations", who have

[1] On January 31st, 1962, the Government of Cuba was excluded from its participation in the inter-American system by Resolution VI adopted in the Eighth Meeting of Consultation of Ministers of Foreign Affairs, held in Punta del Este (Uruguay). On June 3, 2009, during its Thirty-Ninth Ordinary Session Period held in Honduras, the General Assembly of the Organization of American States (OAS) revoked the Resolution VI adopted in the Eighth Meeting of Consultation of Ministers of Foreign Affairs and determined that "the participation of the Republic of Cuba in the OAS will be the result of a process of dialogue initiated at the request of the Government of the Republic of Cuba and in accordance with the practices, purposes and principles of the OAS."

the mission of "rejecting anti-revolutionary movements and disturbances using simple weapons: sticks, steel bars and cables." The petitioners point out that the State authorities presumably summon these groups outside the homes of the proposed beneficiaries, seeking to prevent them from attending Mass. The "Ladies in White" that manage to leave their homes and attend Mass, are detained afterwards, with an excessive use of force by State security officers and by the National Revolutionary Police.

b) The detentions are imposed for short periods –of between 4 and 12 hours on average. In the detention centers, "the officers use violence, insults and sexual offenses, as a means of repression." According to the petitioners, "they are locked away in dungeons, in unsanitary conditions, [...] even sharing cells with men." In some situations, they are "forced to undress or are stripped naked, [...] to squat in order to check if they have items hidden in their genitals". They claim that, in some cases, objects were introduced into the vagina of one of the detainees, "under the justification of searching for recording devices". They assert that, on several occasions, officers made several comments and jokes about their genitals and underwear, among other things. During detention, they state that they are not allowed to make phone calls, drink water or eat. After the detentions, the "Ladies in White" are released and "left miles away from their homes, in unpopulated areas and away from public transport".

c) In the past months the repression against the "Ladies in White" has increased, mainly in the towns of Matanzas, Cardenas and Colón. On July 7, 2013, the parish priest of the Church of "San José", in the town of Colón, prevented members of the BRR from attacking seven "Ladies in White". On July 14, 2013, after Mass, "a meeting of repudiation" beat several members of the organization, including Mrs. Sonia Alvarez Campillo, who suffered from a fracture of her left arm. On July 21, 2013, after attending Mass at the Church of the "Sacred Heart", Municipality of Cárdenas, 14 "Ladies in White" were allegedly violently repressed by State authorities: in particular, Leticia Ramos who was hit in her right eye and on her head, for which she was diagnosed with head trauma. On August 4, 2013, there were new detentions of the proposed beneficiaries in the provinces of Holguín, Pinar del Río, Havana and Guantánamo. On August 11, 2013, when leaving the Church of the "Holy Conception", Municipality of Cárdenas, eleven "Ladies in White" were arrested and beaten. In the case of Elizabeth Pacheco Lamas, she was beaten and dragged, leaving her with "excoriation on her knees".

d) During September 2013, the risk faced by the members of the "Ladies in White" increased and there were further detentions. On September 22, 2013, one detention in the province of Pinar del Río, five in Havana, two in Mayabeque, 19 in Matanzas, five in Villa Clara and three in Guantánamo were reported. On September 23, 2013, 13 arrests took place in Havana to prevent them from participating in the "literary tea" (book club) at the organization headquarters. On September 24, 2013, there were reports of two new arrests in Havana, in order to prevent them from participating in the commemoration of the "Las Mercedes Day". Among the testimonies presented, the following may be highlighted: i) Katyuska Rodríguez Rivas, who was arrested on September 22, 2013, after Mass by members of the BRR, who beat her with an umbrella, while officials grabbed her by her arms; ii) Marielis Díaz Torres, when leaving her home at 8:00 am on September 22, 2013, to head to Mass at the Church of the "Cathedral", was intercepted by a security officer from the State. This person presumably detained her in an official woodwork shop until 11:00 am. They claim that the officer that held her reportedly warned her "that every Sunday would be the same."

e) The petitioners allege that despite the acts of violence against them, the State ensures impunity for the perpetrators. In the words of the petitioners, "the personal safety and physical integrity of the group 'Ladies in White' is at risk and their lives are in danger, due to the acts of violence unleashed on them by [...] State officials [...], in order to prevent them from exercising their religious freedom, freedom of speech, association, assembly and expression."

III. ANALYSIS OF THE ELEMENTS OF GRAVITY, URGENCY AND IRREPARABILITY

5. The mechanism of precautionary measures is a part of the Commission's function of overseeing Member State compliance with the human rights obligations set forth in Article 106 of the Charter of the Organization of American States. These general oversight functions are set forth in Article 41 (b) of the American Convention on Human Rights, and Article 18 of the Commission's Statute. The mechanism of precautionary measures is set out in

Article 25 of the Commission's Rules of Procedure. According to this Article, the Commission issues precautionary measures in situations that are serious and urgent, and where such measures are necessary to prevent irreparable harm to persons.

6. The Inter-American Commission and the Inter-American Court of Human Rights have repeatedly established that precautionary and provisional measures have a dual nature, precautionary and protective. Regarding their protective nature, the measures seek to avoid irreparable harm and preserve the exercise of human rights. Regarding their precautionary nature, the measures have the purpose of preserving a legal situation being considered by the IACHR. Their precautionary nature aims to preserve those rights at risk until the petition in the Inter-American system is resolved. Its object and purpose are to ensure the integrity and effectiveness of the decision on the merits and, thus, avoid infringement of the rights at issue, a situation that may adversely affect the useful purpose (*effet utile*) of the final decision. In this regard, precautionary measures or provisional measures thus enable the State concerned to fulfill the final decision and, if necessary, to comply with the reparations ordered. As such, for the purposes of making a decision, and in accordance with Article 25.2 of its Rules of Procedure, the Commission considers that:

a. "serious situation" refers to a grave impact that an action or omission can have on a protected right or on the eventual effect of a pending decision in a case or petition before the organs of the Inter-American system;
b. "urgent situation" refers to risk or threat that is imminent and can materialize, thus requiring immediate preventive or protective action; and
c. "irreparable harm" refers to injury to rights which, due to their nature, would not be susceptible to reparation, restoration or adequate compensation.

7. In the present situation, the Commission considers that the requirement of gravity is met, in view of the allegations of threats, acts of intimidation, and violence and a series of short-term detentions –including episodes in which they were allegedly forced, *inter alia*, to undress and undergo genital checks– against the "Ladies in White". Specifically, the information suggests that the situation arises as a form of retaliation and intimidation against them, due to their peaceful protests in relation to the situation of their families, as political dissidents in Cuba.

8. In the context of the analysis of this requirement, the Commission notes that the information provided by the petitioners is consistent with the general information that the Commission has received on the hostile environment against members of the said organization, which manifests itself in constant physical attacks against them and a number of arbitrary short-term detentions. These circumstances have led the Commission to express concern in different Annual Reports from several years. In this regard, in Chapter IV of the Annual Report[2] of 2012, about Cuba, the Commission noted an apparent exacerbation of the situation of the "Ladies in White", in the context of the visit of Pope Benedict XVI to Cuba. In particular, concerning the constant harassment and detention against them, as a mechanism to limit or restrict their right of assembly or to self expression.

9. Similarly, the United Nations System has been continuously monitoring the situation of the "Ladies in White", through different mechanisms and special procedures. In this regard, during 2012, the Special Rapporteurs on the promotion and protection of the right to freedom of opinion and expression; on the rights to freedom of peaceful assembly and of association; on the freedom of religion or belief; and Special Rapporteur on Human Rights Defenders, provided particular follow-up to information received on the arbitrary detention, harassment and violation of the right of assembly of the members of the "Ladies in White"[3]. In particular, the Rapporteurs

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[2] See: IACHR. Chapter IV – Cuba in the IACHR 2012 Annual Report; Chapter IV - Cuba in the IACHR 2011 Annual Report; Chapter IV – Cuba in the IACHR 2010 Annual Report; Chapter IV – Cuba in the IACHR 2009 Annual Report; Chapter IV – Cuba in the IACHR 2008 Annual Report; among others.

[3] See: UN. Communications sent, in the framework of the Special Procedures of the Human Rights Council, by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the right of association and pacific assembly; Special Rapporteur on freedom of religion or creed; and Special Rapporteur on the situation of human rights defenders," dated March 21, 2012 and October 9, 2012.

mentioned that they had "urge[d] the Government [...] to take all necessary measures to protect the rights and freedoms of members of the 'Ladies in White' organization and investigate, prosecute and impose appropriate sanctions on any person responsible for the violations against them."[4]

10. Taking into consideration the above-mentioned background and characteristics of the present situation, the Commission considers *prima facie* that the right to life and physical integrity of the members of the "Ladies in White" are at risk, due to their activities.

11. Regarding the requirement of urgency, the Commission considers that it is satisfied, as the alleged acts of violence and presumably repeated detentions have consistently increased over time, without protective measures being made available on behalf of the "Ladies in White". In these circumstances, the Commission considers that various factors converge - the status of a specific group of female human rights defenders, who are constantly under the State's custody in the context of short-term detentions. The situation requires the immediate adoption of special protection measures, in order to avert the various risk scenarios to which they are constantly exposed and allow them to carry out their activities safely.

12. On the requirement of irreparability, the Commission believes that it has been met, to the extent that the possible risk to the right to life and physical integrity embodies the highest situation of irreparability.

13. Under Article 25.5, the Commission normally requests information from the State before taking a decision on request for precautionary measures, except in matters as in the present situation where the immediacy of the potential harm does not allow delays.

14. The Commission wishes to reaffirm the importance of the work of human rights defenders in the region. In this regard, the Commission has consistently indicated the importance of the work carried out by persons engaged in the promotion, monitoring and advocacy of human rights and the organizations to which many of them are affiliated. In this regard, the OAS General Assembly in its resolution AG/RES 2579 (XL-0/10) recognized the work that female human rights defenders are doing within the region and resolved to recognize that, in view of their gender-specific role and their needs and the particular risks they face by virtue of the discrimination they have traditionally suffered, women human rights defenders should be accorded special attention to ensure that they are fully protected and are effective in carrying out their important activities. In these circumstances, the Commission considers that acts of violence and other attacks against human rights defenders not only affect the guarantees of any human being, but they undermine their fundamental role in society and render all those that they represent, helpless.

IV. BENEFICIARIES

15. The request was submitted on behalf of the members of the "Ladies in White", who represent approximately 237 persons, fully identified in the lists submitted by the petitioners and who may be identifiable due to their affiliation with the organization.

V. DECISION

16. In view of the above-mentioned information, the Commission considers that this matter *prima facie* meets the requirements of gravity, urgency and irreparable harm contained in Article 25 of its Rules of Procedure. Consequently, the Commission requests that the Government of Cuba:

> a) adopt all necessary measures to protect the life and physical integrity of the members of the "Ladies in White" organization;

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[4] Ibid.

b) agree on the measures to be adopted with the beneficiaries and their representatives; and,

c) report on the actions taken to investigate the facts that gave rise to the precautionary measures, in order to prevent future incidents.

17. The Commission also requests the Government of Cuba to inform, within 15 days from the date of the issuance of this resolution, on the adoption of the required precautionary measures and to update said information on an ongoing basis.

18. The Commission emphasizes that, according to article 25 (8) of its Rules of Procedure, the granting of this precautionary measure and its adoption by the State shall not constitute a pre-judgment on any possible violation of the rights protected in the American Declaration and other applicable instruments.

19. The Commission orders the Secretariat of the Inter-American Commission to notify the State of Cuba and the applicants of this resolution.

20. Approved on the 28th day of October, 2013, by: José Orozco, President; Tracy Robinson, First Vice President; Rosa María Ortiz, Second Vice President; Commissioners Felipe González, Dinah Shelton and Rodrigo Escobar Gil.

DEPARTMENT OF STATE REPORT SUBMITTED FOR THE RECORD
BY SENATOR ROBERT MENENDEZ

U.S. DEPARTMENT OF STATE REPORT ON HUMAN RIGHTS PRACTICES IN CHINA (2013)

Executive Summary

The People's Republic of China (PRC) is an authoritarian state in which the Chinese Communist Party (CCP) constitutionally is the paramount authority. CCP members hold almost all top government and security apparatus positions. Ultimate authority rests with the 25-member Political Bureau (Politburo) of the CCP and its seven-member Standing Committee. China completed its once-in-a-decade leadership transition in March, and Xi Jinping holds the three most powerful positions as CCP general secretary, state president, and chairman of the Central Military Commission. Civilian authorities generally maintained control of the military and internal security forces. Security forces committed human rights abuses.

Repression and coercion, particularly against organizations and individuals involved in civil and political rights advocacy and public interest issues, ethnic minorities, and law firms that took on sensitive cases, were routine. Increasingly officials employed harassment, intimidation, and prosecution of family members and associates to retaliate against rights advocates and defenders. Individuals and groups seen as politically sensitive by authorities continued to face tight restrictions on their freedom to assemble, practice religion, and travel. Authorities resorted to extralegal measures such as enforced disappearance and strict house arrest, including house arrest of family members, to prevent public expression of independent opinions. Authorities implemented new measures to control and censor the internet and particularly targeted bloggers with large numbers of followers, leading some to close their online accounts. Public-interest law firms continued to face harassment, disbarment of legal staff, and closure. There was severe official repression of the freedoms of speech, religion, association, and assembly of ethnic Uighurs in the Xinjiang Uighur Autonomous Region (XUAR) and of ethnic Tibetans in the Tibet Autonomous Region (TAR) and other Tibetan areas. These minorities also faced harsh restrictions on movement. Abuses peaked around high-profile events, such as the visit of foreign officials, national meetings, and commemorations.

As in previous years, citizens did not have the right to change their government, and citizens had limited forms of redress against official abuse. Other human rights problems during the year included extrajudicial killings, including executions without due process; enforced disappearance and incommunicado detention, including prolonged illegal detentions at unofficial holding facilities known as "black jails"; torture and coerced confessions of prisoners; detention and harassment of lawyers, journalists, writers, bloggers, dissidents, petitioners, and others who sought to exercise peacefully their rights under the law; a lack of due process in judicial pro-

ceedings; political control of courts and judges; closed trials; the use of administrative detention; restrictions on freedom to assemble, practice religion, and travel; failure to protect refugees and asylum seekers; pressure on other countries to return PRC citizens forcibly; widespread corruption; intense scrutiny of and restrictions on nongovernmental organizations (NGOs); discrimination against women, minorities, and persons with disabilities; a coercive birth-limitation policy that in some cases resulted in forced abortion (sometimes at advanced stages of pregnancy) or forced sterilization; trafficking in persons; prohibitions on independent unions; lack of protection for workers' right to strike; forced and child labor; and poor enforcement of wage, overtime, and occupational safety and health laws.

Although authorities prosecuted a number of abuses of power, particularly with regard to corruption, in many cases the internal disciplinary procedures of the CCP were opaque and only selectively applied to senior officials. Citizens who promoted efforts to combat corruption were themselves detained and arrested. For example, throughout the year, NGO sources reported that authorities arrested at least 29 persons associated with the New Citizens Movement on charges stemming from activities to promote good governance.

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Arbitrary or Unlawful Deprivation of Life

During the year security forces reportedly committed arbitrary or unlawful killings. In many instances few or no details were available.

It was not clear to what extent impunity was a problem. Following cases of killings by police, there often was an announcement that an investigation was to be conducted, but it was not clear whether there were any findings of police malfeasance or any cases in which police were disciplined.

For example, on October 24, plainclothes police arrested Shanghai petitioner Shen Yong for trespassing and, according to media reports, beat him. Hours later police returned Shen to his family, and he died shortly thereafter. Shen's family maintained he died as a result of the police beating. Police asserted he suddenly fell ill in their custody. Local media reported that the death was under investigation but by year's end provided no further information. Authorities detained more than 100 petitioners at a protest following Shen's death.

A number of violent incidents in the XUAR resulted in multiple deaths. Official accounts of these events generally blamed "terrorists," "separatists," and "religious extremists" for what were portrayed as violent terrorist attacks on community members and security personnel. Human rights organizations, on the other hand, asserted that security forces often shot at groups of Uighurs in their homes or during worship. The government's control of information coming out of the XUAR, together with its increasingly tight security posture there, made it difficult to verify the conflicting reports. (See also the Tibet annex for violent incidents in the TAR and other Tibetan areas.)

For example on April 24, at least 21 persons were killed in a clash in Barchuk County, XUAR: nine bystanders, six police, and six Uighurs (described in the official press as "thugs"). According to the official account, gunfights broke out when police entered persons' homes to search for "illegal knives."

In April, Yu Qiyi, a chief engineer at a state-owned enterprise in Wenzhou, died after being interrogated for corruption. Authorities arrested six CCP investigators and convicted them of intentional assault (see section 1.d.).

Defendants in criminal proceedings were executed following convictions that lacked due process and adequate channels for appeal.

b. Disappearance

In September authorities detained Cao Shunli at Beijing Airport as she was attempting to travel to Geneva to attend a training session in advance of China's Universal Periodic Review at the UN Human Rights Council. Five weeks after her disappearance, authorities at the Chaoyang District Detention Center confirmed that Cao had been criminally detained on charges of unlawful assembly. According to various media reports, her family did not received a detention notice in accordance with the Criminal Procedure Law.

At year's end the government had not provided a comprehensive, credible accounting of all those killed, missing, or detained in connection with the violent suppression of the 1989 Tiananmen demonstrations. It is estimated that fewer than a dozen remained in prison, although some accounts suggest the number may be higher. Many activists who were involved in the demonstrations continued to suffer from official harassment.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The law prohibits the physical abuse of detainees and forbids prison guards from extracting confessions by torture, insulting prisoners' dignity, and beating or encouraging others to beat prisoners. Amendments to the criminal procedure law that exclude evidence, including confessions, obtained through illegal means, including under torture in certain categories of criminal cases, took effect on January 1.

Numerous former prisoners and detainees reported that they were beaten, subjected to electric shock, forced to sit on stools for hours on end, deprived of sleep, and otherwise subjected to physical and psychological abuse. Although ordinary prisoners were subjects of abuse, prison authorities singled out political and religious dissidents for particularly harsh treatment. In some instances close relatives of dissidents also were singled out for abuse.

Human Rights Watch reported that police beat and tortured suspected prostitutes.

According to news reports Xiao Yong, a Guangzhou-based activist detained by police in April 2012 and remanded to two years of re-education through labor (RTL) in Shaoyang, Hunan Province, was released in February and allowed to return to his home. Authorities charged him with illegal assembly for staging a demonstration calling on officials to disclose publicly their financial assets. During his initial detention authorities reportedly prevented Xiao from sleeping for up to five days, causing multiple medical complications.

On May 18, police arrested a group of Fujian activists. Police held petitioner Lin Yingqiang for 33 hours, deprived him of food, and chained him to a "tiger seat," a device meant to prevent the prisoner from sleeping during his detention.

In May authorities in Sichuan Province detained and beat lawyers Tang Jitian and Jiang Tianyong as they attempted to visit a black jail in Ziyang that reportedly holds followers of the banned Falun Gong movement.

On June 8, the Dongcheng District People's Court tried Peng Lanlan in closed proceedings. The court's decision was not available at year's end. Beijing police arrested Peng in August 2012, charged him with obstructing official business, and tortured him by binding him to a tiger seat.

There were widespread reports of activists and petitioners being committed to mental-health facilities and involuntarily subjected to psychiatric treatment for political reasons. According to Legal Daily (a state-owned newspaper covering legal affairs), the Ministry of Public Security directly administered 24 high-security psychiatric hospitals for the criminally insane (also known as ankang facilities). From 1998 to May 2010, more than 40,000 persons were committed to ankang hospitals. In 2010 an official of the Ministry of Public Security stated that detention in ankang facilities was not appropriate for patients who did not demonstrate criminal behavior. Nonetheless, political activists, underground religious adherents, persons who repeatedly petitioned the government, members of the banned Chinese Democracy Party (CDP), and Falun Gong practitioners were among those housed in these institutions.

In October 2012 the government passed legislation banning involuntary mental health examinations and inpatient treatment except in cases in which patients expressed an intent to harm themselves or others. Critics maintained, however, that the law still does not provide meaningful legal protections for persons sent to psychiatric facilities. The March 2012 amendments to the criminal procedure law require a procuratorate (the agency responsible for both prosecution and investigation) review and a court decision for the psychiatric commitment of persons who have committed serious offenses but are exempt from criminal responsibility under the law. The amendments went into effect in April and include a provision for appealing compulsory medical treatment decisions.

On April 7, a new mainland China magazine Lens carried an article reporting abuses including torture with electric batons, forced feeding, and prolonged solitary confinement at the Masanjia Detention Center in Liaoning Province.

Advocacy groups continued to report organ harvesting from prisoners. Former vice health minister Huang Jiefu, who in March 2012 reportedly pledged to abolish taking organs for transplant from executed prisoners within three to five years, stated that organs from executed prisoners accounted for 64 percent of transplants in 2012 and for 54 percent in mid-2013.

Prison and Detention Center Conditions

Conditions in penal institutions for both political prisoners and criminal offenders were generally harsh and often degrading.

Forced labor remained a serious problem in penal institutions (see section 7.b.) as well as in RTL facilities. On December 28, the National People's Congress (NPC) Standing Committee passed legislation that formally abolished the RTL system. State media announced that all inmates would be released beginning December 30 and clarified that all pre-abolition penalties would be considered legitimate. On December 17, Amnesty International reported that authorities relabeled many RTL camps as "drug rehabilitation centers" and "legal education centers."

Physical Conditions: Prisoners and detainees were regularly held in overcrowded conditions with poor sanitation. Food often was inadequate and of poor quality, and many detainees relied on supplemental food, medicines, and warm clothing provided by relatives. Prisoners often reported sleeping on the floor because there were no beds or bedding. Adequate, timely medical care for prisoners remained a serious problem, despite official assurances that prisoners have the right to prompt medical treatment.

Information on the prison population was not made public. In an April 2012 report to the NPC Standing Committee, the minister of justice stated that the country had 681 prisons with 1.64 million inmates. The International Center for Prison Studies (ICPS) reported that in 2009, in addition to sentenced prisoners, 650,000 persons were held in detention centers, and it estimated there were between 100,000 and 260,000 pretrial detainees. The ICPS reported that in mid-2010 female prisoners made up approximately 5.1 percent of the prison population, and in 2005 juveniles made up 1.4 percent. The law requires juveniles be held separately from adults, unless facilities are insufficient, but children were sometimes held with adult prisoners and required to work. Political prisoners were held with the general prison population and reported being beaten by other prisoners at the instigation of guards. Some dissidents were not allowed to receive supplemental food, medicine, and warm clothing from relatives.

The law mandates that a prison shall be ventilated, allow for natural light, and be clean and warm. The law further provides that a prison "shall set up medical, living, and sanitary facilities and institute regulations on the life and sanitation of prisoners." It also states that the medical and health care of prisoners shall be put into the public health and epidemic prevention program of the area in which the prison is located. In many cases provisions for sanitation, ventilation, heating, lighting, basic and emergency medical care, and access to potable water were inadequate.

Conditions in administrative detention facilities, such as RTL camps, were similar to those in prisons. Beating deaths occurred in administrative detention and RTL facilities. Detainees reported beatings, sexual assaults, lack of proper food, and limited or no access to medical care.

Administration: It was unclear whether recordkeeping on prisoners was adequate. Authorities employed alternatives to incarceration for both violent and nonviolent offenders. According to Vice Minister of Justice Zhao Dacheng, more than one million convicts served their sentences in community corrections programs since 2003. There were no prison ombudsmen per se, but prisoners and detainees are legally entitled to submit complaints to judicial authorities without censorship and request investigation of credible allegations of inhuman conditions. The law states that letters from a prisoner to higher authorities of the prison or to the judicial organs shall be free from examination, but it was unclear to what extent the law was implemented. While authorities occasionally investigated credible allegations of inhuman conditions, the results were not documented in a publicly accessible manner. Many prisoners and detainees did not have reasonable access to visitors and could not engage in religious practices. Under Article 52 of the prison law, "considerations shall be given to the special habits and customs of prisoners of minority ethnic groups." Article 23 of the Detention Center Regulation has similar requirements. Little information was available about the implementation of these regulations.

The law requires the government to investigate and monitor prison and detention center conditions, and an official from the Prosecutor's Office is responsible for investigating and monitoring prison and detention center conditions.

Independent Monitoring: Information about prisons, including associated labor camps and factories, was considered a state secret, and the government did not permit independent monitoring of prisons or RTL camps. Prisoners remained inaccessible to local and international human rights organizations and media groups. Authorities did not allow the International Committee of the Red Cross to have access to prisoners or perform prison visits in the country.

d. Arbitrary Arrest or Detention

Arbitrary arrest and detention remained serious problems. The law grants police broad administrative detention powers and the ability to detain individuals for extended periods without formal arrest or criminal charges. Throughout the year human rights activists, journalists, unregistered religious leaders, and former political prisoners and their family members continued to be among those targeted for arbitrary detention or arrest.

In January the official media reported that authorities in Heilongjiang Province confined petitioner Chen Qingxia to a deserted mortuary for three years. Chen previously served 18-months' in RTL, was allegedly paralyzed by repeated beatings, and separated from her then 12-year-old son by local authorities. After the media report the local government reportedly found a house for Chen and pledged to help her look for her son.

From June 3 to 25, in Shenyang, Liaoning Province, plainclothes police reportedly detained prodemocracy activist Jiang Lijun on suspicion of inciting subversion of state authority and disturbing the social order. Jiang previously served a four-year sentence for "inciting subversion of the state power."

In July, Guangdong activist Wu Bin, also known as Xiucai Jianghu, was detained for allegedly "sabotaging electric power equipment." Wu previously filed a lawsuit against Shenzhen's Futian District Public Security Bureau (PSB) for illegally detaining him. He was released on bail in early August, rearrested in Zhejiang Province on September 12, and given 10 days' administrative detention for "spreading rumors."

Many activists were subjected to extralegal house arrest, denied travel rights, or administratively detained. Shanghai dissidents Feng Zhenghu and Zheng Enchong were under unofficial house arrest at their apartments in Shanghai. Both were allowed to move around Shanghai on occasion but were kept under constant surveillance. Outsiders were often prevented from visiting them, and they were not allowed to leave Shanghai. Zheng Enchong was denied permission to travel to Hong Kong to accept a fellowship teaching law. Authorities also reportedly kept other dissidents under unofficial house arrest. Officials sentenced Shanghai activists Wang Kouma and Wei Qin to 30 months and 27 months in prison, respectively, for "creating a disturbance" related to their lawful petitioning. Mao Hengfeng was released from RTL on February 8 and was serving the remainder of her 18-month sentence under house arrest.

Role of the Police and Security Apparatus

The main domestic security agencies include the Ministry of State Security, the Ministry of Public Security, and the People's Armed Police. The People's Liberation Army is primarily responsible for external security but also has some domestic security responsibilities. Local jurisdictions also frequently used civilian municipal security forces, known as "urban management" officials (chengguan), to enforce administrative measures. The Ministry of Public Security coordinates the country's civilian police force, which is organized into specialized police agencies and local, county, and provincial jurisdictions. Procuratorate oversight of the police was limited. Corruption at the local level was widespread. Police and urban management officials engaged in extrajudicial detention, extortion, and assault. In 2009 the Supreme People's Procuratorate acknowledged continuing widespread abuse in law enforcement. In 2009 domestic news media reported the convictions of public security officials who had beaten to death prisoners or suspects in their custody.

In May 2012 the Ministry of Supervision, Ministry of Human Resources and Social Security, and Ministry of Justice jointly issued regulations stating that police in prisons and RTL facilities face dismissal if they are found to have beaten, applied corporal punishment, abused inmates, or instigated such acts.

There were several media reports on deaths under the shuanggui system - the CCP internal disciplinary system used to investigate party members suspected of corruption. In April, Yu Qiyi, a chief engineer at a state-owned enterprise in Wenzhou, died after being interrogated for corruption. Authorities charged six investigators from the Communist Party's Disciplinary Committee in Wenzhou. The BBC reported they were sentenced to between four and 14 years in prison. They reportedly appealed their sentence.

Oversight of civilian municipal security forces was highly localized and ad hoc. By law the officials can be criminally prosecuted for abuses of power, but such cases were rarely pursued. There were multiple reports of conflicts erupting between these officials and street vendors in Liaoning, Jilin, and Heilongjiang provinces. For example, on June 19, civilian municipal security forces reportedly beat a family of fried-chicken vendors in the Beihang night market in Shenyang, Liaoning Province, who refused to turn over their equipment. In protest more than one thousand

Shenyang residents gathered at the scene and blocked traffic, and some reportedly retaliated by beating the officials. In some cases mediation resulted in compensation being paid to victims of these officials.

Arrest Procedures and Treatment of Detainees

Police detention beyond 37 days requires prosecutorial approval of a formal arrest. After arrest police are authorized to detain a suspect for up to an additional seven months while the case is investigated.

After the completion of a police investigation, an additional 45 days of detention are allowed for the procuratorate to determine whether to file criminal charges. If charges are filed authorities can detain a suspect for an additional 45 days before beginning judicial proceedings. Police sometimes detained persons beyond the period allowed by law, and pretrial detention periods of a year or longer were common.

The law stipulates that detainees be allowed to meet with defense counsel before criminal charges are filed. Some criminal defense attorneys noted that under the newly revised criminal procedure law their ability to meet with clients improved significantly. In some cases defense attorneys were able to arrange visits at any time and to have private meetings with their clients in detention centers. This generally did not apply to cases considered politically sensitive.

The criminal procedure law requires a court to provide a lawyer to a defendant who has not already retained one; who is blind, deaf, mute, or a minor; or who may be sentenced to death. Revisions that took effect on January 1 added defendants facing a life sentence or who are mentally ill. This law applies whether or not the defendant is indigent. Courts may also provide lawyers to other criminal defendants who cannot afford them, although courts often did not appoint counsel in such circumstances.

Criminal defendants are entitled to apply for bail (also translated as "a guarantor pending trial") while awaiting trial, but the system does not appear to operate effectively and few suspects were released on bail.

The law requires notification of family members within 24 hours of detention, but individuals were often held without notification for significantly longer periods, especially in politically sensitive cases. Under a sweeping exception officials are not required to provide notification if doing so would "hinder the investigation" of a case. The revised criminal procedure law limits this exception to cases involving state security or terrorism.

The law allows for residential surveillance rather than detention in a formal facility under certain circumstances. Under the revised criminal procedure law, with the approval of the next higher-level authorities, officials can enforce "residential surveillance" on a suspect at a designated place of residence (i.e., a place other than the suspect's home) for up to six months, when they suspect crimes of endangering state security, terrorism, or serious bribery and believe that surveillance at the suspect's residence would impede the investigation. Authorities must notify relatives of individuals placed under formal arrest or residential surveillance in a designated abode within 24 hours, unless notification is impossible. They are not required to specify the grounds for or location of the detention. Authorities can also prevent defense lawyers from meeting with suspects in these categories of cases.

The law provides for the right to petition the government for resolution of grievances, but citizens who traveled to Beijing to petition the central government were frequently subjected to arbitrary detention, often by police dispatched from the petitioner's hometown. Some provincial governments operated facilities in Beijing or in other localities where petitioners from their districts were held in extrajudicial detention. Some local governments took steps to restrict petitioning. According to a 2010 Shanxi provincial government report, the Shanxi Province People's Congress adopted regulations that listed eight types of "prohibited" petitioning, including: "illegally gathering, encircling, or rushing into government offices or important public spaces, stopping cars or hindering public transportation, linking up with others to petition," and similar acts. The Shanxi regulations also stated that petitioners suspected of "misrepresenting facts to frame others" could be subject to criminal charges.

Online reports claimed local officials in Zengcheng City, Guangdong Province, sealed off two villages in March during the People's Congress and the Chinese People's Political Consultative Conference (CPPCC) sessions to prevent residents from petitioning.

On April 17, Shenzhen-based lawyer Jiang Yuanmin was arrested and charged with "gathering a crowd to disrupt social order" in connection with his work on be-

half of Hainan farmers' land rights, according to online reports. Family members claimed he was denied medical treatment.

Fujian petitioner Luo Xianying was reportedly arrested in Beijing in fall 2012 and forcibly returned to Sanming in November 2012. At year's end she was detained in a government building, and her family claimed she had not received adequate treatment for her medical problems.

Before the December 28 NPC Standing Committee decision to abolish RTL, nonjudicial panels, known as "labor re-education panels," could remand persons to RTL camps for up to three years without trial. Labor re-education panels were authorized to extend these administrative sentences for up to one year. Detainees were technically allowed to challenge administrative RTL sentences and appeal for sentence reduction or suspension, but appeals were rarely successful.

Other forms of administrative detention include "custody and education" (for women engaged in prostitution and those soliciting prostitution) and "custody and training" (for minor criminal offenders). The law establishes a system of "compulsory isolation for drug rehabilitation." The minimum stay in such centers is two years, and the law states that treatment can include labor. Public security organs authorize detention in these centers, and it often was meted out as an administrative rather than criminal measure. Authorities used administrative detention to intimidate political activists and prevent public demonstrations.

Arbitrary Arrest: In February police began detaining and arresting dozens of activists, lawyers, and other citizens in an apparently coordinated crackdown on a loose grouping of activists known as the New Citizens Movement. The Beijing Municipality Traffic Security Division detained Beijing University of Post and Telecommunications lecturer and legal scholar Xu Zhiyong on July 16 on suspicion of "gathering a crowd to disturb public order." He was formally arrested on August 22 and formally charged in December. On September 13, authorities detained venture capitalist and popular microblogger Wang Gongquan on charges of "gathering a crowd to disturb public order," after he used his microblog to decry Xu's arrest.

Other New Citizens Movement associates arrested for peaceful advocacy of good governance included Liu Ping, Wei Zhongping, Li Sihua, Yuan Dong, Ma Xinli, Zhang Baocheng, Hou Xin, Li Wei, Wang Yonghong, Ding Jiaxi, Sun Hanhui, Zhao Changqing, Qi Yueying, Zhang Xiangzhong, Li Gang, Li Huanjun, and Song Guangqiang.

Authorities arrested persons on allegations of revealing state secrets, subversion, and other crimes as a means to suppress political dissent and public advocacy. These charges - including what constitutes a state secret - remained ill defined. Authorities also detained citizens and foreigners under broad and ambiguous state secrets laws for, among other actions, disclosing information on criminal trials, meetings, commercial activity, and government activity. Authorities sometimes retroactively labeled a particular action as a violation of the state secret laws. According to a Radio Free Asia (RFA) report, local officials in Dujiangyan, Sichuan Province, detained Zhou Xingrong, whose child died in the 2008 Sichuan earthquake, for nine hours in April 2012 for allegedly revealing "state secrets" by microblogging about efforts by bereaved parents to obtain compensation for their children's earthquake-related deaths. According to a western media report, authorities continued to harass her during the year.

Authorities placed numerous dissidents, activists, and petitioners under house arrest during the October National Day holiday period and at other sensitive times, such as during the visits of senior foreign government officials or in the period preceding the annual plenary sessions of the NPC and the CPPCC, the anniversary of the Tiananmen massacre, and sensitive anniversaries in Tibetan areas and the XUAR.

Conditions faced by those under house arrest varied but sometimes included complete isolation in their homes under police guard. In some instances security officials were stationed inside the homes of subjects under house arrest. Others under house arrest occasionally were permitted to leave their homes to work or run errands but were required to ride in police vehicles. In some cases police or plainclothes security officers escorted the children of politically sensitive individuals to and from school. When permitted to leave their homes, subjects of house arrest were usually under police surveillance. Authorities in the XUAR used house arrest and other forms of arbitrary detention against those accused of supporting the "three evils" of religious extremism, "splittism," and terrorism.

After serving one year at an RTL camp for staging protests calling for political reforms and attempting to visit prominent activist Ai Weiwei, Fujian petitioner Wang Weizhu was released in July. She went to a foreign embassy compound in

Beijing after her release to distribute leaflets about her grievances, after which Beijing Police reportedly detained her for five days.

According to the RFA, in June authorities detained members of the Guizhou Human Rights Symposium, including Wu Yuqin, Li Renke, and Mo Jiangang, and forced them to leave the provincial capital for the duration of the two-day EU-China meeting on human rights there.

Pretrial Detention: Pretrial detention can last as long as one year. Defendants in "sensitive cases" reported being subjected to prolonged pretrial detention.

e. Denial of Fair Public Trial

The law states that the courts shall exercise judicial power independently, without interference from administrative organs, social organizations, and individuals. The judiciary did not exercise judicial power independently. Legal scholars interpreted former president Hu Jintao's doctrine of the "Three Supremes" as stating that the interests of the CCP are above the law. Judges regularly received political guidance on pending cases, including instructions on how to rule, from both the government and the CCP, particularly in politically sensitive cases. The CCP Law and Politics Committee has the authority to review and influence court operations at all levels of the judiciary.

During the year media sources indicated public security authorities used televised confessions of foreign and domestic bloggers, journalists, and business executives in an attempt to establish guilt before their criminal trial proceedings began.

A CCP-controlled committee decides most major cases, and the duty of trial and appellate court judges is to craft a legal justification for the committee's decision.

"Judicial independence" was reportedly one of the off-limit subjects that the CCP ordered university professors not to discuss (see section 2.a., Academic Freedom).

Corruption also influenced court decisions. Safeguards against judicial corruption were vague and poorly enforced. Local governments appoint and pay local court judges and, as a result, often exerted influence over the rulings of judges in their districts.

Courts are not authorized to rule on the constitutionality of legislation. The law permits organizations or individuals to question the constitutionality of laws and regulations, but a constitutional challenge can be directed only to the promulgating legislative body. Lawyers have little or no opportunity to rely on constitutional claims in litigation.

Trial Procedures

The criminal justice system was biased toward a presumption of guilt, especially in high-profile or politically sensitive cases. According to the Supreme People's Court, in 2011 the combined conviction rate for first- and second-instance criminal trials was 99.9 percent. Of 1,051,638 criminal defendants tried in 2011, only 891 were acquitted.

In many politically sensitive trials courts handed down guilty verdicts immediately following proceedings with no deliberation. Courts often punished defendants who refused to acknowledge guilt with harsher sentences than those who confessed. The appeals process rarely reversed convictions. Appeals processes failed to provide sufficient avenues for review, and remedies for violations of defendants' rights were inadequate.

Regulations of the Supreme People's Court require all trials to be open to the public, with the exceptions of cases involving state secrets, privacy issues, and minors. Authorities used the state-secrets provision to keep politically sensitive proceedings closed to the public, sometimes even to family members, and to withhold access to defense counsel. Court regulations state that foreigners with valid identification should be allowed to observe trials under the same criteria as citizens, but foreigners were permitted to attend court proceedings only by invitation. As in past years, foreign diplomats and journalists unsuccessfully sought permission to attend a number of trials. In some instances the trials were reclassified as "state secrets" cases or otherwise closed to the public. During the year foreign diplomats attempted to attend nearly one dozen public trials throughout the country. In each instance court officials claimed that there were no available seats in the courtroom and that foreigners needed prior permission to attend trials.

Some trials were broadcast, and court proceedings were a regular television feature. A few courts published their verdicts on the internet.

The revised criminal procedure law makes clear that a criminal suspect may retain a lawyer immediately after an initial police interrogation or after his or her freedom has been officially limited. Investigators are required to inform suspects of

their right to retain counsel. Police must also arrange meetings between a defense lawyer and his or her client within 48 hours of a request from defense counsel.

Individuals facing administrative detention do not have the right to seek legal counsel. Criminal defendants were eligible for legal assistance, although more than 50 percent of criminal defendants went to trial without a lawyer. According to the Ministry of Justice, in 2012 there were more than one million legal aid cases. The revised criminal procedure law expanded requirements for legal aid to include cases that could result in life imprisonment and cases involving individuals suffering from mental illness.

