

Human Rights in Cuba: Beyond the Veneer of Reform

HEARING
BEFORE THE
SUBCOMMITTEE ON
THE WESTERN HEMISPHERE, CIVILIAN SECURITY,
AND TRADE
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HUMAN RIGHTS IN CUBA: BEYOND THE VENEER OF REFORM

Thursday, July 11, 2019

House of Representatives

Subcommittee on the Western Hemisphere,

Civilian Security, and Trade

Committee on Foreign Affairs

Washington, DC

The committee met, pursuant to notice, at 10:04 a.m., in room 2172 Rayburn House Office Building, Hon. Albio Sires (chairman of the subcommittee) presiding.

Mr. SIREs. Good morning, everyone. This hearing will come to order. This hearing titled, “Human Rights in Cuba: Beyond the Veneer of Reform,” will highlight the human rights situation in Cuba, prospects for democratic reform, and options for United States policies. Without objection, all members may have 5 days to submit statements, questions, and extraneous materials for the record, subject to the length limitations in the rules.

I now will make an opening statement and then turn it over to the ranking member for his opening statement.

Good morning, everyone. Thank you all to our witnesses for being here today to discuss the human rights situation in Cuba. As my colleagues know, this subject is deeply personal to me. I left Cuba and came to the United States when I was 11 years old. I am forever grateful that this country took me in. I work hard every day to represent each member of my district including the many first-generation immigrants who, like me, were forced to leave their home countries in search of a better life.

For this reason, it is especially painful for me that despite great progress over the last six decades to improve quality of life around the world, the Cuban regime remains stuck in the Dark Ages. This is a government that continues to lock up those who speak out against it. It is a government that criminalizes the core freedoms that are the foundation of any democracy. It is a government that for sixty years has denied the Cuban people their rights to choose their own leaders.

Some observers have hoped that economic openings, like the growing number of small businesses on the island, will pave the way for political reform as well. Unfortunately, the Cuban state has shown an ability to withstand those changes while remaining among the most repressive governments in the world. The Economist Intelligence Unit classifies Cuba as an authoritarian regime and Freedom House rates Cuba as “not free”. This year, Cuba ranked 169th of 180 countries in global press freedom, according to the Reporters Without Borders.

The Communist Party has accepted and even encouraged some cosmetic changes to give the impression that life on the island is improving. But the underlying reality of one-party rule remains intact. Even as internet access has expanded, those Cubans who can afford to go online have their every move tracked by the State and are prohibited from accessing dozens of blocked websites.

Cuban citizens with the means to travel are increasingly allowed to do so, but only on the condition that they respect the long arm of the Cuban police state. For instance, activists seeking to travel into international forums to offer testimony about Cuba's human rights record are often prevented from leaving the island. Despite the laws prohibiting discrimination on the basis of sexual orientation, a group of Cuban LGBT rights activists were arrested and beaten by plainclothes security officers on May 11th when they organized a peaceful demonstration that the government had refused to authorize.

It seems that the Cuban regime is always devising new strategies aimed at improving its international image without actually changing its system of one-party dominance. I know that we may not all agree about the best direction for U.S. policy toward Cuba, but I hope that we can agree that the status quo in which 11 million people are denied their basic rights by Cuba's authoritarian regime is an injustice.

It was in this spirit that earlier this year I introduced a resolution condemning conditions of forced labor that Cuban doctors are subjected to. The resolution contends that Cuba's foreign medical missions constitute human trafficking, given that the Cuban Government forces doctors to participate in the program against their will and garnishes as much as 75 percent of their wages.

In Venezuela, Cuban doctors were forced to withhold lifesaving medical treatment from individuals who have not proven their political loyalties to the repressive Maduro regime. In this hearing we will take a closer look at the human rights situation in Cuba and explore ways for the U.S. Congress to support the Cuban people in their quest for freedom.

Thank you, and I now turn to the Ranking Member Rooney for his opening statement.

[The prepared statement of Mr. Sires follows:]

House Committee on Foreign Affairs
Western Hemisphere Subcommittee

Chairman Albio Sires (D-NJ)

Opening Statement –
“Human Rights in Cuba: Beyond the Veneer of Reform”
Thursday, July 11, 2019

-
- Good Morning everyone and thank you to our witnesses for being here today to discuss the human rights situation in Cuba.
 - As my colleagues know, this subject is deeply personal to me.
 - I left Cuba and came to the United States when I was eleven years old.
 - I am forever grateful that this country took me in.
 - I work hard every day to represent each member of my district, including the many first-generation immigrants who, like me, were forced to leave their home countries in search of a better life.
 - For this reason, it is especially painful for me that despite great progress over the last six decades to improve quality of life around the world, the Cuban regime remains stuck in the dark ages.
 - This is a government that continues to lock up those who speak out against it.
 - It is a government that criminalizes the core freedoms that are the foundation of any democracy.
 - It is a government that for sixty years has denied the Cuban people their right to choose their own leaders.
 - Some observers had hoped that economic openings, like the growing number of small businesses on the island, would pave the way for political reform as well.
 - Unfortunately, the Cuban state has shown an ability to withstand these changes while remaining among the most repressive governments in the world.
 - The Economist Intelligence Unit classifies Cuba as an authoritarian regime and Freedom House rates Cuba as “not free.”
 - This year, Cuba ranked 169th of 180 countries in global press freedom, according to Reporters Without Borders.