Human rights lawyers reported that authorities did not permit them to defend certain clients or threatened them with punishment if they chose to do so. The government suspended or revoked the licenses of lawyers or their firms to stop them from taking sensitive cases, such as defending prodemocracy dissidents, house-church activists, Falun Gong practitioners, or government critics.

The CCP continued to require law firms with three or more CCP members to form a CCP unit within the firm. Firms with one or two CCP members may establish joint CCP units with other firms. In smaller counties and cities with few lawyers, CCP members may join local Justice Bureau CCP units. This rule also applies to private companies and other organizations.

Some lawyers declined to represent defendants in politically sensitive cases, and such defendants frequently found it difficult to find an attorney.

Authorities detained Guangzhou-based activist Yang Maodong (also known under the pen name Guo Feixiong) on August 8 on suspicion of "gathering a crowd to disrupt order of a public place." According to several Western media sources, officials repeatedly denied him access to lawyers. International media speculated he was detained in connection with his participation in protests surrounding the incident in January involving censorship of the Guangzhou newspaper Southern Weekend and his association with the New Citizens Movement (see section 2, Freedom of Speech and Press).

When defendants were able to retain counsel in politically sensitive cases, government officials sometimes prevented attorneys from organizing an effective defense. Tactics employed by court and government officials included unlawful detentions, disbarment, harassment and physical intimidation, and denial of access to evidence and to clients.

In April a court in Jiangsu Province placed Beijing rights lawyer Wang Quanzhang under a 10-day judicial detention for "serious violations of court procedure." The violations consisted of using his mobile telephone to copy a set of original documents he was submitting to the court during the trial of a Falun Gong practitioner.

Online reports indicated that on June 25 riot police in Wenchang, Hainan Province, intercepted a group of Guangzhou-based lawyers who had come to represent detained dissident Zheng Qiuwu and his wife. The riot police scuffled with the lawyers and forced them to return to the provincial capital of Haikou.

The annual licensing review process administered by the Beijing Lawyers Association was used to withhold or delay the renewal of professional lawyers' licenses, which restricted the ability of a number of human rights and public interest lawyers to practice law.

Government officials continued to harass lawyers for their involvement in high-profile, rights-related cases.

Defense attorneys may be held legally responsible if their client commits perjury, and prosecutors and judges have wide discretion to decide what constitutes perjury. In some sensitive cases lawyers had no pretrial access to their clients, and defendants and lawyers were not allowed to communicate with one another during trials. Criminal defendants were frequently not assigned an attorney until a case was brought to court. According to a Ministry of Justice official, in 2011 lawyers represented fewer than half of criminal defendants, and in some provincial-level administrative regions, only an estimated 12 percent of criminal suspects had lawyers.

Mechanisms allowing defendants to confront their accusers were inadequate. Only a small percentage of trials involved witnesses, and fewer than 10 percent of subpoenaed witnesses appeared in court. A provision of the revised criminal procedure law compels witnesses to appear in court and includes protections for witnesses and financial allowances for performing the duties of a witness. In most criminal trials, prosecutors read witness statements, which neither the defendants nor their lawyers had an opportunity to rebut. Although the law states that pretrial witness statements cannot serve as the sole basis for conviction, prosecutors relied heavily

on such statements. Defense attorneys had no authority to compel witnesses to testify or to mandate discovery, although they could apply for access to government-held evidence relevant to their case. Defense attorneys received minimal pretrial access to information.

The criminal code contains 55 capital offenses, including nonviolent financial crimes such as embezzlement and corruption. There was no publicly available government information on how many defendants were either sentenced to death or executed during the year. Official figures on execution are classified as a state secret. An international human rights NGO estimated that 4,000 persons were executed annually in recent years, a marked decrease in the years following the 2007 Supreme People's Court retrieval of its authority to conduct final reviews of death sentences. Lethal injection and shooting were employed as execution methods.

Chen Youxi, the attorney for street vendor Xia Junfeng, who was convicted of killing two urban management officials in Shenyang, Liaoning Province, and executed on September 25, argued that the Supreme People's Court failed to consider evidence supporting Xia's claims of self-defense during its review of his sentence. According to a report, the presiding judge refused to admit the testimony of several eyewitnesses and relied on the statements of other urban management officials.

Political Prisoners and Detainees

Government officials continued to deny holding any political prisoners, asserting that authorities detained persons not for their political or religious views but because they violated the law. Authorities, however, continued to imprison citizens for reasons related to politics and religion. Tens of thousands of political prisoners remained incarcerated, some in prisons and others in RTL camps or administrative detention. The government did not grant international humanitarian organizations access to political prisoners.

Foreign NGOs estimated that several hundred persons remained in prison for "counterrevolutionary crimes," which were removed from the criminal code in 1997. Thousands of others were serving sentences under state security statutes. The government apparently neither reviewed all cases of those charged before 1997 with counterrevolutionary crimes nor released persons jailed for nonviolent offenses under repealed provisions of the criminal law. The government maintained that prisoners serving sentences for counterrevolutionary crimes and endangering state security were eligible to apply for sentence reduction and parole. Political prisoners, however, were granted early release at lower rates than other prisoners. Observers believed that persons remained in prison for crimes in connection with their involvement in the 1989 Tiananmen prodemocracy movement, although the number was unknown because related official statistics were never made public.

Rights lawyer Gao Zhisheng remained in prison in Xinjiang for allegedly violating the terms of a suspended prison sentence. Authorities sharply limited access to him and at times concealed his whereabouts. Democracy activist Hada remained in unofficial detention in Inner Mongolia three years after reportedly completing a 15-year sentence in 2010. Hada's wife and sons also faced periods of extralegal house arrest.

Many political prisoners remained in prison or under other forms of detention at year's end, including rights activists Wang Bingzhang and Liu Xianbin; Ablikim Abdureyim, son of Uighur activist Rebiya Kadeer; Zhou Yongjun; labor activist Kong Youping; Roman Catholic bishop Su Zhimin; and Tibetan Buddhist reincarnate lama Tenzin Delek Rinpoche, who was reportedly in poor health.

Nobel Peace Prize laureate Liu Xiaobo, coauthor of the Charter '08 manifesto that called for increased political freedoms and human rights, remained in Jinzhou Prison in Liaoning Province. Beijing-based human rights attorney Mo Shaoping, whose firm represented Liu, reported that Liu's wife Liu Xia was allowed to travel from Beijing to Jinzhou to see him monthly. She remained under 24-hour surveillance, and police escorted her whenever she was allowed to leave her home. Media reports in December indicated that Liu Xia might be suffering from depression due to her long-term isolation and deprivation of access to books and the internet.

On August 16, a Beijing court sentenced Liu Hui, Liu Xiaobo's brother-in-law, to 11 years' imprisonment on spurious charges of contract fraud by. Liu Xia was allowed to attend the trial on April 23 and told onlookers outside the court that she was not free.

At year's end reliable information was not available as to whether the following individuals remained in detention: Abdulla Jamal, Uighur activist Dilkex Tilivaldi, Feng Xinchun, Gonpo Lhundrub, Gonpo Thar, Jalo, Tselo, and Wang Diangang.

Criminal punishments continued to include "deprivation of political rights" for a fixed period after release from prison, during which time the individual was denied

rights of free speech, association, and publication. Former prisoners reported that their ability to find employment, travel, obtain residence permits, rent residences, and access social services was severely restricted. Former political prisoners and their families frequently were subjected to police surveillance, telephone wiretaps, searches, and other forms of harassment or threats.

Civil Judicial Procedures and Remedies

Courts deciding civil matters faced the same limitations on judicial independence as criminal courts. The State Compensation Law provides administrative and judicial remedies for plaintiffs whose rights or interests government agencies or officials have infringed. The law also allows compensation for wrongful detention, mental trauma, or physical injuries inflicted by detention center or prison officials. Citizens seldom applied for state compensation because of the high cost of bringing lawsuits, low credibility of courts, and citizens' lack of awareness of the State Compensation Law. Victims' claims were difficult to assess because of vague definitions in the law and difficulties in obtaining evidence of injury or damage. Judges were reluctant to accept state compensation cases, and government agencies seldom implemented court judgments in favor of plaintiffs.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

While the law states that the "freedom and privacy of correspondence of citizens are protected by law," authorities often did not respect the privacy of citizens. Although the law requires warrants before law enforcement officials can search premises, officials frequently ignored this requirement. The Public Security Bureau and prosecutors are authorized to issue search warrants on their own authority without judicial review. Cases of forced entry by police officers continued to be reported.

Authorities monitored telephone conversations, fax transmissions, e-mail, text messaging, and internet communications. They also opened and censored domestic and international mail. Security services routinely monitored and entered residences and offices to gain access to computers, telephones, and fax machines.

According to foreign media reports, the Ministry of Public Security used tens of millions of surveillance cameras in the country. Authorities justified the security cameras as a way to improve public safety, crime fighting, traffic management, and "social stability." Human rights groups stated authorities increasingly relied on the cameras to monitor and intimidate political dissidents, Tibetans, and Uighurs.

The monitoring and disruption of telephone and internet communications were particularly widespread in the XUAR and Tibetan areas. Authorities frequently warned dissidents and activists, underground religious figures, and former political prisoners throughout the country not to meet with foreign journalists or diplomats, especially before sensitive anniversaries, at the time of important government or CCP meetings, and during the visits of high-level foreign officials. Security personnel harassed and detained the family members of political prisoners, including following them to meetings with foreign reporters and diplomats and urging them to remain silent about the cases of their relatives.

Family members of activists, dissidents, Falun Gong practitioners, journalists, unregistered religious figures, and former political prisoners were targeted for arbitrary arrest, detention, and harassment (see section 1.d.).

In April four unidentified men forcibly removed 10-year-old Zhang Anni, the daughter of prodemocracy activist, Zhang Lin, from school and detained her at the Hefei city police station for several hours. Under government pressure, Hupo Elementary School refused to enroll Zhang Anni for seven weeks.

Chen Kegui, nephew of activist Chen Guangcheng, remained in prison at year's end. In April media reported that Kegui was suffering from an unknown health condition in prison following allegations of torture by prison authorities. Authorities denied his family's request for medical parole.

On August 16, Guangzhou police prohibited activist Tang Jingling and his wife Wang Yanfang from attending the funeral of well known house church pastor Samuel Lamb. Security officials reportedly put many pastors under house arrest to prevent them from attending the funeral. Guangzhou security personnel had previously detained Wang Yanfang for 10 days in December 2011 and January 2012 in connection with protests in the Guangdong village of Wukan.

On May 31, police in Wenchang, Hainan, arrested dissident Zheng Qiuwu's wife. On June 4, Zhejiang authorities detained Zheng himself and sent him home to Hainan. Both Zheng and his wife reportedly were charged with "illegal business activity."

Forced relocation because of urban development continued and in some locations increased during the year. Protests over relocation terms or compensation were com-

mon, and some protest leaders were prosecuted. In rural areas infrastructure and commercial development projects resulted in the forced relocation of millions of persons.

Property-related disputes between citizens and government authorities, which often turned violent, were widespread in both urban and rural areas. These disputes frequently stemmed from local officials' collusion with property developers to pay little or no compensation to displaced residents, combined with a lack of effective government oversight or media scrutiny of local officials' involvement in property transactions, as well as a lack of legal remedies or other dispute resolution mechanisms for displaced residents. The problem persisted despite the central government's efforts to impose stronger controls over illegal land seizures and to standardize compensation. Redevelopment in traditional Uighur neighborhoods in cities throughout the XUAR, such as the Old City area in Kashgar, resulted in the destruction of historically or culturally important areas. Some residents voiced opposition to the lack of proper compensation provided by the government and coercive measures used to obtain their agreement to redevelopment. There were several reports of herders in Inner Mongolia complaining of confiscation of traditional pastoral lands for development.

Foreign media reported that at least 53 persons had self-immolated since 2009 to protest destruction of their homes.

For information on the government's family planning policies and their consequences, see section 6, Women.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The law provides for freedom of speech and press, although authorities generally did not respect these rights. Authorities continued to control print, broadcast, and electronic media tightly and used them to propagate government views and CCP ideology. During the year authorities imposed censorship and manipulated the press and the internet, particularly around sensitive anniversaries.

Freedom of Speech: With significant exceptions, especially speech that challenged the government or the CCP, political topics could be discussed privately and in small groups without official punishment. During the year some independent think tanks, study groups, and seminars reported pressure to cancel some sessions on sensitive topics. Those who made politically sensitive comments in public speeches, academic discussions, and comments to the media remained subject to punitive measures.

In March the government merged the State Administration of Radio, Film, and Television with the General Administration of Press and Publication to create a new broadcast and press regulatory body, the General Administration of Press, Publication, Radio, Film, and Television.

On September 9, the Supreme People's Court and Supreme People's Procuratorate issued a judicial interpretation that made online rumormongering a punishable offense. Under the interpretation the author of a libelous internet post that is reposted more than 500 times or read more than 5,000 times, or of an internet post that led to mass protests, instigated ethnic or religious clashes, damaged the country's image or caused "a bad international effect," is subject to a maximum of three years in prison. By year's end this interpretation had a chilling effect on online discourse.

The government frequently monitored gatherings of intellectuals, scholars, and dissidents where political or sensitive issues were discussed. In 2008, to commemorate International Human Rights Day, a group of 303 intellectuals and activists released a petition entitled Charter '08, calling for the CCP to respect human rights and implement democratic reforms. Since then Charter '08 signers continued to report official harassment, especially around sensitive dates.

According to Western media reports, Shenzhen activist Yang Mingyu (also known as Yang Lin) was arrested July 19 for "inciting subversion of state power" in connection with his democracy activism, participation in Charter '08, and efforts to disclose official corruption.

On August 12, activist Liu Jiacai, who served two years administrative detention sentence on a charge of "inciting subversion of state power" in 2002, was detained in Hubei Province on criminal charges of "inciting subversion of state power." Police reported that he was detained for posting and disseminating online writings and views about legal reform in China. NGO sources reported that the charges stemmed from the fact that Liu had gathered activists in Yichang, Hubei Province for dinner parties, where they discussed corruption and other sensitive topics.

Press Freedoms: All books and magazines require state-issued publication numbers, which were expensive and often difficult to obtain. Nearly all print media, broadcast media, and book publishers were affiliated with the CCP or a government agency. There were a small number of print publications with some private ownership interest but no privately owned television or radio stations. The CCP directed the domestic media to refrain from reporting on certain subjects, and all broadcast programming required government approval.

In November the General Administration of Press, Publication, Radio, Film, and Television began requiring news organizations to hold weekly lectures on the CCP's journalistic principles, and journalists applying to renew their media credentials are required to take an examination on Marxist journalistic ideals.

Foreign journalists based in the country found a challenging environment for reporting. According to the annual "Reporting Conditions" survey of the Foreign Correspondents' Club of China (FCCC), "98 percent of respondents do not think reporting conditions in China meet international standards, and 70 percent feel conditions have worsened or stayed the same as the year before."

On July 8, journalist and documentary filmmaker Du Bin was released from a Beijing jail on bail after being detained for five weeks for allegedly "disturbing order at a public place." In May, Du had posted an online documentary about the Masanjia Women's RTL Camp in Liaoning Province (see section 1.c.), and also in May a publisher with offices in Hong Kong and New York published his book on the Tiananmen massacre.

Violence and Harassment: On July 15, law enforcement officers in Baita District of Liaoyang, Liaoning Province, allegedly beat a Chinese Business Morning View journalist who was reporting on a dispute between residents and developers at a construction site and destroyed his interview recordings.

Restrictions on foreign journalists by central and local CCP propaganda departments remained strict, especially during sensitive times and anniversaries. Foreign press outlets reported that local employees of foreign news agencies were also subject to official harassment and intimidation. During the year the FCCC "found 63 cases in which police officers or unknown persons impeded foreign reporters from doing their work, including nine cases in which reporters were manhandled or subjected to physical force." The report adds that while "this represents a welcome drop from last year," such intimidation "remains unacceptable."

According to Western media reports, in February a group of unidentified men in four vehicles assaulted a German television crew filming in a village near Beijing. According to a German correspondent present at the scene, the men ran the crew's minivan off the road and then smashed its windshield with baseball bats.

In December, Chinese authorities prevented a Western reporter from attending a press event with UK Prime Minister David Cameron and Chinese Prime Minister Li Keqiang.

The FCCC reported that, although routine delays in the provision of journalist visas appear to have shortened in recent months, 10 percent of survey respondents reported difficulties in obtaining official press accreditation or a journalist visa because of their reporting or that of their predecessors. While some reporters who authored particularly controversial news articles ultimately had their visas renewed, their news organizations experienced difficulty obtaining visas for new journalists and staff, even when these individuals previously held journalist visas for China.

Additionally, among the correspondents surveyed, 30 percent stated their Chinese assistants encountered pressure from officials or experienced harassment.

The government limited attendance at official press briefings to domestic media. Foreign media and diplomats were allowed to attend only briefings conducted by the Ministry of Foreign Affairs and a handful of press briefings held around special events.

Authorities continued to enforce tight restrictions on citizens employed by foreign news organizations. The code of conduct for Chinese employees of foreign media organizations threatens with dismissal and loss of accreditation Chinese employees who engage in "independent reporting" and instructs them to provide their employers information that projects a good image of the country.

Official guidelines for domestic journalists were often vague, subject to change at the discretion of propaganda officials, and enforced retroactively. Propaganda authorities forced newspapers to fire editors and journalists responsible for articles deemed inconsistent with official policy and suspended or closed publications. The system of postpublication review by propaganda officials encouraged self-censorship by editors seeking to avoid the losses associated with penalties for inadvertently

printing unauthorized content. Officials can be punished for unauthorized contact with journalists.

Government officials used criminal prosecution, civil lawsuits, and other punishments, including violence, detention, and other forms of harassment, to intimidate authors and journalists and to prevent the dissemination of controversial writings. A domestic journalist can face demotion or job loss for publishing views that challenge the government.

In January a group of current and former journalists from the Guangzhou newspaper Southern Weekend (also translated as Southern Weekly), part of the Nanfang Daily Group, accused provincial propaganda officials of altering the newspaper's traditional New Year's message, which called for increased respect for constitutional rights. Southern Weekend journalists went on strike January 6 to protest editorial censorship, and students and activists began holding supportive demonstrations in front of the newspaper offices in Guangzhou. The protests turned into a broader public backlash against press censorship and were supported by editors, reporters, and social media. An agreement between the newspaper's staff and party overseers ended the strike January 8 and allowed the newspaper to resume publication January 10, but a clampdown on dissent reportedly followed. According to media reports, local authorities forcibly dispersed anticensorship protests, detained several activists for expressing solidarity with the newspaper, and blocked and deleted all references to the controversy from the internet.

Journalists who remained in prison at year's end included Yang Tongyan, and Dhondup Wangchen. Uighur webmasters Dilshat Perhat and Nijat Azat continued to serve sentences for "endangering state security." Uighur journalist Memetjan Abdulla was sentenced to life in prison in 2010, reportedly for transmitting "subversive" information related to the 2009 riots. During the year journalists working in traditional and new media were also imprisoned. In December 2012 the Prison Census of the Committee to Protect Journalists reported that, of 32 known journalists imprisoned in the country, 12 were ethnic Tibetan, seven were ethnic Uighur, and one was ethnic Mongolian. The committee documented two new imprisonment cases in 2012.

Censorship or Content Restrictions: Authorities continued to confiscate "unauthorized publications." According to the National Office Against Pornographic and Illegal Publications, 45 million illegal publications were confiscated and more than 3.7 million pieces of online information involving pornography or other illegal content were deleted in 2012.

Foreign journalists were denied permits to travel to the TAR, except for a very few highly controlled, government-organized press visits. Travel to Tibetan areas outside the TAR became increasingly difficult for foreign journalists. While foreign journalists were allowed access to Urumqi, XUAR, local and provincial authorities continued to control strictly the travel, access, and interviews of foreign journalists, even forcing them to leave cities in parts of the XUAR. After French news station France 24 broadcast journalist Cyril Payen's documentary about Tibet on May 30, Chinese embassy personnel went to the channel's headquarters in Paris to demand the withdrawal of the documentary from the station's website. The Chinese embassy in Bangkok also threatened Payen by telephone, according to Reporters Without Borders.

Media outlets received regular guidance on topics that should not be covered from the CCP's Central Propaganda Department. For example, in April the department issued censorship instructions to mainland media prohibiting them from reusing, reporting, and commenting on Lens magazine's April article on the Masanjia Women's Labor Re-education Camp in Liaoning Province (see section 1.c.).

Following an October typhoon in Yuyao, Zhejiang Province, that killed 10 persons and sparked protests about the government response, the State Council Information Office issued instructions to media outlets and internet companies not to report a local newspaper's story about the protests.

In December 2012 the Central Propaganda Department ordered media outlets to adhere strictly to the information provided by authoritative departments when reporting on officials suspected of involvement in graft or bribery. Throughout the year the Central Propaganda Department issued similar instructions regarding the election of Hong Kong's chief executive, the self-immolation of Tibetans, and the Bo Xilai scandal. The orders included instructions for media outlets not to investigate or report on their own.

Authorities continued to ban books with content they deemed controversial. The law permits only government-approved publishing houses to print books. The State Press and Publications Administration (PPA) controlled all licenses to publish.

Newspapers, periodicals, books, audio and video recordings, or electronic publications may not be printed or distributed without the approval of the PPA and relevant provincial publishing authorities. Individuals who attempted to publish without government approval faced imprisonment, fines, confiscation of their books, and other sanctions. The CCP exerted control over the publishing industry by preemptively classifying certain topics as state secrets.

Many intellectuals and scholars exercised self-censorship, anticipating that books or papers on political topics would be deemed too sensitive to be published. The censorship process for private and government media also increasingly relied on self-censorship and, in a few cases, postpublication sanctions.

The General Administration of Press, Publication, Radio, Film, and Television, and the CCP remained active in issuing restrictive regulations and decisions constraining the content of broadcast media.

Authorities continued to jam, with varying degrees of success, Chinese-, Uighur-, and Tibetan-language broadcasts of the Voice of America (VOA), the BBC, and RFA. English-language broadcasts on the VOA generally were not jammed. Internet distribution of streaming radio news and podcasts from these sources often was blocked. Despite the jamming of overseas broadcasts, the VOA, the BBC, RFA, Deutsche Welle, and Radio France International had large audiences, including human rights advocates, ordinary citizens, and government officials.

Overseas television newscasts, largely restricted to hotels and foreign residence compounds, were occasionally subject to censorship. Such censorship of foreign broadcasts also occurred around the anniversary of the 1989 Tiananmen massacre and during the 18th Party Congress in 2012. Individual issues of foreign newspapers and magazines were occasionally banned when they contained articles deemed too sensitive. After two U.S. media websites published articles on Bloomberg.com and in the New York Times detailing the family wealth of Xi Jinping and Wen Jiabao, websites for both media outlets were blocked.

Politically sensitive coverage in Chinese, and to a lesser extent in English, were censored more than coverage in other languages. The government prohibited some foreign and domestic films deemed too sensitive or selectively censored parts of films before they were released.

Internet Freedom

In 2010 the Information Office of the State Council released its first White Paper on the internet outlining the government's endeavors to allow certain freedoms of speech on the internet as long as the speech did not endanger state security, subvert state power, damage state honor and interests, jeopardize state religious policy, propagate heretical or superstitious ideas, or spread rumors and other content forbidden by laws and administrative regulations, among other caveats. The internet was widely available and widely used. The China Internet Network Information Center (CNNIC) reported that by the end of 2012 the number of internet users reached 564 million, including 420 million mobile telephone internet users. The CNNIC reported that 50.9 million new users were added in 2012 - a 3.8 percent increase from 2011. The International Telecommunication Union reported that 39 percent of individuals used the internet and 41 percent of households had access to the internet by the end of the year.

The CCP underscored the importance of maintaining security and promoting core socialist values on the internet in its official decision adopted at the Sixth Plenum of the 17th CCP Congress in October 2011. The document called for developing a "healthy and uplifting network culture" that entails measures such as "step[ping] up guidance and management over social networks and instant messaging tools, standardiz[ing] the transmission order of information on the internet, and foster[ing] a civilized and rational network environment."

The CCP continued to increase efforts to monitor internet use, control content, restrict information, block access to foreign and domestic websites, encourage self-censorship, and punish those who ran afoul of political sensitivities. According to news sources, more than 14 government ministries participated in these efforts, resulting in the censorship of thousands of domestic and foreign websites, blogs, cell phone text messages, social networking services, online chat rooms, online games, and e-mail. These measures were not universally effective. In addition to its own extensive system of internet censorship, the government imposed more responsibilities on internet companies to implement online censorship and surveillance regimes, and it sought to prohibit anonymous expression online.

A State Council regulation deems personal blogs, computer bulletin boards, and cell phone text messages to be part of the news media, which subjects these media

to state restrictions on content. Internet service providers were instructed to use only domestic media news postings, to record information useful for tracking users and their viewing habits, to install software capable of copying e-mails, and to end immediately transmission of "subversive material."

Under guidance from the CCP, the government employed thousands of persons at the national, provincial, and local levels to monitor electronic communications. Official monitoring focused on such tools as social networking, microblogging, and video-sharing sites. Internet companies also employed thousands of censors to implement CCP directives.

In 2011 central government authorities ordered all public spaces offering free wireless internet access to install costly software that would enable police to identify users of the service. Authorities warned Beijing cafe and restaurant owners they would face a fine of 20,000 renminbi (RMB) ($3,270) if they offered wireless internet access without installing the software. In December 2012 the NPC ratified a law requiring persons to give their real names when signing up for internet, fixed telephone line, or mobile telephone services. Providers must also require persons' names when allowing them to post information publicly.

Major news portals require users to register using their real names and identification numbers to comment on news articles. Individuals using the internet in public libraries are required to register using their national identity card, and usage reportedly was monitored at all public library terminals.

The government consistently blocked access to websites it deemed controversial, especially those discussing Taiwan, the Dalai Lama, Tibet, underground religious and spiritual organizations, democracy activists, and the 1989 Tiananmen massacre. The government also at times blocked access to selected sites operated by foreign governments, news outlets, health organizations, educational institutions, NGOs, and social networking sites, as well as to search engines that allow rapid communication or organization of users.

In June 2012, following the publication of an expose on the financial affairs of Xi Jinping's family, the government blocked access to a Western media website. In October 2012 the government blocked access to the English- and Chinese-language versions of a U.S. media website after it published an article on Wen Jiabao's family fortunes. At year's end, several Western media and social media websites were not accessible.

Some websites included images of cartoon police officers that warn users to stay away from forbidden content. Operators of web portals, blog-hosting services, and other content providers engaged in self-censorship to ensure their servers were free from politically sensitive content. Domestic websites that refused to self-censor political content were shut down, and many foreign websites were blocked. Millions of citizens had Twitter-like microblogs that circulated some news banned in the national media. The microblogs themselves were censored but often hours or days after the posting.

In July 2012 the State Internet Information Office and the State Administration of Radio, Film and Television issued a circular requiring online video content providers to review videos before making them available online and holding them responsible for the content.

Authorities employed an array of technical measures to block "sensitive" websites based in foreign countries. The ability of users to access such sensitive sites varied from city to city. The government also automatically censored e-mail and web chats based on a list of sensitive key words, such as "Falun Gong," "Dalai Lama," and "Tibetan independence." While such censorship was effective in keeping casual users away from sensitive content, it was defeated through the use of various technologies. Information on proxy servers outside China and software for defeating official censorship was readily available inside the country, but the government increasingly blocked access to the websites and proxy servers of commercial virtual private network providers. Despite official monitoring and censorship, dissidents and political activists continued to use the internet to call attention to political causes such as prisoner advocacy, political reform, ethnic discrimination, and corruption. Internet users spanning the political spectrum complained of censorship. Authorities sometimes blocked or closed the blogs of a number of prominent activists, artists, scholars, and university professors during the year.

There were numerous press reports of purported cyber-attacks against foreign websites, foreign journalists, and foreign media organizations that carried information deemed offensive by the government.

Authorities continued to jail numerous internet writers for peaceful expression of political views.

According to online reports, in June police in Fujian detained an online activist for 10 days for her microblog comments about a June 7 bus explosion in Xiamen. Police previously detained this same blogger in January 2012 for her comments about alleged corruption behind forced home evictions and demolitions in Xiamen's Jimei district.

The blog of environmental writer Liu Futang remained inaccessible. His blog, which exposed environmental problems caused by government-backed projects, was shut down in late 2012 after a Hainan Province court found him guilty of illegally profiting from self-published books.

The State Secrets Law obliges internet companies to cooperate with investigations of suspected leaks of state secrets, stop the transmission of such information once discovered, and report the crime to authorities. Furthermore, the companies must comply with authorities' orders to delete such information from their websites, and failure to do so is punishable by relevant departments such as the police and the Ministry of Public Security.

Regulations prohibit a broad range of activities that authorities interpret as subversive or slanderous to the state.

Academic Freedom and Cultural Events

The government continued restrictions on academic and artistic freedom, and political and social discourse at colleges, universities, and research institutes. The General Administration of Press, Publications, Radio, Film, and Television and the Central Propaganda Department issued restrictive regulations and decisions that constrained the flow of ideas and persons. In May the media reported that the CCP issued secret instructions to university faculty identifying seven "off-limits" subjects including universal values, freedom of the press, civil society, civil rights, an independent judiciary, elite cronyism, and the historical errors of the CCP. Some academics self-censored their publications, faced pressure to reach predetermined research results, or were unable to hold conferences with international participants during politically sensitive periods. Peking University economics professor Xia Yeliang came under government criticism for calling for public discussion of reform among intellectuals, and in October he was dismissed from his university position.

In December the East China University of Political Science and Law in Shanghai dismissed law professor Zhang Xuezhong for criticizing one-party rule in an online publication. According to reports, the school administration decided Zhang was unfit to teach after he refused to admit any wrongdoing.

Censorship and self-censorship of artistic works was common, particularly those artworks deemed to involve politically sensitive subjects.

Authorities on a few occasions blocked entry into the country of individuals deemed politically sensitive and declined to issue passports to Chinese citizens selected for international exchange programs who were considered "politically unreliable," singling out ethnic Tibetans and Uighurs and individuals from other minority nationality areas.

A number of other foreign government-sponsored exchange selectees, particularly those from minority provinces, encountered difficulties gaining approval to travel to participate in their programs.

The government used political attitudes and affiliations as criteria for selecting persons for the few government-sponsored study abroad programs but did not impose such restrictions on privately sponsored students. The government and the party controlled the appointment of high-level officials at universities. While CCP membership was not always a requirement to obtain a tenured faculty position, scholars without CCP affiliation often had fewer chances for promotion.

Foreign researchers, authors, and academics residing abroad reported they were subject to sanctions, including denial of visas, from authorities when their work did not meet with official approval. Thirteen foreign academics asserted that they were blacklisted and blocked from obtaining visas to travel to China for having contributed scholarly essays to a book on Xinjiang published in 2004. Other scholars continued to be blacklisted or faced difficulties obtaining visas because of their politically sensitive work on China.

b. Freedom of Peaceful Assembly and Association Freedom of Assembly

While the law provides for freedom of peaceful assembly, the government severely restricted this right. The law stipulates that such activities may not challenge "party leadership" or infringe upon the "interests of the state." Protests against the

political system or national leaders were prohibited. Authorities denied permits and quickly suppressed demonstrations involving expression of dissenting political views.

Citizens continued to gather publicly to protest evictions, relocations, and compensation in locations throughout the country, often resulting in conflict with authorities or other charges (see section 1.f.).

Guangdong police worked aggressively to curtail free speech and preempt peaceful assembly during the anniversary of the Tiananmen Square incident. Authorities ordered 15-day administrative detention for the organizers of one event. Police placed other activists under surveillance or house arrest, encouraged some to leave town on "vacation," or invited them to police stations for "tea" and questioning. Police also reportedly restricted the freedom of Foshan rights activist Chen Qitang and Guangzhou rights activists Wang Aizhong and Tang Jingling in late May and early June in advance of and during the anniversary of the Tiananmen incident.

In January, Guangzhou police detained numerous persons involved in public demonstrations against the provincial propaganda department's censorship of Southern Weekend's New Year's greeting. In addition to administrative detentions and formal arrests, police reportedly held a number of participants in irregular detention facilities including a movie theater and a military base (see section 2.a.).

On January 2, police in the Luoxi neighborhood of Guangzhou preemptively detained dozens of activists, including organizer Xu Lin, for planning a musical performance and poetry recitation at a public square to celebrate the New Year.

On February 23, Liu Yuandong, Sun Desheng, and 12 others were detained in Guangdong for their participation in protests directed at North Korea's nuclear test. Most of the protesters were freed or given administrative detentions, but police formally arrested and charged Liu on April 3. According to media reports, police subjected Liu and Sun to mistreatment in custody including sleep deprivation. On April 12, authorities in Dongguan, Guangdong Province, gave four activists administrative detentions after they held up banners calling for Liu's release. On August 13, authorities in Guangzhou again detained Sun Desheng for the crimes of gathering crowds and disrupting public order.

In May, Chengdu authorities preemptively deployed 170,000 security personnel throughout the city on the date of a planned protest against the construction of a nearby petrochemical plant and its production of paraxylene. Authorities also detained suspected activists in the days leading up to the planned protest.

Also in May, Changsha authorities in Hunan Province detained Xiang Yuhan following his organization of a peaceful march of 100 persons in commemoration of the International Day Against Homophobia. Xiang was confined for 12 days in administrative detention on a charge of "illegal protest."

In February the Nanjing NGO Tianxiagong (Justice for All) won a lawsuit against a hotel in Suzhou that in 2012 had canceled its conference reservations at the last moment on order from the local PSB. In May another NGO's legal rights conference in Hangzhou faced similar obstructions when hotels canceled reservations. The hotels informed the NGO that Zhejiang and Jiangsu province security officers ordered authorities not to permit holding the gathering anywhere in the provinces.

All concerts, sports events, exercise classes, or other meetings of more than 200 persons require approval from public security authorities. Although peaceful protests are legal, police rarely granted approval. Despite restrictions there were many demonstrations, but those with political or social themes were broken up quickly, sometimes with excessive force. The number of "mass incidents" and protests, including some violent protests, against local governments increased during the year. According to an international NGO, a former leading member of the CCP's Politics and Law Commission stated that the country experienced 30,000 to 50,000 mass incidents every year. As in past years, the vast majority of demonstrations concerned land disputes; housing problems; industrial, environmental, and labor matters; government corruption; taxation; and other economic and social concerns. Others were provoked by accidents or were related to personal petitions, administrative litigation, and other legal processes.

Disputes over land expropriation continued to trigger large-scale clashes between police and protesters.

The law protects an individual's ability to petition the government, but persons petitioning the government faced restrictions on their rights to assemble and raise grievances (see section 1.d.). Most petitions addressed grievances about land, housing, entitlements, the environment, or corruption. Most petitioners sought to present their complaints at national and provincial "letters and visits" offices.

Although banned by regulations, retaliation against petitioners reportedly continued. This was partly due to incentives the central government provided to local officials to prevent petitioners from raising complaints to higher levels. Incentives included provincial cadre evaluations based in part on the number of petitions from their provinces. This initiative aimed to encourage local and provincial officials to resolve legitimate complaints but also resulted in local officials sending security personnel to Beijing and forcibly returning the petitioners to their home provinces to prevent them from filing complaints against local officials with the central government. Such detentions often went unrecorded. Rules issued by the General Office of the State Council mandate sending officials from Beijing to the provinces to resolve petition problems locally, thereby reducing the number of petitioners entering Beijing. The rules also mandate a 60-day response time for petitions and provide for a single appeal in each case.

Petitioners faced harassment, illegal detention, and even more severe forms of punishment when attempting to travel to Beijing to present their grievances.

On January 5, authorities prevented 13 petitioners from Fujian Province from requesting assistance with their petitions from a foreign embassy in Beijing. According to online reports, police detained six of the petitioners for five days and one petitioner for 10 days.

Freedom of Association

The law provides for freedom of association, but the government restricted this right. CCP policy and government regulations require that all professional, social, and economic organizations officially register with, and receive approval from the government. These regulations prevented the formation of truly autonomous political, human rights, religious, spiritual, labor, and other organizations that the government believed might challenge its authority.

The government maintained tight controls over civil society organizations.

According to regulations issued by the State Administration for Foreign Exchange, foreign exchange donations to or by domestic institutions must "comply with the laws and regulations.and shall not go against social morality or damage public interests and the legitimate rights and interests of other citizens." For donations to a domestic organization from a foreign NGO, the regulations require all parties and the banks to approve additional measures prior to processing a transaction. Application of the regulation varied, with some NGOs successfully navigating the requirements, others identifying other options by which to receive funds, and some severely limiting or shutting down operations.

To register, an NGO must find a government agency to serve as its organizational sponsor, have a registered office, and hold a minimum amount of funds. Some organizations with social or educational purposes that previously registered as private or for-profit businesses reportedly were requested to find a government sponsor and reregister as NGOs during the year. Finding a government sponsor was often very difficult, since the government department can be held responsible if the NGO engages in sensitive behavior. In March the NPC announced changes for NGO registration that waived the requirement to find a government sponsor. However, these changes only apply to four types of NGOs - industrial associations, charities, community services, and organizations dedicated to the promotion of technology. NGO sources reported that the new regulations do not apply to organizations primarily focused on advocacy or rights promotion.

In July the Ministry of Civil Affairs announced the intention to pass legislation that would allow international NGOs to register with provincial civil affairs authorities instead of the ministry. By year's end the legislation had not been promulgated.

In 2012 Guangdong provincial government officials initiated proposals aimed at facilitating the operations and work of many NGOs, including, for example, simplifying registration procedures so that certain categories of NGOs could register directly with the Ministry of Civil Affairs. Implementation of regulations associated with these proposals was often inconsistent. Although some NGOs perceived to be working in nonpolitically sensitive areas enjoyed increased opportunities, others continued to face interference from authorities, for example, through increased financial scrutiny. Labor NGOs in Shenzhen continued to face a challenging environment, including registration hurdles and occasional government interference with their activities.

Although registered organizations all came under some degree of government control, some NGOs were able to operate with a greater degree of independence.

The number of NGOs continued to grow, despite the restrictions and regulations. The government used the term "social organization" to categorize social groups

(shehui tuanti), such as trade and professional associations; civil noncommercial units (minban fei qiye danwei), which are the equivalent of nonprofit service providers; and foundations (jijinhui). The last category included two types of foundations: public fundraising and private fundraising foundations. The government continued to impose fundraising limits on private foundations.

According to the Ministry of Civil Affairs, by the end of 2012 there were at least one million NGOs either operating without legal status or registered as companies. The country had approximately 462,000 legally registered social organizations, including 255,000 social groups, 204,000 civil noncommercial units, and 2,614 foundations. In 2012 an official of the Ministry of Civil Affairs wrote, "In 2007 China started to use the term 'social organization' instead of 'civil organization' because 'civil' contrasts with 'official' and reflected the opposing roles of civil society and government in the traditional political order. The 16th and 17th CCP Congresses changed the name to 'social organization.' NGOs existed under a variety of formal and informal guises, including national mass organizations created and funded by the CCP, known as 'government NGOs.'"

The lack of legal registration created numerous logistical challenges for NGOs, including difficulty opening bank accounts and receiving foreign funding, hiring workers, fundraising, and renting office space. NGOs that opted not to partner with government agencies could register as commercial consulting companies, which allowed them to obtain legal recognition at the cost of forgoing tax-free status. Security authorities routinely warned domestic NGOs, regardless of their registration status, not to accept donations from the foreign-funded National Endowment for Democracy and other international organizations deemed sensitive by the government.