- The Communist Party has accepted and even encouraged some cosmetic changes to give the impression that life on the island is improving.
- But the underlying reality of one-party rule remains intact.
- Even as internet access has expanded, those Cubans who can afford to go online have their every move tracked by the state and are prohibited from accessing dozens of blocked websites.
- Cuban citizens with the means to travel are increasingly allowed to do so, but only on the condition that they respect the long arm of the Cuban police state.
- For instance, activists seeking to travel to international forums to offer testimony about Cuba's human rights record are often prevented from leaving the island.
- Despite laws prohibiting discrimination on the basis of sexual orientation, a group of Cuban L-G-B-T-Q rights activists were arrested and beaten by plainclothes security officers on May 11th when they organized a peaceful demonstration that the government had refused to authorize.
- It seems that the Cuban regime is always devising new strategies aimed at improving its international image without actually changing its system of one-party dominance.
- I know that we may not all agree about the best direction for U.S. policy toward Cuba.
- But I hope we can agree that the status quo, in which 11 million people are denied their basic rights by Cuba's authoritarian regime, is an injustice.
- In this hearing, we will take a closer look at the human rights situation in Cuba and explore ways for the United States Congress to support the Cuban people in their quest for freedom.
- Thank you and I now turn to Ranking Member Rooney for his opening statement.

Mr. ROONEY. Thank you, Mr. Chairman, for having this important hearing and for your great leadership of our committee. For almost 50 years, Fidel Castro ruled Cuba by repression which de-

nied the Cuban people their most basic human rights and violently crushed political dissent. Today, this system of intimidation and violence against those who speak out against the regime continues under Miguel Diaz-Canel, and the guiding hand of Raul Castro is behind that anyway.

Under Fidel Castro, the Cuban regime spread its Communist ideology throughout Latin America and in Southern Africa. The Cuban regime continues to be the standard for repression in the Western Hemisphere. Today, we see its blueprint for tyranny in Venezuela and Nicaragua as it attempts to spread its repressive tactics to other States in the region.

Under this regime, the Cuban people are deprived of their freedom of assembly, association, religion, and speech as the government maximizes State control over all aspects of society. Like the old Soviet Union, this system of repression and control seeks to instill fear among the population and undermine the ideals of freedom and democracy. Until 2013, Cubans were required to obtain an exit visa and a letter of invitation to travel abroad, creating an island prison for millions of Cubans. Today, the regime restricts travel for many Cuban dissidents.

Opposing the Cuban regime nearly guarantees government backlash and detention. In June 2018, the Cuban so-called Commission for Human Rights and National Reconciliation released a public list of 120 political prisoners, including 96 non-violent opponents of the regime. However, this number is probably a lot higher, because it is impossible to determine the exact number of political prisoners in Cuba.

The regime refuses to allow access to prisons and detention centers and to international organizations or the U.N. The regime also engages in short-term detentions to intimidate and silence dissidents. In 2018, 2,873 short-term detentions were recorded. And in 2016, an all-time high of detentions was reached of 9,940.

The island's human rights defenders, religious groups, and organized dissident groups are constantly harassed by the Cuban Government and labeled as mercenaries. Their leaders are in constant danger of being detained. These groups include Las Damas de Blanco that was formed by the wives and relatives of a group of 75 dissidents arrested in 2003, and the Patriotic Union of Cuba which was established in 2011 by another group of dissidents who peacefully sought to establish civil liberties and human rights.

Many of their members such as Hamel Santiago Maz Hernandez have died in prison after being detained for arbitrary crimes such as desacato or lack of respect for the government. Dr. Eduardo Cardet, who was in prison for two and a half years for publicly criticizing Fidel Castro, while he was released in 2019, the release is conditional and his right to move and assembly are restricted, keeping him as prisoners of conscience.

The Cuban regime censors dissent through its control of the media. Private media in Cuba is illegal and the government uses arbitrary detention, threats, harassment, and censorship against journalists who criticize the regime. In 2018, two human rights organizations affiliated with OAS reported that Cuba is the only country in the Western Hemisphere in which there are zero guarantees of freedom of expression.

To complement its repression at home, the Castro regime has exported thousands of its agents to Venezuela to prop up the illegitimate, authoritarian Maduro regime in Venezuela and to struggle to maintain its own authoritarian grip on power. These Cuban agents have assisted in extrajudicial detention, torture, and intimidation of opponents of the Chavez and, now, Maduro regimes. They run the so-called *escuadron azul*, the death squad of Maduro.

The United States must exert maximum pressure on the Cuban regime to reform its government and stop the systematic human rights abuses against the Cuban people. The Obama Administration's efforts to re-engage the Cuban regime, while noble, have failed to assure quantifiable improvements in human rights conditions and the rule of law. We must continue to support Cuba's human rights defenders and demand that the Cuban regime make substantive reforms that will allow for freedom.

Access to information is absolutely critical and support for independent news and information must continue to engage the Cuban people. I support the administration in no longer rewarding the Castro regime for its human rights abuses and for calling on the government to end its repression of innocent Cubans. I look forward to the hearing, the testimonies today, and once again I appreciate Chairman Sires for his leadership and for his personal interest and background story pertaining to the abuses of Cuba.

Thank you, Chairman.

Mr. SIREs. Thank you. Thank you, Congressman Rooney.

I will now introduce our witnesses. Let me introduce, first, Mr. Carlos Quesada, Executive Director of the International Institute on Race, Equality, and Human Rights. He has 25 years of experience working before the Organization of American States in its different bodies and is a trained journalist and a lawyer. Welcome.

We will then hear from Mr. Carlos Martinez de la Serna, Program Director of the Committee to Protect Journalists. Mr. Martinez worked as a reporter and a digital journalist in the United States, Spain, and Japan, covering current affairs and is the former director of digital innovations at Univision News. Welcome.

Finally, we will hear from Mr. John Suarez, Executive Director of the Center for a Free Cuba. Previously, Mr. Suarez was a program officer for Latin American Programs at Freedom House and a human rights activist, and he is a member of the Cuban Democratic Directorate.

Thank you all for being here. I ask the witness to please limit your testimony to 5 minutes and, without objection, your prepared, written statements will be made part of the record. Thank you so much for being here today.

And, Mr. Quesada, I turn to you for your testimony.

**STATEMENT OF CARLOS QUESADA, EXECUTIVE DIRECTOR,
INTERNATIONAL INSTITUTE ON RACE, EQUALITY, AND
HUMAN RIGHTS**

Mr. QUESADA. Chairman Sires, Ranking Member Rooney, and members of the Subcommittee on the Western Hemisphere, Civil Security, and Trade, thank you for the opportunity to appear before you today to share critical information regarding the human rights in Cuba, prospects for democratic reform, and options for U.S. pol-

icy. I commend the committee for holding this important and timely hearing.