In July officials from the Beijing Civil Affairs Bureau raided, closed, and confiscated materials from the think tank Transition Institute for not registering properly. The institute registered as a business, and its head, Guo Yushan, was associated with the New Citizens Movement and activists such as Chen Guangcheng and Xu Zhiyong.

Authorities supported the growth of some NGOs that focused on social problems such as poverty alleviation and disaster relief, but remained concerned that these organizations might emerge as a source of political opposition. NGOs working in the TAR and other Tibetan areas faced an increasingly difficult operating environment, and many were forced to curtail their activities altogether due to travel restrictions, official intimidation of staff members, and the failure of local partners to renew project agreements.

No laws or regulations specifically govern the formation of political parties. The Chinese Democracy Party remained banned, and the government continued to monitor, detain, and imprison current and former CDP members.

c. Freedom of Religion

See the Department of State's International Religious Freedom Report at www.state.gov/j/drl/irf/rpt/.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation, but the government generally did not respect these rights. While seriously restricting its scope of operations, the government occasionally cooperated with the Office of the UN High Commissioner for Refugees (UNHCR), which maintained an office in Beijing, to provide protection and assistance to refugees, asylum seekers, and other persons of concern.

Increasingly the government silenced activists by denying them permission to travel, both internationally and domestically, or keeping them under unofficial house arrest. In the spring officials denied Jiangsu environmental activist Wu Lihong a passport to travel abroad to accept a human rights award, although his wife and daughter were eventually permitted to travel and accepted the award on his behalf. Uighur economist Ilham Tohti was detained at Beijing airport and prevented from traveling abroad to accept a position as a visiting scholar.

In-country Movement: Authorities heightened restrictions on freedom of movement, particularly to curtail the movement of individuals deemed politically sensitive, before key anniversaries, visits by foreign dignitaries, or major political events and to forestall demonstrations. Freedom of movement continued to be very limited in the TAR and other Tibetan areas. Police maintained checkpoints in most counties and on roads leading into many towns, as well as within major cities such as Lhasa. Tibetans from other provinces reported that authorities subjected them to onerous documentation requirements to enter the TAR and required Tibetans

who were not residents of Lhasa to obtain permission to enter the city, often forcing them to stay in specially designated accommodations, requirements not imposed on Han Chinese visitors to the TAR.

In 2012 prominent Tibetan poet and blogger Woeser, a Beijing resident, was required to leave Beijing and return to Lhasa for three months before and during the 18th Party Congress in Beijing. Uighur economics professor Ilham Tohti was also required to leave Beijing during the Party Congress. Feng Zhenghu, Mao Hengfeng, and other Shanghai activists reported being repeatedly detained upon arrival in Beijing when attempting to visit other activists or petition the national government.

Although the government maintained restrictions on the freedom to change one's workplace or residence, the national household registration system (hukou) continued to change, and the ability of most citizens to move within the country to work and live continued to expand. Rural residents continued to migrate to the cities, where the per capita disposable income was more than four times the rural per capita income, but many could not change their official residence or workplace within the country. Most cities had annual quotas for the number of new temporary residence permits that could be issued, and all workers, including university graduates, had to compete for a limited number of such permits. It was particularly difficult for rural residents to obtain household registration in more economically developed urban areas.

The household registration system added to the difficulties rural residents faced even after they relocated to urban areas and found employment. According to the 2012 Statistical Communique of the People's Republic of China on 2012 National Economic and Social Development published in February by the Ministry of Human Resources and Social Security, 279 million persons lived outside the jurisdiction of their household registration. Of that number, 236 million individuals worked outside their home district. Many migrant workers and their families faced numerous obstacles with regard to working conditions and labor rights. Many were unable to access public services, such as public education or social insurance, in the cities where they lived and worked because they were not legally registered urban residents. Poor treatment and difficulty integrating into local communities contributed to increased unrest among migrant workers in the Pearl River Delta. Migrant workers had little recourse when abused by employers and officials. Some major cities maintained programs to provide migrant workers and their children access to public education and other social services free of charge, but migrants in some locations reported difficulty in obtaining these benefits due to the onerous bureaucratic processes involved in obtaining access to urban services.

Under the "staying at prison employment" system applicable to recidivists incarcerated in RTL camps, authorities denied certain persons permission to return to their homes after serving their sentences. Some released or paroled prisoners returned home but were not permitted freedom of movement.

Foreign Travel: The government permitted legal emigration and foreign travel for most citizens. Some academics and activists continued to face travel restrictions, especially around sensitive anniversaries (see section 1.d.). The government exercised exit control for departing passengers at airports and other border crossings and utilized this exit control to deny foreign travel to dissidents and persons employed in sensitive government posts. Throughout the year lawyers, artists, authors, and other activists were at times prevented from freely exiting the country. Border officials and police cited threats to "national security" as the reason for refusing permission to leave the country. Authorities stopped most persons at the airport at the time of the attempted travel. Wuxi environmental activist Wu Lihong was prevented from traveling abroad to accept a human rights award in July. Shanghai activist Zheng Enchong was prevented from accepting a teaching fellowship in Hong Kong in August. Shanghai activist Chen Jianfang was prevented from traveling to a UN human rights training course in Geneva in September. Well known artist Ai Weiwei was denied a passport to attend exhibitions of his work abroad. Other activists also reported being blocked from traveling abroad.

Most citizens could obtain passports, although those government deemed potential threats, including religious leaders, political dissidents, petitioners, and ethnic minorities, reported routinely being refused passports or otherwise prevented from traveling overseas.

Ethnic Uighurs, particularly those residing in the XUAR, reported that it was very difficult to get a passport application approved at the local level. They were frequently denied passports to travel abroad, particularly to Saudi Arabia for the haj, other Muslim countries, or Western countries for academic or other purposes.

Authorities reportedly seized valid passports of some residents of the XUAR and other citizens.

In the TAR and Tibetan areas of Qinghai, Gansu, and Sichuan provinces, ethnic Tibetans experienced great difficulty acquiring passports. The unwillingness of Chinese authorities in Tibetan areas to issue or renew passports for ethnic Tibetans created, in effect, a ban on foreign travel for a large segment of the Tibetan population. Han residents of Tibetan areas did not experience the same difficulties.

Authorities denied Tibetan blogger and poet Woeser's passport application, preventing her from receiving the Secretary of State's International Women of Courage award in person. According to an RFA report, in June authorities placed Woeser and her husband under house arrest for speaking up about conditions in Tibet ahead of a state-sponsored trip by foreign journalists to the TAR.

Exile: The law neither provides for a citizen's right to repatriate nor addresses exile. The government continued to refuse reentry to numerous Chinese citizens who were considered dissidents, Falun Gong activists, or "troublemakers." Although authorities allowed some dissidents living abroad to return, dissidents released on medical parole and allowed to leave the country often were effectively exiled. Authorities imprisoned some activists residing abroad upon their return to the country.

Emigration and Repatriation: The government continued to try to prevent many Tibetans and Uighurs from leaving the country and detained many who were apprehended in flight (see Tibet Annex). During the year 171 Tibetans transited the UNHCR reception center in Kathmandu. There also were reports of the forcible return of Uighur asylum seekers from Malaysia in 2012. Of a group of 20 Uighurs returned from Cambodia in 2009, three persons, a woman and two children, were reportedly freed, and in 2011, 16 others received prison sentences ranging from 16 years to life. Chinese authorities continued to refuse to provide information regarding the whereabouts of the remaining individual.

Protection of Refugees

Access to Asylum: The law does not provide for the granting of refugee or asylee status, and the government did not establish a system for providing protection to refugees. Although the government does not grant refugee or asylee status, it allowed the UNHCR more latitude in assisting non-North Korean and non-Burmese refugees. The UNHCR office in Beijing recognized approximately 100 refugees from Pakistan, Iraq, Somalia, and Eritrea and was processing approximately 100 additional individuals who requested refugee status. Because the PRC did not officially recognize these individuals as refugees, they remained in the country as illegal immigrants unable to work, with no access to education, and subject to deportation at any time.

Refoulement: The government did not provide protection against the expulsion or forcible return of vulnerable refugees and asylum seekers, especially North Korean and Kachin refugees, to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. The government continued to consider all North Koreans "economic migrants" rather than refugees or asylum seekers, and the UNHCR continued to have no access to North Korean or Burmese refugees inside China. The lack of access to durable solutions and options, as well as constant fear of forced repatriation by authorities, left North Korean refugees vulnerable to human traffickers. Reports of various exploitation schemes targeting North Korean refugees, such as forced marriages, forced labor, and prostitution, were common. The government continued to deny the UNHCR permission to operate along its borders with North Korea and Burma.

Some North Koreans who entered diplomatic compounds in the country were permitted to travel to foreign countries after waiting for periods of up to two years.

On May 27, there were reports that the government of Laos coordinated with the Democratic People's Republic of Korea (DPRK) to deport nine North Korean asylum seekers from Laos to China. On June 3, the Foreign Ministry spokesperson stated the nine individuals entered China on May 27 and subsequently left Beijing bound for the DPRK holding valid travel documents and visas.

After two-time North Korean defector and South Korean citizen Kim Kwang-ho defected from North Korea to China for the second time, Chinese security officials in Yanji, Jilin Province, detained Kim, his wife Kim Ok-sil, and their daughter in July and held them until August before allowing them to return to South Korea. Chinese authorities reportedly repatriated to North Korea Kim's North Korean brother- and sister-in-law, who defected with him.

Refugee Abuse: The intensified crackdown begun in 2008 against North Korean asylum seekers and refugees reportedly extended to harassment of religious communities along the border. The government arrested and detained individuals who provided food, shelter, transportation, and other assistance to North Koreans. According to reports some activists or brokers detained for assisting North Koreans were charged with human smuggling, and in some cases the North Koreans were forcibly returned. There were also reports that North Korean agents operated clandestinely within the country to repatriate North Korean citizens forcibly. According to press reports, some North Koreans detained by Chinese police faced repatriation unless they could pay bribes to secure their release.

Access to Basic Services: Undocumented children of some North Korean asylum seekers and of mixed couples (i.e., one Chinese parent and one North Korean parent) did not have access to health care, public education, or other social services due to lack of legal status.

Durable Solutions: The government largely cooperated with the UNHCR when dealing with the resettlement of ethnic Han Chinese or ethnic minorities from Vietnam and Laos who resided in the country since the Vietnam War era. During the year the government and the UNHCR continued discussions concerning the granting of citizenship to these long-term residents and their children, many of whom were born in China.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The constitution states that "all power in the People's Republic of China belongs to the people" and that the organs through which the people exercise state power are the NPC and the people's congresses at provincial, district, and local levels. While the law provides citizens the right to change their government peacefully, citizens cannot freely choose or change the laws or officials that govern them. In fact the CCP controlled virtually all elections and continued to control appointments to positions of political power.

Elections and Political Participation

Recent Elections: The NPC, composed of up to 3,000 deputies, elects the president and vice president, the premier and vice premiers, and the chairman of the State Central Military Commission. The NPC Standing Committee, which consisted of 175 members, oversaw these elections and determined the agenda and procedures for the NPC.

The NPC Standing Committee remained under the direct authority of the CCP, and most legislative decisions require the concurrence of the CCP's seven-member Politburo Standing Committee. Despite its broad authority under the state constitution, the NPC did not set policy independently or remove political leaders without the CCP's approval.

According to Ministry of Civil Affairs statistics, almost all of the country's more than 600,000 villages had implemented direct elections for members of local subgovernmental organizations known as village committees. The direct election of officials by ordinary citizens remained narrow in scope and strictly confined to the local level. The government estimated that serious procedural flaws marred one-third of all elections. Corruption, vote buying, and interference by township-level and CCP officials continued to be problems. The law permits each voter to cast proxy votes for up to three other voters.

The election law governs legislative bodies at all levels, although compliance and enforcement was uneven across the country. Under this law citizens have the opportunity every five years to vote for local people's congress representatives at the county level and below, although in most cases higher-level government officials or CCP cadres controlled the nomination of candidates in those elections. At higher levels legislators selected people's congress delegates from among their ranks. For example, provincial-level people's congresses selected delegates to the NPC. Local CCP secretaries generally served concurrently within the leadership team of the local people's congress, thus strengthening CCP control over legislatures.

In 2012 the local governments kept most independent candidates - those without official government backing - off the ballots despite their meeting nomination criteria. No declared independent candidates won election in 2012. Election officials pressured independent candidates to renounce their candidacies, manipulated the ballot to exclude independent candidates, refused to disclose electorate information to independent candidates, and sometimes adjusted electoral districts to dilute voter support for independent candidates.

In September an independent People's Congress candidate from Foshan City, Guangdong Province, who was detained in 2011 during the People's Congress representative elections that year on a charge of undermining elections, was tried and found guilty of "disrupting elections." According to open source websites, hundreds of her supporters who wanted to observe her trial were denied access to the court.

Political Parties: Official statements asserted, "The political party system [that] China has adopted is multi-party cooperation and political consultation under" CCP leadership. The CCP, however, retained a monopoly on political power, and the government forbade the creation of new political parties. The government officially recognized nine parties founded prior to 1949, and parties other than the CCP held 30 percent of the seats in the NPC. Activists attempting to support unofficial parties were arrested, detained, or confined.

In 2009 in Hunan Province, dissident Xie Changfa, who tried to organize a national meeting of the banned CDP, was sentenced to 13 years in prison. Guo Quan, a former Nanjing University professor and founder of the China New Democracy Party, remained imprisoned following his 2009 sentence to 10 years in prison and three years' deprivation of political rights for "subversion of state power." Guo published articles criticizing the country's one-party system. Other current or former CDP members, including Yang Tianshui, remained in prison or in RTL camps for their calls for political reform and their affiliation with the CDP.

Participation of Women and Minorities: While the government placed no special restrictions on the participation of women or minority groups in the political process, women held few positions of significant influence in the CCP or government structure. Among the 2,987 delegates of the 11th NPC (term 2008-13), 637 were women (21 percent).

Ten women occupied ministerial or higher-ranked positions.

According to government-provided information, there were more than 230 female provincial and ministerial officials, 10 percent of the overall total; 670 female mayors and vice mayors, twice the number from 1995; and one provincial governor, Li Bin in Anhui Province (until June). A total of 37 women were members of provincial standing committees, constituting 9 percent of standing committee members. Following the 18th Party Congress in November, two women were members of the CCP's 25-member Politburo. There were no women in the Standing Committee of the Politburo. There were approximately 15 million female CCP cadres, approximately one-fifth of the party's membership.

The government encouraged women to exercise their right to vote in village committee elections and to run in those elections, although only a small fraction of elected members were women. In many locations a seat on the village committee was reserved for a woman, who was usually given responsibility for family planning. The election law provides a general mandate for quotas for female and ethnic minority representatives, but achieving these quotas often required election authorities to violate the election procedures specified in the election law. During the 2011-12 local people's congresses elections, many electoral districts in which independent candidates campaigned used these quotas as justification to thwart the independent candidacies.

A total of 411 delegates from 55 ethnic minorities were members of 11th NPC, accounting for 14 percent of the total number of delegates. All of the country's officially recognized minority groups were represented.

The 18th Communist Party Congress elected 10 members of ethnic minority groups as members of the Central Committee.

The only ministerial-level post held by an ethnic minority member was in the State Ethnic Affairs Commission, headed by Yang Jing, an ethnic Mongol from Inner Mongolia. Until November 2012 Hui Liangyu of the Hui ethnic group was a member of the Politburo. Minorities held few senior CCP or government positions of significant influence (see also section 6, National/Racial/Ethnic Minorities).

Section 4. Corruption and Lack of Transparency in Government

Although according to the law officials face criminal penalties for corruption, the government did not implement the law effectively, and officials frequently engaged in corrupt practices with impunity. Many cases of corruption involved areas heavily regulated by the government, such as land-usage rights, real estate, and infrastructure development, which were susceptible to fraud, bribery, and kickbacks. Court judgments often could not be enforced against powerful special entities, including government departments, state-owned enterprises, military personnel, and some members of the CCP.

While corruption remained a serious problem, there were increasing indications that the government recognized the seriousness of the problem.

In January the Central Commission for Discipline Inspection (CCDI), the CCP's leading body for countering corruption among members, reported that it had investigated 155,144 corruption-related cases and closed 153,704 of them and that the CCP and government had disciplined 160,718 officials.

In October the Supreme People's Procuratorate reported that prosecutors nationwide had investigated 18,283 cases involving bribery and major embezzlement from January to August. Among the suspects were 129 officials at the director general level and above.

In December the CCP Central Committee unveiled a five-year plan to punish and prevent corruption. On December 26, the CCDI reported it had punished 25,855 individuals for breaches to antibureaucracy and formalism rules during the year, including 6,247 CCP officials.

In February 2012 the NPC's Standing Committee amended the criminal law to make citizens and companies paying bribes to foreign government officials and officials of international public organizations subject to criminal punishments of up to 10 years' imprisonment and a fine.

In October 2012 the government established a "frugal working style" rule barring government officials from spending public money on luxury items such as lavish banquets and luxury cars and from accepting expensive gifts. In September the government banned officials from using public money to send mooncakes as gifts and in December published regulations that banned dishes containing shark fin, bird nests, and wild animal products from official banquets. In December the government issued guidelines forbidding officials from chartering planes or flying in private or corporate jets overseas.

In 2012 the Supreme People's Court urged local courts to ban family members of officials and judges from being lawyers under the local court's jurisdiction. Also in 2012 the Higher People's Court of Fujian Province forbade judges from meeting privately with representatives in a case.

In February 2012 the Supreme People's Procuratorate announced the availability of a national bribery database listing individuals and companies found guilty of certain offenses, including bribing an individual or entity, and facilitating bribery. Companies and individuals must apply in writing to have the procuratorate check nationwide to determine whether a particular individual or company has been convicted of bribery offenses in the PRC. Companies must provide a copy of their business license.

In June 2012 the Supreme People's Procuratorate stated it would strengthen measures to recover and freeze illegal assets transferred abroad by corrupt officials.

Corruption: In numerous cases during the year, public officials and leaders of state-owned enterprises, who generally hold high CCP ranks, were investigated for corruption. In June the CCDI announced that Guo Yongxiang, a former deputy governor of Sichuan Province, was under investigation for suspected disciplinary violations.

In July a Beijing court sentenced former railroads minister Liu Zhijun to death, with a two-year reprieve. Liu came under scrutiny for his mismanagement of the country's high-speed train network.

On August 26, the Ministry of Supervision announced that Wang Yongchun, a vice president at state-owned China National Petroleum Corporation and the general manager of Daqing oilfield in Heilongjiang Province, was being investigated for "severe disciplinary violations."

In September the Beijing Municipal People's Procuratorate confirmed that it had indicted former Jilin vice governor Tian Xueren on corruption charges but did not provide a trial date or information about the specific charges against him. Tian was reported to have been stripped of both his party membership and government position for taking bribes.

In December the CCDI investigated Vice-Minister of Public Security Li Dongsheng for "suspected serious law and discipline violations."

Notable organizations that worked to address official corruption included the Central Commission for Discipline Inspection, the Ministry of Supervision, the National Bureau of Corruption Prevention, the International Association of Anti-Corruption Authorities, and the Anti-Corruption and Governance Research Center at Tsinghua University.

Whistleblower Protection: In 1991 the Supreme People's Procuratorate published the Regulation to Protect Citizen's Whistleblowing Rights. Whistleblowing protections are also included in various criminal and labor laws. Legal experts opined, however, that the constellation of laws and regulations did not provide adequate protections to whistleblowers. In September the government created an official website for citizens to report fraud, graft, and government mismanagement, with priority given to those who provide their real names and contact information. The government does not provide legal protection for whistleblowers who do not use official channels.

Financial Disclosure: A 2010 regulation requires officials in government agencies or state-owned enterprises at the county level or above to report their ownership of property, including that in their spouses' or children's names, as well as their families' investments in financial assets and enterprises. According to Article 23 of the regulations, the monitoring bodies are the CCDI, the Organization Department of the CCP, and the Ministry of Supervision. The regulations do not state that declarations are to be made public. Instead, they are to go to a higher administrative level and a human resource department. Punishments for not declaring information vary from education on the regulations, warning talks, and adjusting one's work position to being relieved of one's position. Regulations further state that officials should report all income, including allowances, subsidies and bonuses, as well as income from other jobs such as giving lectures, writing, consulting, reviewing articles, painting, and calligraphy. Officials, their spouses, and the children who live with them also should report their real estate properties and financial investments. Government officials should report their marriage status, records of private travel abroad, marriage status of their children, and whether their spouses are from Hong Kong, Taiwan, or a foreign country. They must report whether their children live abroad, as well as the work status of their children and grandchildren (including those who live abroad). Officials are required to file reports annually and must report changes of personal status within 30 days.

In December 2012 officials announced that Guangdong Province would pilot a program in select districts requiring all CCP and government officials to report their assets publicly, with officials who refuse to do so to be relieved of their posts and subjected to further investigations. This program was not put into practice by year's end.

Public Access to Information: Open-government information regulations allow citizens to request information from the government. The regulations require government authorities to create formal channels for information requests and to include an appeal process if requests are rejected or not answered. They stipulate that administrative agencies should reply to requests immediately to the extent possible. Otherwise, the administrative agency should provide the information within 15 working days, with the possibility of a maximum extension of an additional 15 days. In cases in which third-party rights and interests are involved, the time needed to consult the third party does not count against the time limits. According to the regulations, administrative agencies may collect only cost-based fees (as determined by the State Council) for searching, photocopying, postage, and similar expenses when disclosing government information on request. Citizens requesting information can also apply for a fee reduction or exemption. The regulations include exceptions for state secrets, commercial secrets, and individual privacy.

Publicly released provincial- and national-level statistics for open-government information requests showed wide disparities across localities, levels of government, and departments in numbers of requests filed and official documents released in response.

If information requestors believe that an administrative agency has violated the regulations, they can report it to the next higher-level administrative agency, the supervision agency, or the department in charge of open-government information. In 2011 the Supreme People's Court ruled that citizens can sue any government department that refused to provide unclassified information. Shortly thereafter a Tsinghua University graduate student sued three government ministries after her requests for information regarding the duties of 14 ministries for use in her thesis were denied. A court delayed consideration of her case pending further research, and she withdrew her lawsuit after the ministries provided the requested information.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

The government sought to maintain control over civil society groups, halt the emergence of independent NGOs, hinder the activities of civil society and rights' ac-

tivist groups, and prevent what it called the "Westernization" of the country. The government did not permit independent domestic NGOs to monitor openly or to comment on human rights conditions, and it harassed domestic NGOs. The government tended to be suspicious of independent organizations and scrutinized NGOs with financial and other links overseas. Most large NGOs were quasi-governmental, and many official NGOs had to be sponsored by government agencies. The NPC introduced new registration procedures in March that allowed certain types of non-advocacy NGOs to register directly with the Ministry of Civil Affairs (see section 2.b., Freedom of Association).

An informal network of activists around the country continued to serve as a credible source of information about human rights violations. The information was disseminated through organizations such as the Hong Kong-based Information Center for Human Rights and Democracy, the foreign-based Human Rights in China, and Chinese Human Rights Defenders and via the internet.

The government remained reluctant to accept criticism of its human rights record by other nations or international organizations. It criticized reports by international human rights monitoring groups, claiming that such reports were inaccurate and interfered with the country's internal affairs. Representatives of some international human rights organizations reported that authorities denied their visa requests or restricted the length of visas issued to them. The government continued to participate in official diplomatic human rights dialogues with foreign governments although some governments encountered problems scheduling such dialogues.

Government Human Rights Bodies: The government did not have a human rights ombudsman or commission. The government-established China Society for Human Rights was an NGO whose mandate is to defend the government's human rights record. The government maintained that each country's economic, social, cultural, and historical conditions influenced its approach to human rights.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

While there were laws designed to protect women, children, persons with disabilities, and minorities, some discrimination based on ethnicity, sex, disability, and other factors persisted.

Women

Rape and Domestic Violence: Rape is illegal, and some persons convicted of rape were executed. The penalties for rape can range from three years in prison to a death sentence with a two-year reprieve and forced labor. The law does not address spousal rape. The government did not make available official statistics on rape or sexual assault, leaving the scale of sexual violence difficult to determine. Migrant female workers were particularly vulnerable to sexual violence.

Violence against women remained a significant problem. According to reports at least a quarter of families suffered from domestic violence, and more than 85 percent of the victims were women. Domestic violence against women included verbal and psychological abuse, restrictions on personal freedom, economic control, physical violence, and rape. The government supported shelters for victims of domestic violence, and some courts provided protections to victims, including through restraining orders prohibiting a perpetrator of domestic violence from coming near a victim. In March, Shaanxi Province designated the Number Two People's Hospital as an antidomestic violence service station to treat victims of domestic violence, the first designation of its kind. Nonetheless, official assistance did not always reach victims, and public security forces often ignored domestic violence. In 2010 the All China Women's Federation (ACWF) reported that it received 50,000 domestic violence complaints annually. Spousal abuse typically went unreported, and an ACWF study found that only 7 percent of rural women who suffered domestic violence sought help from police. Almost 30 percent of respondents in a recent study felt that domestic violence should be kept a private matter.

While domestic violence tended to be more prevalent in rural areas, it also occurred among the highly educated urban population. The ACWF reported that approximately one-quarter of the 400,000 divorces registered each year were the result of family violence.

According to ACWF statistics nationwide in 2008 there were 12,000 special police booths for domestic violence complaints, 400 shelters for victims of domestic violence, and 350 examination centers for women claiming injuries from domestic violence. Many domestic violence shelters had inadequate facilities, required extensive documentation, or went unused. The government operated most shelters, some with NGO participation. In 2012 the government provided 680,000 office spaces in government buildings for women's resource centers.

There was no strong legal mechanism to protect women from domestic abuse. According to the ACWF, laws related to domestic violence were flawed since there was no national provision for dealing with offenders. During the year the creation of such mechanisms was added to the NPC's legislative agenda, the fifth time the ACWF submitted such a proposal. Both the marriage law and the law on the protection of women's rights and interests have stipulations that directly prohibit domestic violence, but some experts complained that the stipulations were too general, failed to define domestic violence, and were difficult to implement. Because of standards of evidence, even if certain that domestic violence was occurring, a judge could not rule against the abuser without the abuser's confession. Only 10 percent of accused abusers confessed to violent behavior, according to 2009 data from the Institute of Applied Laws. The institute reported that, although 40 to 60 percent of marriage and family cases involved domestic violence, less than 30 percent were able to supply indirect evidence, including photographs, hospital records, police records, or children's testimony. Witnesses seldom testified in court.

Public support increased in the fight against domestic violence. A recent survey found that more than 85 percent of respondents believed that further antidomestic violence legislation was needed. A high-profile case, Kim Lee's case against her celebrity husband, Li Yang, led to public outcry when she posted pictures of her injuries on a social networking site. After months of waiting, Lee was granted a civil protection order forbidding her husband from approaching within 200 yards of her. In February a Beijing court granted Lee a divorce on the grounds of domestic abuse and issued a three-month protection order against her former husband. This case set a precedent because the court acknowledged domestic violence as grounds for divorce, granted a protection order, and ordered the former husband to pay compensation for the violence she had endured during their marriage.

Sexual Harassment: The law bans sexual harassment, and the number of sexual harassment complaints increased significantly. A 2009 Harvard University study showed that 80 percent of working women in the country experienced sexual harassment at some stage of their careers. The same study found that only 30 percent of sexual harassment claims by women achieved favorable resolutions. In November an NGO published its survey of female manufacturing workers in Guangzhou, which indicated that as much as 70 percent of Guangzhou's female workforce had been sexually harassed. Approximately half did not pursue legal or administrative actions, while 15 percent of respondents reported leaving the workplace to escape their harasser.

Sexual harassment was not limited to the workplace. According to a China Youth Daily survey reported in September, approximately 14 percent of women had been sexually harassed while riding the subway, and 82 percent of those polled believed the problem existed. At a Hainan Province festival in 2012, a dozen women were pinned down by a crowd of men who mauled the women and stripped off their clothes in broad daylight. Police escorted the women away and, according to press reports, subsequently detained six suspects in the assault.

According to information on the ACWF website, the internet and hotlines made it easier for women who were sexually harassed to obtain useful information and legal service. A Beijing rights lawyer told the ACWF that approximately

100-200 million women in the country had suffered or were suffering sexual harassment in the workplace but that very few legal service centers provided counseling.

Reproductive Rights: The government restricted the rights of parents to choose the number of children they have. Although national law prohibits the use of physical coercion to compel persons to submit to abortion or sterilization, intense pressure to meet birth-limitation targets set by government regulations resulted in instances of local family-planning officials' using physical coercion to meet government goals. Such practices included the mandatory use of birth control and the abortion of unauthorized pregnancies. In the case of families that already had two children, one parent was often pressured to undergo sterilization.

The National Population and Family Planning Commission reported that 13 million women annually underwent abortions caused by unplanned pregnancies. An official news media outlet also reported at least an additional 10 million chemically induced abortions or abortions performed in nongovernment facilities. Government statistics on the percentage of all abortions that were nonelective was not available. According to Health Ministry data released in March 2012, a total of 336 million abortions and 222 million sterilizations had been carried out since 1971.

The national family-planning authorities shifted their emphasis from lowering fertility rates to maintaining low fertility rates and emphasized quality of care in fam-

ily-planning practices. In 2010 a representative of the National Population and Family Planning Commission reported that 85 percent of women of childbearing age used contraception. Of those, 70 percent used a reversible method. A survey taken in September, however, found that only 12 percent of women between the ages of 20 and 35 had a proper understanding of contraceptive methods. The country's birth-limitation policies retained harshly coercive elements in law and practice. The financial and administrative penalties for unauthorized births were strict.

The 2002 national population and family-planning law standardized the implementation of the government's birth-limitation policies, although enforcement varied significantly. The law grants married couples the right to have one birth and allows couples to apply for permission to have a second child if they meet conditions stipulated in local and provincial regulations. The one-child limit was more strictly applied in urban areas, where only couples meeting certain conditions were permitted to have a second child (e.g., if both of the would-be parents were an only child). In most rural areas couples were permitted to have a second child in cases where their first child was a girl. Ethnic minorities were subject to less stringent rules. Nationwide 35 percent of families fell under the one-child restrictions, and more than 60 percent of families were eligible to have a second child, either outright or if they met certain criteria. The remaining 5 percent were eligible to have more than two children. According to government statistics, the average fertility rate for women nationwide was 1.8, and in the country's most populous and prosperous city, Shanghai, the fertility rate was 0.8. In December the NPC Standing Committee amended the one-child policy to allow couples in which at least one spouse is an only child to have two children.

The National Population and Family Planning Commission reported that all provinces eliminated the birth-approval requirement before a first child is conceived, but provinces may still continue to require parents to "register" pregnancies prior to giving birth to their first child. This registration requirement could be used as a de facto permit system in some provinces, since some local governments continued to mandate abortion for single women who became pregnant. Provinces and localities imposed fines of various amounts on unwed mothers.

Regulations requiring women who violate family-planning policy to terminate their pregnancies still exist in Liaoning and Heilongjiang provinces. Other provinces - Fujian, Guizhou, Guangdong, Gansu, Jiangxi, Qinghai, Shanxi, and Shaanxi - require unspecified "remedial measures" to deal with unauthorized pregnancies. A number of online media reports indicated that migrant women applying for household registration in Guangzhou were required to have an intrauterine contraceptive device (IUD) implanted.

In October, Western media reported that officials from the Shandong Province Family Planning Commission forced their way into the home of Liu Xinwen, dragged her to a nearby hospital, and injected her with an abortion-inducing drug. Shandong officials reportedly forced Liu, who was six months into her pregnancy, to sign a document stating that she had agreed to the abortion.

The government continued to impose "child-raising fees" on violators of the one-child policy. In the first half of the year, for example, Guangzhou City collected more than RMB 300 million ($49 million) in such fees without disclosing how the money was used. Guangdong Province reportedly refused to disclose the amount of fees it had collected from one-child policy violators. Family planning officials in Tunchang County, Hainan Province, used fines and terminated employment as punishment for one-child policy violators.

On December 30, overseas media reported that officials at Nurluq Hospital in Keriye County of Xinjiang's Hotan Prefecture carried out forced abortions on four pregnant women. According to the report, the deputy chief of Hotan's Arish Township confirmed that authorities had carried out four of six planned abortions utilizing abortion-inducing drugs. One woman escaped and another was in the hospital awaiting the procedure, the report stated. The head of the township's Family Planning Department stated the abortions were carried out following orders from higher authorities. The husband of one victim stated that his wife had been seven months' pregnant when the procedure was performed and that the baby had been born alive before succumbing to the effects of the chemical toxins hours later.

The law requires each parent of an unapproved child to pay a "social compensation fee," which can reach 10 times a person's annual disposable income.

Social compensation fees were set and assessed at the local level. The law requires family-planning officials to obtain court approval before taking "forcible" action, such as detaining family members or confiscating and destroying property of families who refuse to pay social compensation fees. This requirement was not al-

ways followed, and national authorities remained ineffective at reducing abuses by local officials.

The population control policy relied on education, propaganda, and economic incentives, as well as on more coercive measures. Those who had an unapproved child or helped another do so faced disciplinary measures such as social compensation fees, job loss or demotion, loss of promotion opportunity, expulsion from the CCP (membership is an unofficial requirement for certain jobs), and other administrative punishments, including in some cases the destruction of private property.

It continued to be illegal in almost all provinces for a single woman to have a child, with fines levied for violations. The law states that family-planning bureaus conduct pregnancy tests on married women and provide them with unspecified "follow-up" services. Some provinces fined women who did not undergo periodic pregnancy tests.

Officials at all levels remained subject to rewards or penalties based on meeting the population goals set by their administrative region. Promotions for local officials depended in part on meeting population targets. Linking job promotion with an official's ability to meet or exceed such targets provided a powerful structural incentive for officials to employ coercive measures to meet population goals. An administrative reform process initiated pilot programs in some localities that removed this criterion for evaluating officials' performance.

Although the family-planning law states that officials should not violate citizens' rights in the enforcement of family-planning policy, these rights, as well as penalties for violating them, are not clearly defined. By law citizens may sue officials who exceed their authority in implementing birth-planning policy, but few protections for whistleblowers against retaliation from local officials exist (see section 4, Whistleblower Protection). The law provides significant and detailed sanctions for officials who help persons evade the birth limitations.

According to online reports, women who registered newborns in Nanhai District, Foshan, Guangdong Province, were requested to insert an IUD. Many posted online complaints that officials threatened not to register the baby if the mother did not comply, even when the newborn was the mother's only child. Other reports indicated that a mother could not enroll her child in school if she was unwilling to insert an IUD.

Discrimination: The constitution states that "women enjoy equal rights with men in all spheres of life." The Law on the Protection of Women's Rights and Interests provides for equality in ownership of property, inheritance rights, access to education, and equal pay for equal work. The ACWF was the leading implementer of women's policy for the government, and the State Council's National Working Committee on Children and Women coordinated women's policy. Many activists and observers expressed concern that discrimination was increasing. Women continued to report that discrimination, sexual harassment, unfair dismissal, demotion, and wage discrepancies were significant problems.

Authorities often did not enforce laws protecting the rights of women. According to legal experts, it was difficult to litigate sex-discrimination suits because of vague legal definitions. Some observers noted that the agencies tasked with protecting women's rights tended to focus on maternity-related benefits and wrongful termination during maternity leave rather than on sex discrimination, violence against women, and sexual harassment.

Despite government policies mandating nondiscrimination in employment and remuneration, women reportedly earned 66 percent as much as men. The Ministry of Human Resources and Social Security and the local labor bureaus are responsible for ensuring that enterprises complied with the labor law and the employment promotion law, each of which contains antidiscrimination provisions.

Many employers preferred to hire men to avoid the expense of maternity leave and childcare (paid paternity leave exists for men in some localities, but there is no national provision for paternity leave). Work units were allowed to impose an earlier mandatory retirement age for women than for men, and some employers lowered the effective retirement age for female workers to 50. In general the official retirement age for men was 60 and for women 55. Lower retirement ages also reduced pensions, which generally were based on the number of years worked. Job advertisements for women sometimes specified height and age requirements.

Women's rights advocates indicated that in rural areas women often forfeited land and property rights to their husbands in divorce proceedings. Rural contract law and laws protecting women's rights stipulate that women enjoy equal rights in cases of land management, but experts argued that this was rarely the case due to the

complexity of the law and difficulties in its implementation. A 2011 interpretation of the country's marriage law by the Supreme People's Court exacerbated the gender wealth gap by stating that, after divorce, marital property belongs solely to the person registered as the homeowner in mortgage and registration documents - in most cases the husband. In determining child custody in divorce cases, judges make determinations based on the following guidelines: Children under age two should live with their mothers; custody of children two to nine years of age should be determined by who can provide the most stable living arrangement; and children 10 and over should be consulted when determining custody.

A high female suicide rate continued to be a serious problem. There were approximately 590 female suicides per day, according to a report released in September 2012 by the Chinese Center for Disease and Control and Prevention. This was more than the approximately 500 per day reported in 2009. The report noted that the suicide rate for women was three times higher than for men. Many observers believed that violence against women and girls, discrimination in education and employment, the traditional preference for male children, birth-limitation policies, and other societal factors contributed to the high female suicide rate. Women in rural areas, where the suicide rate for women was three to four times higher than for men, were especially vulnerable.

The World Bank reported that in 2009, 99 percent of women between the ages of 15 and 24 were literate, with a literacy rate of 91 percent for women above 15 compared with 97 percent for men above 15.

Women faced discrimination in higher education. The required score for the National Higher Entrance Exam was lower for men than for women at several universities. According to 2010 Ministry of Education statistics, women accounted for 49.6 percent of undergraduate students and 50.3 percent of master's students in 2012 but only 35 percent of doctoral students. Women with advanced degrees reported discrimination in the hiring process, since the job distribution system became more competitive and market driven.

Gender-based Sex Selection: According to the 2010 national census, the national average male-female sex ratio at birth was 118 to 100. Sex identification and sex-selective abortion were prohibited, but the practices continued because of traditional preference for male children and the birth-limitation policy.

Children

Birth Registration: Citizenship is derived from parents. Parents must register their children in compliance with the national household registration system within one month of birth. Unregistered children cannot access public services. No data was available on the number of unregistered births.

Education: Although the law provides for nine years of compulsory education for children, in economically disadvantaged rural areas many children did not attend school for the required period; some never attended. Although public schools were not allowed to charge tuition, faced with insufficient local and central government funding, many schools continued to charge miscellaneous fees. Such fees and other school-related expenses made it difficult for poorer families and some migrant workers to send their children to school.

In 2010 the official literacy rate for youth (defined as persons between the ages of 15 and 24) was 99 percent. The proportion of girls attending school in rural and minority areas was reportedly smaller than in cities. In rural areas 61 percent of boys and 43 percent of girls completed education at a grade higher than lower middle school. The government reported that nearly 20 million children of migrant laborers followed their parents to urban areas. Denied access to state-run schools, most children of migrant workers who attended school did so at unlicensed and poorly equipped schools.

Medical Care: Female babies suffered from a higher mortality rate than male babies, which was contrary to the worldwide norm. State media reported that infant mortality rates in rural areas were 27 percent higher for girls than boys and that neglect was one factor in their lower survival rate.

Child Abuse: The physical abuse of children can be grounds for criminal prosecution. Kidnapping, buying, and selling children for adoption increased during the past several years, particularly in poor rural areas. There were no reliable estimates of the number of children kidnapped, but according to media reports as many as 20,000 children were kidnapped every year for illegal adoption. Most children kidnapped internally were sold to couples unable to have children. Those convicted of buying an abducted child may be sentenced to three years' imprisonment. In the past most children rescued were boys, but increased demand for children reportedly

drove traffickers to focus on girls as well. The Ministry of Public Security maintained a DNA database of parents of missing children and children recovered in law enforcement operations in an effort to reunite families.