Given our extensive work with civil society, with independent Cuban civil society, my testimony today will focus on threats and challenges to human rights defenders in Cuba and the methods employed by the Cuban Government to criminalize or otherwise restrict the work of civil society organizations and activists. This criminalization has resulted in a population of political prisoners totaling 100, and disproportionately impacts historically marginalized populations.

The human rights situation in Cuba is dire and can be characterized as a war of attrition between the government and independent civil society activists. State authorities routinely violate the fundamental freedoms enshrined in the Universal Declaration of Human Rights by harassing, threatening, detaining, and interrogating activists and their families.

The principal threats and challenges to human rights defenders in Cuba include the new constitution and restrictions on fundamental rights. Furthermore, the arbitrary manner in which the Cuban justice system operates, the principal method by which activists are criminalized, is a threat in and of itself.

The contrived approval of the new constitution in the February 24th referendum ushered in a new era with regard to legal guarantees for human rights in Cuba. In a calculated move to create a loophole through which it can avoid complying with international human rights treaty obligations, the Cuban Government altered the text of the new constitution to grant it supremacy over international law.

Freedom of expression and opinion is nonexistent in Cuba. Independent civil society organizations are not permitted to legally register, in violation of their right to freedom of association. Activists and their family members face constant psychological torture. And we just found out that private companies such as Western Union may collaborate with government authorities to criminalize human rights activists, in clear violation of those activists' rights to privacy. Finally, arbitrary detentions and further violations of due process guarantees are commonplace.

The principal methods employed by the Cuban Government to criminalize or otherwise restrict the work of civil society organizations and activists include the misuse of the justice system and travel restrictions. Police and investigating authorities have broad and unchecked powers to detain and investigate individuals for up to 7 days without the right to counsel or judicial review. Crimes in the Cuban Penal Code are so vaguely defined that they can be used to criminalize almost any behavior. Sham trials involving false witnesses are used to convict activists.

For the past 2 years, we have documented cases of political prisoners and the crimes for which they are convicted. Let me be clear. Although the vast majority of these individuals are charged with common crimes, they are political prisoners criminalized because of their activism of their way of thinking. In the coming weeks, we will be publishing a report exposing the intricacies of the administration of justice in Cuba.

Independent civil society activists are frequently prohibited from leaving Cuba to participate in regional and international advocacy spaces as a tactic to prevent the world from knowing the reality of the human rights situation in Cuba. Most recently, five activists that we, my organization, had planned to bring to the Organization of American States General Assembly in Medellin, Colombia, were prevented from leaving the country. The only justification ever offered is “national security interests.”

It is worth noting that activists who are women, Afro-descendants, and members of the LGBTI community disproportionately suffer human rights violations in Cuba. Their intersectional characteristics make them particularly vulnerable to multiple forms of discrimination. Female activists, for example, routinely confront physical and psychological violence against which they have no recourse, given Cuba’s lack of legislation prohibiting gender-based violence.

Racial slurs are commonly employed against Afro-descendant activists who, the saying goes, should be grateful because the Revolution made black people human. And members of the LGBTI community are facing a new reality after the violent crackdown they experienced during the independently organized Pride March on May 11th of this year.

Chairman Sires, Ranking Member Rooney, and members of the subcommittee, human rights in Cuba should remain a priority area of focus for the U.S. Government. The fundamental rights of activists, whose work is the country’s best prospect for democratic reform, are systemically violated. As such, I would like to offer the following recommendations:

Continue to monitor and expose the human rights situation in Cuba. Request the Cuban Government immediately release all political prisoners. Offer public support for independent civil society activists and journalists. Expand the U.S. diplomatic presence in order to have more direct contact with independent civil society organizations on the island. Encourage the Cuban Government to engage in a dialog with independent civil society regarding human rights issues. And request from Western Union information about how it operates in Cuba and how government officials can have access to information about activists receiving money from abroad.

Thank you very much and I look forward to your questions.

[The prepared statement of Mr. Quesada follows:]



Statement of Carlos Quesada
Executive Director
International Institute on Race, Equality and Human Rights
House Committee on Foreign Affairs
Subcommittee on the Western Hemisphere, Civilian Security, and Trade
“Human Rights in Cuba: Beyond the Veneer of Reform”
July 11, 2019

I. Presentation

Chairman Sires, Ranking Member Rooney, and members of the Subcommittee on the Western Hemisphere, Civilian Security, and Trade, thank you for the opportunity to appear before you today to share critical information regarding the human rights situation in Cuba, prospects for democratic reform, and options for U.S. policy. I commend the Committee for holding this important and timely hearing.

The International Institute on Race, Equality and Human Rights is an apolitical human rights capacity building organization focused on strengthening the use of regional and international human rights protection mechanisms by Latin American civil society, including Cuba. We work side by side with activists to enhance their ability to promote and protect the human rights of marginalized and vulnerable people, especially those suffering from discrimination. With our technical assistance, our partner organizations monitor and document human rights abuses and increase their advocacy capacity at the United Nations and the Organization of American States.

Given our extensive work with independent Cuban civil society, this testimony will focus on threats and challenges to human rights defenders in Cuba and the methods employed by the Cuban government to criminalize or otherwise restrict the work of civil society organizations and activists. This criminalization has resulted in a population of political prisoners totaling nearly 100, and disproportionately impacts historically marginalized populations, including women, Afro-descendants, and members of the LGBTI community.

I. Introduction: Current Human Rights Context

a. Overview

The human rights situation in Cuba is dire and can be characterized as a war of attrition between the government and independent civil society activists. These activists and their family members are routinely harassed, threatened, and prevented from engaging in human rights activism. They are frequently arbitrarily detained and interrogated by State authorities and suffer violations of their fundamental freedoms as enshrined in the Universal Declaration of Human Rights.