Forced and Early Marriage: The legal minimum age for marriage is 22 for men and 20 for women. Child marriage was not known to be a problem, but there were reports of babies sold to be future brides. For example, families would adopt and raise babies for eventual marriage to their sons.

Sexual Exploitation of Children: By law those who force young girls under age 14 into prostitution may be sentenced to 10 years to life in prison, in addition to a fine or confiscation of property. If the case is especially serious, violators can receive a life sentence or be sentenced to death, in addition to confiscation of property. Those inducing girls under age 14 into prostitution can be sentenced to five years or more in prison in addition to a fine. Those who visit female prostitutes under age 14 are subject to five years or more in prison in addition to paying a fine.

According to the law the minimum age for consensual sex is 14.

Pornography of any kind, including child pornography, is illegal. Under the criminal code, those producing, reproducing, publishing, selling, or disseminating obscene materials with the purpose of making a profit may be sentenced up to three years in prison or put under criminal detention or surveillance in addition to paying a fine. Offenders in serious cases may receive prison sentences of three to 10 years in addition to paying a fine. In especially serious cases offenders are to be sentenced to 10 years or more in prison or given a life sentence in addition to a fine or confiscation of property. Persons found disseminating obscene books, magazines, films, audio or video products, pictures, or other kinds of obscene materials, if the case is serious, may be sentenced up to two years in prison or put under criminal detention or surveillance. Persons organizing the broadcast of obscene motion pictures or other audio or video products may be sentenced up to three years in prison or put under criminal detention or surveillance in addition to paying a fine. If the case is serious they are to be sentenced to three to 10 years in prison in addition to paying a fine.

Those broadcasting or showing obscene materials to minors less than age 18 are to be "severely punished."

Infanticide or Infanticide of Children with Disabilities: The Law on the Protection of Juveniles forbids infanticide, but there was evidence that the practice continued. According to the National Population and Family-planning Commission, a handful of doctors were charged with infanticide under this law. Female infanticide, sex-selective abortions, and the abandonment and neglect of baby girls remained problems due to the traditional preference for sons and the coercive birth-limitation policy.

Displaced Children: There were between 150,000 and one million urban street children, according to state-run media. This number was even higher if the children of migrant workers who spent the day on the streets were included. In 2010 the ACWF reported that the number of children in rural areas left behind by their migrant-worker parents totaled 58 million, 40 million under the age of 14.

Institutionalized Children: The law forbids the mistreatment or abandonment of children. The vast majority of children in orphanages were girls, many of whom were abandoned. Boys in orphanages were usually disabled or in poor health. Medical professionals sometimes advised parents of children with disabilities to put the children into orphanages.

The government denied that children in orphanages were mistreated or refused medical care but acknowledged that the system often was unable to provide adequately for some children, particularly those with serious medical problems. Adopted children were counted under the birth-limitation regulations in most locations. As a result, couples who adopted abandoned infant girls were sometimes barred from having additional children.

International Child Abductions: The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information see the Department of State's report at travel.state.gov/abduction/resources/congressreport/congressreport—4308.html.

Anti-Semitism

There were no reports of anti-Semitic acts during the year. The government does not recognize Judaism as an ethnicity or religion. According to information from the Jewish Virtual Library, the country's Jewish population was 2,500 in 2012.

Trafficking in Persons

See the Department of State's Trafficking in Persons Report at www.state.gov/j/tip/.

Persons with Disabilities

The law protects the rights of persons with disabilities and prohibits discrimination, but conditions for such persons lagged far behind legal dictates and failed to provide persons with disabilities access to programs intended to assist them.

According to Article 3 of the Law on the Protection of Disabled Persons, "disabled persons are entitled to enjoyment of equal rights as other citizens in political, economic, cultural and social fields, in family life and other aspects. The rights of disabled persons as citizens and their personal dignity are protected by law. Discrimination against, insult of, and infringement upon disabled persons is prohibited."

The Ministry of Civil Affairs and the China Disabled Persons Federation (CDPF), a government-organized civil association, are the main entities responsible for persons with disabilities. In June the CDPF stated that, based on 2010 census figures, 85 million persons with disabilities lived in the country. According to government statistics, in 2011 there were 5,254 vocational training facilities, which provided training for 299,000 persons with disabilities. Of the 32 million persons with disabilities of working age, more than 22 million were employed. Government statistics stated that 7.4 million persons with disabilities enjoyed "minimum-life-guarantee" stipends, and nearly three million had social insurance.

The law prohibits discrimination against minors with disabilities and codifies a variety of judicial protections for juveniles. In 2007 the Ministry of Education reported that nationwide there were 1,618 schools for children with disabilities. According to NGOs, there were approximately 20 million children with disabilities, only 2 percent of whom had access to education that could meet their needs.

According to the CDPF, in 2010 more than 519,000 school-age children with disabilities received compulsory education, 68 percent of them in inclusive education, and 32 percent in 1,705 special schools and 2,775 special classes. NGOs claimed that, while the overall school enrollment rate was 99 percent, only 75 percent of children with disabilities were enrolled in school. Nationwide, an estimated 243,000 school-age children with disabilities did not attend school. In 2011 a total of 7,150 persons with disabilities were admitted to standard colleges and universities.

Nearly 100,000 organizations existed, mostly in urban areas, to serve those with disabilities and protect their legal rights. The government, at times in conjunction with NGOs, sponsored programs to integrate persons with disabilities into society.

Misdiagnosis, inadequate medical care, stigmatization, and abandonment remained common problems. According to reports doctors frequently persuaded parents of children with disabilities to place their children in large government-run institutions where care was often inadequate. Those parents who chose to keep children with disabilities at home generally faced difficulty finding adequate medical care, day care, and education for their children. Government statistics showed that almost one-quarter of persons with disabilities lived in extreme poverty.

In part as a result of discrimination, unemployment among adults with disabilities remained a serious problem. The law requires local governments to offer incentives to enterprises that hire persons with disabilities. Regulations in some parts of the country also require employers to pay into a national fund for persons with disabilities when the employees with disabilities do not make up the statutory minimum percentage of the total workforce.

Standards adopted for making roads and buildings accessible to persons with disabilities are subject to the Law on the Handicapped, which calls for their "gradual" implementation. Compliance with the law was limited. The law permits universities to exclude candidates with disabilities who were otherwise qualified.

The law forbids the marriage of persons with certain mental disabilities, such as schizophrenia. If doctors find that a couple is at risk of transmitting congenital disabilities to their children, the couple may marry only if they agree to use birth control or undergo sterilization. The law stipulates that local governments must employ such practices to raise the percentage of births of children without disabilities.

National/Racial/Ethnic Minorities

Most minority groups resided in areas they traditionally inhabited. Government policy calls for members of recognized minorities to receive preferential treatment in birth planning, university admission, access to loans, and employment. Nonetheless, the substance and implementation of ethnic minority policies remained poor, and discrimination against minorities remained widespread.

Minority groups in border and other regions had less access to education than their Han counterparts, faced job discrimination in favor of Han migrants, and earned incomes well below those in other parts of the country. Government development programs often disrupted traditional living patterns of minority groups and included, in some cases, the forced relocation of persons. Han Chinese benefited disproportionately from government programs and economic growth. As part of its emphasis on building a "harmonious society" and maintaining social stability, the government downplayed racism and institutional discrimination against minorities, which remained the source of deep resentment in the XUAR, the Inner Mongolia Autonomous Region (IMAR), the TAR, and other Tibetan areas.

Ethnic minorities represented approximately 14 percent of delegates to the NPC and more than 15 percent of NPC Standing Committee members, according to an official report issued in 2011. A 2011 article in the official online news source for overseas readers stated that ethnic minorities comprised 41 percent of cadres in the Guangxi Zhuang Autonomous Region, 25 percent of cadres in Ningxia Hui Autonomous Region, and 51 percent of cadres in the XUAR. According to a July 2012 article from the official Xinhua News Agency, 32 percent of cadres in Yunnan Province were members of an ethnic minority. A June 5 government report stated that, of the 296 civil servants Guangxi Province recruited in 2012, almost 60 percent were ethnic minorities. During the year all five of the country's ethnic minority autonomous regions had chairmen (equivalent to the governor of a province) from minority groups. The CCP secretaries of these five autonomous regions were all Han. Han officials continued to hold the majority of the most powerful CCP and government positions in minority autonomous regions, particularly the XUAR.

The government's policy to encourage Han Chinese migration into minority areas significantly increased the population of Han in the XUAR. In recent decades the Han-Uighur ratio in the capital of Urumqi reversed from 20/80 to 80/20 and continued to be a source of Uighur resentment. Discriminatory hiring practices gave preference to Han and reduced job prospects for ethnic minorities. According to the 2010 national census, 8.75 million, or 40 percent, of the XUAR's 21.8 million official residents were Han. Hui, Kazakh, Kyrgyz, Uighur, and other ethnic minorities constituted approximately 13 million XUAR residents, or 60 percent of the total population. Official statistics understated the Han population, because they did not count the tens of thousands of Han Chinese who were long-term "temporary workers." As the government continued to promote Han migration into the XUAR and filled local jobs with domestic migrant labor, local officials coerced young Uighur women to participate in a government-sponsored labor transfer program to cities outside the XUAR, according to overseas human rights organizations.

The XUAR government took measures to dilute expressions of Uighur identity, including reducing the use of ethnic minority languages in XUAR schools and instituting Mandarin Chinese language requirements that disadvantaged ethnic-minority teachers. The government continued to apply policies that prioritized standard Chinese for instruction in school, thereby reducing or eliminating ethnic-language instruction. The dominant use of Mandarin Chinese in government, commerce, and academia disadvantaged graduates of minority-language schools who lacked Mandarin Chinese proficiency.

Authorities continued to implement repressive policies in the XUAR and targeted the region's ethnic Uighur population. Officials in the XUAR continued to implement a pledge to crack down on the government-designated "three forces" of religious extremism, "splittism," and terrorism, and they outlined efforts to launch a concentrated antiseparatist re-education campaign. Some raids, detentions, and judicial punishments ostensibly directed at individuals or organizations suspected of promoting the "three forces" appeared to be targeted at groups or individuals peacefully seeking to express their political or religious views. The government continued to repress Uighurs expressing peaceful political dissent and independent Muslim religious leaders, often citing counterterrorism as the reason for taking action.

According to the 2013 China Law Yearbook, authorities in 2012 arrested 1,105 individuals for "endangering state security," a 19 percent increase from 2011. The NGO Dui Hua estimated that arrests from Xinjiang accounted for 75 percent of "endangering state security" charges.

Uighurs continued to be sentenced to long prison terms, and in some cases executed without due process, on charges of separatism and endangering state security. The government pressured foreign countries to repatriate Uighurs, who faced the risk of imprisonment and mistreatment upon return. Some Uighurs refouled to China have simply disappeared.

Freedom of assembly was severely limited during the year in the XUAR. For information about violations of religious freedom in Xinjiang, please see the Department of State's International Religious Freedom Report at www.state.gov/j/drl/irf/rpt/.

Reportedly at year's end one son of exiled Uighur leader Rebiya Kadeer, president of the World Uighur Conference, whom the government blamed for orchestrating the 2009 riots in Urumqi, remained in prison.

Possession of publications or audiovisual materials discussing independence, autonomy, or other sensitive subjects was not permitted. Uighurs who remained in prison at year's end for their peaceful expression of ideas the government found objectionable included Abduhelil Zunun. Reportedly, Uighur poet Nurmuhemmet Yasin, originally imprisoned in 2005, died in prison in 2011.

XUAR and national-level officials defended the campaign against the three forces of religious extremism, "splittism," and terrorism and other policies as necessary to maintain public order. Officials continued to use the threat of violence as justification for extreme security measures directed at the local population, journalists, and visiting foreigners.

The law criminalizes discussion of separatism on the internet and prohibits use of the internet in any way that undermines national unity. It further bans inciting ethnic separatism or "harming social stability," and requires internet service providers and network operators to set up monitoring systems or to strengthen existing ones and report violations of the law.

Han control of the region's political and economic institutions also contributed to heightened tension. Although government policies continued to allot economic investment in and brought economic improvements to the XUAR, Han residents received a disproportionate share of the benefits. Job advertisements often made clear that Uighur applicants would not be considered.

Reuters News Agency reported that in November police used electric batons to prevent approximately 100 ethnic Mongols from attending the trial of six nomadic herders charged with sabotaging production and intentionally destroying property. Authorities arrested the six herders in June after a confrontation with employees of a state-owned forestry company. Protests against land seizures occurred throughout the year across the IMAR, resulting in detentions and police abuse, as the regional government sought to implement Beijing's policy of resettling China's nomadic population.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

No laws criminalize private consensual same-sex activities between adults. Due to societal discrimination and pressure to conform to family expectations, most gay, lesbian, bisexual, and transgender (LGBT) persons refrained from publicly discussing their sexual orientation. Individual activists and organizations working on LGBT problems continued to report discrimination and harassment from authorities, similar to other organizations that accept funding from overseas.

In June 2012 the Beijing LGBT center was notified by property management that its lease would be terminated early due to complaints that it was too noisy. Neighbors reportedly pressured management to terminate the lease after learning that it was an LGBT organization. The center was able to recoup only less than one-half of its investment of RMB 11,000 ($1,800) for the move.

In September organizers of the China Charity Fair in Shenzhen, Guangdong Province, told two gay rights advocacy groups that they could not display their advertisements and informational brochures because they were not registered with the Ministry of Civil Affairs. One of the advocacy groups attempting to participate reported that his organization unsuccessfully sought to register with the ministry for several years, despite making dozens of visits to local government offices.

In contrast with 2012, there reportedly was no government interference with the seventh Beijing Queer Film Festival. Organizers kept a low profile.

Other Societal Violence or Discrimination

The law prohibits discrimination against persons carrying infectious diseases and allows such persons to work as civil servants. The law does not address some common types of discrimination in employment, including discrimination based on height, physical appearance, or ethnic identity.

Despite provisions in the law, discrimination against persons with HIV/AIDS and hepatitis B carriers (including 20 million chronic carriers) remained widespread in many areas, and local governments sometimes tried to suppress their activities. In

August 2012 a man who was refused employment after it was discovered he had hepatitis was awarded RMB 8,000 ($1,310) in damages by a Xi'an court.

HIV/AIDS activist Wan Yanhai, founder and director of the Beijing-based NGO Aizhixing, remained overseas after leaving the country in 2010. The organization continued to come under pressure from the government.

Western media reported that on May 30, Guangxi activist Ye Haiyan, who advocated for the rights of prostitutes and persons infected with HIV/AIDS, was beaten in her home by a group of 10 police officers before being detained at the local police station in Bobai County.

While in the past, persons with HIV/AIDS were routinely denied admission to hospitals, discrimination was less overt, and some hospitals came up with excuses for not being able to treat them. The hospitals feared that, should the general population find out that they were treating HIV/AIDS patients, patients would choose to go elsewhere. It was common practice for general hospitals to refer patients to specialty hospitals working with infectious diseases

International involvement in HIV/AIDS prevention, care, and treatment, as well as central government pressure on local governments to respond appropriately, brought improvements in many localities. Some hospitals that previously refused to treat HIV/AIDS patients had active care and treatment programs because domestic and international training programs improved the understanding of local healthcare workers and their managers. In Beijing dozens of local community centers encouraged and facilitated HIV/AIDS support groups.

In March 2012 Zhejiang Province eliminated its mandatory HIV testing for suspects arrested for drug charges, a move seen as a step in protecting the privacy of the individuals.

On July 1, Guangxi Zhuang Autonomous Region implemented new legislation requiring real name registration for HIV testing and obliging individuals who tested positive inform their spouses.

Despite a 2010 nationwide rule banning mandatory hepatitis B virus tests in job and school admissions applications, 61 percent of state-run companies in 2011 continued to use hepatitis B testing as a part of their preemployment screen.

A 2011 report from a Beijing-based NGO stated that 32 percent of kindergartens surveyed would refuse to enroll children infected with hepatitis B.

In July 2012 a widely used public health website for persons infected with hepatitis was blocked within the country. The website had been blocked two times earlier, in 2007 and 2008. The website's main goal is to eliminate discrimination of hepatitis carriers and provide a social forum to build awareness of the disease.

In October the Ministry of Commerce posted online for public consultation draft regulations that would ban individuals with AIDS from entering public bathhouses. The draft regulations stipulated a fine of RMB 30,000 ($4,910) for violators and mandated that all spas, hot springs, and bathhouses post anti-HIV/AIDS visitor signs on their premises. At year's end the draft regulations remained under review.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law does not provide for freedom of association, and workers are not free to organize or join unions of their own choosing. Independent unions are illegal, workers are not free to organize, and the right to strike is not protected in law.

The Trade Union Law gives the All-China Federation of Trade Unions (ACFTU) control over all union organizations and activities, including enterprise-level unions. The ACFTU is a CCP organ chaired by a member of the Politburo and is tasked to "uphold the leadership of the Communist Party." The ACFTU and its provincial and local branches continued aggressively to organize new constituent unions and add new members, especially in large, multinational enterprises. According to the ACFTU the total trade union membership reached 280 million during the year, 109 million of whom were rural-urban migrant workers.

The law provides specific legal protections against antiunion discrimination and specifies that union representatives may not be transferred or terminated by enterprise management during their term of office. While there were no publicly available official statistics on the enforcement of these laws, there were periodic domestic media reports of courts awarding monetary compensation for wrongful terminations of union representatives.

The Trade Union Law specifically assigns the ACFTU and affiliated unions the responsibility to "coordinate the labor relations and safeguard the labor rights and interests of the enterprise employees through equal negotiation and collective con-

tract system" and to represent employees in negotiating and signing collective contracts with enterprises or public institutions. The law states that trade union representatives at each level should be elected.

The Labor Dispute Mediation and Arbitration Law provides for labor dispute resolution through a three-stage process: mediation between the parties, arbitration by officially designated arbitrators, and litigation. A key article of this law requires employers to consult with labor unions or employee representatives on matters that have a direct bearing on the immediate interests of their workers.

The Labor Contract Law provides that labor unions "shall assist and direct the employees" in establishing "a collective negotiation mechanism" and that collective contracts can include "matters of remuneration, working hours, breaks, vacations, work safety and hygiene, insurance, benefits, etc." It further provides that there may be industrial or regional collective contracts "in industries such as construction, mining, catering services, etc. in the regions at or below the county level."

The labor law allows for collective bargaining for workers in all types of enterprises, and collective contract regulations provide protections against discrimination and unfair dismissal for employee representatives during collective consultations. Regulations require a union to gather input from workers prior to consultation with management and to submit collective contracts to workers or their congress for approval. There is no legal obligation for employers to negotiate, and some employers refused to do so.

If collective bargaining negotiations do begin, there is no requirement for employers to bargain in good faith. If no agreement is reached, the employer does not have a right to lock out the workers, and the workers do not have a right to strike. While work stoppages are not expressly prohibited in law and it is not illegal for workers to strike spontaneously, Article 53 of the constitution has been interpreted as a ban on labor strikes by obligating all citizens to "observe labor discipline and public order."

Although the ACFTU, especially at provincial levels, often played an important role in advocacy for improved labor protections during 2012, this activism stalled during the year, in part due to a lack of clear direction from the Xi Jinping and Li Keqiang administration. During the ACFTU's 16th National Congress in October, high-level officials called on participants to improve the lives of workers through proactive employment policies, a better social safety net, and attention to safety in the workplace. They noted the need for both increased government enforcement and supervision and responsibility by trade unions and the public.

In November the CCP concluded a high-level meeting by issuing a resolution that outlined reforms with the potential to affect freedom of association and collective bargaining, including expanding the use of employees' representative committees and innovating channels for workers to make appeals. The role of the ACFTU in a strike is primarily limited to involvement in investigations and assistance to the Ministry of Human Resources and Social Security in resolving disputes.

ACFTU constituent unions were generally ineffective in representing and protecting the rights and interests of workers. This was particularly true in the case of migrant workers, who generally have less interaction with the ACFTU, who tend to work in foreign-invested enterprises, and for whom, especially among second-generation migrant workers, expectations of working conditions have increased. The ACFTU and the CCP maintain a variety of mechanisms to influence the selection of trade union representatives. Although the law states that trade union officers at each level should be elected, most factory-level officers were appointed by ACFTU-affiliated unions, often in coordination with employers, and were drawn largely from the ranks of management. Direct election by workers of union leaders continued to be rare, occurred only at the enterprise level, and was subject to supervision by higher levels of the union or the CCP. In enterprises where direct election of union officers took place, regional ACFTU officers and local CCP authorities retained control over the selection and approval of candidates. Even in these cases, workers and NGOs expressed concern about the sustainability of elections and the knowledge and capacity of elected union officials who often lacked collective bargaining skills.

In March 2012 the Fair Labor Association (FLA) and Apple drafted an action plan for remediation at Foxconn supplier facilities. A key component of this action plan was the establishment of union elections. In its final report the FLA verified that no workplace elections had been conducted in the three facilities (Guanlan, Longhua, and Chengdu) since the beginning of the year.

In a joint open letter to the Shenzhen Federation of Trade Unions (SFTU) in October, a group of students from nine universities in China outlined their findings in five Shenzhen factories at which the SFTU had purportedly adopted direct elections.

While the elections did occur in many cases, the students found that trade union committees were still composed of members of company management. They also found that the union continued to fail to protect workers from basic labor law violations.

Many autonomous regions and municipalities enacted local rules allowing collective wage negotiation, and some limited form of collective bargaining was more or less compulsory in 25 of 31 provinces, according to the ACFTU. The Guangdong provincial government guidelines on enterprise collective wage bargaining require employers to give employee representatives information regarding a company's operations, including employee pay and benefits, to be used in wage bargaining. The guidelines also allow the local labor bureau, if requested by the employees and employers, to act as a mediator to help determine wage increases.

Despite the Labor Contract Law's provisions for collective consultation related to common areas of dispute such as wages, hours, days off, and benefits, noncompliance with this provision, even at the minimum levels required by law, was common. Instead, tactics used by management included forcing employees to sign blank contracts and failing to provide workers a copy of their contract. Lack of government resources also undermined effective implementation and enforcement of the Labor Contract Law.

The number of labor disputes nationwide continued to rise as workers' awareness of the laws increased. According to figures from the Ministry of Human Resources and Social Security, as of September 2012, there were more than 3,000 labor arbitration units and 25,000 labor arbitrators. Through 2011 the Ministry of Human Resources and Social Security handled 1.3 million "labor and personnel disputes." Of these, 589,000 were registered arbitration cases, of which 93.9 percent were resolved. Most formal dispute resolution continued to occur between individual workers and employers, rather than managing collective disputes. The relevant regulations and rules address predominantly rights-based, rather than interest-based, disputes.

Strikes primarily continued to be resolved directly between workers and management without the involvement of the ACFTU or its constituent local trade unions. In order to avoid strikes or address minor labor relations disputes, factory management continued to prefer to engage directly with workers via labor-management committees, rather than through the legally approved ACFTU-affiliated trade union. The Ministry of Human Resources and Social Security voiced support for the expansion and establishment of labor-management committees throughout all enterprises. Labor NGOs often provided information, training, and legal support to workers on collective bargaining and dispute resolution, in lieu of effective support by the ACFTU.

There continued to be reports of workers throughout the country engaging in strikes, work stoppages, and other protest actions. Although the government restricted the release of figures for the number of strikes and protests each year, the frequency of "spontaneous" strikes remained high, especially in Shenzhen and other areas with developed labor markets and large pools of sophisticated, rights-conscious workers. Local government responses to strikes varied, with some jurisdictions showing tolerance for strikes while others continued to treat worker protests as illegal demonstrations.

In January, Hong Kong media reported that thousands of workers from the Panzhihua Iron and Steel Group in Chengdu took to the streets to demand wage increases. Authorities deployed 1,000 police to suppress the march and to disperse the crowd after a confrontation with the protesters. On November 7, police dispersed 200 striking workers at a Dongguan toy factory. Reports indicated that authorities beat and arrested numerous workers.

Workers engaged in collective action for a number of reasons. In many cases striking workers called attention to wage arrears, insufficient pay, and poor working conditions. New areas of disputes included factory closure or relocation, severance pay and other compensation, and benefits such as pensions. Although a large number of the major strikes reported in the media occurred in the Pearl River Delta, labor unrest was widespread throughout the country. Small-scale worker protests and strikes regularly occurred in Shanghai and Zhejiang, Jiangsu, and Anhui provinces.

Workers increasingly went on strike to demand payment of past wages, as an economic downturn led to diminishing profits, more factory closures, and abandoned construction projects. On March 6, nearly 1,000 workers at an electronics factory in Dongguan, Guangdong Province, protested and blocked roads over compensation problems.

Strikes also occurred in an increasingly broad range of sectors. While many strikes occurred in manufacturing, reports increased of strikes in the transport, sanitation, and service industries similarly stemming from failure to gain adequate compensation. In August a hospital in Guangzhou attempted to impose a management-dictated settlement for unpaid overtime on a group of hospital security guards. Despite threats of dismissal, the guards went on strike. Management refused to negotiate with the guards, and local authorities detained them for staging an illegal demonstration.

In August an estimated 3,000 workers at a toy factory in Shenzhen conducted a solidarity strike in support of 551 long-term migrant workers also at the factory. Despite having employed the workers for well over the 15 years required for pension eligibility, the company had failed to make mandatory contributions to their pension funds prior to 2008. Facing retirement, these workers were not able to claim the pensions to which they were entitled.

In May informally elected workers' representatives at Shenzhen Diweixin furniture factory led a protest against their employers over the company's refusal to discuss compensation for a planned relocation. On May 23, authorities detained worker leader Wu Guijun after protracted strikes and petitions to the city government to intervene in fruitless negotiations. According to independent labor organizations, Wu was formally charged with "assembling a crowd to disturb social order" on September 28, but later reports indicated that the procuratorate refused to accept the charges due to lack of evidence and sent the case back to the public security officials for further investigation. Wu remained in detention as of year's end.

Other labor activists detained in previous years reportedly remained in detention at year's end, including Chen Yong, Kong Youping, Liu Jian, Liu Jianjun, Memet Turghun Abdulla, Wang Miaogen, Xing Shiku, Zhou Decai, Zhu Chengzhi, and Zhu Fangming.

b. Prohibition of Forced or Compulsory Labor

The law prohibits forced and compulsory labor, but there were reports that forced labor of adults and children occurred (see section 7.c.).

There were reports that employers withheld wages or required unskilled workers to deposit several months' wages as security against the workers departing early from their labor contracts. These practices often prevented workers from exercising their right to leave their employment and made them vulnerable to forced labor. Implementation of amended labor laws, along with workers' increased knowledge of their rights under these new laws, continued to reduce these practices.

International NGOs alleged that provincial and local governments were complicit in some cases of forced labor of university students as "interns" at facilities managed by the Taiwanese electronics giant Foxconn. Local governments, in order to encourage Foxconn to establish operations in their cities, promised to help recruit workers for Foxconn's labor-intensive operations. In September the media reported that students in Shandong and Jiangsu provinces complained that their universities made it mandatory that they serve 45-day internships on assembly lines in Foxconn factories to meet Foxconn's production demands. A December 12 FLA report of Foxconn facilities in Guanlan, Longhua, and Chengdu indicated that no student interns had been employed at those sites during the year.

Forced labor in penal institutions remained a serious problem, according to the International Trade Union Confederation. Many prisoners and detainees were required to work, often with no remuneration. Compulsory labor of detainees in RTL facilities, who had not been tried and convicted in a competent court, also constituted forced labor.

In both cases detainees reportedly experienced harsh and exploitative conditions of work, including long periods without a rest day and often working more than 10, and sometimes 12 or 14, hours per day to meet informal "quotas" imposed by facility management. Detainees who did not meet their quota were threatened with physical violence and other forms of punishment.

In addition there were credible allegations that prisoners were forced to work for private production facilities associated with prisons. These facilities often operated under two different names, a prison name and a commercial enterprise name. No effective mechanism prevented the export of goods made under such conditions. Goods and materials likely to be produced by forced labor included toys, garments and textiles, electronics, bricks, and coal.

The Ministry of Justice discussed allegations of exported prison-labor goods with foreign government officials, but information about prisons, including associated labor camps and factories, was tightly controlled. Although the ministry has official

control over the RTL system, police and other local authorities had a great degree of influence on a case-by-case basis.

In November 2012 a Chongqing court rejected the wrongful imprisonment suit brought by Ren Jianyu, who had been released from an RTL center one year into his two-year sentence for "incitement to subvert state power" for posting online statements critical of the political system. In July, Ren submitted an application to the Chongqing RTL committee requesting compensation totaling RMB 167,762 ($27,440) to cover the wages he lost while in the camp and the psychological harm he suffered.

After the Standing Committee of the NPC voted to abolish the RTL system in December (see section 1.d.), media and NGO reports indicated that many of the RTL facilities were converted to drug rehabilitation centers or prisons. It is not clear whether forced labor continued in these facilities.

Also see the Department of State's Trafficking in Persons Report at www.state.gov/j/tip/.

c. Prohibition of Child Labor and Minimum Age for Employment

The law prohibits the employment of children under the age of 16. It refers to workers between the ages of 16 and 18 as "juvenile workers" and prohibits them from engaging in certain forms of dangerous work, including in mines.

The law specifies administrative review, fines, and revocation of business licenses of those businesses that illegally hired minors and provides that underage children found working should be returned to their parents or other custodians in their original place of residence. The penalty for employing children under 16 in hazardous labor or for excessively long hours ranges from three to seven years' imprisonment, but a significant gap remained between legislation and implementation.

Child labor remained a problem. Print media and online reports most frequently documented the use of child labor in the electronics manufacturing industry, although many reports indicated it occurred in a number of sectors.

The government does not publish statistics on the extent of child labor, but rising wages and a tightening labor market led some companies to seek to hire underage workers in violation of the law. Some local authorities also ignored the practice of child labor or even facilitated it to prevent employers from moving to other areas.

Reports of child labor persisted in areas suffering from labor shortages and in smaller enterprises that compensated workers on a piece-rate basis. For example, in Dongguan, Guangdong Province, a manufacturing hub hit hard by labor shortages and rising wages, local employers admitted that the use of child labor on a temporary basis was common. Although Dongguan Bureau of Human Resources and Social Security statistics showed an increase in child labor cases, the bureau did not have sufficient resources to increase enforcement operations among the thousands of small enterprises operating in the area.

In May a 14-year-old boy working at an electronics factory in Dongguan died suddenly in the factory dormitory. The boy used a false identity card to gain employment, and local officials cited the company for violating child labor laws.

In an open letter to the Guangdong Province Communist Party secretary posted on the internet, the mother of a 15-year-old boy from Henan, burned badly in 2012 while working in a Zhuhai electronics factory, appealed for help in obtaining compensation for the injury. The employer had refused to pay both the compensation sought by the family and the award subsequently determined by the labor arbitration board. Provincial authorities fined the employer and urged the local labor bureau to expedite the case, but compensation for the injury was still pending at year's end.

On December 27, the Guangzhou-based Southern Metropolis Daily reported that approximately 70 underage workers were discovered working at an electronics company in Shenzhen's Baoan District. The alleged underage workers were all from the Yi ethnic minority group, and all were from a remote mountainous region of Liangshan, Sichuan Province, the origin of several recent child-labor trafficking cases. This followed incidents in 2011 and 2008 involving underage workers from the same region. Although in each instance local labor authorities intervened after the Southern Metropolis Daily notified them of the underage workers, the three similar cases reflect a systemic inability to deter trafficking of underage workers or to identify child labor through regular labor inspections. In the most recent case the Shenzhen company posted a notice on its website blaming the company's labor dispatch service provider for providing worker identity cards purporting to show all of them to be older than age 16.

Abuse of the student-worker system continued as well. One international labor NGO reported that most students working in domestic companies in the supply chains of multinational electronics manufacturers, where there was greater scrutiny, did not have the formal written contracts required by law. After an internal audit, one multinational electronics company admitted it had violated the labor law after interns between the ages of 14 and 16 were discovered working at its subsidiary in Yantai, Shandong Province.

As in past years, there continued to be allegations that schools and local officials improperly facilitated the supply of student laborers. Some reports indicated that schools supplied factories with illegal child labor under the pretext of vocational training, in some cases making this labor compulsory for the student.

d. Acceptable Conditions of Work

There was no national minimum wage, but the law requires local and provincial governments to set their own minimum wage according to standards promulgated by the Ministry of Human Resources and Social Security. Average wage levels continued to increase. Monthly minimum wages varied greatly with Shenzhen, Guangdong Province, reaching RMB 1,600 ($262) from March 1 and towns in remote Ningxia Province the lowest at RMB 750 ($123). During the year the country increased its "rural poverty level" to RMB 192 ($31.40) per month.

The law mandates a 40-hour standard workweek, excluding overtime, and a 24-hour weekly rest period. It also prohibits overtime work in excess of three hours per day or 36 hours per month and mandates premium pay for overtime work.

A regulation states that labor and social security bureaus at or above the county level are responsible for enforcement of labor law. The law also provides that where the ACFTU finds an employer in violation of the regulation, it shall have the power to demand that the relevant local labor bureaus deal with the case.

Many vulnerable workers, including those older workers laid off as a result of restructuring of state-owned enterprise, as well as many rural-urban migrants, were employed in the informal economy. In 2012 Chinese Academy of Social Sciences' researchers estimated that the prevalence of informal employment ranged from 20 to 37 percent overall, based on the definition used, with between 45 and 65 percent of migrants employed in the informal sector. UN experts reported that women were particularly active in the informal economy, often as domestic workers or petty entrepreneurs. Micro- and small businesses with fewer than seven employees also meet the international criteria for informality. Workers in the informal sector often lacked coverage under labor contracts, and even with contracts migrant workers in particular had less access to benefits, especially social insurance. Workers in the informal sector worked longer hours and earned one-half to two-thirds as much as comparable workers in the formal sector.

The State Administration for Work Safety (SAWS) sets and enforces occupational health and safety regulations. The Law on Prevention and Control of Occupational Diseases requires employers to provide free health checkups for employees working in hazardous conditions and to inform them of the results. Companies that violate the regulation have their operations suspended or are deprived of business certificates and licenses.

Effective May 2012 the SAWS and the Ministry of Finance jointly issued the Measures on Incentives for Safe Production Reporting, which authorize cash rewards to whistleblowers reporting companies for violations, such as concealing workplace accidents, operating without proper licensing, operating unsafe equipment, or failing to provide workers with adequate safety training. The measures warn against false accusations but also stipulate protection under the law for legitimate whistleblowers who report violations.

While many labor laws and regulations on worker safety were fully compatible with international standards, implementation and enforcement were generally poor due to a lack of adequate resources. Compliance with the law was weak, and standards were regularly violated. While excessive overtime occurred, in many cases workers encouraged noncompliance by requesting greater amounts of overtime to counterbalance low base wages and increase their overall wages. Inadequately enforced labor laws, occupational health and safety laws, and regulations continued to put workers' livelihoods, health, and safety at risk.

Almost all local and provincial governments raised minimum wage levels significantly during the year as a result of changing economic and demographic conditions. As the average tenure of workers in the Pearl River Delta increased, their skills improved, adding more upward pressure on wages. Spot shortages of skilled labor, in-

creased inland investment, and successful strikes led to generally increased wage levels for workers in all parts of the country.

Nonpayment of wages remained a problem in many areas. Governments at various levels continued efforts to prevent arrears and to recover payment of unpaid wages and insurance contributions. It remained possible for companies to relocate or close on short notice, often leaving employees without adequate recourse for due compensation. In some extreme cases, workers who feared that they would be deprived of adequate compensation or severance engaged in actions such as taking managers hostage.

Although creative strategies by some multinational purchasers provided new approaches to reducing the incidence of labor violations in supplier factories, insufficient government oversight of both foreign affiliated and purely domestic supplier factories continued to contribute to poor working conditions. Questions related to acceptable working conditions, especially overtime, continued to plague electronics manufacturers such as Foxconn.

On December 12, the FLA released the third and final verification report on conditions at Foxconn facilities in China, tracking progress on that action plan through July 1. The report documented that nearly 100 percent of all actions recommended by the FLA had been completed at three key facilities in Guanlan, Longhua, and Chengdu, resulting in clear changes in company policy. Nonetheless, FLA assessors documented numerous violations of domestic law. While some workers received an average of one day off per week, others went for a month or more without these breaks. In some cases workers worked more than 60 hours per week, and for a six-month period, more than one-half of the workers in the Longhua and Guanlan facilities exceeded the legal overtime limit of 36 hours per month. In Chengdu from July to October more than 75 percent of workers exceeded this limit.

Although SAWS reported that the rate of industrial accidents continued to decline, there were several high-profile instances of industrial accidents. On June 3, a total of 121 workers died in a fire that swept through a poultry-processing plant in the northeastern province of Jilin. In that incident most of the exits at the plant had been locked from outside, and none of the 395 employees working at the time had received fire safety training. SAWS responded by dispatching teams to assess safety standards at factories. Although inspections routinely identified existing problems that increased the risk of industrial accidents, ensuring that companies acted on the findings of the inspections remained a challenge.

Authorities continued to press mines to improve safety measures and mandated greater investments in safety. In August 2012 SAWS announced its goal of closing hundreds of small coal mines during the year in an attempt to reduce the number of deadly accidents.

Despite consistent reductions in mining deaths, there continued to be many coalmine accidents throughout the country.

In Jilin Province, gas explosions at coalmines on March 29 and April 1 killed 53 workers. An third explosion on April 21, also in Jilin, killed 18 workers - despite an order for all coal mines in the province to suspend operations and undergo safety inspections following the earlier two explosions.

ACFTU occupational disease experts estimated that 200 million workers worked in hazardous environments. According to the Chinese Center for Disease Control and Prevention, only an estimated 10 percent of eligible employees received regular occupational health services. Small- and medium-sized enterprises, the largest employers, often failed to provide the required health services. They also did not provide proper safety equipment that could help prevent disease, and were rarely required to pay compensation to victims and their families. Instances of pneumoconiosis, or black lung disease, remained high. A charitable NGO that helped to treat migrant workers estimated the disease affected approximately six million rural residents.

U.S. CUBAN RELATIONS—THE WAY FORWARD

WEDNESDAY, MAY 20, 2015

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC.

The committee met, pursuant to notice, at 10:03 a.m., in room SD–419, Dirksen Senate Office Building, Hon. Bob Corker (chairman of the committee) presiding.

Present: Senator Corker, Risch, Rubio, Johnson, Flake, Perdue, Cardin, Boxer, Menendez, Shaheen, Udall, Murphy, Kaine, and Markey.

OPENING STATEMENT OF HON. BOB CORKER, U.S. SENATOR FROM TENNESSEE

The CHAIRMAN. The Senate Foreign Relations Committee will come to order. Thank you. Thanks for your interest.

Today, we will hear from the State Department's Assistant Secretary for Western Hemisphere Affairs on the strategy behind the President's significant shift in U.S. policy toward Cuba. Assistant Secretary Jacobson is joined at the witness table by the Counselor of the State Department, Ambassador Thomas Shannon. We welcome you both.

Cuba has been left behind politically and economically, a far cry from a time decades ago when it was among the most prosperous countries in the region.

The administration's Cuba policy initiative has been welcomed in Latin America and the Caribbean. But significant differences of opinion, which we will hear today, exist in the United States over the extent to which this change in policy will advance U.S. interests and improve circumstances for the Cuban people.

Today, we look forward to our witnesses speaking to how our Nation can best engage strategically with the region and beyond to help Cuba rejoin the mainstream of the Americas and offer its citizens the same rights and freedoms enjoyed by citizens of other countries in the region.