II. Threats and Challenges to Human Rights Defenders

The principal threats and challenges to human rights defenders in Cuba include a) the new Constitution and b) restrictions on fundamental rights, including freedom of expression and opinion, freedom of association, freedom from torture, freedom of movement, the right to health, and the right to privacy. Furthermore, the arbitrary manner in which the Cuban justice system operates – the principal method by which activists are criminalized – is a threat in and of itself.

a. Constitution

The contrived approval of the new Constitution in the February 24th referendum ushered in a new era with regard to legal guarantees for human rights in Cuba. In a calculated move to create a loophole through which it can avoid complying with international human rights treaty obligations, the Cuban government altered the proposed text of the new Constitution to grant it supremacy over international law, in clear violation of the Vienna Convention on the Law of Treaties.¹ Whether the rights guarantees included in the Constitution are actually put into practice will depend on amendments to existing laws, to be proposed over the next two years.² This poses a challenge for work on human rights in Cuba, as the government has created for itself an easy excuse for not complying with treaty obligations.

In the initially proposed Constitutional text, Art. 39 stated that “the rights and duties recognized in this Constitution are interpreted in conformity with international human rights treaties ratified by Cuba, giving the impression that rights protected in the UN Conventions against Torture and on the Rights of the Child, for example, would be integrated into national law at the highest level and that Cuban citizens would thus have legal recourse against their violation. In the final text presented to the public before the referendum, the above-cited declaration had been removed and instead replaced, in Art. 8, by the declaration that “The Constitution of the Republic of Cuba takes precedence over these international treaties.” This phrasing is an obvious regression in terms of human rights and also has the potential to create a multitude of legal issues for Cuba in the case of incompatibility of the new Constitution with any international treaties, be they oriented towards human rights or not. This has the grave potential to actually leave Cubans worse off than before in terms of national-level legal protections against human rights violations.

b. Restrictions on Fundamental Rights

¹ *Vienna Convention on the Law of Treaties*, Jan. 27, 1980, 1155 U.N.T.S. 331, 8 I.L.M. 679, art. 27: “A party may not invoke the provisions of its internal law as justification for its failure to perform a treaty.”

² Andrea Rodriguez, *Amid crisis, Cuba plans revamp of state and legal system*, Associated Press, March 14, 2019, available at: <https://www.apnews.com/ee5ea44978d544cf8720abd11a99b99d>.



Restrictions on fundamental rights abound. **Freedom of expression and opinion** is nonexistent in Cuba. Independent civil society organizations are not permitted to legally register, in violation of their right to **freedom of association**. Activists and their family members face constant **psychological torture**. **Arbitrary detentions and further violations of due process guarantees** abound. Travel restrictions and internal deportations, in violation of activists' **freedom of movement**, are routinely utilized to silence them. Cases of activists and their family members not receiving adequate **health** services abound. And, phone and email correspondence are intercepted, searches of private property are carried out, and private companies, such as Western Union, may have business practices that can lead to the criminalization of human rights activists by Cuban authorities, in clear violation of those activists' **right to privacy**.

i. Freedom of Expression and Opinion

As has long been recognized by international human rights bodies,³ and even acknowledged by the Cuban government itself,⁴ freedom of expression and opinion do not exist in Cuba. There is an internal regulatory framework that does not recognize international human rights protection standards, based on an interpretation of political autonomy that restricts freedom of expression.

ii. Freedom of Association and Peaceful Assembly

In a violation of their rights to freedom of association and assembly, independent civil society organizations in Cuba are not permitted to legally register. Those that have attempted to register have been met in the best case with silence on the part of government authorities and, in the worst case, with formal notices claiming that the purpose of their organization is perceived as contrary to the goals of the Socialist State followed by raids which have led to arbitrary arrests, detentions, and exile, as in the case of the Centro de Información Legal Cubalex.⁵

iii. Freedom from Torture

The right to not be subjected to torture and other cruel, inhuman or degrading treatment or punishment is an absolute right, but one which is unfortunately often violated in the cases of independent human rights activists in Cuba. The Government openly and systematically harasses,

³ UN HRC – Working Group on the Universal Periodic Review. *Compilation on Cuba: Report of the Office of the United Nations High Commissioner for Human Rights*. A/HRC/WG.6/30/CUB/2. Mar. 16, 2018, ¶ 28.

⁴ UN HRC – Working Group on the Universal Periodic Review. *National Report Submitted in Accordance with Paragraph 15 (A) of the Annex to Human Rights Council Resolution 5/1: Cuba*. A/HRC/WG.6/4/CUB/1. Nov. 4, 2008.

⁵ Vladimir Turró Páez, “Policía política efectúa registro en la sede de Cubalex,” *Cubanet*, Sept. 23, 2016, available at: <https://www.cubanet.org/noticias/policia-politica-efectua-registro-en-la-sede-de-cubalex/>.



threatens, and intimidates human rights defenders to the point of psychological torture, oftentimes with the ultimate intention of forcing them into exile.

iv. Freedom of Movement

Restrictions on activists' freedom of movement both within Cuba (especially between Havana and the provinces) and in the form of prohibitions to travel internationally are commonplace. Activists from the provinces who must go to Havana for standard administrative issues, such as document renewal, or who find themselves there for activism-related activities, face a high probability of being internally deported back to their home provinces, often after being detained for several days.⁶

v. Right to Health

Cases of activists not receiving adequate health care abound. For example, José Rolando Cásares,⁷ political prisoner and member of the Mesa de Diálogo de la Juventud Cubana, was denied medical treatment for more than a month while in State custody. Other activists routinely report that they do not feel safe going to the State-controlled hospitals for fear of receiving purposeful misdiagnoses and poor treatment.

vi. Right to Privacy

Activists' phone and email correspondence is routinely intercepted and private property is searched and confiscated. This confiscation of personal property is a tactic commonly employed against independent journalists, as well as activists, in order to hinder their productivity.

Very concerningly, we just found out that private companies, such as Western Union, may collaborate with government authorities to criminalize human rights activists, in clear violation of those activists' right to privacy. Members of an independent civil society organization were recently issued official summonses to appear for questioning by State Security agents, where those agents produced several months' worth of Western Union receipts and demanded to know the purpose of the funds. The activists were accused of engaging in counter-revolutionary activities and criminal investigations were opened against them.

III. Methods Employed by the Cuban Government to Criminalize or Otherwise Restrict the Work of Civil Society Organizations and Activists

⁶ "Liberado un activista después de 36 horas detenido," *Diario de Cuba*, June 17, 2017, available at: http://www.diariodecuba.com/derechos-humanos/1497715092_31941.html.

⁷ "El régimen niega atención médica al preso político José Rolando Cásares," *Diario de Cuba*, April 22, 2019, available at: http://www.diariodecuba.com/derechos-humanos/1555965824_45908.html.



The principal methods employed by the Cuban Government to criminalize or otherwise restrict the work of civil society organizations or activists include: a) the criminalization of activists through the administration of justice, including arbitrary arrest and detentions, lack of protections in Cuban law, the use of broadly-defined crimes and offenses to criminalize human rights defenders, and sham trials and b) travel restrictions.

a. Criminalization of Activists through the Administration of Justice

The Cuban government routinely uses various aspects of its domestic law to criminalize and/or harass human rights defenders, independent journalists, and any other person who expresses opinions against the government. This is possible in part because the provisions of criminal and criminal procedure laws are very vague and not well-defined, resulting in authorities having wide discretion to use these laws to silence activists. In other cases, authorities simply exaggerate or invent evidence to ensure a conviction. Furthermore, Cuban laws do not provide sufficient procedural protections to persons accused of crimes and authorities often refuse to honor those that do exist.

Police and investigating authorities have broad and unchecked powers to detain and investigate individuals for up to seven days without the right to counsel or judicial review. Crimes in the Cuban Penal Code are so vaguely defined that they can be used to criminalize almost any behavior. Sham trials involving false witnesses are used to convict activists.

For the past two years, we have been documenting cases of political prisoners – currently totaling 88 – and the crimes for which they are convicted. Let me be clear – although the vast majority of these individuals are charged with common crimes, they are political prisoners, criminalized because of their activism. In the coming weeks, we will be publishing a report exposing the intricacies of the administration of justice in Cuba and how the justice system is utilized to silence opposition voices, in violation of international human rights standards.

i. Arbitrary Detentions

The Observatorio Cubano de Derechos Humanos maintains a monthly list of arbitrary detentions that take place in Cuba, across the island. The trend in recent years has been for government authorities to utilize short-term detentions, in order to prevent activists from engaging in activities and to deter them from continuing with their work. In the first five months of 2019, at least 1,270 arbitrary detentions were documented.⁸

⁸ Observatorio Cubano de Derechos Humanos, “2019 – Detenciones Arbitrarias,” <https://observacuba.org/informes-ddhh/detenciones-arbitrarias/2019-detenciones-arbitrarias/>.



A clear example of activists suffering arbitrary detentions is the Ladies in White, who attempt to march to participate in Mass every week in protest of political prisoners.⁹ Many of them are detained by police for periods of 24 hours or less every week.¹⁰

ii. Lack of Procedural Protections in Cuban Law

Although the recently approved constitution in Cuba provides several rights relating to detention and due process,¹¹ the Criminal Procedure Law gives great and largely unchecked power to police and other authorities to detain and investigate individuals. For example, police can detain a person for up to 24 hours,¹² after which point they must either issue a “precautionary measure,” such as letting the person go under bail or putting the person under house arrest,¹³ or have the detention reviewed by an “instructor,” the official who carries out criminal investigation,¹⁴ who can then extend the detention for another 72 hours or release the person under a precautionary measure.¹⁵ The detention can be extended for a second period of 72 hours by the prosecutor, who can either release the person under a precautionary measure or formally order the precautionary measure of pre-trial detention.¹⁶ The detention is not reviewed at any point during this period, which totals seven days (168 hours), by an independent judicial body, giving enormous discretion to the police and prosecuting authorities to detain accused persons without any checks and balances. Furthermore, the detained person does not have the right to speak to an attorney during this period. This is because, under the Criminal Procedure Code, an accused person does not have the right to consult an attorney until they are formally “part of the criminal process,” which does not occur until a formal precautionary measure has been issued.¹⁷

Police and investigating authorities also have broad power to conduct searches and seizures. Search orders are issued by the prosecutor, rather than by an independent judge,¹⁸ resulting in a situation where the same authority that is in charge of the investigation is the authority that can order invasive entries into the homes of accused persons without having to provide a legitimate reason. Furthermore, the police are permitted to enter an accused person’s home without a search warrant under circumstances similar to that permitted in the United States, such as when they have

⁹ *Damas de Blanco*, *Damas de Blanco.com*, available at http://www.damasdeblanco.com/damas_blanco/damas_blanco.asp.

¹⁰ *Damas de Blanco*, *Informe Anual 2018 [2018 Annual Report]*, Feb. 3, 2019, available at <https://damasdeblanco.org/blog/derechos-humanos/denuncias-ddbh/2219-informe-anual-del-mov-damas-de-blanco-cuba-2018.html>.

¹¹ See POLITICAL CONSTITUTION OF THE REPUBLIC OF CUBA, Arts. 94-5 (2019).

¹² L. 5/77, Aug. 13, 1977, G.O. [Gaceta Oficial], Art. 245.

¹³ *Id.* at Art. 255.

¹⁴ *Id.* at Art. 105. Instructor – in charge of investigation

¹⁵ *Id.* at Art. 246.

¹⁶ *Id.* at Art. 247.

¹⁷ *Id.* at Art. 249.