To this end, our witnesses can help us understand the administration's policy goals with regard to Cuba. What do they intend to achieve in restoring full diplomatic relations and relaxing sanctions? We would also like to hear their assessment of what the Cuban Government's goals are for engaging in this diplomatic process with the United States.

Every policy initiative will inevitably come into contact with the reality that the Cuban state and, most importantly, the Cuban state's relationship with its own citizens, have not yet changed. In

truth, we have to define what a normal relationship with Cuba looks like bilaterally, but also in the context of our relationship with the Americas more broadly.

Our overall relations with Latin America and the Caribbean have evolved significantly over past decades. The last unilateral U.S. military intervention in the region occurred more than 20 years ago in Haiti.

U.S. trade with Latin America and the Caribbean has more than doubled from 2000 to 2012. In the process of opening to increased trade with the United States and each other, Latin American countries have taken steps to adopt market reforms and create more transparent legal and investment standards.

The norm in the region is for regular multiparty elections and, more broadly, inter-American institutions today reflect the commitment by the region to more democratic, inclusive governments. The U.S. relationship with Latin America is very different than it was during the Spanish-American War in 1898 or during the cold war in 1959. This is the larger strategic context in which the way forward for our relations with Cuba will be defined.

And we thank you both very much for being here. I look forward to the opening comments of our distinguished ranking member, Senator Cardin.

OPENING STATEMENT OF HON. BENJAMIN L. CARDIN, U.S. SENATOR FROM MARYLAND

Senator CARDIN. Well, thank you, Mr. Chairman. I, certainly, welcome our witnesses today. I thank you very much for conducting this hearing.

There is no question that the December 17th speech by President Obama marked a watershed moment in our relationship toward Cuba. There are members of this committee who believe it went too far. There are members of this committee who think it did not go far enough.

But one thing I think is critically important is that we have an open committee hearing and discussion on these issues. That is why I particularly thank the chairman for bringing forward this hearing, so that we can begin a discussion on the new direction with Cuba.

On December 17 we also—we celebrated the long overdue of Maryland resident Alan Gross to the United States.

Mr. Chairman, by consent, I would ask that his statement be included in our record.

The CHAIRMAN. Without objection.

[EDITOR'S NOTE.—The Alan Gross written statement mentioned above can be found in the "Additional Material Submitted for the Record" section at the end of this hearing.]

Senator CARDIN. We all are interested to hear from our witnesses. Today's hearing provides an important opportunity to review the advances achieved under the administration's new Cuba policy and to understand the strategy for moving forward.

Without a doubt, this is a complicated process, and it will take time to achieve the progress we all want.

I want to underscore that there is one issue that I think unites us, even though we all may have different views as to where we should move with our policy on Cuba. That one area that I think unites every member of this committee and the United States Senate is that we all stand together in our aspirations to see the Cuban people have the opportunity to build a society where human rights and fundamental freedoms are respected, where democratic values and political pluralism are tolerated, and where individuals can work unobstructed to improve their living conditions. This is particularly true with the Afro-Cuban population.

We also share concerns about critical issues such as the Cuban Government's ongoing human rights abuses and the presence of American fugitives in Cuba, especially those wanted for the murder of U.S. law enforcement officers.

But the central question is, how can we best advance these aspirations while also addressing our concerns? Our previous policy did not achieve the progress that we wanted to see, so a new approach is needed.

President Obama has laid out a new path based on the belief that principled engagement will bring more results. I think that this is the right path to follow for the following reasons.

First, for far too long, the Cuban Government has used U.S. policy as an excuse to justify its shortcomings and the hardships of the Cuban people. The Cuban Government has also exploited U.S. policy for diplomatic gains, focusing international debate about what the U.S. should do rather than about what Cuba needs to do to better to provide for its citizens. This has been a particular challenge here in our own hemisphere where governments, including some of our closest partners, have long preferred to speak out critically about U.S. policy rather than about the conditions on the island.

The President's policy has reset the geopolitical calculus in the region and will provide new opportunities for cooperation with our Latin American and Caribbean partners.

The recent Summit of the Americas in Panama showcased this point clearly, and both President Obama and the United States were praised widely for their leadership.

In one particularly important development, the Presidents of Costa Rica and Uruguay joined President Obama in meeting with Cuban dissidents. This was an incredibly important moment in what it showed the international community. Seeing Latin American Presidents joining the U.S. President to meet with members of the Cuban opposition was unthinkable just 6 months ago.

I also want to thank Senator Boxer. Senator Boxer and the Western Hemisphere Subcommittee had a chance to hear from Mr. Cuesta Morua at that hearing. I think that was an important point also.

Second, despite differences we may have with the government, our foreign policy should always endeavor to support the country's people to the greatest degree possible. When President Obama first came to office in 2009, he created greater flexibility for Cuban-Americans to visit their families in Cuba and to send remittances to the island. These early policy changes have provided important support to the emerging class of Cuban entrepreneurs that have

been able to launch new economic initiatives, often working out of their own homes.

While the Cuban Government still limits their activities widely, and not all Cubans are able to take advantage of them, U.S. policy is directly responsible for helping the Cuban people improve their living conditions and achieve a new degree of independence from the Cuban Government.

The President's December announcement went one step further and has made it easier for U.S. citizens to engage in purposeful travel to Cuba. Whether for academic, philanthropic or business reasons, U.S. citizens will now have greater opportunities to take part in people-to-people programs that provide increased interaction with the people of Cuba.

I have no doubt that the dynamism of American society will make a positive contribution to empowering the Cuban people and provide them with the information they need to build the future of their country.

While the President's policies have made important changes to U.S. travel regulations, there are some things that only Congress can do. For that reason, I am a cosponsor of Senator Flake's Freedom to Travel to Cuba Act. I think we must do everything we can to promote robust ties between the citizens of the United States and Cuba, and I hope we will have the opportunity to discuss that bill during this hearing.

Then third, the administration's new Cuba policy will provide U.S. diplomats with new tools to engage directly with the Cuban Government, to have principled and frank discussions about the issues we disagree about, and how we might work together to resolve these issues.

Every day, our diplomats around the world demonstrate their ability to engage foreign governments and advance U.S. national interests. It is not unreasonable to think that we will have a better chance to address the outstanding claims held by U.S. citizens for property confiscated by the Cuban Government or to secure the return of American fugitives to face justice in the United States if we actually engage in direct dialogue with the Cuban Government and articulate our demands.

When it comes to issues of confronting the illicit narcotics trade or addressing migration issues, it is in the national interest of both the United States and Cuba to have channels of communication between our two governments. Diplomacy will make this possible.

The President's Cuba policy puts the United States on the right path. But we must remain clear-eyed about several issues, and we must continue to speak out about them.

We cannot ignore the Cuban Government's record of human rights abuses or human trafficking. Every month, there are way too many instances where the Cuban Government jails political activists for what they believe, what they say publicly. Human rights and freedom of expression must be central to all of our engagements with the Cuban Government.

I know that Assistant Secretary Tom Malinowski led a human rights dialogue with the Cuban Government earlier this year. I welcome our witnesses' comments on this development.

Mr. Chairman, as I said initially, we do welcome the witnesses that are going to testify today. I thank you again for this opportunity for our committee.

The CHAIRMAN. Thank you very much.

Our first witness is the honorable Roberta Jacobson. She is the Assistant Secretary of State for Western Hemisphere Affairs. Assistant Secretary Jacobson has led the State Department discussions with the Cuban Government regarding establishing diplomatic relations.

Our second witness is Ambassador Thomas Shannon. He is the Counselor of the State Department. Most recently, he served as American Ambassador to Brazil. Among his duties, he has also served as senior director for the Western Hemisphere at the National Security Council.

We thank you both for being here. You can keep your comments fairly brief, if you wish, and we will accept your written testimony into the record. We look forward to the questions. Thank you.

STATEMENT OF ROBERTA S. JACOBSON, ASSISTANT SECRETARY OF STATE FOR WESTERN HEMISPHERE AFFAIRS, U.S. DEPARTMENT OF STATE, WASHINGTON, DC

Ms. JACOBSON. Thank you so much, Mr. Chairman and Ranking Member Cardin, for the opportunity to testify on United States-Cuba policy today and your interest in the hemisphere more broadly.

Let me just underscore this unique moment, I think, in the Americas for the United States. It is remarkable to see how U.S. relations with countries of the hemisphere are increasingly characterized by mature partnerships and shared values and interests. The depth and breadth of the partnerships we have with Canada, Brazil, Chile, Colombia, Peru, Mexico, and so many others is extraordinary. I am especially proud of the renewed commitment to working with Central America and the Northern Triangle countries, including our $1 billion 2016 request, which we believe will strengthen regional security, prosperity, and good governance.

Since I last appeared before this committee in February, we have begun to see the administration's new approach on Cuba providing space for other nations in the hemisphere and around the world to focus on promoting respect for human rights and fundamental freedoms in Cuba.

At the Summit of the Americas in Panama, engagement by the President and the Secretary reinvigorated our momentum. Our approach has drawn attention to the potential for greater political and economic freedom for the Cuban people and the gap between Cuba and other countries in the hemisphere.

More Americans are traveling to Cuba, meeting Cubans, and building shared understanding between our people. We have seen practical cooperation in our dialogues with Cuba on issues in our national interest, like maritime and aviation security, telecommunications, and environmental cooperation.

Our future discussions on law enforcement cooperation coupled with ongoing migration talks will expand the avenues available to seek the return of American fugitives from justice, among other issues.

And we are planning on future talks on human rights and settling American claims for expropriated property.

Most importantly, the President's new approach makes clear that the United States can no longer be blamed as an obstacle to progress on such things as access to information or connecting Cubans to the world.

Fundamentally, on this issue, I am a realist. And as anyone who ever dealt with Cuba knows, being a realist is essential.

Indeed, as the President made clear prior to his historic meeting with Raul Castro at the summit, significant differences remain between our two governments. We continue to raise our concerns regarding democracy, human rights, and freedom of expression.

The policy is based on a clear-eyed strategy that empowers the Cuban people to determine their own future by creating new economic opportunities and increasing their contact with the outside world. These changes create new connections between our countries and help the nascent private sector in Cuba.

But comprehensive changes in our economic relationship will require congressional action to lift the embargo, and the President has urged Congress to begin that effort.

The administration's decision to rescind Cuba's designation as a State Sponsor of Terrorism was a fact-based process, as the President has emphasized.

While progress has been made in our efforts to reestablish diplomatic relations, we are not there yet. There are still outstanding issues that need to be addressed to ensure a future U.S. Embassy will be able to function more like other diplomatic missions in Cuba and elsewhere in the world.

But even today under challenging circumstances, our diplomats unite families through our immigration processing, provide American citizens services, issue visas, and aid in refugee resettlement. They work hard to represent the interests and values of the United States. Our engagement with the broadest range of Cubans will expand once we establish diplomatic relations with Cuba.

And tomorrow we will be holding a new round of talks with our Cuban counterparts to advance these objectives. As we move the process ahead, we hope we can also work together to find common ground toward our shared goal of enabling the Cuban people to freely determine their own future.

Thank you, and I welcome your questions.

[The prepared statement of Ms. Jacobson follows:]

PREPARED STATEMENT OF ROBERTA S. JACOBSON

Mr. Chairman, Ranking Member Cardin, thank you for the opportunity to testify today on U.S.-Cuba policy. I know many of you have a deep interest in U.S. policy toward Cuba and have closely followed our implementation of the President's new approach to Cuba since December 17. I appreciate the committee's engagement on Western Hemisphere issues and your strong commitment to democratic values, human rights, and expanding social and economic opportunity in the Americas.

Before I move to my remarks on Cuba, I wanted to underscore the unique moment that the United States is facing in the Americas. As someone who has spent her career working with this region, it is remarkable to see how U.S. relations with the countries of the hemisphere are increasingly characterized by mature partnerships and shared values and interests. Without at all minimizing the difficulties that we have with some countries, and the challenges that remain with regard to the subject of the hearing today, the depth and breadth of our partnerships with Brazil, Canada, Chile, Colombia, Peru, Mexico, and so many others is extraordinary and con-

tinues to grow. I am especially proud of our renewed commitment to working with the Northern Triangle countries of Central America, including our $1 billion FY 2016 request that will strengthen regional security through increased investments in security, prosperity, and good governance. We have launched the Caribbean Energy Security Initiative to help countries to achieve a more sustainable and cost-effective energy matrix. And of course, the President's new direction on Cuba has generated enormous good will among all these partners and underscores our desire to turn the page on the 20th century and to build a more forward-looking relationship with the region.

Since I last appeared before this committee in February, we have begun to see the administration's new approach to Cuba providing space for other nations in the hemisphere and around the world to focus on promoting respect for human rights and fundamental freedoms in Cuba and elsewhere in the region. This was illustrated at the Summit of the Americas in Panama last April. Engagement by the President and the Secretary at the summit reinvigorated our momentum on a variety of issues. Our new approach has drawn greater attention to the potential for greater political and economic freedom for the Cuban people and the gap between Cuba and other countries in the hemisphere. More Americans are traveling to Cuba, getting past the rhetoric, meeting Cubans, and building shared understanding between our people. We have seen practical cooperation in our official dialogues with Cuba on issues in our national interest like maritime and aviation safety, telecommunications, and environmental cooperation. Our future discussions on law enforcement cooperation, coupled with the ongoing migration talks, will expand the avenues available to seek the return of American fugitives from justice as well as the return of Cubans residing illegally in the United States. We are also planning future talks on human rights and settling American claims for expropriated properties. Most importantly, the President's new approach makes clear that the United States can no longer be blamed as an obstacle to progress on things such as access to information and connecting Cubans to the world.

Now while I like to think of myself as an optimist, fundamentally I am a realist—and as anyone who has ever dealt with Cuba knows, a realistic perspective is a very useful one to have. Indeed, as the President made clear prior to his historic meeting with Raul Castro at the Summit of the Americas, significant differences remain between our two governments. We continue to raise our concerns regarding democracy, human rights, and freedom of expression. And we will seek to engage with all Cubans to gain their perspectives on the best way forward for the country.

While the President's new direction on Cuba has been welcomed by many Cubans and Americans, I know that there are divergent views in the U.S. Congress on the policy of engaging the Cuban Government. I appreciate that these views are deeply held and based on personal and professional experience with Cuba and with broader issues of foreign affairs.

Our policy toward Cuba is based on a clear-eyed strategy that empowers the Cuban people to determine their own future by creating new economic opportunities and increasing their contact with the outside world. That is why we made it easier for Cuban-Americans to travel and send remittances to their families in Cuba, and opened new pathways for academic, religious, and people-to-people exchanges. These changes create powerful new connections between our two countries and help the nascent private sector in Cuba, which is already creating opportunities on the island. The steps we have implemented build on this foundation by increasing authorized travel, authorized commerce, and the flow of information to, from, and within Cuba.

Our new approach emphasizes targeted forms of commerce that offer economic opportunity to independent Cuban entrepreneurs or, like expanded communications, benefit all Cubans. Comprehensive changes in our economic relationship will require congressional action to lift the embargo. The President has urged Congress to begin that effort. In the meantime, we are using available policy tools to promote a prosperous, democratic, and stable Cuba.

In a short period of time, we have already started to see U.S. enterprises seizing the new opportunities. The regulatory changes we announced are intended to increase the financial and material resources available to the Cuban people and the emerging Cuban private sector. They also enable U.S. companies to offer expanded telecommunications and Internet services in ways that will help all Cubans, including students, academics, entrepreneurs, and members of Cuban civil society, advance their aspirations and collectively become more prosperous.

Regarding the administration's decision to rescind Cuba's designation as a State Sponsor of Terrorism, as President Obama said, "throughout this process, our emphasis has been on the facts. So we want to make sure that, given that this is a powerful tool to isolate those countries that genuinely do support terrorism, that

when we make those designations we've got strong evidence that, in fact, that's the case. And as circumstances change, then that list will change as well." We will continue to have differences with the Cuban Government, but our concerns over a wide range of Cuba's policies and actions do not relate to any of the criteria relevant to that designation.

While progress has been made in our efforts to reestablish diplomatic relations, we are not there yet. There are still outstanding issues that need to be addressed to ensure a future U.S. Embassy will be able to function more like other diplomatic missions in Cuba and elsewhere in the world. Even today, under challenging circumstances, our diplomats do their very best to represent the interests and values of the United States, just as we do in hundreds of places around the world. The services our Interests Section offers to Cubans are no different than those we offer in most other U.S. embassies. Our engagement with the broadest range of Cubans will expand once we establish diplomatic relations with Cuba.

We will continue our discussions with Members of Congress as we move toward a new relationship with Cuba. As this process moves ahead, we hope that we can also work together to find common ground toward our shared goal of enabling the Cuban people to freely determine their own future.

We appreciate your attention to these important issues. Thank you and I welcome your questions.

STATEMENT OF HON. THOMAS A. SHANNON, JR., COUNSELOR OF THE DEPARTMENT, U.S. DEPARTMENT OF STATE, WASHINGTON, DC

Ambassador SHANNON. Mr. Chairman, Ranking Member Cardin, and members of the committee, thank you very much for this opportunity to appear before you.

As the chairman noted, we have submitted our testimony, so I will just hit a few of the high points. I would like to start by saying it is a pleasure and honor to appear before you with Assistant Secretary Roberta Jacobson, who has served so ably and successfully as our principal diplomat in the Americas.

My purpose today, along with the Assistant Secretary, is to address the regional context in which our Cuba policy is unfolding and to lay out some of the strategic dimensions of our diplomacy.

The great American theorist of international relations, Hans Morgenthau, once wrote, "Our purpose is not to defend or preserve a present or restore a past, it is to create the future." He noted that our global engagement, whether it be diplomacy or force of arms, has always been meant to defend one kind of future against another kind of future.

It is in this light that we should understand the President's policy toward Cuba. The decision to engage with Cuba and seek normalization of our bilateral relationship attempts to create a new terrain on which to pursue a future that meets our interests and corresponds to our values.

Our commitment to democracy and human rights, and our desire and hope that the Cuban people will know the benefits of liberty and become the sovereigns of their own destiny, is no less for our action.

The President has been clear about the commitment in our Cuba policy to our enduring fundamental principles of self-government and individual liberty. However, he has also been clear about our inability to effect significant change in Cuba acting alone across so many decades.

Instead, he determined that our efforts would be more effective if we could position Cuba squarely within an inter-American system that recognizes democracy as a right that belongs to all the

peoples of our hemisphere; that believes that democracy is essential to the political, economic, and social development of our peoples; and has the juridical instruments, treaties, and agreements to give shape, form, and weight to these commitments.

It is our determination that this kind of environment would be the most propitious to support the only legitimate agent of peaceful and enduring political change in Cuba: the Cuban people.

To understand this point better, it would be worthwhile to take a closer look at what the hemisphere Cuba is a part of looks like in the second decade of the 21st century. The Americas and specifically Latin America, has anticipated many of the events that are shaping our world today. It is a region that has largely moved from authoritarian to democratic government, from closed to open economies, from exclusive to inclusive societies, from autarkical development to regional integration, and from isolation to globalization.

There are a few points worth making in this regard.

First, Latin America is the first region in the developing world to commit itself to democracy. It was also the first region to establish regional and subregional structures to promote and defend human rights and to build subregional institutions and mechanisms for dialogue.

Because of this, it has also built shared economic understandings, including a commitment to market economies, free trade, and regional integration. But perhaps most dramatically, Latin America today is pursuing a second generation of change or transformation. It is attempting to use democratic governance and democratic institutions to build democratic societies and states.

The great experiment in Latin America today is to show that democracy and markets can deliver economic development and can address the social inequities of poverty, inequality, and social exclusion.

The profound changes unleashed in Latin America show that democracy and markets can deliver economic development. And in effect, Latin America has used democracy and markets to launch a peaceful, social revolution that is transforming many countries in the region in long-lasting ways.

Our ability to promote profound and dramatic change in Latin America is an example of what the United States can accomplish through diplomacy and engagement. If we accomplish such a profound transformation in our hemisphere through engagement, why not try the same approach with Cuba? Better yet, why not try it in partnership with countries and institutions that are now prepared to work with us because of the President's new policy?

Cuba finds itself today part of a dynamic, vibrant region where transformative change has been the watchword for several decades. And it finds itself in a region where the momentum of that change will continue to reshape political, economic, and social landscapes. In such an environment that the Cuban people will find many models and partners from which to learn and choose, we should be one of those models and partners.

Mr. Chairman, thank you very much for this opportunity to speak. We look forward to your questions.

[The prepared statement of Ambassador Shannon follows:]

PREPARED STATEMENT OF THOMAS A. SHANNON

Mr. Chairman, Ranking Member Cardin, and members of the committee, thank you for the opportunity to testify before you today on this important topic.

It is a pleasure and honor to appear before you with Assistant Secretary Roberta Jacobson, who has served so ably and successfully as our principal diplomat in the Americas.

She has addressed in her testimony President Obama's policy toward Cuba, and the steps we are taking to implement that policy. She is well placed to respond to specific questions you might have about that policy, and is familiar with the reaction around our hemisphere to our policy.

My purpose today is to address the regional context in which this policy is unfolding, and to lay out some of the strategic dimensions of our diplomacy.

In starting, I would like to note that in my current assignment as Counselor of the Department of State I have had the pleasure to work on key administration priorities around the globe. During my travels throughout Africa, Asia, and the Middle East, as well as my specific and incidental engagement in the Western Hemisphere, I have had many opportunities to see, experience, and reflect on the importance of the United States in the world, and the enduring role and relevance of American diplomacy.

The great American theorist of international relations, Hans Morgenthau, once wrote, "Our purpose is not to defend or preserve a present or restore a past, it is to create the future." He noted that our global engagement is meant to defend one kind of future against another kind of future.

It is in this light that we should understand the President's policy toward Cuba. The decision to engage with Cuba and seek normalization of our bilateral relationship attempts to create a new terrain on which to pursue a future that meets our interests and corresponds to our values. Our commitment to democracy and human rights, and our desire and hope that the Cuban people will know the benefits of liberty and become the sovereigns of their own destiny, is no less for our action.

The President has been clear about the commitment in our Cuba policy to our enduring and fundamental principles of self-government and individual liberty. However, he has also been clear about our inability to effect significant change in Cuba acting alone across so many decades. Instead, he determined that our efforts would be more effective if we could position Cuba squarely within an inter-American system that recognizes democracy as a right that belongs to all the peoples of our hemisphere, believes that democracy is essential to the political, economic, and social development of our peoples, and has the juridical instruments, treaties, and agreements to give shape, form, and weight to these commitments. It was our determination that this kind of environment would be the most propitious to support the only legitimate agent of peaceful and enduring political change in Cuba: the Cuban people.

To understand this point better, it would be worthwhile to take a closer look at what kind of hemisphere Cuba is a part of in the second decade of the 21st century.

The Americas, and specifically Latin America, has anticipated many of the events that are shaping our world. It is a region that has moved largely from authoritarian to democratic government, from closed to open economies, from exclusive to inclusive societies, from autarkical development to regional integration, and from isolation to globalization.

Latin America is the first developing region of the world to commit itself explicitly to democratic governance through the Inter-American Democratic Charter, the first to build a democratic model of development, and the first to establish regional structures to promote and protect human rights.

While creating a broad base of shared political values, Latin America has also constructed shared economic understandings and a commitment by many of the most successful countries in the hemisphere to market economies and free trade. In the process, it has built subregional integration and political dialogue through organizations like the Common Market of the South, the Andean Community, the Union of South American Nations, and the Central American Integration System, all the while preserving larger hemispheric institutions, such as the Organization of American States and the Summit of the Americas process, that connect Latin America to the Caribbean and North America.

As Latin America advances into the 21st century, it is undergoing a second generation of change. Politically, it has consolidated democratic government and is strengthening democratic states and societies. This has opened up political institutions to new voices and actors, deepening the representativeness of many Latin American governments and challenging traditional elites and interests. In some countries, weak democratic institutions have not been able to contain the social

energy unlocked by democratization, leading to populism and political polarization as groups struggle for control of the state. As troubling as this phenomenon can be, it does not define the democratization of the region but instead presents a challenge for the region to show how it can address such incidents through the organizations and institutional mechanisms it has created.

Economically, Latin America is building innovative integration mechanisms such as the Pacific Alliance, and reaching into Asia and North America to find new and important economic partners. We have FTAs with 12 countries in the hemisphere, and the continued globalization of Latin America is driven not only by the regions abundant commodities, especially food and energy, but also by growing middle classes that have created attractive markets for manufactured goods and services.

The profound changes unleashed in Latin America show clearly that democracy and markets can deliver economic development and address long-standing social inequities such as poverty, inequality, and social exclusion. In effect, Latin America has used democracy and markets to launch peaceful social revolutions that are transforming many countries in important and long lasting ways. Our ability to promote profound and dramatic change in Latin America is an example of what the United States can accomplish through diplomacy and engagement.

If we accomplished such a profound transformation in our hemisphere through engagement, why not try the same approach with Cuba? And better yet, why not try it in partnership with countries and institutions that are now prepared to work with us because of the President's new policy?

Cuba today finds itself part of a dynamic, vibrant region where transformative change has been the watchword for several decades. And it finds itself in a region where the momentum of that change will continue to reshape political, economic, and social landscapes. In such an environment, the Cuban people will find many models and partners from which to learn and choose. We should be one of those models and partners.

Hans Morgenthau wrote, "The world has been conscious of America's purpose in the measure that America is determined to achieve it." The President's actions in regard to Cuba are a clear indication of our determination to achieve our purpose. How we achieve that purpose opens a great opportunity for cooperation between the executive and legislative branches of government. We hope this hearing deepens the dialogue between us on how we can shape our policy and diplomacy to achieve our ends while further advancing the integration and well-being of our hemisphere.

The CHAIRMAN. Thank you both.

I want to thank the committee for the way that it has handled what I think have been some really difficult issues since we began this year. And I know there are significant differences of opinion relative to the Cuba policy that have been laid out. I am really glad we have those differences of opinion represented here. I look forward to a robust Q&A.

One of the questions that I have had from the very beginning has been, what are the specific changes within Cuba that we have negotiated or asked for as it relates to this policy change? It is my sense that there have really been none. I wonder if you might expand on that. I think it has been a question that most people have asked that have not been following the Cuba situation nearly as closely as you, and that is, are there specific things that we expect Cuba to do in return for this change in policy toward them?

Ms. JACOBSON. Thank you, Mr. Chairman.

I think that as we move forward with this policy, what is important to understand is the majority of the things that the President did, he took action on because he believes strongly, we believe, that they are in our interests and in the interests of the Cuban people—the United States and the Cuban people. They were not negotiated with the Cuban Government.

So the regulatory changes that allow for greater purposeful travel, that allow for support by Americans to the emerging private sector in Cuba, indeed, the normalization itself to pursue engagement—normalization and the reestablishment of diplomatic rela-

tions, of course, must be worked out mutually with the Cuban Government—but the rest of the measures that were taken to support and, indeed, empower the Cuban people, were not things that were negotiated with the Cuban Government. They were actions and policies taken unilaterally by us.

We believe that, over time, especially things like support for emerging private sector entrepreneurs and, in particular, hopefully the increase in telecommunications and information technology in Cuba will make a big difference in the ability of Cuban citizens to determine their own future. So they were not negotiated with the Cuban Government, per se.

The CHAIRMAN. Ambassador Shannon, do you want to expand on that any?

Ambassador SHANNON. I think Roberta covered it well.

The CHAIRMAN. Okay. So let me ask you, I was going to go in a different direction, but since you mentioned technology, it was an interesting thing to announce that U.S. companies were going to be more involved technology-wise. But it is my understanding that the Cuban Government does not really allow much access relative to the outside world with communications.

So I am just wondering, we made a big deal out of that announcement, but what is the net effect of it, if the government itself does not really allow its citizens to participate in that way?

Ms. JACOBSON. Well, I think it is very important that the Cuban Government has said, as part of the U.N.'s efforts to open information to citizens around the world that they want to expand access for the Cuban people. We are hopeful that that will happen.

Right now, there is not access for most Cubans. It is very expensive. It is not available. And it is not necessarily something they can have in their own homes.

But the ability of the Cuban Government and Cuba, in general, to have a more up-to-date modern infrastructure on telecommunications and information is something that is critical to the modernization of the Cuban economy. And, therefore, we would like American companies to be part of bringing better information technology to Cuba, which is why the President felt it was important to allow American companies to do so.

The Cuban Government has not yet made decisions to move forward with that, but there are American companies that are talking with the Cuban Government. And there is no doubt that there is a desire for greater information by the Cuban people, and we would like to do everything we can to enable that.

The CHAIRMAN. So since we did not negotiate for changes, and I understand that, because we thought this was in our interests, what is it that you think, on the other hand, will be the response by the Cuban Government? In other words, what do you think, even though we did not negotiate or even though we did not try to leverage in any way, what are the policy changes that will occur inside Cuba as a result of these changes?

Ms. JACOBSON. Well, there have already been underway in Cuba, obviously, some limited economic reforms. The ability of half a million or more entrepreneurs to go into 200 or so approved businesses, business areas in private business, self-employment, that is

an area I think that is really right for support, that the regulations support.

I would hope there will be many more of these entrepreneurs emerging and that they will be able to prosper and expand and be agents for change within Cuba.

There are, obviously, very different views on the political system as well as the economic system of Cuba. The President has been clear about that.

We think that engagement with citizens of Cubans by average Americans who are going for purposeful travel, which has increased under this policy, and the ability for the private sector to increase, and hopefully information to increase—and we are not sure what the Cuban Government will do in the face of these things. I think they are still absorbing our changes and making their own policy decisions.

But we know from polling that has been done inside Cuba that the narrative of the United States being responsible for economic privations and other disadvantages of the Cuban people is no longer blamed on the United States. That narrative is eroding.

The CHAIRMAN. Okay. Thank you.

I have one last question. I want to first thank you for the time that both of you spent in my office on another matter. I know we talked about the region in general.

I wonder if, Ambassador Shannon, you might just talk a little bit about the effect that this policy announcement has had on our ability in the region to discuss other issues of importance to our country.

Ambassador SHANNON. Thank you very much, Senator. This is an important component of our policy, because we believe that the decision to engage with Cuba and to normalize relations removes an irritant that has not only limited where we can work with some of our partners and others in the region, but it has also, over time, degraded some of our most important multilateral institutions, especially in the inter-American system, within the OAS and Summit of the America's process.

I mentioned in my testimony the region has built a series of subregional mechanisms and institutions to build dialogue. For the most part, this has been very positive.

But in some instances, some of these institutions have been built—I am speaking, in particular, of the community of Latin America and Caribbean nations—to permit Caribbean and Latin American countries to have a conversation among themselves with Cuba where we are not present. And this, in the long term, is not in our advantage.

Therefore, by working toward normalization, we actually create an opportunity for the inter-American system to reassert itself as the premier political, economic, and social institution in the Americas. I believe this is an opportunity that we need to take advantage of.

But in particular, in regard to Cuba, the region understands and knows that Cuba is the only country in the hemisphere that has not made an explicit commitment to democracy and has not recognized through the Inter-American Democratic Charter democracy as a right of all the peoples of the Americas.

And although they have taken different approaches, we are really now in a position to be able to press them to work harder on democracy and human rights issues inside of Cuba.

The CHAIRMAN. Thank you both.

Senator Cardin.

Senator CARDIN. Again, thank you both for being here.

Let me just quote from the most recent State Department human rights report, where it has acknowledged that Cuba is an authoritarian state where elections are neither free nor fair. And quoting, "The principal human rights abuses were abridgement of the rights of citizens to change the government and the use of government threats, extrajudicial physical violence, intimidation, mobs, harassment, and detentions to prevent free expression and peaceful assembly. The following additional abuses continued: harsh prison conditions, arbitrary arrests, selective prosecutions, and denial of fair trials."

It goes on to say, " . . . interfered with privacy, engaging in pervasive monitoring of private communications, do not respect freedom of speech, severely restricted Internet access, monopoly on media outlets, circumscribed academic freedoms, maintained significant restrictions on the ability of religious groups, refused to recognize independent human rights groups, prevent workers from forming unions, exercising their labor rights.

"Most human rights abuses were official acts committed at the direction of the government. Impunity for the perpetrators remained widespread."

That is the most recent report from the State Department.

And then the independent human rights organization, the Cuban Human Commission for Human Rights and National Reconciliation, has documented in the first 4 months of this year about 1,600 cases of arbitrary politically motivated detentions, which is about the same pace we have seen historically in Cuba over the last 3 years.

I mention that because I want to get specific here for a moment as to how you intend to evaluate Cuba's progress on human rights and use our tools at our disposal to advance that. I use as an example the OSCE, which is a consensus organization without enforcement and yet it is known globally for its commitment to advance human rights. It has been very successful, the Helsinki Watch, the Helsinki groups.

I am not aware of the OAS having the same type of effectiveness in advancing human rights in our own hemisphere.

So my question to you is, How do you intend to use the OAS? How do you intend to use the United Nations now that we have removed this obstacle, as you see it, as far as having credibility to raise these issues? How do we intend to use United States leadership to advance human rights progress in Cuba? And how can we evaluate whether we are making progress in that area?

Ms. JACOBSON. Senator, thank you. I think there are a couple things.

First, there is no doubt that we will continue to write human rights reports that are honest and unflinching in what they describe as going on in Cuba, that there continue to be these short-term detentions that should not be going on, harassing individual

human rights activists groups, preventing them from having their rights exercised.

And so there is a range of tools. One of which the President highlighted in terms of speaking out. But we also now have another tool at our disposal, which is direct engagement, including the human rights dialogue, which will move forward.

There is no doubt from the preliminary conversations we have had that we have very distinct views of human rights and universal, internationally recognized human rights. But we will now be able to have that conversation much more directly going forward.

In addition, in terms of international organizations and our ability to work with others more effectively in those international organizations, as you know, Cuba is suspended from the OAS. They have been since 1962. But the questions of looking at human rights issues in Cuba, as Ambassador Shannon said, whether they are living up to the commitments that all of the rest of us have made in the hemisphere through the Inter-American Democratic Charter, through tools like the Inter-American Commission on Human Rights, those are tools which we are more able to use, reference, and discuss with our partners, who I think are much more engaged in having that discussion with us post-policy engagement and opening now that we are more——

Senator CARDIN. How will that be reflected? I understand that. I said that in my opening comments. How can we know that we are making that progress? What specific agenda items do you intend to do? And what allies will we have to hold Cuba accountable for adhering to internationally recognized human rights?

Ms. JACOBSON. Obviously, the best metrics of progress will be on the ground in terms of whether it is a reduction in short-term detentions or a growing ability by Cubans of all stripes to be able to speak and be able to exercise their democratic rights.

I think the President was pretty clear on our also understanding that change is not going to come to Cuba overnight. As we work on this, we have to understand that, in empowering Cubans to take their own responsibility for these rights, there will be progress, and there will be setbacks.

We will speak out about those. We will work with other countries in the various international organizations. I cannot tell you exactly the agenda, where we will talk with other countries. We will, certainly, do so at the OAS. We will do so in the U.N. bodies, whether that is the U.N. Human Rights Council or other instruments such as those.

Senator CARDIN. What leverage will we exercise over Cuba in regard to our expectations that they will make progress on these internationally recognized human rights standards?

Ms. JACOBSON. I think one of the things that is most important is the ability to have embassies and to carry out the functions under the Vienna Conventions to travel around Cuba and to be able to interact with the widest number of Cuban citizens, which we have not been able to do up until now. And that is critical, that our diplomats also be the first-person observers of things, which has not been the case in the past. That is obviously something we are working on right now.

Senator CARDIN. What countries in our hemisphere do you believe can you work closest with in putting pressure on Cuba to comply with international recognized human rights?

Ms. JACOBSON. I think that the Ambassador may have more to say about this. My own view is there are many countries in the hemisphere that will work with us, whether it is publicly or behind the scenes. Countries that have committed are obviously democratic countries committed to human rights, countries around the hemisphere such as Costa Rica and Uruguay, and allies like Colombia and Peru and Mexico, which have worked on tough human rights issues around the hemisphere and will be in conversations with us.

But many in the region, in the Caribbean, in Central America, will be working with us on this, committed to the same principles.

Senator CARDIN. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Rubio.

Senator RUBIO. Thank you both for being here.

Secretary Jacobson, before I get to my questions, I wanted to ask, you discussed that we are in these discussions with the Cubans and we have distinct views on human rights. I do not mean to say this is what you meant, but let us just be clear. These are not two distinct views that both are legitimate. This is a view of human rights that we have, and a view of human rights they have, which under no circumstances fits under any definition of human rights.

Their views on human rights are not legitimate. They are immoral. The notion you can round up people and arrest them because they disagree with the government, the theory that can you send thugs to Panama to beat up on democracy activists, we would say this upfront, right, that their view of human rights is not just different from ours, they are flat out wrong and immoral in their views?

Ms. JACOBSON. We have said clearly that we do not think those views accord with international standards and the Universal Declaration of Human Rights.

Senator RUBIO. So the Cubans are flat out wrong when it comes to human rights?

Ms. JACOBSON. On repressing people's rights to free speech and assembly, we do not think they are correct.

Senator RUBIO. There is no moral equivalence between our view of human rights and theirs?

Ms. JACOBSON. I did not say that, and I would not. That is not what I was trying to say.

Senator RUBIO. All right, good. I wanted to get that clear.

Let me talk about travel. It is a big part of what everyone is talking about. The truth is, going from Hotel magazine, Hotel magazine wrote a few years ago that Gaviota S.A., which is owned by the Cuban military, and is a prominent subsidiary Grupo GAESA, which is the holding company that basically controls the entire Cuban economy, it is also the largest hotel conglomerate in Latin America and the Caribbean. It has hotel holdings equivalent to the Walt Disney Company's holdings, and it is run by General Luis Alberto Rodriguez Lopez-Callejas. That is a long name. He is Raul Castro's son-in-law.

Let me read you something that McClatchy newspapers wrote a few years ago about this network. It wrote, "Tourists who sleep in some of Cuba's hotels, drive rental cars, fill up their gas tanks, and even those riding in taxis, have something in common. They are contributing to the Cuban Revolutionary Armed Forces' bottom line," in essence, recognizing that if you travel to Cuba, if you stay in a Cuban hotel, in all likelihood, you are staying in a hotel run by the Cuban military. If you rent a car, you are renting it from the Cuban military. If you fill up your gas tank, you are filling up from the Cuban military.

And I would add that if you stay at a hotel, you are staying in all likelihood in a confiscated property, a land that was taken from a previous private owner who was never compensated for it. In essence when you travel to Cuba and stay in one of these hotels, not only are you putting money in the hands of the Cuban Government, you are trafficking in stolen goods, because it is property that belonged to a private holder, some of them American citizens who were never compensated for it.

So when we talk about increased travel to Cuba and more commerce with Cuba through travel, what we are really talking about is increased business ties with the Cuban military, for the most part.

Is that not an accurate assessment at this time?

Ms. JACOBSON. It is, certainly, accurate that the Cuban state, including the military, runs a large percentage of the hotels and other infrastructure. We also now have an increasing number of casas particulars, people's individual homes, which are being used as hotels or B&Bs—Airbnb is working on that—and private entrepreneurs moving into spaces to support the purposeful travel.

Senator RUBIO. So then why would we not limit our opening in travel to say that if you travel to Cuba, you can only stay at one of these casas particulares or one of these other nongovernmental, nonmilitary-owned facilities? Why would we not, as part of our opening, say can you travel to Cuba, but you cannot stay in a property that was stolen and you cannot stay in a property owned or operated by the Cuban Government, which includes even the foreign-flagged hotels, because they have majority ownership there as well.

Ms. JACOBSON. Senator, our strong belief is though we are aware that there will be some financial benefit to the Cuban Government by the larger number of Americans going to Cuba, the benefit of those larger numbers, which could not be supported only by individual homes, for example, the benefit to the Cuban people of this larger number of Americans going far outweighs the increased economic benefit that may accrue to the Cuban Government.

Senator RUBIO. Just so I understand clearly, and bottom line is you agree that if you travel to Cuba, you are staying in all likelihood in a stolen property that is in all likelihood run by the Cuban Government. But that said, the fact that there are going to be Americans present there, the benefit of having Americans being able to travel and interact with Cuba outweighs the economic benefits that are going directly to the Cuban military.

Ms. JACOBSON. I would say that it is possible those properties are confiscated. It is, certainly, the case that many of the properties are state-owned. But we do believe that the benefit outweighs——

Senator RUBIO. Other than the private homes you talked about, which are largely state-owned as well, but at least an individual is running it, other than the private homes, which is still a very small sector of the economy, which Cuban hotel is not owned or operated by the Cuban Government?

Ms. JACOBSON. I said that I assume most of them are state-run, especially because even joint ventures are majority Cuban.

Senator RUBIO. They are all state-run. Is there a private-owned hotel in Cuba?

Ms. JACOBSON. I do not know, sir. But I assume there are none. But as I say, there are these bed and breakfasts and individual homes.

But again, I think the premise on which we are basing this is that the benefits of engagement, purposeful travel, are very, very great to the Cuban people, and seen overwhelmingly by the Cuban people as of benefit to them, as surveys show.

Senator RUBIO. I want to talk about the Internet for a moment. Cubans, as you said, blamed the United States for lack of access to the Internet and so forth. It has been couched as a lack of capacity. In fact, Cubans say, our own President said that. He said, "Unfortunately, our sanctions on Cuba have denied Cubans access to technology that has empowered individuals around the world."

But I think you know that is not true. For example, there is no Japanese embargo on Cuba. There is no South Korean embargo on Cuba. And, yet, those technologies are not widely available either.

Is it not true that at the end of the day access to Internet in Cuba is not simply a function of capacity, because there are multiple other countries around the world that do not have an embargo on Cuba that can provide cell technology or Internet technology. Is it not true that the vast majority of the impediment to access to the Internet and technology in Cuba is a result of Cuban Government censorship?

Ms. JACOBSON. I think the denial of access has been both one of policy and one, in terms of access to American products, also one of polices of the United States. We are taking one of those two things away.

They are now able to have access to U.S. products, which we always believe are the best in the world. And that leaves only policy.

Senator RUBIO. I understand. But there are still other countries—I have a Samsung. Why is Cuba not awash in Samsungs? All these other countries around the world who do not have an embargo on Cuba, why have they not been allowed to come in and offer Wi-Fi and all the sorts of things that developed countries have?

In essence, it is not a capacity issue. The reason why people in Cuba do not have access to the Internet ultimately is because the Cuban Government will not allow it.

Ms. JACOBSON. Well, there is a question of infrastructure that needs to be present to utilize the——

Senator RUBIO. But other countries could have provided that.

Ms. JACOBSON. They could have. The Cuban policy is clearly a big part of this. And we do not know whether that policy will

change. They have said they want to modernize their telecommunications sector.

Senator RUBIO. So why did they not do it with the Japanese, the Koreans, the Germans, or any number of countries around the world that have Internet and technology capabilities outside of United States. capabilities?

Ms. JACOBSON. I am hoping they want our stuff.

Senator RUBIO. No, I understand that.

Ms. JACOBSON. And we will be able to compete well. But we also see on the island many Samsung phones, many other cell phone technology of the latest make, but it is not connected to anything yet.

Senator RUBIO. It is connected to the Cuban Government telecommunications.

Ms. JACOBSON. And that will be the question. Can they open to something that allows their economic development to enter the modern world and connect Cubans to the world?

The CHAIRMAN. Senator Boxer.

Senator BOXER. Mr. Chairman, thank you.

Senator Cardin, as the ranking member on the Latin America Subcommittee—Senator Rubio is my chairman—I really appreciate the full committee looking at this.

I do want to pick up on what Senator Rubio said, but in kind of a different way. When you listen to my colleague, you would think this was the only country in the world that we have relations with and we are starting to have relations with where the state owns hotels.

A lot of my colleagues, maybe all my colleagues on the Republican side, I cannot be sure, but I think voted to go ahead with a free trade agreement that includes Vietnam, an out and out Communist country that pays a minimum wage of 70 cents and owns many of the hotels, trust me. But yet, we still have relations.

The reason we have relations are geopolitical reasons, that we want to work to change these places. So I think my colleague, with his line of questioning, has really proven the point, because Russia, some Russian hotels are owned by the country, China.

Are we going to start telling people what hotels to stay in, in China and Russia and Vietnam and Cuba? Come on. We do not do that. We are not an authoritarian country.

You know, if people chose to stay in an Airbnb in Cuba, that would make me happy. That is a San Francisco-based company.

I wanted to mention that I am very proud. They are one of the first United States businesses to take advantage of new economic opportunities in Cuba that my colleagues, some who sit on this committee, would take away.

And in March, a New Jersey-based telecommunications company announced an agreement to provide direct international long-distance telephone service between the United States and Cuba, so relatives could talk to each other.

These companies have an opportunity to make an incredible difference in the lives of everyday Cubans by connecting them to outside world. Now, there are plenty of problems and challenges that we face. There is no question about that.

And I was going to ask you, Ambassador or Assistant Secretary Jacobson, what have been the greatest areas of progress in the talks so far with Cuba? And what can we expect from this upcoming round of talks? If you can be brief and concise, because I have a bunch of other questions.

Ms. JACOBSON. I will. Thanks.

I think the greatest progress so far is just the acceptance by both sides that we do want diplomatic relations, that we want embassies, and our understanding that we will be able to operate in Cuba in a way that allows us to engage with more Cuban citizens. That is incredibly important, and we see that as really critical to this whole engagement process.

I think in terms of what we will talk about tomorrow, it is really getting rest of the agreement for an embassy that operates similar to the way we operate in some other countries.

Senator BOXER. Thank you.

Assistant Secretary, you testified in a subcommittee hearing Senator Rubio and I held in February about the impact of the President's new policy on human rights and democracy in Cuba. And I asked you about the impact of the President's new Cuba policy on United States relations with other countries in the region and the world. And you answered then that the reaction was immediate and extremely positive. Those are your words. I was very pleased about that.

Now, we also discussed then the importance of engaging regional partners on issues related to human rights. Has the administration been able to leverage regional and international support for its new Cuba policy to increase pressure on the Castro regime for its blatant violations of basic freedoms and systemic repression and abuse of its citizens? Has there been any success so far in engaging our partners on those issues?

Ms. JACOBSON. Well, thank you, Senator. I do think that we have had conversations, certainly, with many of our hemispheric partners that have been much more productive than they have been in the past. I certainly would second what Senator Cardin said about the fact that in Panama the President was able to have a roundtable on civil society with the President Tabare Vazquez of Uruguay and President Solis of Costa Rica, which included two independent Cuban activists, dissidents, as well as 12 or 15 others from around the hemisphere.

That is something very unusual. They would not necessarily have sat with the U.S. President to do that before this policy change. And the Cuban dissidents who were there were able to connect with colleagues around the hemisphere, which was not possible in the past.

I also think that the reaction of the Panamanian Government to things that happened in Panama, including government-sponsored nongovernmental organizations preventing the full exercise of freedom of speech in the civil society forum was very forceful on how democracies operate, and that, too, was a change from what we have seen sometimes in the past.

Senator BOXER. I think the fact that our regional partners got to actually meet human rights advocates is very important, because

a lot of times, you know, see no evil, that is it. But having spent time with them I think is critical. So that is a very good report.

Now, Cuban President Raul Castro has said he will step down in 2018, following the end of his second term. This means for the first time since 1959, Cuba will not be led by one of the Castro brothers.

Reports indicate that President Castro is grooming his first Vice President, Miguel Diaz-Canel, to succeed him. Can you talk about the importance of this transition of power in Cuba? And could you shed a little light on this first Vice President?

Ms. JACOBSON. I am not sure I can shed that much light in this area. What I can say is I do think that a transition that is taking place is not just one of a normal or even Cuban election that is taking place in 2018. It is a generational change. And the exit of either of the Castro brothers is very, very significant.

There are changes in the way that elections are going to be done in Cuba. Still not what we would like to see in a free, multiparty election, but I do think it is going to be significant.

Obviously, the Vice President, Diaz-Canel, is the next generation of leaders. We have not met with him. I have not met with him, but I know many of you have who have gone to Cuba, many of the codels have. So there may be more knowledge in the Congress than we have.

Senator BOXER. Mr. Chairman, I will close with this.

I think this 2018 election is a real test for us, in a way, because if we can focus on democracy and freedom and fairness, it is a very specific thing we can work on, and I am going to work on that myself.

In closing, may I put my opening statement in the record?

CHAIRMAN. Without objection.

[EDITOR'S NOTE.—The statement mentioned above can be found in the "Additional Material Submitted for the Record" section at the end of this hearing.]

Senator BOXER. Thank you.

The CHAIRMAN. Absolutely.

Senator Johnson.

Senator JOHNSON. Thank you, Mr. Chairman.

Secretary Jacobson, I want to talk about the legal authority that President Obama is using to take his actions.

In 1996, in reaction to the Cuban downing of two civilian aircraft, Congress passed the Cuban Liberty and Democratic Solidarity Act of 1996, commonly referred to as the Libertad Act. Its purpose is to assist the Cuban people in regaining their freedom and prosperity, as well as enjoying the community of democratic countries that are flourishing in the Western Hemisphere. Another reason for the act, and I think the primary one, is to provide for the continued national security of the United States in the face of continuing threats from the Castro government of terrorism and theft of property of United States nationals.

I think what was noteworthy about the act is it codified all restrictions under the Cuban Assets Control Regulations that were promulgated by the Treasury Department in 1963, and it codified the Cuban embargo.

What is also noteworthy is this had long-lasting effects on United States policy options toward Cuba because the executive branch is prevented from lifting the economic embargo without congressional concurrence until certain democratic conditions set forth in the law are met.

Let me talk specifically about what those conditions are. In section 203, it says that upon making determination under subsection (c)(3) that a democratically elected government in Cuba is in power, the President shall, upon determining that a democratically elected government of Cuba is in power, submit the determination to the appropriate congressional committees.

So let me first ask, has the President made a determination that a democratically elected government in Cuba is now in power?

Ms. JACOBSON. The President has not taken actions under those aspects of the Libertad Act. So he has not invoked that part or any of the Libertad Act to take the actions he has taken.

Senator JOHNSON. So he simply does not feel like he has to refer to the Libertad Act? What is he doing, if he is not basically lifting the embargo? What is this? How is he skirting it?

Ms. JACOBSON. I think the President has made very clear that Congress is the only body that can lift the embargo. And as he said in his State of the Union message, he called on Congress to do so. Therefore, he has made clear that he does not have the authority to lift the embargo.

Senator JOHNSON. What is he doing? It seems like a lifting of the embargo to me.

Ms. JACOBSON. What he has taken are Executive actions and regulatory changes within the Executive's purview, with the embargo still in place.

As you know, there were, for years, exceptions and continue to be exceptions to the embargo on agriculture. His changes make their exceptions on telecommunications and to support the private sector in Cuba. Those are the kinds of exceptions to the embargo that are within the executive branch's purview.

Senator JOHNSON. Okay. Do you basically agree with the primary purpose of that act, which I read earlier, to ensure the freedom and prosperity of the Cuban people and, certainly, to enhance the national security of America?

Do you think those are the two primary policy goals of this country toward Cuba?

Ms. JACOBSON. Certainly, the President has made clear that what we want is a democratic, prosperous, and stable Cuba, which I think is similar to what is in that act. The question of our own national security should always be paramount in our decision-making.

Senator JOHNSON. Ambassador Shannon, I was struck by your comments, that democracy and freedom is flourishing in Central America. Certainly, we have some good examples in Colombia because of courageous leadership, but I am not seeing a whole lot of democracy flourishing in Venezuela or Cuba, from that standpoint.

Can you help me out in terms of what you are talking about?

Ambassador SHANNON. There is no doubt that democracy is not flourishing in Cuba. And it is part of the President's effort to pur-

sue a new approach to see what more we can do to help the Cuban people begin their own political opening.

But as we look back over the last several decades, what is important to remember and acknowledge about our hemisphere, is this was a region that was largely ruled by authoritarian governments, some military, some not, but which has found through its commitment to human rights and its ability to organize and use inter-American institutions, like the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights, to develop civil societies around human rights issues and use that to build democracy.

Whether it is Chile in the 1980s; whether it is our work in Central America to face down insurgencies and move military governments to allow elections to take place for civilian government to take over; whether it is what we have done in Colombia; whether it is transition to civilian and democratic governments in Argentina, Uruguay, and Brazil—I think this hemisphere has distinguished itself over the past three decades——

Senator JOHNSON. Okay. I am running out of time here.

Seeing as the primary purpose is to provide for the continued national security of America, is anybody going to make the case that the Castro regime has been helpful in promoting democracy and freedom in the hemisphere? Is it not true that they are supporting FARC in Colombia, and supporting the repressive regime in Venezuela?

Is that not true, Secretary Jacobson?

Ms. JACOBSON. What the Cuban Government has done and what we asserted in the report that we sent to Congress is the support for the FARC that we have seen recently is support for the peace process that is going on in Cuba between the FARC and the Colombian Government. Obviously, that was not always the case in the past, but at this time we think they are playing a constructive role in the peace process.

In Venezuela, it is a different issue.

But I think in many areas, we do not see Cuba in national security terms. We believe the engagement with Cuba through diplomatic relations will be far better for our interests than the previous policy of isolation.

Senator JOHNSON. In regards to the other purpose, to assist the Cuban people to regain their freedom and prosperity, as Senator Rubio is pointing out, the United States is basically the only country engaged in embargo. Cuba has been able to trade freely with the rest of the world.

I am not seeing the flourishing of prosperity as a result of that engagement. How in the world do we think being able to trade with the United States is going to improve their prosperity at all under the repressive regime of the Castros?

Ms. JACOBSON. You are, certainly, right that their economic system has not made them a magnet for the trade and investment from other countries that they are able to have.

In other words, other countries could have invested and been trading with them more than they are. But Cuba has to change to make that possible.

But they have been able to promote a narrative of the U.S.'s embargo and isolation from them as the reason for those economic problems. We have now taken that excuse away, so it will be obvious that the problems are the lack of movement in their system.

Senator JOHNSON. Thank you, Madam Secretary.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Menendez.

Senator MENENDEZ. Mr. Chairman, today is the 113th anniversary of Cuban Independence Day. It is a bittersweet date, given the Cuban people's languishing for more than 55 years under a dictatorship.

As Assistant Secretary Jacobson reopens negotiations between Cuba and the United States tomorrow, let me be frank. I have deep concerns that the more these talks progress, the more the administration continues to entertain unilateral concessions without in return getting agreement on fundamental issues that are in our national interests and those of the Cuban people.

So I know you said in response to another question these are not things we negotiated, these are things decided unilaterally. I really cannot believe that.

The Cubans, Castro, said, you want a relationship? You have to return the three convicted spies, three convicted spies of the United States, including one who was convicted of conspiracy to commit murder of three United States citizens in international airspace. Check, we gave them the three spies.

You want a relationship? Take us off the list of State Sponsors of Terrorism. Check, we gave them that.

You want a relationship? Stop or change the democracy programs that we do throughout the world because we do not like those democracy programs because they interfere with our totalitarian regime.

So I wake up to an article from Reuters that says U.S. signals it could change pro-democracy programs in Cuba that Havana objects to. Cuba has long objected to the pro-democracy program, which includes basic courses, for my friends sitting in the press, in basic journalism and information technology to the United States diplomatic mission in Havana. Check.

Bring us to the Summit of the Americas even though Cuba violates the Democratic Charter of the OAS. And one of your people says it does not matter who is invited to the table, it is what is talked about. Guess what? The Democratic Charter, the message, Counselor Shannon, that is sent to the hemisphere is, you can violate the Democratic Charter and still be part of the club. So why not go ahead and violate it if you think you are compelled to do so? Pretty amazing.

I have not seen any movement at all toward greater freedom. As a matter of fact, I would like to commend the committee's attention to someone inside of Cuba, a Cuban blogger, Yusnaby Perez.

In The Daily Beast, "Cuba's 12 Most Absurd Prohibitions That Tourists May Never Notice." I am just going to read a couple, Mr. Chairman. Cubans cannot access the Internet from their homes or on cell phones, not because, in fact, of technology infrastructure. That is not the case. They cannot access because the government

will not let them because information is a problem. So, yes, they want to perfect greater infrastructure, but for them to control it.

You cannot live in Havana without a permit. The blogger goes on to say, can someone from L.A. live in Washington, D.C.? The answer is obviously yes. But you cannot live in Havana without a permit from the government.

No public demonstrations are allowed. Imagine that.

No political parties are allowed except the Partido Comunista de Cuba, the Cuban Communist Party.

No investment in medium and large enterprises.

No inviting a foreigner to spend a night without a permit in your own home.

Among many others, something as absurd as you cannot bring from abroad 25 artificial fingernails, in violation of the law.

I ask unanimous consent that the full article it be included the record.

The CHAIRMAN. Without objection.

[EDITOR'S NOTE.—The article mentioned above can be found in the "Additional Material Submitted for the Record" section at the end of this hearing.]

Senator MENENDEZ. So here we are. Human rights abuses continue unabated with more than 1,600 cases of arbitrary political arrests this year alone, only 5 months into the year.

So, President Obama may have outstretched his hand, but the Castros still have their fists real tight.

You and Secretary Malinowski came before this committee, heralded that there was a downturn. Guess what? We are skyrocketing back up in human rights violations and political dissidents being arrested, including the rearrest of the people who you negotiated to ultimately be released, several of them have been rearrested.

Now, despite the desire to move in a different direction, I see we get nothing in return.

You are taking Cuba off the terrorism list. Well, Joanne Chesimard on the FBI's 10 Most Wanted Terrorists list for murdering New Jersey State Trooper Werner Foerster, Charles Hill wanted for killing a New Mexico State Trooper and hijacking a United States civilian plane, they are both living in Cuba, protected by the regime.

The regime says we will talk to you, we will talk to you, even though your counterpart has already said she got political asylum and she is not going anywhere, but we will talk to you about it. We will talk to you about it. We will all talk ad infinitum.

So I just do not see it. And I hope my colleagues who are so passionate, and I listened to them, about democracy and human rights in many parts of the world, in Burma, in Vietnam, in a whole host of places in the world, but are almost silent when it comes to Cuba.

Somehow democracy and human rights there is not as important as other places in the world. I hope we can keep the same standard.

Let me ask you, Madam Secretary, to your knowledge, were you or any member of the State Department told not to push for sanctions on Cuba in violation of sending MiGs and missiles to North

Korea in violation of U.N. Security Council Resolutions, the type of missiles that, in fact, were in the hull of a cargo ship full of sugar being hidden where the MiG insignias of Cuba were taken off to try to hide it?

Were you told not to push? Or to your knowledge, was any member of the State Department told not to push for sanctions at the U.N.?

Ms. JACOBSON. Not that I know of.

Senator MENENDEZ. Did the U.N. sanction Cuba?

Ms. JACOBSON. They did not.

Senator MENENDEZ. They did not.

Let me ask you this, in the list of State Sponsor of Terrorism, you got a letter that says that, in fact, Cuba has not, never did, oddly the Castro regime's assurances also asserted the Government of Cuba has never—this is in their letter, and the State Department quoted it—has never supported any act of international terrorism and that the Cuban territory has never been used to organize, finance, or execute terrorist acts against any country, including the United States.

Do you intend for members of the committee to believe that the Castro regime never supported any acts of international terrorism over the last half century?

Ms. JACOBSON. Senator, I think what is crucial is——

Senator MENENDEZ. No, not what is crucial. Answer my question.

Ms. JACOBSON. Sorry.

Senator MENENDEZ. Do you believe, do you want the committee to believe the Cuban Government has never sponsored any act of terrorism over the last half century?

Ms. JACOBSON. I cannot say that I would urge you all to believe that it has never occurred, no.

Senator MENENDEZ. Well, I hope you do not mean to suggest that the historical examples of providing support to former armed insurgents in the 1980s, including the M–19 in Colombia, the FMLN in El Salvador, the FSL in Nicaragua, or the fact that the Cuban military did not shoot unarmed civilian planes carrying American citizens over international waters, for which there are pending indictments from a United States jurisdiction against several individuals in Cuba, which I am wondering, are you pursuing that in your negotiations with Cuba about them answering those indictments?

Ms. JACOBSON. That is why we are going to have the law enforcement conversation for the Justice Department to be able to pursue——

Senator MENENDEZ. Do you realize who some of those indictments are against?

Ms. JACOBSON. Yes, sir.

Senator MENENDEZ. And do you think you are going to engage in a conversation with them responding to justice? Do you think the Castros are going to say, yes, we are going to appear in a court? I do not think so.

Ms. JACOBSON. Understood.

Senator MENENDEZ. Let me ask you one last question, if I have the chair's indulgence.

You know, you all came here and said that, oh, there is a reduction of political arrests in January, as a sign that the administra-

tion's Cuba policy was achieving results. Not surprisingly, these numbers climbed dramatically in the ensuing months with more than 450 political arrests in February, more than 600 in March, more than 1,600 political arrests in total during the first 4 months of 2015—1,600 in the first 4 months of 2015.

Now, as I am sure you know, this past Sunday, more than 100 activists in Cuba were violently arrested, including 60 members of Damas de Blanco, represented there by Bertha Soler, following their attendance at a church service.

So I guess Bertha was right when she said the Cuban Government will only take advantage to strengthen its repressive machinery, because all these women were doing was marching in white with a gladiola to church. And result of that is to be beaten and thrown into prison.

That is not success. I do not get it.

The final thing I will say, Mr. Chairman, I have a lot of other questions, but in deference to my colleagues, and I appreciate it, is that this is one-sided. I do not know what we have gotten in return. We have gotten nothing in return, but the Cubans have gotten plenty in return.

If that is our way of negotiating, then we have a real problem on our hands. And the message we send in the Western Hemisphere, in Venezuela, where we have—I do not see our partners engaging with us because we have changed our Cuba policy, this opens door toward promotion of democracy. We are not seeing very much democracy in Venezuela. I am not sure about it happening in other places in the hemisphere for which we have challenges as well.

So I think that that is a hollow promise based on what we see.

I appreciate the chair's courtesy because of my interest.

The CHAIRMAN. Absolutely. Thank you.

Senator Perdue.

Senator PERDUE. Thank you, Mr. Chairman.

Thank you both for being here today. This is an important topic.

In my career, I have watched and seen the United States strategy of engagement in various parts of the world, China, Vietnam, Dominican Republic, Haiti, to mention a few. It has worked in some. It has not in others.

I echo what Senator Menendez just said about Venezuela. We buy $32 billion of oil a year. We have not affected their regime one iota, that I can see.

I have three concerns about what we are talking about today with regard to changing our relationship with Cuba. One is their continued support of terrorism. Two is their human rights record that continues today. And, three, is their activity in arms smuggling. We will get to those in a second.

I have a very short question. I hope you will be brief.

In 2003, Cuba allowed Iran to operate on their soil. We know about the attack on U.S. telecommunications. Cuba is reported to have supplied intelligence services to Venezuela recently and its allies.

Cuba has provided assistance and safe haven to terrorists, including members of FARC and Basque ETA. They continue to har-

bor fugitives wanted in the United States, including a fugitive today listed on the FBI's Most Wanted Terrorists list.

Cuba has also helped Islamic extremists, including members of Hezbollah, slip into North America unnoticed. A Cuban state-owned enterprise provided Venezuela with advanced technology they used to provide illicit United States passports, visas, and other documentation to 173 individuals from the Middle East between 2008 and 2012.

That is ancient history, according to the administration. Let us talk about recent history.

Just since President Obama started these secret negotiations with the Castro regime, since June 2013, there have been reportedly 15,000 political arrests, 2,500 such arrests just since the President's speech on United States-Cuban relations in December.

To make it even worse, between February and March of this year alone, Cuba has increased the number of politically motivated arrests by 70 percent.

As troubling as that is, I am even more troubled by Cuba's continued nefarious activities with regard to arms smuggling. We know about the earlier shipment of 240 tons of military equipment confiscated on the way to North Korea, but we are talking about February 28 of this year, 2015, a Chinese-flagged vessel, *Da Dan Xia*, was intercepted in Cartagena, with over 100 tons of explosives, 2.6 million detonators, 99 projectile heads, and over 3,000 artillery shells. This was bought from a Chinese arms manufacturer named Norinco, on behalf of Tecnoimport, which is a shadow company of the Cuban military.

The question is, With this type of activity, what assurances can you give us? Mr. Ambassador, I would like you it take a shot at this first. With this kind of continuing and current activity, why should we be optimistic that just by opening up economic relations with these people, this regime, that this type of activity will change?

Ambassador SHANNON. Thank you very much, Senator.

I can assure you that just by opening up economic activity we will not necessarily change behavior. It is a longer process in this.

But in regard to the larger diplomatic environment, and Assistant Secretary Jacobson can address some of the more specific issues, in regard to the larger diplomatic environment, the fact that these ships were stopped was significant. The fact they were inspected was significant. The fact that these items were found was significant and shows an ability to cooperate with our partners in the region to control and monitor this kind of activity.

And this will deepen with time as people understand that the broader purpose of our diplomacy is not simply to normalize relations with Cuba and build a relationship with Cuba that will change how we try to promote our interests and democratic values, but that it is also about how we enhance the integration and cooperation inside the hemisphere.

And partners who have been leery of working with us around Cuba issue, because they do not want to get caught in the vortex of a very powerful and historic animosity, are going to be more open to engaging with us in this kind of activity.

So I believe we are actually going to be able to do more in the area of security. We are going to be able to do more in the area of nonproliferation. We are going to be able to do more in the area of fighting drugs because of this.

Senator PERDUE. Can I ask a followup on that, Mr. Ambassador? So to follow up on Senator Menendez, why would we not make that a prerequisite, that better behavior would lead to open economic relations?

Or, Madam Secretary, either one.

Ms. JACOBSON. I think, Senator, if I could, we all want the same end. It is a question of how we basically motivate that behavior or how effectively we can help support change.

The President believes firmly that the efforts we made in the past, which were, in fact, to say you must change first and then we will engage, just did not work to make the changes inside Cuba.

Senator PERDUE. Can I ask you a question on that?

Ms. JACOBSON. Certainly.

Senator PERDUE. We have evidence, though, cause and effect of several other countries, Britain, Canada, others, having open trading relations with Cuba. We are the only one really embargoing. And yet that engagement really has not changed behavior.

So what makes us believe today our opening up of economic relations with Cuba will actually have that effect?

Ms. JACOBSON. I mean, I think that is a fair point. We do not know yet what the effect of this policy will be on the Cuban Government. We do see already the beginning of the effect on the Cuban people.

While we decry the detentions of the activists, we know there are Cubans benefiting from this new policy in their independent businesses and in their belief that they are going to prosper and have a better life because of engagement with the United States.

The other thing I would say is, I am very engaged with my E.U. counterpart and with my counterpart in Spain in working with them so that we can now work together. And when we work together, not just with our regional counterparts but with our European counterparts, that is more powerful. I think that could have a more galvanizing effect.

But it will be slow. I do not deny that.

Senator PERDUE. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Kaine?

Senator KAINE. Thank you, Mr. Chairman.

Thank you to the witnesses.

My colleagues have asked great questions about the particulars of the United States-Cuba discussion. I want to talk a little bit about the region.

The Americas and the Caribbean are 35 nations. I guess by the general count, nearly 1 billion people. If I do my kind of back-of-the-envelope math, 35 nations means about 600 bilateral relationships between the nations in the region. Some of the bilateral relationships are strong and friendly. Some are weak. They are warm and cold. They change over time.

Is there any other bilateral relationship in the Americas that does not include normal diplomatic relationships, other than the

United States and Cuba? I am not aware of one, but you guys are the experts.

Ms. JACOBSON. No, sir.

Senator KAINE. So this is the only one of the 600 bilateral relationships in the Americas that does not involve a normal diplomatic relationship.

Let me ask you this, I am not aware of any war between nations in the Americas, our two continents, right now, between nations, am I right about that?

Ambassador SHANNON. You are correct.

Senator KAINE. The only civil war, there are security challenges, obviously, of many kinds because we are 35 nations and 1 billion people, but the only civil war right now in the region is the war between the Colombian Government and FARC and another smaller terrorist organization that is currently subject to a negotiation that Cuba is hosting, where the United States is playing a role accompanying the Colombian Government, correct?

Ms. JACOBSON. Right. That is correct. And we are not accompanying but have this special envoy now. It is also the longest running civil conflict in the hemisphere.

Senator KAINE. I do not want to get ahead of myself, but if that negotiation works out positively, and we have the ability to be two continents, all Americans, without war, without civil war, without war between nations, that would be pretty unusual in the history of these two continents, would it not?

Ambassador SHANNON. It would be a historic achievement.

Senator KAINE. And it would be pretty unusual on other continents, wars or civil wars in Asia, wars or civil wars in Africa, sadly, wars or civil wars in Europe.

You talked in your opening testimony about increasing trade in the Americas. The majority of the American trade agreements are with nations in the Americas. There is more trade between the nations in the Americas. There has been a move in the last 30 years from governments that have been autocratic or military toward democracy—again, not that there are not challenges, not that there are not problem children. We are human beings, after all. There are going to be challenges.

You each have spent your entire professional careers working in the Western Hemisphere. It is what you have devoted your professional lives to. Tell us what it means to the United States of America to potentially be the anchor and the leading nation in two continents with no war, no civil war, complete diplomatic relations, and an ever-increasing trade and interdependence.

Talk about what that means to the United States of America.

Ms. JACOBSON. Senator, I think those are incredibly important points. And for me, one of the things that I see in this hemisphere is not only the hemisphere's importance to the United States and to our people daily, whether trade, familial ties, the growing influence and culture that we share, and the way in which the values in this hemisphere are the same as ours, but I also see this as a model with so many flaws that still have to be overcome, and challenges that we all face, and inequalities of systems and democracies even where they exist.

But remember that in the transition from military to civilian government, truth commissions and the process of that was first done in this hemisphere with the CONADEP in Argentina, a model that then South Africa looked at and Eastern European countries looked at and others have looked in the Arab world now.

Remembering also that the terrible adjustment of the 1990s on macroeconomic issues were things that this hemisphere went through first. And now with the free trade agreements, the broadening of those economic changes to be greater social inclusion and ensure that everybody is included in those benefits is taking root here first.

So I think it is not just what we do for ourselves. It is what we are then able to do elsewhere, including working with these partners increasingly capable on global issues that matter to us, from climate change to the Middle East to peacekeeping, where Uruguay per capita is the largest contributor of peacekeepers in the world.

So I think it is not just a phenomenon we will be proud of here, but one that is in fact projecting outside.

Ambassador SHANNON. If I could add briefly, as we look out on to the globe and see some very demanding and, in some instances, some frightening security challenges, to have a strategic enclave in our own hemisphere, where we are fighting no wars, facing no significant insurgencies or terrorist groups, and are able to have commerce, both in manufacturing and services, but also in political dialogue, is a remarkable thing and a remarkable accomplishment.

To have examples of societies that have moved from authoritarian government to democracy, have moved from closed economies to open economies, as I have noted, is a confidence-builder for other countries around the world who are facing similar challenges, because our hemisphere has shown that democracy is not a status quo power structure. It is not about preserving privilege. It is about addressing profound social problems and doing so in a peaceful way, in a transformative way.

So I think we have a remarkable platform in the Western Hemisphere from which to engage the rest of the world. As the Assistant Secretary noted, and as I noted in my testimony, this is a region that is moving from global isolation to global engagement.

In many ways, one of most interesting stories of the first half of the 21st century is not going to be inter-American relations. It is going to be how the Americas relate to the rest of the world. The fact that we have four of our free-trading partners being part of the Trans-Pacific Partnership and looking for ways to transform their own economies by reaching across the Pacific into Asia, and doing so as democratic countries that support open markets, that support free trade, and that support the international institutions that regulate trade, is a dramatic accomplishment, and will have an impact on the larger economies in South America that have yet to sign up for these kind of larger agreements.

So we are at a moment of strategic momentum. And if we are able to show that this hemisphere can function hemispherically around establishing priorities and building approaches to those priorities, and if we can show that through our dialogue we can present a consolidated face to the rest of the world, we will have done something remarkable.

Senator KAINE. I thank the witnesses for their testimony.

Thank you, Mr. Chair.

The CHAIRMAN. Thank you, sir.

Senator Flake.

Senator FLAKE. Thank you, Mr. Chairman. I want to thank the chairman and ranking minority member for scheduling this hearing. This has been very informative and, obviously, an area where there is much interest here.

I want to thank the witnesses, and I want to thank them particularly for explaining that this new policy is not a reward for good behavior on behalf of the Cuban Government. Obviously, there are concerns, huge concerns, in terms of human rights that need to be addressed. But I appreciate the clear-eyed vision of that, that the administration holds.

And if you could explain, Ms. Jacobson, is it easier to have those discussions with regard to human rights or perhaps negotiating for fugitives from American justice if we have diplomatic relations or a better relationship and better contact than this situation as it has been?

Ms. JACOBSON. It is only possible, really, with a policy of engagement. Those were things we really could not do before.

Senator FLAKE. All right. Thank you. That is important, I think, important in this discussion. We often think, well, you know, is this a guarantee now, this greater engagement, that any improvements will be in the offing?

That assumes that we have a good policy now that is yielding benefits, and we have not. We have not for about 50 years now. And now at least there is a possibility that we might be able to make some improvements and see increased freedom for the Cuban people.

So I applaud the administration for taking this position and for pursuing this.

Let us turn to travel for a minute. It was said before that when people travel, some do stay in the hotels owned by the government and, therefore, revenue will flow to government. There is no doubt that will happen.

But it is significant, as was mentioned by Senator Boxer, that companies like Airbnb have gone into Cuba now. This a company that has a Web site that books travel, mostly bed and breakfast, for people in their private homes. I was just looking at it while we were here, if you just scroll down, they have now, I understand, more than 2,000 listings in Cuba.

A bit of perspective, it took them years in some of their other markets like San Francisco to get up to 1,000 listings. You have 2,000 listings. I think this is just, I think, a 1,000 over just about 50 days. So it is very significant.

And for the most part or virtually all of these listings are people in their homes, people who will benefit from visits by Americans and others. And there is less of a chance that money will certainly flow through government. Nobody denies that increased travel will increase revenue that goes to the Cuban Government, but at what cost to the Cuban Government?

I have always felt that if we lift some of our restrictions, that the Cuban Government may seek to impose some of their own, because

obviously they want revenue but they fear what else, the freedom that might come with the increased travel.

But I have often also said that if somebody is going to limit my travel, it should be a Communist. That is what they do. Not our own government here. That is not our purview. That is not our prerogative, to limit the travel of Americans.

So with regard to Cuban-American travel, I think it is significant the President lifted some restrictions a few years ago.

Ms. Jacobson or Ambassador Shannon, can you tell us what has happened in that regard in terms of increased travel over the last couple of years with the policy changing with regard to Cuban-American travel?

Ms. JACOBSON. Thank you, Senator, very much.

I think that it is clear that in the regulatory changes that the administration has made over the last few years to increase the ability for families to see each other, for Cuban-Americans to go to Cuba, as well as the changes most recently in December, there have been many more Cuban-Americans traveling. Certainly, it has been critical to us I think to ensure that remittance amounts go up, and they did dramatically in the most recent regulatory changes, because in many ways, they have been the capital that has founded some of the most important private sector emergence, and will almost certainly continue to do so, including some of these private homes that are serving on Airbnb, people who want to run their own businesses who are allowed to in areas that the Cuban Government will permit, but do not have the resources to do so and can be helped by folks in the United States.

Senator FLAKE. Well, thank you. As one who has traveled frequently to Cuba over the past 15 years, I can tell you, for several years there, it was tough to see any change or progress because the Cuban Government, it seemed they would loosen controls when they needed to and then tighten them again. But traveling there over the past couple of years, there has been a significant difference. And I think it is because of the increased travel, particularly by Cuban-Americans, that you see the type of entrepreneurship that has been allowed but will likely continue now. Much tougher to turn and reverse, that, certainly, is the feeling that those of us who traveled down more recently have gotten, and I think that will only increase with increased American travel.

Like I said before, there are no guarantees that anything will happen, but change is more likely to occur with increased contact from the United States.

Let me touch on diplomatic relations and the appointment, ultimately, of an Ambassador to Cuba. How will that help with regard to those who do business legally, Americans who do business legally in Cuba under the new regs, and increased number of Americans who travel? What benefits will they have, if we have full diplomatic relations, that they do not have now?

Ms. JACOBSON. Obviously, our interest section in Cuba already provides some services in both of those areas. But I would say that having a U.S. Ambassador, having full diplomatic relations, is always much better in terms of being able to engage with governments at the highest level, the representative of the President, and being able to advocate for those U.S. businesses that can operate

legally, being able to advocate for them against competitors, being able to support Americans while they are there.

It also critical to us that we have sufficient staff to be able to support the influx of people and Americans who are going to Cuba so we can provide those services. We can only do that with full diplomatic relations.

Senator FLAKE. Thank you.

In closing, Mr. Chairman, I just want to thank the ranking minority member for mentioning the Freedom to Travel Act that has sponsorship of the majority of this committee, I think 10 of 19. We look forward to pushing that forward.

So thank you, Mr. Chairman.

The CHAIRMAN. Thanks for your interest in this issue.

Senator Udall.

Senator UDALL. Thank you very much, Mr. Chairman. I really appreciate you holding this hearing, you and Senator Cardin, and doing it in such a balanced way. I very much appreciate that.

I am honored, Senator Flake, to be on your Freedom to Travel bill. I think one of the things that is so important is opening Cuba up to travel, and there could not be better ambassadors than our citizens going down to Cuba and visiting about what we are all about in terms of democracy and human rights and those very, very important values.

At the beginning, I just want to say I very much support this policy of normalization. I think we are turning the page on a failed policy that has been going on since the early 1960s. We are moving to empowering the Cuban people, empowering Cuban entrepreneurs. I really welcome this new chapter of normalized relations.

It was mentioned earlier, and you were asked several questions—I really appreciate you both being here and all of your hard work over the years in this area—about the private sector. And I have looked for reports on what is happening down there.

I think it is fascinating, in terms of the growth, the dramatic growth in the private sector. A 2013 Brookings report, and there are probably more because that is an old report, is looking at close to 1 million classified as private sector. You have 500,000 legally registered as self-employed and you have another 570,000 farmers who own or lease private plots working solo or in cooperatives. As I think is mentioned in your testimony, there is an organic sector also working there, organic farming and organic marketing.

In addition to that, there is another estimated, from this report, 600,000 to 1 million who are labeled private sector but they are considered illegal by the Cuban Government. So there is also a sector there that is growing.

So you have these two large sectors, which could be in the range of 2 million. I think that is what, when we travel down there, when we engage down there, with our commerce, these are the folks that we are helping. These are the folks that we are helping grow. These are the folks that we are empowering. And I think that is a very, very good thing.

Now, one of the areas that I think is critically important is increasing our agriculture interaction with Cuba. So I am also proud

to be, in addition to Senator Flake, Senator Heitkamp has a bill to permit increased agricultural sales, I am on that.