¹⁸ L. 5/77, Aug. 13, 1977, G.O., Art. 219.



a detention order and the subject of the order runs away and hides in their home. However, unlike in the United States, the police in that situation then have the power to search the entire house of the accused person without a search warrant.¹⁹ The police can also search a person's home when they catch a person in the act of committing a crime, whether or not the crime occurred near the home.²⁰ Searches and seizures of homes are used particularly frequently against independent journalists, in order to destroy their work product and confiscate their materials.²¹

iii. Use of Broadly-Defined Crimes and Offenses to Criminalize Human Rights Defenders

Many crimes in Cuba are not well-defined in the criminal code, instead using vague terms that can be easily interpreted to include a wide variety of behavior. This allows authorities to find an excuse to charge whoever they want with a criminal offense. For example, the crime of *desacato*, or "contempt," occurs when an individual "threatens, slanders or libels, insults, abuses, or in any way outrages or offends, orally or writing, an authority, a public official, his agents or assistants exercising their functions or due to them."²² None of those terms are defined elsewhere in the code, giving authorities the ability to freely interpret their meaning. Human rights defenders José Rolando Cásares Soto and Yamilka Abascal Sánchez were convicted of "desacato" after they saw that police were detaining a friend near their home and went outside and asked what was happening.²³ Ariel Ruiz Urquiola, an environmental rights activist, was convicted of "desacato" after criticizing two state officials who came onto his property and refused to show their identification badges.²⁴ "Desacato" can thus apparently be used to criminalize anyone who speaks out against authorities.

Under Cuban law, authorities can legally deprive someone of their liberty even if they have not committed any crime but demonstrate "anti-social behavior" or authorities believe they may commit a crime in the future.²⁵ Once a person is designated as "socially dangerous," they can be forced to undergo "reeducation" programs in a detention facility, or be under surveillance by the police for a period of one to four years.²⁶ Persons who have been designated as "socially

¹⁹ *Id.* at Art. 221.

²⁰ *Id.*

²¹ IACHR. *Annual Report 2018: Chap. IV(B): Cuba*, ¶ 48 (March 2018), available at: <https://www.oas.org/en/iachr/docs/annual/2018/docs/1A2018cap.4b.CU-en.pdf>.

²² Lawyers Without Borders UK Limited, *Translation of Law No. 62, Penal Code*, Art. 144.1 (2009). For original Spanish see L. 62/87, Dec. 28, 1987, G.O., Art. 144.1.

²³ Luis Felipe Rojas. "Revocan causa de opositor cubano condenado a 5 años de cárcel," *Radio Televisión Martí*, Aug. 7, 2017, available at: <https://www.radiotelevisionmarti.com/a/revocan-causa-opositor-cubano-cinco-anos-carcel/150487.html>.

²⁴ Jorge Carrasco, "Quién es Ariel Ruiz Urquiola, el científico Cubano sentenciado a un año de cárcel por criticar a las autoridades," *BBC*, July 6, 2018, available at: <https://www.bbc.com/mundo/noticias-america-latina-44664279>.

²⁵ L. 62/87, Dec. 28, 1987, G.O., 73.1(c).

²⁶ *Id.* at Arts. 80-1.



dangerous” include George Ramirez Rodriguez, after participating in activities of the Ladies in White;²⁷ Eliecer Bandera Barrera, after publishing a YouTube video demonstrating conditions in a prison work camp;²⁸ and Aracelis Fernandez Perez, a member of an opposition group and accused of prostitution after praying in a church for the Campaign for a Free Cuba.²⁹

Another crime frequently used to criminalize human rights defenders is *atentado*, or attempt against an authority. “Atentado” occurs when someone “uses violence or intimidation against an authority, a public official, or his agents or assistants to impede the performance of an act inherent to their functions, or to demand them their performance.”³⁰ The most famous case of *atentado* in recent years is that of Dr. Eduardo Cardet Concepcion, the National Coordinator of the Christian Liberation Movement (MCL, for its initials in Spanish). Two days after criticizing the recently deceased Fidel Castro in a radio interview, Dr. Cardet Concepcion was attacked by five plainclothes state security agents near his home. He was beaten, taken into custody, and months later convicted of *atentado* for supposedly hurting the hand of one of his attackers. He was given a three-year prison sentence.³¹ Dr. Cardet Concepcion’s case is emblematic of how Cuban authorities orchestrate an attack or altercation with a human rights defender and then use that attack as an excuse to convict them of a crime.

iv. Human Rights Defenders are Convicted of Crimes Without Access to an Adequate Defense and in Sham Trials

The Cuban government has very little respect for due process. While defense attorneys are usually appointed to those who do not have them, in the case of human rights defenders they are often not given the ability to present an adequate defense. In some cases, such as that of Jose Rolando Caceres Soto and Yamilka Abascal Sanchez, the defense attorney meets their client for the first time minutes or hours before the trial. In other cases, defense attorneys are prohibited from presenting witnesses. For example, in the case of Dr. Eduardo Cardet Concepcion, the prosecution presented 15 witnesses (some of whom were not even present at the scene of the “crime”), while the defense was only allowed three.

²⁷ Movimiento Damas de Blanco [Ladies in White Movement], *Informe semanal de represión contra el Movimiento Damas de Blanco* [Weekly report on repression against the Ladies in White Movement], May 27, 2018, available at <https://www.damasdeblanco.org/images/2018/InformeDB27may2018.pdf>.

²⁸ Luis Felipe Rojas, “Castigados a trabajo forzado producen carbón cubano para exportar a EEUU,” *Marti Noticias*, Jan. 25, 2017, available at: <https://www.martinoticias.com/a/humo-detras-del-carbon-que-recien-exporta-cuba-eeuu/137883.html>.

²⁹ “Un tribunal de Santa Clara impone dos años de cárcel a una joven activista cubana,” *Diario de Cuba*, Mar. 29, 2018, available at: http://www.diariodecuba.com/derechos-humanos/1522321678_38351.html.

³⁰ Lawyers Without Borders UK Limited, *Translation of Law No. 62, Penal Code*, Art. 142.1 (2009). For original Spanish see L. 62/87, Dec. 28, 1987, G.O., Art. 142.1.