And this week I am introducing the Cuba Digital and Telecommunications Advancement Act, also known as the Cuba DATA Act, with Senator Flake, Senator Durbin, and Senator Enzi. The goal of the legislation is very simple: Give U.S. telecommunications companies the opening and certainty they need to invest and help Cuba open to the world, and give the Cubans the tools they need to engage in a 21st century economy and to share information and communicate more efficiently with each other and the world.

Secretary Jacobson, both you and the President emphasized that access to the Internet is one of the cornerstones to the new Cuba policy. For those who have not been to Cuba, it is one of the least wired countries in the Western Hemisphere. Things we take for granted, such as email on the phone, are basically nonexistent in Cuba.

What are the major challenges Cubans are facing to access the Internet? And what can United States companies and the Congress do to open up Cuba to the global Internet?

Ms. JACOBSON. Thank you so much, Senator. Thank you so much for your interest in this and the conversations we have had.

I think, obviously, a huge part of the obstacles to the Cuban people right now are sheer access to Internet connected devices, whether it is computers or whether it is smartphones. When they have access, that access is expensive. It is almost prohibitive. Even when the cost came down recently for the public to access the Internet, it was still extremely expensive. For most Cubans, it was about a half month's wage.

Then there is a question of whether everything is accessible once you get on the Web and whether there are things that are blocked.

So there are huge challenges for the average Cuban. I think there is a combination of reasons for that, but the Cuban Government fundamentally has to make decisions, and we obviously want to encourage in every way possible that information and access to the Internet be made easier, cheaper, available, and open for the Cuban people. That will take a variety of decisions by the government that we are encouraging them to take by encouraging American businesses to have those conversations with them, and these are the means to do so.

Senator UDALL. The goal, as I think you said in your testimony, Madam Secretary, of the Cuban Government is to have Internet access for 50 percent of its population by 2020. So they have stated this goal, saying we are trying to move there. This is the goal that the U.N. has also made for developing countries around the world.

Is this goal achievable by Cuba? If the United States telecom companies were allowed to invest in Cuba, how long would it take to completely wire the island?

Ms. JACOBSON. That is a great question, Senator. I am not the best of tech experts, but I will tell you that the tech companies that I speak to who had conversations either with Cuba or about Cuba believe it is absolutely possible. And in terms of how long it would take, a lot depends on what the Cubans decide to do and what kind of infrastructure they put in.

Senator UDALL. Thank you very much for those answers.

Mr. Chairman, just a final comment, I know that all of the things that have been mentioned here that are problems, that we do not agree with, problems and challenges in Cuba, we just have different goals to try to go those things changed.

And as the last note, I would like to express my support for the extradition of Charlie Hill. Extradition of criminals, I think, is an important part of any normal relations between countries. Charlie Hill, who allegedly murdered a New Mexico State Police officer and hijacked a plane, must be brought to justice.

And I know the State Department shares this objective. I hope we continue to make this a priority until we get it done.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

My sense is there may be additional questions, and I will defer my time for others who may wish to ask additional questions.

Senator Rubio.

Senator RUBIO. Thank you. Just a couple points I wanted to touch on. This Internet thing is important.

I have talked about it extensively in the past. As I listen to some of this conversation, I think there is still this perception that somehow the reason why there is no Internet infrastructure in Cuba is because the United States has not gone into build it. The Cuban Government had a joint venture with an Italian company for many years.

By the way, the telecom industry in Cuba is run by the Cuban Government, and it is a holding held by GAESA, the holding company run by the son-in-law of Raul Castro.

The bottom line is virtually every telecom company in the world—and there are dozens of advanced telecom companies in the world that are not within the territory of the United States—have had access to the Cuban market, and they have not been allowed to build out or have dropped out of joint ventures.

The bottom line is the fact that American infrastructure will be allowed to come in does not mean the Cubans will allow it. Here is why: They do not want the Cuban people to have access to the Internet.

In China, they have something called the Great Firewall. They have access to the Internet in China. There is all sorts of infrastructure. China has both nationally owned and private companies in China that offer telecommunication infrastructure, yet the people of China do not have access to the Internet the way you and I understand it because the government places filters upon it.

This is a government that will not even allow you to bring certain books onto the island. This is a government that will not allow you to read certain newspapers on the island.

This idea that they are going to somehow allow AT&T and Verizon to say, yes, come in, build all of this infrastructure, unfettered access to the Cuban people, is absurd. They cannot survive an Internet opening.

So we can pass all the laws we want. The Cuban Government is still going to place filters, and you still have to work through their telecommunications company in a joint venture in order to build infrastructure on the island.

As far as travel is concerned, I think Airbnb, that is fantastic, that they are building this up. Here is the point, number one, even private operators on the island of Cuba, bed and breakfast, casas particulars, whatever you call them, still pay an exorbitant fee to the government for the right to be able to provide that service. So they even game that system to get their hands on money.

That being said, the vast majority of people that travel to Cuba will not be staying at one of these facilities. They will be staying at segregated tourist destinations where tourists are largely brought in. They experience that facility, and then they leave. And the money is going to the Cuban military.

I have heard discussion about Vietnam, China. Look, we have full travel to China and Vietnam. We have business with them. They are not any more democratic than they were when all of this started. So I think it actually proves my point, that economic openings do not lead to political openings, by evidence of China and Vietnam.

But here is my point about the Cuban military: In addition to the fact that the Castro regime stole 6,000 properties owned by U.S. citizens or U.S. companies, of which zero dollars have been compensated, this is the Cuban military that has four, four senior officials, three senior officials indicted, for the murder of four Floridians, indicted in U.S. courts. That is the Cuban military.

This is the Cuban military that was helping smuggle heavy weapons to North Korea without consequence. They were caught, no U.N. sanctions, no U.S. sanctions. This is not just the Cuban military. This is a Cuban military that uses access to funds to carry out this sort of grotesque activity.

So when we talk about travel to Cuba, business with Cuba, let us be very clear. We are not doing business with the Cuban people. You may eat at a home somewhere, but this is still a very small part of their economy. For the vast and enormous majority of Americans that travel there, and that includes congressional codels, journalists, diplomats, everyday American citizens, you will stay in a government-run facility. Every dollar you spend there will wind up in the hands of the Cuban military that sponsors terrorism by smuggling arms to North Korea, that has senior officials indicted for the murder of Americans over international airspace, and a Cuban military that uses every access it has to funds to enrich themselves and repress the Cuban people.

So there is no economic opening to Cuba. There is an economic opening to GAESA, which is the Cuban military-run holding company.

The CHAIRMAN. Thank you.

Senator Cardin.

Senator CARDIN. Let me very briefly, and then I will yield to Senator Menendez.

Just in regards to just some responses here, there are 2 million cell phone users in Cuba. When I was in China, they do block full access to the Internet, although the U.S. Embassy site on air quality is one of the most frequently visited sites by Chinese nationals. It is the only reliable information they can get about air quality.

Our engagement will bring faster connectivity and more quality connectivity to the people of Cuba. I am convinced of that. The

technology is there, as Senator Rubio points out. It is a matter of making it available, and the people of Cuba will demand that.

And let me just also also point out, in regards to the Libertad Act, the Libertad Act provides for licensing authority by the administration, which is common in these types of legislation. So there are certain authorities included in the act. And I do look forward to a robust discussion in our committee.

Mr. Chairman, I would yield the time to Senator Menendez.

Senator MENENDEZ. Mr. Chairman, I see that Senator Markey is here, so I will just wait.

The CHAIRMAN. Senator Markey.

Senator MARKEY. Thank you, Mr. Chairman, very much.

Welcome and thank you for all of the good work, which you have done. Over the years, there has been clearly an isolation from our country that Cuba has had to live with. And I very much appreciate this administration's attempts to normalize our relations. I think it is important. I think it is a step in the right direction. And I think the actions which you are taking are beginning to make it possible for us to envision a day where we truly have normalized relations with Cuba, but it is not going to happen overnight. And clearly, Cuba itself has to deal with behavioral changes that are not going to come easy.

But that said, I think the process has opened, and I think that we are going to head in the right direction.

I know Senator Udall has already talked about this, but I think it is important to focus on it, and that is the relationship that exists between information and freedom. I think there is, without question, a huge cultural compatibility that we have with Cuba, otherwise the Red Sox would not be paying all this money to sign Cuban players right now. They have at least mastered that part of our culture.

And hopefully, we will be able to use better relationships to be able to broaden that even further.

Talking about the Internet, talking about telecommunications, can you just outline a little bit for me? I may have missed the detail that you gave to Senator Udall. But what is your hope, in the terms of the transfer and sale of telecommunications technology into the Cuban marketplace?

Ms. JACOBSON. Thank so much, Senator.

Obviously, the regulatory changes are fairly broad in terms of what can now be sold and provided to Cuba in the telecommunications and information area. That may be hardware, whether cell phones or other forms of computers that can now be sort of not just donated as they could be before but sold to Cuba—people in Cuba. And it also is services that are providing information, such as the phone card and phone service that IDT in New Jersey recently signed a contract with the Cuban Government to do, or other forms of telecommunications work.

But I do want to be clear that it is true that all of this takes a decision by the Cuban Government to move forward with modernization in their telecom sector. That is, certainly, true.

American companies can be able to, under our changes, participate in Cuba, but the Cuban Government has already said it wants to modernize and said things to the U.N. And we will have to see

if they really take those steps. But we want to be part of it, if and when they do. We want to encourage them to do so.

I think as others have said, we think the Cuban people want that as well.

Senator MARKEY. I think the more that we have American tourists down there, the more that we have cultural exchanges, the more we have students in Cuba, the more normalized to that extent, it is more likely that the Cuban people—Cuban students are going to be saying to themselves, why can we not have that technology?

And it is a resistance, by the way, that existed in our own country. Our own country did not want to move to the digital revolution. Our cable and telephone companies did not move to it. There was not one home that had digital in 1996 in America until we changed the laws.

We pretty much had to incentivize those companies. We were going nowhere. Same thing with cell phones, until 1994, it was the size of a brick and it cost 50 cents a minute, and we did not have one, ordinary people. Some wealthy businessman, Gordon Gecko in Wall Street, had one, but not ordinary people.

In 2001, in Africa, only 12 million people had cell phones, wireless devices. Today it is 800 million.

So we have moved from these devices to these devices very rapidly in America, but they are doing it in Africa as well. The more that it insinuates itself into the culture of individual countries, it changes the culture. It changes the business relationships. It changes the entrepreneurial spirit of a country. And we can see it in country after country. It is not uniform. No question about it, but you can see it. Where it works, it works big time.

So I think the same thing is going to be true in Cuba. The more we can move these devices in, and the more the people in the country demand they have access to it so they are not the last country in the world without access to modern technologies, I think we are going to see dramatic telescoping of the changes that we are hoping that will happen in that country.

And so of all of the sectors, that is why Radio Marti and TV Marti were always focused on by the Reagan administration. They understood the importance of this.

And the openings, which you are talking about here, kind of puts it in the mind of many Cuban ordinary citizens, why not, why not us?

So what is the level of negotiation or discussion that is going on, in terms of these telecommunications technologies? Who are we speaking to? Who ultimately makes the decision inside Cuba?

Ms. JACOBSON. All right, thank you, Senator.

There are basically two tracks, if you will. One is government. That is the beginning of conversations with the Cuban Government about telecommunications. And the other obviously are many, many private sector conversations with the Cuban Government, to which we are not a party but we obviously know about, that they are taking place.

On the government side, we had our Ambassador for International Communications Policy Danny Sepulveda who was in Havana about 2 months ago now. That was the first time we had that

kind of conversation with the Cuban Government at an official level, meeting both with their telecommunications ministry as well as their telecom provider, which is state-run, ETECSA, to talk about sort of what kind of infrastructure they are interested in and how we have done things in the United States in terms of the regulation and access issues, as well as obviously many, many United States companies have had conversations with the Cuban Government. And they are beginning to think about the solicitations they put out, the request for proposals, if you will, of their own telecom sector.

Senator MARKEY. So the quicker we can move them in that direction, the quicker their whole society changes. It has happened all over the world. They will not be immune to you.

Thank you both for your great work.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Without objection, I would like to enter into the record on behalf of Senator Rubio a letter to him dated February 18 from the U.S. Coast Guard. And if there is no objection, I will put it into the record.

[EDITOR'S NOTE.—The letter mentioned above can be found in the "Additional Material Submitted for the Record" section at the end of this hearing.]

The CHAIRMAN. Senator Flake.

Senator FLAKE. Thank you, Mr. Chairman.

I just wanted to clarify a few issues. Again, we talk about telecommunications and say the Cuban Government may not allow this, and it is up to them, and we cannot control them, and they may not allow it. That is true. They will allow what they will allow.

But we have had a policy for decades that has not yielded the results we want. The question is not this policy or a policy in a perfect world. It is this policy compared to the nonengagement that we had before. And we know what nonengagement has yielded.

The Cuban Government may or may not keep their promise to make sure that 50 percent of the Cuban people are wired by a certain time. We have no control of that.

We have control of what is in our national interest. And I think it is more likely that it will occur than under the former policy we had.

Also, with regard to a statement made that whenever an American traveler goes to Cuba, every dollar ends up with the Cuban Government, that simply is not the case. That may be said by those who have not traveled to Cuba recently. But many Americans travel to Cuba.

And it is true that you cannot travel to Cuba without some revenue going to government. That is certain. But the notion that every dollar spent ends up in the hands of Cuban military simply is not the case.

You have burgeoning entrepreneurship in Cuba that is a testimony to the fact that some money does flow to ordinary Cuban people. That has been particularly the case with the travel of Cuban-Americans over the past couple of years.

I should mention that when that policy was announced a couple of years ago, that Cuban-Americans could travel not just once every 3 years but as often as they like, and remittance levels were increased, there was talk here in Congress about reversing that. "You cannot have that. That is not good for the Cuban people. It is not good for America."

I can tell you there is no serious talk today about reversing that, because why? Because when Americans get more freedom, we tend to enjoy that and we tend to want more. And I would suggest that a year from now, the notion that we would reverse this policy that has allowed more Americans to travel to Cuba and to help Cuban people have access to more technology, more capital, more values, more contact with Americans, will seem as absurd as reversing the changes that were made with Cuban-American travel just a couple of years ago.

So again, I applaud you for what you are doing, and I look forward to working with the administration as this policy unfolds.

The CHAIRMAN. Thank you.

Senator Menendez.

Senator MENENDEZ. Thank you, Mr. Chairman.

Let me ask you, when a Cuban-American sends or visits their relatives in Cuba and gives them a little money, the only place really to buy something is the dollar store, is that not true? If you want to get something?

Ms. JACOBSON. I believe, certainly, there is more in those stores to buy.

Senator MENENDEZ. By the way, who owns the dollar stores?

Ms. JACOBSON. They are state-run.

Senator MENENDEZ. Okay. The government.

And so if I want to send a remittance to my relative in Cuba, the Cuban Government takes a slice, right?

Ms. JACOBSON. They do but your relatives probably want their part of that anyway.

Senator MENENDEZ. But the Cuban Government gets a slice.

Ms. JACOBSON. Yes.

Senator MENENDEZ. So let us not deny that the Cuban Government is greatly enriched by all these resources, which is why it has been its number one foreign policy objective.

Now let us talk about what full diplomatic relations are. You are going to be having this discussion tomorrow, as I understand it, what my colleague Senator Markey said, normalized relations are.

After the Summit of the Americas, the Washington Post ran a story suggesting that the talks to restore diplomatic relations were hung up because the Castro regime was unwilling to grant unrestricted travel to our diplomats, unwilling to allow us to send secure shipments to a future embassy, unwilling to allow us to have the number of staff necessary to operate a future embassy, and unwilling to remove the military presence around a future embassy.

So let me ask you, would the State Department actually to agree to establish an embassy in Havana if all of our diplomats are not able to travel freely throughout Cuba?

Ms. JACOBSON. Senator, what I can tell you is that we have to have an embassy where our diplomats can get out and travel and see the country and talk to people. We have restrictions on the way

our embassy personnel travel, in terms of notification to governments, in many countries around the world that range from 24 hours to 10 days.

So we are going to do everything possible to make sure that we have the least restrictions possible but our embassy officials——

Senator MENENDEZ. So we will accept restrictions that all of our diplomats at embassy would be able to travel throughout the country?

Ms. JACOBSON. We will make sure that the embassy is on a par with the way we operate in other places that are restrictive environments.

Senator MENENDEZ. Would you agree to conditions under which we cannot send secure shipments to supply a future embassy without the regime rifling through them?

Ms. JACOBSON. Well, Senator, I am not going to necessarily layout all of the negotiations for tomorrow here.

Senator MENENDEZ. Why not? Wait a minute.

Ms. JACOBSON. Senator, no, let me——

Senator MENENDEZ. Are these negotiations secret or do we not have, the United States Congress, have the right to understand how you are trying to establish diplomatic relations?

Ms. JACOBSON. You absolutely do.

Senator MENENDEZ. I think the Nation needs to know under what conditions we are going to have or not have relationships.

Ms. JACOBSON. You absolutely do.

Senator MENENDEZ. So are you going to allow the Cubans to rifle through your diplomatic pouches with impunity or are going to insist you can send anything to the embassy, as we do in other places in the world? That is a simple yes or no.

Ms. JACOBSON. We absolutely believe in the viability of the diplomatic pouch. We also believe that it is critical to resupply a future embassy, as we believe it is important to supply the building now that has maintenance and upkeep issues. So that is a critical part of our discussion.

Senator MENENDEZ. So will you accept conditions less than that?

Ms. JACOBSON. We will not accept conditions in which we cannot securely supply our facilities. We have to be able——

Senator MENENDEZ. Would you agree to open an embassy if you are not granted the number of staff you need to operate it efficiently?

Ms. JACOBSON. Not if we cannot have the number of staff we believe we need, no.

Senator MENENDEZ. Are you willing to open an embassy if the Castro regime does not remove its military cordon from around the building, which basically is a way to intimidate average Cubans from approaching our facility?

Ms. JACOBSON. We will not open an embassy unless we believe that the security outside the embassy is appropriate to protect our installation, but we will also make sure that it is welcoming of Cubans into the installation as an embassy, the way we do around the world.

Senator MENENDEZ. Let me ask you, you agreed with me ultimately that the Castro regime statement as it relates to that they have never supported, never supported, any act of international

terrorism is not true. So if you agree that these statements by the Castro regime are categorically false, how can you explain to the committee why you would think you can believe any assurances about the regime's current or future conduct, if they bald-face lied in the first place?

Ms. JACOBSON. What I would say, Senator, is that what we were looking at in the assurances is not necessarily whether or not their assertions on behalf of all recorded history for the Cuban Government, we agree with every statement of the past. What we have to look at is what the requirements are under the law, which talk about the rejection of international terrorism, which they have made, and the lack of support or any evidence for support for international terrorism.

Senator MENENDEZ. So they can partially lie to you, but not fully lie.

Ms. JACOBSON. Senator, we have differences in what they do not believe they have ever supported international terrorism.

Senator MENENDEZ. But they sent you a letter and the State Department quoted that specific section, which basically means you buy into it. It is incredible to believe that that section of the letter you buy into.

Let me ask you this, the Red Cross under the President's December 17 announcement was supposed to have access to Cuban jails. Has that taken place?

Ms. JACOBSON. We did not say the Red Cross would have access to jails.

Senator MENENDEZ. You announced that they would have—I understand it was access to Cuban jails. What is it that they have access to?

Ms. JACOBSON. I do not believe we ever said that the Cubans had agreed to that. What we said was that we were hoping that international organizations would renew their discussions with the Cuban Government about those issues, including the Red Cross and U.N. In other words, we——

Senator MENENDEZ. Has the Red Cross been able to get in freely?

Ms. JACOBSON. Not that I know.

Senator MENENDEZ. Not that you know of. Okay.

Last question, we talk about telecom access. A lot has been discussed here about that. In late February, the First Vice President Miguel Diaz-Canel, who Senator Boxer referred to as it looks like he would be the next heir in an election.

First of all, there is no election in 2018. It is a selection. There is no election. Can we agree on that?

Ms. JACOBSON. We can agree that what the Cuban Government calls an election is not what we believe meets international standards.

Senator MENENDEZ. It is the Cuban Communist Party, and that is it. So it is not an election. I do not want to anybody to think we are working on an election in 2018.

He gave a long, rambling speech, he is the second highest official in the Cuban Government, about the Internet in Cuba. One of the most revealing statements was the affirmation that the regime's Internet strategy would be led by the Communist Party.

Given the Communist Party's half-century long effort to deprive the Cuban people of the most minimal standards of freedom of the press and of information, would you have the committee believe that the Communist Party will not make every possible effort to block access to all content that it deems undesirable, similar to what we have seen in other closed societies around the world?

Ms. JACOBSON. Senator, what I know is that when more people have access to the Internet, even if governments try to prevent them seeing things they do not want them to, they are remarkably inventive in finding ways to do so.

Senator MENENDEZ. Okay, good.

Then let me ask you this. Can we have your assurances that the State Department and the United States Government will take all possible steps to ensure that the Cuban people have access to circumnavigation technologies that would be able to get around regime censorship?

If we are going to say we want United States companies to go develop this infrastructure in Cuba, surely we can have circumvention technologies so that the Cuban people are truly free to go see any site they want, not only that which the regime want them to see.

Ms. JACOBSON. Certainly, I hope that the majority and vast majority or all of the Cuban people will be able to have complete access to the Internet. What I cannot——

Senator MENENDEZ. Hope is not a policy achievement.

I am asking you, if we are going to license companies under the Libertad Act to go ahead and put infrastructure in Cuba, can we not make a condition of that license that they have circumnavigation technologies so Senator Flake and Senator Udall and Senator Markey and everybody who wants access to the Internet for the Cuban people, which I also want, we are in common cause on that, actually can get access to the Internet? What is so difficult about insisting on circumvention technology?

Ms. JACOBSON. I do not know that we can do that, but I also know——

Senator MENENDEZ. We can put any condition we want as a condition of sale.

Ms. JACOBSON [continuing]. I also——

Senator MENENDEZ. I wrote that section of law when I was in House of Representatives.

Ms. JACOBSON. I understand.

Senator MENENDEZ. I know what it says, and you can put conditions on it. I hope to hear back from you whether you will insist on that as an ability to have U.S. companies—if we want access for the Cuban people to have the Internet, which I do.

Ms. JACOBSON. I do as well, Senator, but I also want them to be able to have those deals go through and to make it the most effective way that more on the island can have access——

Senator MENENDEZ. A deal without full access to the Internet is a deal is——

Ms. JACOBSON. More than they have now.

Senator MENENDEZ [continuing]. A deal to an end without access to the critical information that we think can help liberate the Cuban people.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Any other questions?

I want to thank the committee again. I know there are a lot of diverse views about this proposed new policy, actually a policy that is being implemented.

And I want to thank the witnesses for being here. If you would, the record will be open, without objection, until the close of business Thursday. If you would answer promptly, we would appreciate it.

The CHAIRMAN. We thank you for your service to our country.

With that, we are adjourned.

[Whereupon, at 12:12 p.m., the hearing was adjourned.]

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

PREPARED STATEMENT OF SENATOR BARBARA BOXER, U.S. SENATOR FROM CALIFORNIA

Chairman Corker, Senator Cardin—thank you for holding this important hearing.

I would also like to extend a warm welcome to our distinguished witnesses. Thank you both for your service to our country.

Five months ago, President Obama announced that the United States would begin the process of normalizing relations with Cuba.

This historic decision rejects the failed sanctions policy of the past 50 years and opens a new chapter in U.S.-Cuban relations that provides an opportunity for dialogue and constructive engagement with the Cuban government and, most importantly, the Cuban people.

We are already beginning to see the positive effects of this policy change.

- It has reinvigorated U.S. leadership in Latin America and improved U.S. relations with countries in the region, which had been strained by our unilateral sanctions policy.
- It has allowed the United States to expand direct support to the Cuban people by increasing the amount of remittances that can be sent to Cuban individuals and organizations, easing restrictions on travel, expanding exports of goods and services to empower Cuban entrepreneurs and small farmers, and improving telecommunications and Internet services.
- It has led to increased communication between the United States and Cuban governments on areas of mutual interest including migration, environmental protection, and law enforcement cooperation.
- It has opened up new opportunities for American businesses in Cuba.

Tomorrow, Assistant Secretary Jacobson will host a delegation of Cuban officials in Washington, DC, to continue discussions on the normalization of ties between our two nations. President Obama's decision to rescind Cuba's designation as a State Sponsor of Terrorism after a comprehensive technical review is an important step forward in this effort.

As we continue to pursue this new policy of engagement with Cuba, we all know there are many issues that will not be resolved overnight—including the Cuban Government's abysmal human rights record. And we will continue to press Cuban leaders on these matters.

But, I agree with President Obama that America's interests and the interests of the Cuban people are best served by dialogue and engagement, not isolation.

WRITTEN STATEMENT OF ALAN P. GROSS SUBMITTED FOR THE RECORD BY SENATOR BENJAMIN L. CARDIN

Chairman Corker, Ranking Member Cardin, and members of the committee, thank you for the opportunity to submit this brief statement for the record. Some phenomena occurring in Cuba right now are acutely apropos to these proceedings. This committee should be aware of some tangible outcomes directly correlated with U.S.–Cuba policy decisions made since 2009, beginning with President Obama's Executive order that eased restrictions on remittances to Cuba. The following is an approximate sequencing of resultant events:

1. U.S. eases restrictions on remittances from Cuban-Americans to family members living in Cuba, as well as nonfamily remittances.
2. Cuban Government eases some restrictions on private sector development; expresses need to reduce the number of Cuban workers employed in the public sector in order to reduce government deficit.
3. U.S. remittances to Cuba increase.
4. Remittances are used to finance private sector business development in Cuba. Thousands of private, nongovernment businesses start up.
5. Cuban Government allows private sector to employ nonfamily members.
6. More than 500,000 workers are employed in Cuba's private sector by the end of 2014, representing nearly 11 percent of Cuba's total workforce.

These changes in Cuba are not anecdotal. In a relatively short period of time (compared to over five decades of economic sanctions) positive and constructive shifts in U.S. policy toward Cuba have led to notable and meaningful changes for the Cuban people. These changes are completely consistent with U.S. interests and development objectives worldwide, particularly involving private sector development and growth and employment generation.

As the members of the committee know, I recently concluded 5 years of imprisonment in Cuba due to my participation in a USAID-sponsored program authorized and funded pursuant to the Helms-Burton Act. Prior to my incarceration, I spent over 30 years working in over 50 countries to bring about positive change through development programs funded by private sector clients. These included Fortune 100 companies, USAID and other international financial and development institutions. For the last 15 years much of my work involved increasing the availability of information access to populations around the world. Indeed, this was the fundamental purpose of the project in Cuba for which I was ultimately forced to forfeit 5 years of my life.

The principal theme throughout most of my international career has been export and investment development as an engine of vital and vibrant economic growth. Consequently, the primary focus of my overseas work has been private sector development and growth. And with the advent of new, user-friendly information and communications technologies prospects of closer linkages between producers, consumers and the global marketplace have been greatly enhanced.

Export and investment development in emerging markets is important to U.S. interests. In many ways U.S. foreign policy implemented through international development work not only serves to improve emerging market business, social and political environments, it simultaneously serves as a form of market development for U.S. producers and exporters as these markets emerge.

I fully support what the President is doing to meaningfully improve international relations, particularly with Cuba. My 5 years in Cuba did not deter me from wanting to bring about positive change through development and constructive engagement. To the contrary, I believe more strongly than ever that the President's decisive first steps need to be followed by decisive congressional action, including repealing Helms-Burton and related statutes.

My beliefs are not based only on the last 5 years, but also over 30 years of international development experience in more than 50 countries. However, my beliefs are not as relevant as the evidence of change on the ground in Cuba that followed the Executive order. And while I am totally and personally cognizant of the Cuban Government's repressive human rights record, I am also experientially (not experimentally) cognizant that improved personal economic security is essential to empowering people—including Cubanos—and that such empowerment is a critical step toward improved living conditions overall.

If we all want to move forward with Cuba, we cannot be looking back. It is in our own interests, as well as the interests of the Cuban people, to move forward together.

DAILY BEAST ARTICLE SUBMITTED FOR THE RECORD BY SENATOR ROBERT MENENDEZ

[From the Daily Beast, May 15, 2015]

CUBA'S 12 MOST ABSURD PROHIBITIONS THAT TOURISTS MAY NEVER NOTICE

It's getting easier to go to Cuba, but not necessarily to live there. Sometimes it's the little things that make you crazy. But, then, there are big things, too.

HAVANA—Here's a list of the 12 most absurd prohibitions and limitations that we Cubans have to endure in our homeland. It is worth highlighting that the socialist Government of Cuba applies some of them exclusively to Cuban citizens, while

foreign residents and tourists do not suffer from the bans. A curious double standard, no? And worth remembering if you are planning a visit and discover your new Cuban friends can't join you in the fun.

1—Cubans can't access the Internet from their homes or on their cellphones. ETECSA is the Cuban state-owned telecommunications monopoly. According to its policy, Internet access in private homes is not a service provided to Cuban citizens. It is exclusively provided to state-owned and foreign businesses, and to foreigners residing in the country, as its website makes clear.

2—No sailing on tourist boats. There is not an actual law that forbids Cubans getting on boats and ships, but authorities have applied this restriction for many years. According to Cubatur (a state travel agent) "Cubans—no matter where they live—may not be sold a tourist package that includes a catamaran or a yacht. This enjoyment is exclusive to foreign tourists."

3—No cable TV. The socialist firm Telecable is the only one that provides cable TV. This service is exclusive to the tourist infrastructure (mainly hotels), diplomats, foreign companies, and foreigners residing in Cuba. Telecable offers a selection of international channels such as CNN, Discovery, HBO, ESPN . . .

The Cuban population, for no other reason than being Cuban, cannot access this service and can only consume national state-owned TV channels and Telesur (a socialist Latin American channel).

4—Can't live in Havana (without a permit). Can someone from L.A. live in Washington, D.C.? The answer is obvious. But in Cuba, can someone from Bayamo live in Havana? The answer is NO, unless he or she has a permit. The Decree-Law 217–1997 on "Internal migrations regarding the city of Havana" dictates that people from other provinces may not live in the capital without a "transitory" document; that is, an authorization issued by the Ministry of the Interior. This violates the Universal Declaration of Human Rights, which says, "Everyone has the right to freedom of movement and residence within the borders of each state." Not here.

5—No public demonstrations allowed. The Constitution of Cuba (1976) recognizes the right to demonstrate under certain regulations while the Penal Code, in its article 209, warns that "he who participates in meetings or demonstrations celebrated without respecting the dispositions that regulate this right, is committing a felony against public order." But in the 39 years that have gone by since 1976, no law has been adopted to regulate the right to demonstrate in Cuba. It's a Catch-22. Not to belabor the point, "Everyone has the right to freedom of peaceful assembly and association," according to the Universal Declaration of Human Rights.

6—No Political Parties allowed (except the Partido Comunista de Cuba). Even though the Cuban Constitution permits all citizens to run in public elections, our magna carta also mentions in its article 62 that, "None of the recognized freedoms of citizenship may be executed against the Constitution, the laws or the existence or ends of the socialist State, nor the decision of the Cuban people to build socialism and communism. Violating this principle will be punished."

The Constitution also declares that, "The Communist Party of Cuba . . . the organized vanguard of the Cuban nation, is the superior managing force of society and the state, organizing and guiding the common efforts towards the high ends of the construction of socialism and advances towards the communist society." Therefore one can infer that any political party that is not the Communist Party is forbidden.

7—No investment in medium and large enterprises. Law 188 on foreign investment regulates investments in Cuba by foreign individuals and legal entities, as well as by Cuban legal entities that partner with a foreign party with the objective of investing in Cuba. There is no mention of Cuban individuals or their right to invest in Cuba. The only possibility for a Cuban individual who wants to engage in private economic activity is to become "self-employed," but in this case he or she is only allowed to work in one of the professions authorized by the government (such as restaurants, hair dresser, food vendor on the street, lumberjack, masseur, public toilet security, etc.)

The Cuban police are allowed to fine or even confiscate the vehicle of a Cuban citizen if he or she gives a ride to a foreigner.

8—Can't import wireless microphones, walkie-talkies and satellite communication devices without authorization. Resolution 10–2006 states in its second section that a person who wishes to import wireless microphones, walkie-talkies and satellite communication devices "needs a specific authorization to introduce the equipment into the country and a license for its installation, exploitation and functioning, both issued by the Supervision and Control Agency of the Ministry of Information of Communications." And, in case you are getting your hopes up, it clarifies "requesting the authorization does not necessarily imply that it will be granted."

9—No inviting a foreigner to spend the night without a permit. If the police or migratory authorities catch a foreigner sleeping without authorization in the home of a Cuban, the owner of the house may face a severe fine.

10—Freely selling lobster and shrimps is not allowed. Only the state and foreigners can sell these delicacies in this Caribbean nation.

11—If you pick up a foreigner in a private car you may be in trouble. The Cuban police are allowed to fine or even confiscate the vehicle of a Cuban citizen if he or she gives a ride to a foreigner without a taxi license. There is no explicit law that forbids it, but a foreigner in a car privately owned by a Cuban (there are not that many, most cars are state-owned) might be interpreted as "illicit enrichment."

12—Bringing from abroad 25 artificial fingernails violates the law. The Cuban Customs Law establishes exhaustively detailed limits on the goods that can be imported from abroad into the island. Sometimes these are ridiculous, especially for items that cannot be found in the country. Customs Resolution 206 specifically limits the number of artificial nails to 24 units.

Of course, there are more—many more—bans and prohibitions that Cuba imposes on Cuba. This was just a taste.

TWO LETTERS TO MARCO RUBIO SUBMITTED FOR THE RECORD

U.S. Department of Homeland Security
United States Coast Guard

Commandant
United States Coast Guard

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Washington, DC 20593-7000
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Phone: (202) 372-4411
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5730
FEB 18 2015

The Honorable Marco Rubio
United States Senate
Washington, DC 20510

Dear Senator Rubio:

Thank you for your January 26, 2015, letter regarding the significance of Naval Station Guantanamo (GTMO) to current and future Coast Guard operations.

The Coast Guard maintains a persistent offshore presence in and around the Mona Pass, Windward Pass, Florida Straits and Old Bahamas Ship Channel to stop the trafficking of drugs and people, and to deter a mass maritime migration from Haiti or Cuba. Naval Station GTMO serves as a critical forward operating base in support of this presence. Its strategic location, airfield, moorings, logistics capabilities and migrant processing facilities make Naval Station GTMO an indispensible resource for steady-state and surge events.

Currently, Coast Guard operations require Naval Station GTMO's services an average of four days per week. The organic logistics capabilities of the Naval Station enable Coast Guard assets to operate more effectively, efficiently and securely. As the only Department of Defense (DoD) base in the region, Naval Station GTMO is a preferred port call over foreign ports due to its superior force protection, operational security, ease of use to transfer personnel and supplies, and access to DoD medical and dental services. Naval Station GTMO offers no notice and low cost berthing for our ships, services typically not possible in foreign ports where our vessels compete for commercial berthing and pay high port fees. Additionally, Naval Station GTMO offers a unique light industrial capability that enables repairs that otherwise would require cutters to depart the operating area.

I agree with General Kelly's testimony regarding the importance of the Western Hemisphere. As DoD forces adjust to strategic requirements in the Pacific and Middle East, the Coast Guard is pressing its aging and diminishing fleet to meet corresponding resource demands in this region. I have diverted ships and aircraft from other operations to fill DoD allocation gaps. I am working with General Kelly to ensure a strong US presence is put to the best possible use.

The Coast Guard, along with the Departments of State, Defense and Homeland Security, relies on Naval Station GTMO facilities for forward basing during regional mass migration events, humanitarian assistance and disaster relief operations. In Operation UNIFIED RESPONSE, following the 2010 Haiti earthquake, Naval Station GTMO served as a critical logistics hub for the Coast Guard and other joint forces to expeditiously deliver aid to the Haitian people by sea

and air. Strategically, aircraft and cutter operations in support of the Coast Guard's Western Hemisphere Strategy necessitate a secure logistics and maintenance hub in-theater.

The Coast Guard will continue to use Naval Station GTMO as a vital forward operating base and logistical hub for the foreseeable future. Naval Station GTMO facilitates a persistent, necessary Coast Guard presence in the region that is essential for executing our many missions and enhancing regional security and cooperation now and in the future.

My Senate Liaison Office at (202) 224-2913 would be pleased to respond to any further questions you or your staff may have.

Sincerely,

Paul F. Zukunft
Admiral, U.S. Coast Guard
Commandant

January 30, 2015

Milagros Maria Suarez
5931 N.W. 5th Street
Miami, FL 33126

Chairman Marco Rubio
Subcommittee on Western Hemisphere,
Transnational Crime, Civilian Security,
Democracy, Human Rights and Global Women's
Issues
Senate Committee on Foreign Relations
444 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Rubio:

My name is Milagros Suarez, and I am asking for your help in securing justice for my father, Rafael Del Pino, a United States citizen and Army veteran who was tortured for over 17 years and murdered at the hands of Fidel Castro and his totalitarian regime. In 2008, a Florida jury awarded damages to me and my brother, Rafael Del Pino, Jr., as compensation for these horrific acts. Last year, my brother passed away without any peace or justice for what happened to our father. Although it will never be possible to recover what Castro and his government took from my family, I humbly ask for your help in convincing the Cuban government to take responsibility for its past conduct as diplomatic relations slowly resume between the two countries.

My father was born in Havana, Cuba in 1926. As a young man, he became friends with Fidel Castro in the years leading up to the Cuban Revolution. However, a severe rift developed between the two as Castro began to advocate for communism and allegiance with the Soviet Union. My father believed deeply in freedom and democracy. He cut ties with Castro and moved to the United States before Castro took power. My father continued to oppose Castro while living in America, and he repeatedly risked his own life to fly to Cuba and rescue fellow anti-communists. He was proud to become a United States citizen in 1950 and serve in the United States Army.

My brother, Rafael Jr., was born in 1951 and was fortunate to spend his early childhood with our father. I was not born until 1959, and saw my father only once. Shortly after I was born, an agent of Fidel Castro, Fernando Fuertes, convinced my father to fly to Cuba to rescue a family member. When my father arrived in Cuba, the military was waiting for him. He was shot and severely injured by the Cuban forces. My father was immediately imprisoned, convicted after a sham trial and sentenced to 30 years in a Cuban prison. From the very beginning of his imprisonment, my father was brutally tortured. He endured unspeakable horrors during his 17 years of captivity. In 1977, my father was executed by hanging while held at the Combinado del Este prison. Many years after his death, we learned that other political prisoners sang the Star

Spangled Banner as his body was being carried through Combinado del Este. My father paid the ultimate price for his belief in a democratic Cuba and the safety and welfare of those Cuban citizens who opposed Castro.

Castro's imprisonment, torture and execution of my father had far-reaching effects. I never had the opportunity to speak to my father in person. My brother lost his most important role model. My family lost the support, protection, companionship and love of an honorable and principled man. Our country lost the service of a man devoted to defending the United States and spreading the nation's message of freedom and human rights. During the 17 years that my father was held captive, other prisoners were released and allowed to return to their families in the United States. I have vivid memories as a young girl of traveling to the Miami Airport with my mother to meet the planes carrying these released prisoners, hoping desperately that my own father would be among them. Each of these trips ended in our family's tears.

In 2008, a Florida jury recognized the complete disregard for human dignity that Castro and his government showed in its treatment of my father. We received a small measure of justice when the jury awarded us a total of $253 million against Fidel and Raul Castro, the Republic of Cuba, and others. Mr. Ramon Conte testified at the jury trial. He was imprisoned after being captured in 1962 at the Bay of Pigs. In 1986, Mr. Conte was released and returned to Florida. Mr. Conte was a political prisoner at Combinado del Este and shared a cell with my father. He told the jury the details of my father's torture and witnessed his execution. Despite considerable effort, and the retention of the law firm Cozen O'Connor, we have not been able to execute on any portion of this judgment.

As you consider restoring diplomatic relations with Cuba, it is my sincere hope that this will be a significant step toward realizing my father's dream of a free and democratic Cuba. One day I hope to visit Cuba and find my father's unmarked grave so that I may finally be reunited with him and feel a sense of closure.

It is also my belief that Cuba must take responsibility for its treatment of my father and the other men and women who stood bravely against Castro's regime. I ask that you help my family advocate for a fund dedicated to payment of the judgments lawfully entered against Cuba. My family and others like us deserve finality and justice.

I have enclosed a photograph of my father in his Army uniform, which has served as a reminder for me as I continue to pray and honor his memory every day of my life. I hope you will join me in honoring my father.

Sincerely,

Milagros Maria Suarez

cc: Chairman Bob Corker
Ranking Member Barbara Boxer
All Members of the Senate Foreign Relations Committee
Senator Bill Nelson

RESPONSES OF ROBERTA S. JACOBSON AND THOMAS A. SHANNON TO QUESTIONS SUBMITTED BY SENATOR MARCO RUBIO

Question. Since President Obama's December 17 announcement to establish ties with the Castro government, there has been an increase in the number of Cubans risking their lives to reach freedom in the United States; well over 2,000 political arrests; a dramatic increase in weekly violence against democracy activists, such as The Ladies in White; new long-term political prisoners, such as Cuban artist Danilo Maldonado "El Sexto" and rapper Maikel Oksobo (known as "El Dkano"); the beatings and rearrest of most of the 53 political prisoners who were released as part of the December 17th agreement; violence employed against Cuban democracy activists even outside the island, such as the nefarious attacks that took place at the Panama summit; and Cuban activists who have been barred from leaving the island, like artist Tania Bruguera and democracy leader Antonio Rodiles.

We've also heard multiple anecdotes from Cuban democracy leaders and political prisoners who have told us that during the beatings and attacks against them now, they are mocked with comments, such as "this one is courtesy of Obama" and "the United States doesn't care about you."

Meanwhile, Cuban dictator Raul Castro has since been named for the first time as one of Time's 100 Most Influential People, while foreign dignitaries, such as France's President, and the Japanese and Dutch Foreign Ministers, visit and fawn over Fidel and Raul Castro in Havana, but ignore Cuba's dissident leaders.

- Do these trends, which are obviously aiding the Cuban regime, while undermining the Cuban democracy movement, concern you?
- Are you concerned that the Cuban regime is interpreting President Obama's engagement and unilateral concessions as a carte blanche for its repressive tactics?
- Has the State Department communicated to the Cuban regime any potential consequences for its continued repressive behavior?

Answer. We share your deep concern about the Cuban Government's continued use of politically motivated detentions, at times with violence, to prevent Cubans from exercising their rights to freedom of peaceful assembly and expression. The Department is constantly monitoring human rights in Cuba, speaking out to defend our values, and consulting with other countries. Human rights are central to our discussions with the Cuban Government and we continue to press for greater respect of fundamental freedoms and an end to these practices in our conversations with the Cuban Government.

Our updated approach is designed to advance human rights over time by empowering the Cuban people. We have no illusions about the intention of the Cuban Government to maintain tight political controls, and we continue to monitor reports of arrests of human rights activists. We want to work closely with Congress on such arrests and on bringing positive change on human rights in Cuba in general. We are convinced that, through a policy of sustained engagement, we can more effectively stand up for our values and help the Cuban people help themselves.

Question. Ms. Jacobson, a senior State Department official told reporters yesterday that, "democracy programs . . . have changed over time, and they will continue to change over time to reflect a reality, whether that reality is on the ground in Cuba or in the United States." This statement was in regards to a question involving Raul Castro's complaints against these programs, which is apparently another precondition it has placed for the establishment of diplomatic relations, in particular the training of independent journalists, which he called "illegal activities."

- Do you believe that independent journalism is an "illegal activity"?
- Are you cognizant that U.S. democracy programs toward Cuba are codified in law?
- Have you agreed to adjust these programs, despite their codification in law, during your negotiations with the Castro regime?
- Will a potential U.S. Embassy in Cuba continue to execute these democracy programs, as required by law, including the training of independent journalists?

Answer. We believe that neither independent journalism nor U.S. Government training exposing Cubans to how individuals in democratic societies exercise freedom of speech are "illegal activities." Current Cuban laws criminalizing independent journalism undermine human rights contrary to Cuba's international human rights commitments. The work of a free and independent media is essential to a democratic society. And our training falls clearly within the scope of permissible diplomatic activity under international law.

As Assistant Secretary Malinowski testified before the Senate Foreign Affairs Committee in February, we will continue to conduct programs that promote respect for human rights and fundamental freedoms such as freedoms of expression, association, and peaceful assembly in Cuba, just as we do for 95 countries around the world. The administration requested $20 million in Economic Support Funds for FY16 to support the promotion of democracy and human rights in Cuba.

The Cuban Government likely will continue to object to some of our programs. But as stated in my testimony on February 3, "We will continue to use funds appropriated by Congress to support the exercise of political and civil liberties in Cuba, facilitate the free flow of information, and provide humanitarian assistance." As President Obama said in April at the Summit of the Americas, "we are not going to stop talking about issues like democracy and human rights and freedom of assembly and freedom of the press."

Question. Media reports indicate that negotiations regarding the establishment of diplomatic relations between the United States and Cuba are being stalled by the

Castro regime's refusal to allow U.S. diplomats to move around freely on the island. The Castro regime also does not want to allow U.S. diplomats the secure passage of supplies and materials to upgrade our diplomatic mission. Moreover, the Cuban regime places a heavy security cordon around the U.S. Interests Section in Havana, in order to vet, harass, and intimidate any Cuban (or anyone else for that matter) that wants to approach the diplomatic mission. This is unprecedented in any U.S. Embassy throughout the world. And to add insult to injury, last week Raul Castro complained about the "illegal activities" the U.S. Interests Section in Havana, such as "the training of independent journalists." That was verbatim.

- ♦ Do you believe training independent journalists is an "illegal activity"? Will you commit that the U.S. mission in Havana will continue training independent journalists and supporting democracy efforts on the island?
- ♦ Will you commit that the United States will not accept any restrictions on the movement of U.S. diplomats anywhere in Cuba as a precondition for establishing diplomatic relations?
- ♦ Will you commit that the U.S. will not establish diplomatic relations, so long as the Cuban regime insists on maintaining its security cordon around our diplomatic facility?

Answer. The United States continuously works to promote freedom of expression around the world through bilateral engagement, public diplomacy programming, and multilateral diplomacy. This includes support for independent journalism, particularly in closed countries where press freedom is lacking or independent journalists are under threat. We do not view independent journalism in Cuba or our training programs as "illegal activities."

The United States will continue promoting respect for human rights and fundamental freedoms such as freedoms of expression, association, and peaceful assembly in Cuba, just as we do for 95 countries around the world.

We are making steady progress in our discussions with the Cuban Government on certain operational issues to ensure our Embassy, once reopened, will be able to carry out the necessary functions to facilitate this evolving U.S.-Cuba relationship as well as service the thousands of U.S. citizens visiting Cuba every year to see relatives and engage in other authorized activities. These operational issues include those relating to travel restrictions on U.S. diplomats, controls on access by visitors to the U.S. facility, and limitations on diplomatic staffing.

The future U.S. embassy will continue engaging with all Cubans, including those promoting the realization of universal human rights.

Question. Assistant Secretary Jacobson, you stated in an answer to a question for the record to this committee that "the reestablishment of diplomatic relations, including reopening our Embassy in Havana, will allow us to more effectively represent U.S. interests, including property claims, fugitives, human rights, and needed political reforms and increase our engagement with the Cuban people. We will continue to condemn any example of Cuban Government-sponsored harassment, use of violence, or arbitrary detention of Cuban citizens peaceably exercising their freedoms of expression and association. We proposed to the Cubans starting discussions of outstanding claims, in the event we reestablish diplomatic relations. On the issue of fugitives, the Department repeatedly raises fugitive cases with the Cuban Government and will continue to do so at every appropriate opportunity. We raised several cases with the Cubans when we met with them January 22."

- ♦ Since you last raised these issues with the Government of Cuba, what progress has been made with regards to the discussions leading to the return of fugitives Joanne Chesimard and William Morales to justice; and the unresolved U.S. certified claims which total $8 billion?

Answer. The Cuban Government has agreed to enter into a law enforcement dialogue with the United States that will include discussions with the aim of resolving outstanding fugitive cases. We believe that this is the best method for addressing these cases.

We also proposed discussions of outstanding claims to the Cubans, following the reestablishment of diplomatic relations. The Cuban Government has agreed in principle to discuss this issue. Although reaching agreement on the resolution of outstanding claims is often a lengthy process, the Department is strongly committed to advancing this effort.

Question. In a QFR response from the February 3rd hearing on Cuba, you stated that there were no plans to alter the existing lease agreement for the Naval Station at Guantanamo Bay. Additionally, Secretary of Defense Ash Carter wrote in a letter dated February 6, 2015, that "There are no plans to close Guantanamo Naval Station."

I would like to enter into the record a letter from Admiral Paul F. Zukunft the Commandant of the Coast Guard from February 18, 2015. In this letter, he writes about GTMO: "Its strategic location, airfield, moorings, logistics capabilities, and migrant processing facilities make Naval Station GTMO an indispensable resource for steady-state and surge events."

But just yesterday a senior State Department official was quoted as saying that "I can't say what the future may bring on this (Guantanamo Bay), but it's not on the table right now, and I don't know that there's a reason to justify having it or not having it."

- Can you clarify the statement by the senior official in your Department with regards to any future talks on Guantanamo Bay?
- Are there any circumstances in which the administration would modify the lease or status of Guantanamo Bay?
- Can you guarantee to this committee that Simon Trinidad will not be released from U.S. custody as part of Colombia's negotiations with the FARC?

Answer. We have no intention at present to alter the existing lease treaty and other arrangements related to the Naval Station at Guantanamo Bay or to discuss the issue of the Naval Station with the Cuban Government.

Colombian officials have raised with us a variety of peace process issues relevant to U.S. interests. Simon Trinidad has been convicted of serious crimes against U.S. citizens and is serving his sentence in a U.S. prison. We have made clear to the Colombian Government that his release is not a matter that we are prepared to discuss.

Question. Assistant Secretary Jacobson, in negotiating a settlement agreement for claims, such as American certified claims against Cuba that are worth close to $8 billion, each country gives the other something the other wants as an exchange. Historically, in these situations, the other country settles and pays what is owed to American claimants in exchange for trade and commerce with the U.S. market. Each settlement process is unique, but one thing is clear, we do not grant concessions for nothing.

Libya paid the U.S. claimants before they were removed from the state sponsor of terrorism list, and allowed to do business with U.S. oil companies, but they also had to renounce terrorism. Vietnam agreed to pay the U.S. claimants in exchange for trade and commerce with the U.S. market. Both of those, as in most settlements agreements, were done with congressional cooperation.

Frankly, this is one of the most disconcerting matters of these Cuba talks. Not only are we turning U.S. policy on its head, but we then appear to be ignoring the primary reason why the sanctions were imposed in the first place. Why are we not talking about claims issues, U.S. claims issues? As you know, there are nationals from other countries that also have claims, and they are seeking compensation as well. Will U.S. taxpayers be left out or put at a disadvantage in this process?

How do you see this settlement agreement process working with Cuba, if your administration appears to be eager to give Cuba everything it wants without getting them to pay for the property they took? Or do you plan to just give Cuba things you can, while you can, and leave the real claim settlement negotiations for the next administration to deal with?

Is your Bureau responding to title IV investigation requests, if not, why not? Do you need more money for policing and enforcement and how can we loop in the Treasury Department on these matters, including the Office of Foreign Assets Control as well as the Bureau of Industry and Security at Commerce?

Answer. The Department is committed to pursuing a resolution of outstanding claims against the Cuban Government. We expect that a discussion of property claims will follow in the months after diplomatic relations are reestablished. In January, we proposed and the Cuban Government agreed to discuss pending claims following the reestablishment of diplomatic relations. Although reaching agreement resolving outstanding claims likely will be a complex and lengthy process, it will nevertheless be greatly facilitated by having better-developed diplomatic ties.

With respect to title IV of the LIBERTAD Act, there are a number of factors necessary for a determination that trafficking in confiscated property has taken or is taking place for purposes of this provision. The Department continues to review potential cases and respond in accordance with the statute.

Question. On February 28, 2015, a Chinese-flagged vessel, the *Da Dan Xia*, was intercepted in Cartagena, Colombia, carrying 15 containers of heavy weaponry hidden as a grain shipment. It consisted of 100 tons of explosives, 2.6 million detonators, 99 projectile heads and around 3,000 artillery shells. The containers marked

that they originated from Norinco, a Chinese arms manufacturer, on behalf of Tecnoimport, a shadow company of the Cuban military.

This is the second time in 18 months that the Cuban military has been caught smuggling weapons internationally. As you are surely aware, last year Cuba was found in breach of international sanctions for attempting to smuggle 240 tons of weapons to North Korea. Both of these shipments, with false manifests, also threatened the safety and integrity of the Panama Canal.

- ♦ Do you find this weapons smuggling by the Cuban military a concerning trend? If so, why hasn't the State Department made any statements about this latest incident?
- ♦ According to media reports, the Colombian Government will not disclose what the vessel was supposed to unload in Cartagena and Barranquilla, its two scheduled stops before Havana. Has the State Department looked into whether these weapons may have actually been intended for FARC narcoterrorists or other rogue groups, particularly as President Obama was preparing to remove Cuba from the State Sponsors of Terrorism list?
- ♦ If weapons sales between China and Cuba are otherwise not sanctioned internationally, why do you think they went to such great lengths to hide this shipment?
- ♦ Despite these two recent incidents to deceive the international community, the Obama administration was still willing to accept—as part of the "assurances" given in its rescission memo to remove Cuba from the State Sponsors of Terrorism list—that the Castro regime has "never" supported terrorist activities, which we all know is another lie. Do you think accepting lies is wise?

Answer. We are not aware of any information linking the shipment contents to the FARC. The Department believes it would be premature to speculate regarding the outcome of Colombia's investigation of the Chinese-flagged vessel and its captain, who could be charged under Colombian law for illegal transport of military materials.

Our review of Cuba's State Sponsor of Terrorism designation focused on the questions of whether Cuba provided any support for international terrorism during the previous 6 months, and whether Cuba provided assurances that it will not support acts of international terrorism in the future, consistent with the statutory standard for rescission.

There is no credible evidence that the Government of Cuba has, within the past 6 months, provided support for international terrorism. The Government of Cuba provided us with assurances that it will not support acts of international terrorism in the future, consistent with the requirements of the relevant statutes.

Question. There are roughly three transition models from communism, the Chinese model, the Russian model and the East European model. Only in the last one has there been a break with the past and true democracy, full civil rights and free markets for their citizens. But by recognizing the regime of Raul Castro, you have made it easier for the military/technocratic oligarchy that he has put in place over the years to move into power once he passes from the scene. They will now be able to acquire funds more easily and show the population that they have international support. That would be the Russian model or at best the Chinese model. Neither of those countries has freedom or democracy.

- ♦ Is a free and democratic Cuba the goal of this administration?

Answer. Our enduring objective remains the emergence of a democratic, prosperous, and stable Cuba. The goal of our Cuba policy has been, and continues to be, to empower the Cuban people to freely determine their own future. Our updated approach is designed to promote changes that support Cubans' universal human rights and fundamental freedoms as well as our other national interests.

Question. The East European countries are also staunch friends of the United States. Many of them have indeed become defense and economic treaty allies. That is not true of either China or Russia, or of Vietnam or Belarus, which continue to be rivals internationally. This administration has been criticized, rightly in my opinion, for not treating traditionally U.S. allies well and for coddling our enemies.

- ♦ Does your administration seek a friendly Cuba that sides with us internationally, or do you just seek stability in the region?
- ♦ Does having a friendly regime that shares our values matter to this administration?

Answer. The President's 2015 National Security Strategy calls for "promoting a prosperous, secure, and democratic Western Hemisphere by expanding integration and leveraging a new opening to Cuba to expand our engagement." Our enduring

objective remains the emergence of a democratic, prosperous, and stable Cuba. A stable neighbor 90 miles from our shores that reflects and upholds the democratic values and priorities shared by all countries of the Americas is strongly in our national interest. Our ability to achieve this goal is strengthened by a policy of proactive engagement, rather than isolation.

Question. The President again and again states that our policy of not engaging with the Castro dictatorship failed. For decades, Europe, Latin America and Asia have traded with Cuba and allowed people to freely travel there.

♦ Couldn't we say that their approach failed, too?

Answer. Our enduring objective remains the emergence of a democratic, prosperous, and stable Cuba that respects internationally recognized human rights. We are convinced that, through a policy of engagement, we can do more to effectively promote our interests and values in collaboration with other international partners, thereby helping the Cuban people begin to enjoy more independence from the Cuban state.

Cuba is undergoing important changes to its economic, social, and leadership landscape, allowing for more options for economic autonomy, loosened restrictions on travel, greater connectivity with the rest of the world, and generational changes to top leadership. Our policy aims to empower the Cuban people to take advantage of these changes—as well as those yet to come—to determine their own future. The President's new approach makes clear that the United States can no longer be blamed as an obstacle to progress on issues that are important to the Cuban people.

Over time, our policy can be judged in terms of its success in empowering the Cuban people to determine freely their own future, including respect for universal human rights, greater political space to express dissent, democratic accountability, and access to information.

Question. The State Department bureaucracy tried to stop President Reagan's Brandenburg speech in 1987, in which he called for Mikhail Gorbachev to tear down the Berlin Wall. State Department officials even called it "a mediocre speech" and a "wasted opportunity" and tried to edit out the reference to the wall. Earlier, in 1983, State also thought the speech in which the President called the Soviet Union "an evil empire" to be needlessly provocative. Yet, dissidents behind the Iron Curtain, and especially those in the Gulag, took special comfort in knowing that America's leaders were on their side. Natan Sharansky, in the Gulag at the time, said later, "This was the moment. It was the brightest, most glorious day. Finally a spade had been called a spade."

♦ Would you characterize the nature of the Castro regime for us here, and call on him to free the Cuban people?

♦ Would you ask the President to do so, in a public manner, without caveats?

Answer. Our annual Human Rights Report has for years characterized Cuba as an "authoritarian state," and has detailed Cuba's lack of respect for political and civil rights.

The administration fully recognizes, and has stated so publically on numerous occasions, that the Cuban people have long been deprived of the fundamental freedoms that they deserve. With this in mind, the fundamental goal of our policy is to advance a Cuba that is democratic, prosperous, well-governed, and responsive to the rights of its citizens. As President Obama said at the Summit of the Americas in April with respect to Cuba, "Our governments will continue to have differences and the United States will continue to stand firmly for universal values and human rights."

RESPONSES OF ROBERTA S. JACOBSON AND THOMAS A. SHANNON TO QUESTIONS SUBMITTED BY SENATOR DAVID PERDUE

Question. The Castro regime, time and again, has violated international norms. I fear that President Obama's recent shift in policy toward Cuba is sending the wrong message about our democratic values as a nation. Cuba has a long history of supporting revolutionary movements and governments in Latin America and Africa.

In 2003, Cuba allowed Iran to operate on their soil to attack U.S. telecommunications that posed a threat to the Iranian regime's control and censorship. Cuba is reported to have supplied intelligence services to Venezuela and its regional allies. Cuba has provided assistance and safe haven to terrorists, including members of the FARC and the Basque ETA. And, they continue to harbor fugitives wanted in the United States—including a fugitive listed on the FBI's "Most Wanted Terrorists"

list. The Cuban Government provides these fugitives with support such as housing, food ration books, and medical care.

A Cuban state-owned enterprise provided Venezuela with advanced technology that it used to provide passports, visas, and other documentation to 173 individuals from the Middle East between 2008 and 2012. Twice in the past 18 months—most recently this February—Cuba has been involved in arms smuggling that's directly in violation of international sanctions. Cuban officials have reportedly been involved in the Venezuelan Government's recent crackdown of pro-democracy demonstrators.

And since President Obama began his secret negotiations with the Castro regime in June 2013, there have been reportedly 15,000 political arrests. There have been 2,500 such arrests since the President's speech on U.S.-Cuban relations in December.

In fact, between February and March of this year, Cuba has increased the number of politically motivated arrests by 70 percent.

♦ How can you prove that Cuba will stop this type of behavior? How can you prove that Cuba has stopped supporting terrorism?

Answer. The Department's analysis for State Sponsor of Terrorism (SST) rescission does not imply that we agree on everything with Cuba or dispute the fact the Cuban Government engages in repressive or authoritarian activities. Our new approach is not about what the Cuban Government would do for us, but rather what we can do for the Cuban and American people.

In our review of Cuba's SST designation, we focused on the question of whether Cuba provided any support for international terrorism during the 6 months prior to providing the statutorily required report to Congress. During that time we had no credible information that Cuba supported international terrorism.

We also obtained the required assurances from the Cuban Government that it will not support acts of international terrorism in the future, consistent with the relevant statutes.

We will continuously monitor available information to determine whether it has resumed support for international terrorism and whether an SST designation might be appropriate in the future, consistent with the statutory standard.

Question. What makes you think, that if we normalize relations with Cuba, that their behavior will change?

Answer. Our previous approach to relations with Cuba over a half century, though rooted in the best of intentions, failed to empower the Cuban people and isolated us from our democratic partners in this hemisphere and around the world. The Cuban Government used this policy as a rationale for restrictions on its people.

Reestablishing diplomatic relations, which is only the first step in the long process of normalization, is designed to help empower the social and economic forces in Cuba that are demanding change and is in the U.S. national interest. It will give our diplomats increased access to the Cuban people and will give the Cuban people freer access to our Interests Section in Havana. Our new approach is not about what the Cuban Government would do for us, but rather what we can do for the Cuban and American people. The fundamental goal of our policy is to advance a Cuba that is democratic, prosperous, and well-governed. We are convinced that, through a policy of engagement, we can more effectively promote our interests and values and enable the Cuban people begin to enjoy more independence from the Cuban state.

Normal diplomatic relations with the Cuban Government will provide us the opportunity to engage more effectually on a range of important issues, including human rights. Our discussions with the Cuban Government will include promoting respect for universal human rights and fundamental freedoms.

Question. If we do not insist on a demonstrated change in behavior—encompassing human rights, support for terrorism, and compliance with arms embargoes—who is really benefiting here? Whose goals are being met?

Answer. We will not stop insisting on these changes, and we have not agreed to do so as part of normalization. We believe that normalization will give us a better platform for expressing these ideas to the Cuban Government. Moreover, normalization helps take the focus off U.S. policies and puts it on the Cuban Government's behavior.

Question. On February 28, 2015, a Chinese-flagged vessel, the *Da Dan Xia*, was intercepted in Cartagena, Colombia, carrying 15 containers of heavy weaponry hidden as a grain shipment.

It consisted of 100 tons of explosives, 2.6 million detonators, 99 projectile heads and around 3,000 artillery shells.

The containers marked that they originated from Norinco, a Chinese arms manufacturer, on behalf of Tecnoimport, a shadow company of the Cuban military.

This is the second time in 18 months that the Cuban military has been caught smuggling weapons internationally.

As you are surely aware, last year Cuba was found in breach of international sanctions for attempting to smuggle 240 tons of weapons to North Korea.

Both of these shipments, with false manifests, also threatened the safety and integrity of the Panama Canal.

♦ Do you find this weapons smuggling by the Cuban military a concerning trend? If so, why hasn't the State Department made any statements about this latest incident?

Answer. With respect to the March interception of a Chinese ship by Colombian authorities, the Department has not made any public statements to date because the Colombian investigation is ongoing. We believe it would be premature to speculate on the incident, though we take the matter seriously and continue to consult closely with our Colombian partners.

Regarding the weapons shipment destined for North Korea, the administration has worked to ensure that all those responsible for this egregious violation of U.N. sanctions pay a price for their wrongdoing. The administration also worked to maximize the diplomatic cost to Cuba for its role in the incident, including by repeatedly condemning Cuba's role in the violation in meetings of the U.N. Security Council. We also welcomed the U.N. DPRK Sanctions Committee's release of an Implementation Assistance Notice to publicize the facts of the case and worked to ensure that this Notice made clear Cuba's role.

The United States remains concerned about attempts by North Korea to circumvent international sanctions and strongly condemns—and will continue to condemn—any efforts by states such as Cuba to assist in the evasion of binding decisions of the U.N. Security Council.

Question. Has the State Department looked into whether these weapons may have actually been intended for FARC narcoterrorists or other rogue groups, particularly as President Obama was preparing to remove Cuba from the State Sponsors of Terrorism list?

Answer. We are not aware of any information linking the shipment contents to the FARC. The Department believes it would be premature to speculate regarding the outcome of Colombia's investigation of the Chinese-flagged vessel and its captain, who could be charged under Colombian law for illegal transport of military materials.

Question. If weapons sales between China and Cuba are otherwise not sanctioned internationally, why do you think they went to such great lengths to hide this shipment?

Answer. The Department believes it would be premature to speculate regarding the outcome of Colombia's investigation of the Chinese-flagged vessel and its captain, who could be charged under Colombian law for illegal transport of military materials.

Question. The Washington-based Center for a Secure Free Society reports that a Cuban state-owned enterprise provided Venezuela advanced technology that it used to provide 173 individuals from the Middle East with identification cards that are extremely difficult to trace.

The Center noted that one of the individuals provided with an identification card was Suleiman Ghani Abdul Waked, who is an operative of Hezbollah.

♦ Can you confirm the Center's findings?

Answer. We take any allegations that threaten our national security seriously. We share your concern that Venezuelan citizenship, identity, and travel documents are easy to obtain, making Venezuela a potentially attractive source of documentation for terrorists. International authorities remain suspicious of the integrity of Venezuelan documents and their issuance process.

♦ What risk do these 173 people pose to regional and international security?

Answer. We remain concerned about Hezbollah's involvement in a range of destabilizing activities all around the world, including their members and supporters' involvement in criminal activities. Countering these activities remains a priority for the United States. Hezbollah receives funding from supporters around the world who engage in a host of licit and illicit activities, including drug trafficking and money laundering, some of which takes place in the Western Hemisphere. We are concerned about any Hezbollah-linked activity in Latin America.

We remain alert to indications of other activities, particularly operational activity. I can provide more information in a classified setting on this issue.

- ♦ Can you explain what Cuba's objective is in providing such sensitive technology to Venezuela?

Answer. Cuba and Venezuela have a long-standing and wide-ranging partnership. They cooperate in areas ranging from intelligence services to medical services. Many observers have recognized the significant role Cuba has played in Venezuela over the past decade, including providing support for sensitive functions like identification documents.

Our concern is that individuals, regardless of their place of origin, do not enter the United States with false documentation. The U.S. Government verifies all documents as necessary. Those who fraudulently or willfully misrepresent material facts to procure a visa, admission to the United States, or any other immigration benefit, which may include submission of false documents to the U.S. immigration authorities, are ineligible for visas and admission to the United States.

Question. The most-recent State Department Country Report on Terrorism noted that "The Cuban Government continued to harbor fugitives wanted in the United States. The Cuban Government also provided support such as housing, food ration books, and medical care for these individuals."

- ♦ In total, how many fugitives does Cuba continue to harbor, and for how long have these individuals been harbored by Havana? How many of these can be described as violent terrorists? What, specifically, are these fugitives wanted for?

Answer. We are concerned about fugitives from the United States in Cuba and work closely with the Department of Justice and other agencies to bring those fugitives to justice. This includes fugitives like Joanne Chesimard and William Guillermo Morales as well as those individuals who hijacked planes to Cuba, primarily in the 1970s and 1980s. The United States has pressed for the return of fugitives with the Cuban Government at every appropriate opportunity, including in the bilateral talks held in January in Havana. Cuba has expelled to the United States at least four non-Cuban-national fugitives from U.S. justice since 2011.

Question. Why did the Obama administration not insist that these individuals be returned to U.S. custody as a prerequisite for removing Cuba from the State Sponsors of Terrorism list?

Answer. The return from Cuba of fugitives from U.S. justice is a priority of the U.S. Government. We have consistently and will continue to press the Cuban Government for the return of U.S. fugitives. We work closely with the Department of Justice and other agencies to bring those fugitives to justice. The reestablishment of diplomatic relations and reopening of the U.S. Embassy will allow the United States to more effectively press the Cuban Government on law enforcement issues including the return of fugitives.

The Cuban Government has agreed to enter into a law enforcement dialogue with the United States that will include discussions with the aim of resolving outstanding fugitive cases. We believe that this is the best method for addressing these cases.

Question. These fugitives include members of FARC, the terrorist organization that has been battling the Colombian Government for the past 50 years. Can you likewise describe Cuba's past and present support for FARC? How many FARC members does Cuba currently shelter?

Answer. Our review process of Cuba's designation as a State Sponsor of Terrorism included a comprehensive review of Cuba's actions during the 6 months prior to submitting our report to Congress, consistent with the statutory standard for rescission. There is no credible evidence the Cuban government has, within the past 6 months, provided material support, services, or resources to members of the FARC or ELN outside of facilitating the internationally recognized peace process between those organizations and the Colombian Government.

The Colombian Government told the United States that it has no evidence Cuba has provided any political or material support in recent years to the FARC or ELN for terrorist activity in Colombia. Furthermore, the Colombian Government believes the Cuban Government plays a constructive role in the peace negotiations with the FARC.

Question. Under the Anti-Terrorism and Arms Export Amendments Act of 1989, a country can only be removed from the State Sponsors of Terrorism list if "there has been a fundamental change in the leadership and policies of the government

of the country concerned; that government is not supporting acts of international terrorism; and that government has provided assurances that it will not support acts of international terrorism in the future."

- ♦ In light of Havana's continued harboring of fugitives and terrorists, can you say that there has there been a "fundamental change in the leadership and policies" of the Castro regime?

Answer. There are two possible paths to rescission of a State Sponsor of Terrorism (SST) designation under the relevant statutes. The first requires the President to submit a report to Congress before the proposed rescission would take effect certifying that: (1) there has been a fundamental change in the leadership and policies of the government of the country concerned; (2) the government is not supporting acts of international terrorism; and (3) the government has provided assurances that it will not support acts of international terrorism in the future. The second path requires that the President submit a report to Congress, at least 45 days before the proposed rescission would take effect, justifying the rescission and certifying the subject government has not provided any support for international terrorism for the preceding 6-month period and has given assurances that it will not support acts of international terrorism in the future.

The rescission of Cuba's designation was done consistent with the second path. We had no credible information that Cuba supported international terrorism in the 6 months prior to submitting the statutorily required report to Congress and the Cuban Government has provided assurances that it will not support acts of international terrorism in the future. While the United States has significant concerns and disagreements with a wide range of Cuba's policies and actions, these fall outside the criteria relevant for determining whether to rescind an SST designation pursuant to the second path.

We will continuously monitor available information to determine whether the Cuban Government has resumed support for international terrorism and whether an SST designation might be appropriate in the future consistent with the statutory standard.

Question. The State Department's review of Cuba's status as a State Sponsor of Terrorism focused narrowly only the question of whether or not the Castro regime is "not supporting acts of international terrorism."

- ♦ Can you please explain how Cuba's current sheltering of these fugitives and terrorists does not constitute support for terrorism?

Answer. Our review of Cuba's State Sponsor of Terrorism (SST) designation took into account all relevant factors. For the purposes of our review of Cuba's designation and consistent with the statutory standard for rescission, we examined Cuba's actions during the 6 months prior to submitting our report to Congress. During that time period we have no credible information that Cuba supported international terrorism. While we continue to have significant concerns and disagreements with a wide range of Cuba's policies and actions, including the possible presence of fugitives from U.S. justice in Cuba, these concerns fall outside the criteria for SST designation.

The return of fugitives from U.S. justice is a priority of the U.S. Government, and we have consistently pressed the Cuban Government for the return of U.S. fugitives, and will continue to do so. The reestablishment of diplomatic relations and reopening of the U.S. Embassy will allow the United States to more effectively push the Cuban Government on law enforcement issues including the return of fugitives from U.S. justice.

The Cuban Government has agreed to enter into a law enforcement dialogue with the United States that will include discussions with the aim of resolving outstanding fugitive cases. We believe this is the best method for addressing these cases.

Question. Cuban officials have reportedly been involved in the Venezuelan Government's recent crackdown of pro-democracy demonstrators. This repression, as you know, prompted the Obama administration to issue sanctions against current and former Venezuelan officials, citing the "unusual and extraordinary threat to the national security and foreign policy of the United States" these actions posed.

- ♦ Can you detail how many Cuban agents have previously worked with, and are currently working with, Venezuela to suppress domestic opposition and bolster their security services?

Answer. According to Venezuelan Government-associated media, an estimated 40,000 Cuban advisers and aid workers are in Venezuela, including doctors, teachers, and Cuban military personnel. While both governments have stated the Cuban

presence in Venezuela is limited to these areas, we are also aware of reports of Cuban-Venezuelan cooperation in the intelligence services.

Media reports assert Cuban security and military advisers played a role in activities against Venezuelan protesters, including training pro-government vigilante groups that subsequently attacked peaceful protesters during demonstrations. However, we have seen no further evidence establishing a direct link between Cuban advisers and these acts of violence.

Question. Why did the Obama administration not insist that Cuba cease its support for the Venezuelan regime's antiopposition activities as a prerequisite for its removal from the State Sponsors of Terrorism list?

Answer. While the United States has significant concerns and disagreements with a wide range of Cuba's policies and actions, these fall outside the criteria relevant for determining whether to rescind a State Sponsor of Terrorism (SST) designation.

Consistent with the statutory standard for recession, we focused on the questions of whether Cuba provided any support for international terrorism in the 6 months prior to submitting our report to Congress, and whether Cuba has provided assurances that it will not support acts of international terrorism in the future.

Question. In light of Havana's support of the Venezuelan crackdown, can you say that there has been a "fundamental change in the leadership and policies" of the Castro regime, pursuant to U.S. law?

Answer. There are two possible paths to rescission of a State Sponsor of Terrorism (SST) designation under the relevant statutes. The first requires the President to submit a report to Congress before the proposed rescission would take effect certifying that: (1) there has been a fundamental change in the leadership and policies of the government of the country concerned; (2) the government is not supporting acts of international terrorism; and (3) the government has provided assurances that it will not support acts of international terrorism in the future. The second path requires that the President submit a report to Congress, at least 45 days before the proposed rescission would take effect, justifying the rescission and certifying the subject government has not provided any support for international terrorism for the preceding 6-month period and has given assurances that it will not support acts of international terrorism in the future.

The rescission of Cuba's designation was done consistent with the second path. We had no credible information that Cuba supported international terrorism in the 6 months prior to submitting the statutorily required report to Congress and the Cuban Government has provided assurances that it will not support acts of international terrorism in the future. While the United States has significant concerns and disagreements with a wide range of Cuba's policies and actions, these fall outside the criteria relevant for determining whether to rescind a State Sponsor of Terrorism designation pursuant to the second path.

Question. The Spanish Government requested in March that the United States use the removal of Cuba from the State Sponsor of Terrorism list to help secure the return of two leaders of the Basque ETA terrorist group to Madrid.

♦ Can you confirm for this committee that these ETA leaders remain in Cuba?

Answer. Cuba and Spain have agreed to a bilateral process to resolve the matter of the two ETA members in Cuba for whom Spain has requested extradition.

♦ How many more members of the ETA are being sheltered by the Castro regime?

Answer. The Government of Cuba continues to allow approximately two dozen members of the Basque Fatherland and Liberty organization (ETA) to remain in Cuba. The Cuban Government has provided assurances that it would never permit the ETA members living in Cuba to use Cuban territory for that organization's activities against Spain or any other country. We have no information that Cuba has allowed any of these ETA members to plan, finance, lead, or commit acts of international terrorism while residing in Cuba in the past 6 months. Additionally, for those two ETA members for whom Spain has requested extradition, Cuba and Spain have agreed to a bilateral process to resolve the matter, which is now underway.

♦ Why did the United States not assist the Spanish Government with their request?

Answer. The Cuban Government has responded to Spain's extradition requests and a bilateral process is now underway for Spain and Cuba to resolve this matter. The Spanish Government has assured the United States that it is satisfied with this process and that it has no objection to the rescission of Cuba's State Sponsor of Terrorism designation.

Question. On Sunday, April 26, nearly 100 members and supporters of the human rights group Ladies in White were arrested and suffered abuse at the hands of the Cuban police.

Between February and March of this year, Cuba has increased the number of politically motivated arrests by 70 percent.

There have reportedly been 15,000 political arrests since the administration began secret negotiations with the Castro regime in June 2013, and 2,500 since the President's December speech on U.S.-Cuban relations.

♦ Can you detail in what ways, if any, the United States has expressed its disapproval of these actions to Cuban officials?

Answer. We raise human rights regularly during our discussions with the Cuban Government, and continue to make human rights observance a fundamental part of our policy toward Cuba, as it is with other countries in the hemisphere.

In March, we raised arbitrary detentions at a planning meeting with the Cuban Government to discuss the methodology and structure of future human rights talks. We are in the process of determining dates for the first substantive human rights talks.

Our updated approach is designed to promote changes that support Cubans' universal human rights and fundamental freedoms. We believe that reestablishing normal diplomatic relations, which includes allowing U.S. diplomats more freedom of movement in Cuba and allowing Cuban citizens freer access to the U.S Interests Section, will help improve the atmosphere for promoting such changes.

We remain committed to working closely with Congress on human rights in Cuba.

Question. Would you agree that the administration's outreach to the Castro regime has thus far had no effect on Havana's harassment and imprisonment of dissidents?

Answer. We have not yet seen any significant change in the Cuban Government's practice of harassing and detaining dissidents.

We have no illusions that the Cuban Government will change its behavior overnight. At the same time, we are convinced that, through a policy of sustained engagement, we can more effectively stand up for our values and help the Cuban people help themselves.

Our enduring objective remains the emergence of a democratic, prosperous, and stable Cuba that respects and adheres to human rights norms.

Question. In Freedom House's 2015 "Freedom in the World" and "Freedom of the Press" reports, Cuba ranked dismally low.

Cuba ranks among the 10 worst-rated nations for freedom of the press. And Cuba was ranked as "not free."

Cuban pro-democracy and human rights activists and civil society groups are calling on the United States to place human rights reforms and free and open space for civil society at the center of our ongoing negotiations with Cuba.

At the same time, the Castro regime is demanding that the United States stop providing classes to dissidents in Havana, and that we cease providing Internet access.

♦ How is the United States including democracy and human rights in the negotiations to restore full diplomatic and economic ties with Cuba?

Answer. Our updated approach to Cuba is designed to advance human rights over time by empowering the Cuban people. We believe that reestablishing diplomatic relations will help us better promote human rights in Cuba.

On March 31, we held a planning meeting with the Cuban Government to discuss the methodology and structure of future human rights talks. The atmosphere of that meeting was professional, and there was broad agreement on the way forward for a future substantive dialogue. We are in the process of determining possible dates for the first substantive dialogue.

We are focused on consulting with and empowering independent Cuban civil society. Assistant Secretary for Democracy, Human Rights, and Labor Malinowski has held two video conferences with on-island Cuban civil society and will continue to do so.

We frequently speak out on human rights issues in Cuba and throughout the hemisphere and will continue to do so.

We will continue to work closely with Congress on bringing about positive change on human rights in Cuba. We urge you and your congressional colleagues who may visit the island to raise democracy and human rights with the Cuban Government and to meet with independent civil society.

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