³¹ “El régimen condena a Eduardo Cardet a tres años de prisión,” *Diario de Cuba*, Mar. 20, 2017, available at: http://www.diariodecuba.com/derechos-humanos/1490048093_29791.html.



Even if defense attorneys have adequate access to their clients, they may be reluctant to properly defend them. Cuba severely restricts the practice of law and only permits attorneys who comply with the moral requirements of the State to practice,³² which in reality translates to attorneys who support the government and its repressive regime. Attorneys assigned to human rights defenders may be reluctant to defend them adequately either because they support the government and do not agree with the actions of their clients, or because they fear being expelled from their jobs if they defend someone who has spoken out against the government.

b. Travel Restrictions

Independent civil society activists are frequently prohibited from leaving Cuba to participate in regional and international advocacy spaces, or to attend capacity building trainings, as a tactic to prevent the world from knowing the reality of the human rights situation in Cuba. Most recently, for example, five independent activists that the International Institute on Race, Equality and Human Rights had planned to take to the Organization of American States General Assembly were prevented from leaving the country to attend.³³ One of these activists was specifically told by the State Security agents who visited his home that “neither he nor anyone else” would be going to Medellín, Colombia for the General Assembly.

These travel restrictions have been placed on our civil society partners on other occasions as well, to prevent them from testifying before the Inter-American Commission on Human Rights, and to prevent information to the United Nations when Cuba is under review for its human rights treaty body obligations, for example by the Committee on the Elimination of All Forms of Racial Discrimination. The only justification offered is “national security interests”.

IV. Historically Marginalized Populations

Activists who are women, Afro-descendants, and members of the LGBTI community disproportionately suffer human rights violations in Cuba. Their intersectional characteristics – sex, racial/ethnic heritage, sexual orientation and gender identity – make them particularly vulnerable to multiple and overlapping forms of repression. Female activists, for example, routinely confront physical and psychological violence against which they have no recourse, given Cuba’s lack of legislation prohibiting gender-based violence. Racial slurs are commonly employed against Afro-descendant activists who, the saying goes, should be grateful because the Revolution made black people human. And members of the LGBTI community are facing a new reality after

³² See D.L. 81/84, June 8, 1984, G.O., Arts. 3(b), 4-5, 16, available at: <http://juriscuba.com/legislacion-2/decretos-leyes/>.

³³ International Institute on Race, Equality and Human Rights. “Cuban Government Prohibits Five Activists from Traveling to Colombia to Participate in the OAS General Assembly,” June 24, 2019, available at: <http://raceandequality.org/spanish/cuban-government-prohibits-activists-traveling-oas-colombia/>.



the violent crackdown they experienced during the independently-organized Pride March on May 11 of this year.

a. Women

The most emblematic example of repression against women activists continues to be that of the Ladies in White, whose members face weekly physical and psychological violence at the hands of government agents, as they attempt to carry out their peaceful marches and attend Catholic Mass.

b. Afro-descendants

Afro-Cuban activists face a dual challenge as they attempt to work against the entrenched racism in the country which the government claims was long-ago remedied by the Revolution and deal with the barrage of racist epithets that so often accompany violations of their other rights.

c. Members of the LGBTI Community

Members of the LGBTI community, who until recently had experienced some recognition of their rights through the National Center for Sex Education (CENESEX) led by Mariela Castro, are, since the cancellation of the annual Pride Parade and subsequent violent crackdown on the May 11 independently organized alternative march, facing a definitive closing of that space.

V. Prospects for Democratic Reform

Prospects for democratic reform lie squarely with independent civil society. These brave activists and their work are Cuba's greatest hope for a future where human rights are respected and people live with dignity, where open debate is encouraged and State actors are held accountable for their actions.

VI. Conclusion

Chairman Sires, Ranking Member Rooney, and members of the Subcommittee on the Western Hemisphere, Civilian Security, and Trade, human rights in Cuba should remain a priority area of focus for the U.S. Government. The fundamental rights of activists, who are the country's best hope for democratic reform, are systematically violated. As such, I would like to offer the following recommendations:

VII. Recommendations – Options for U.S. Policy

1. Continue to monitor and expose the human rights situation in Cuba.
2. Offer public support for independent civil society activists and journalists.



3. Expand the U.S. diplomatic presence in order to have more direct contact with independent civil society activists.
4. Encourage the Cuban government to engage in a dialogue with independent civil society regarding human rights issues.
5. Request from Western Union information about how it operates in Cuba and how government officials could have access to information about activists receiving money from abroad.

Mr. SIREs. Mr. Martinez, you are recognized.

STATEMENT OF CARLOS MARTINEZ DE LA SERNA, PROGRAM DIRECTOR, COMMITTEE TO PROTECT JOURNALISTS

Mr. MARTINEZ DE LA SERNA. Chair Sires, Ranking Member Rooney, and other distinguished members of the subcommittee, thank you for the opportunity to testify on press freedom in Cuba. My name is Carlos Martinez de la Serna and I am the program director of the Committee to Protect Journalists. CPJ is an independent, nonprofit organization that promotes press freedom worldwide and defends the rights of journalists to report news safely and without fear of reprisal.

In this testimony I will highlight some of the most urgent press freedom issues in Cuba. I will also provide recommendations on how to support Cuba's journalists and to help improve conditions for independent media in Cuba.

Even as Cuba has seen some points of tight State control over media and freedom of expression loosen over the last decade, the country continues to be one of the Western Hemisphere's most difficult environments for the press. Independent and critical Cuban journalists constantly face the possibility of detention, having their homes or devices searched, their reporting equipment confiscated, and even criminal prosecution on anti-State charges. The slowly expanding influence of the internet has opened up new avenues for expression and journalistic work, but has also expanded the set of tools at Cuban officials' disposal to monitor, surveil and censor journalists, media workers, and private citizens.

Over the last decade, in the midst of this established repressive infrastructure, a lively blogosphere and a number of new, ambitious websites and media outlets has sprung up on the island. This new media expansion began in earnest in 2011, when then-President Raul Castro introduced market-style reforms, opening up economic space for the creation of a number of outlets that began as what were essentially personal blogs, and then grew into independent sites.

With the restoration of diplomatic relations between the United States and Cuba in 2014, the process accelerated and the number of blogs, magazines, and independent media proliferated to cover a variety of issues. However, despite these efforts, the energized press alone could not overturn the country's restrictive legal framework.

Life in Cuba for many reporters and activists is characterized by arbitrary privacy violations. Short-term arrests are still one of the most common tools used by Cuban authorities to intimidate and control the press. The State maintains bans on the import of informational materials, a strict control of all forms of media, and restrictions on the internet. Changes in top leadership in the Cuban Government have not translated to any meaningful alteration in legislation governing media freedom or freedom of expression.

There is a long way to go in Cuba. In order to improve its record on free expression, Cuba must take the following steps: Ratify and implement international human rights agreements to guarantee freedom of expression and information; end the use of detention, surveillance, and smear campaigns against independent journalists

and bloggers; remove legal barriers to individual internet access and extend affordable access to the population at large; and dismantle a legal framework that punishes independent journalism.

We also urge members of Congress to speak publicly about the journalists and outlets who are subject to detention, travel prohibitions, and other State-sponsored harassment; support initiatives to expand affordable internet access in Cuba and access to platforms and tools that will allow Cubans to exercise their right to free expression online, without enforced surveillance or censorship; and urge the administration to stand up for Cuba's journalists both publicly and privately as well. In addition, the U.S. Government should consider Cuban journalists' work as a basis for a well-founded fear of persecution if and when they apply for asylum or refugee status.

While there are still many hurdles on the path to U.S.-Cuban normalization, the effect of greater communication between both countries could be positive for freedom of expression on the island. As a result, journalists will hopefully be able to do their jobs without the constant threat of violence or imprisonment solely for reporting and expressing critical opinions, and with the prospect of internet access without filters, obstructions, or prohibitive costs.

Thank you for providing CPJ with the opportunity to address you about this important matter.

[The prepared statement of Mr. Martinez de la Serna follows:]



Testimony of Carlos Martínez de la Serna
 Program Director
 Committee to Protect Journalists

Hearing on "Human Rights in Cuba: Beyond the Veneer of Reform"
 U.S. House of Representatives
 Committee on Foreign Affairs
 Subcommittee on the Western Hemisphere, Civilian Security, and Trade

Thursday, July 11, 2019

Chair Sires, Ranking Member Rooney, and other distinguished Members of the Subcommittee:

Thank you for the opportunity to testify on press freedom in Cuba. My name is Carlos Martínez de la Serna and I am CPJ's program director. The Committee to Protect Journalists is an independent, nonprofit organization that promotes press freedom worldwide and defends the right of journalists to report the news safely and without fear of reprisal. CPJ protects the free flow of news and commentary by taking action wherever journalists are under threat.

CPJ employs roughly 55 experts around the world who research, track, and advocate on global press freedom violations. Press freedom is among the most fundamental of human rights, essential to democracy, accountability, and global security, and the U.S. plays a vital role in ensuring this right is protected.

In this testimony, I will highlight some of the most urgent press freedom issues in Cuba. Cuba is one of the Western Hemisphere's most difficult environments for the press, with pervasive state control of media, entrenched censorship, and consistent repressive tactics used by state agents. In this testimony, I will also provide recommendations to the U.S. government on how to support Cuba's journalists and to help improve conditions for independent media in Cuba. Unless otherwise specified, all data cited in this testimony is based on CPJ research. I ask that my full written testimony be admitted for the record.

Introduction

Even as Cuba has seen some points of tight state control over media and freedom of expression loosen over the last decade, the country continues to be one of the most repressive media environments in all of Latin America. Cuba is the only Latin American country that appears on CPJ's list of the world's 10 Most Censored Countries, alongside notable information black holes such as Eritrea and North Korea.

Independent and critical Cuban journalists constantly face the possibility of detention, having their homes or devices searched, their reporting equipment confiscated, and even criminal



prosecution on anti-state charges, simply for reporting. Although the country does not experience the same rates of deadly violence as some of its regional neighbors, the persistent threat of state repression, surveillance, and control makes Cuba one of the most difficult countries in the Americas to work safely as a journalist. The slowly expanding influence of the internet has opened up new avenues for expression and journalistic work, but has also expanded the set of tools at Cuban officials' disposal to monitor, surveil, and censor journalists, media workers, and private citizens and restrict expression.

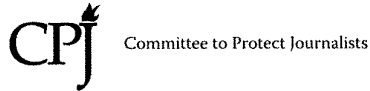
Over the last decade, in the midst of this established repressive infrastructure, a lively blogosphere and a number of new, ambitious websites and media outlets has sprung up on the island, offering new latitude for investigative reporting, news commentary, and independent reporters who increasingly pushed boundaries and tested the limits of (the admittedly still very restricted) space for free expression and ability to critique the regime.

This new media expansion began in earnest in 2011, when then-President Raúl Castro introduced market-style reforms, opening up economic space for the creation of a number of outlets that began as what were essentially personal blogs—and then grew into independent sites like *Periodismo del Barrio*, *Cuba Profunda* and *La Joven Cuba*.

Many of these outlets had (and still maintain) their base abroad and coordinate with correspondents within the country; however some do operate from the island itself. With the restoration of diplomatic relations between the United States and Cuba in 2014, the process accelerated and the number of blogs, magazines, and independent media proliferated to cover a variety of issues, from sports to education, and even some issues previously perceived as taboo. In fact, the change in the country's media landscape was so remarkable that in 2016, blogger Alejandro Rodríguez, who resigned from his job at a state media outlet to create a blog, told CPJ: "We are seeing opportunities that were inconceivable five years ago."

However, these opportunities had limits: despite the trailblazing and courageous efforts to open and diversify the country's media landscape, the energized press alone could not overturn the country's restrictive legal framework, which curbs freedom of speech under the pretense of protecting the "independence or territorial integrity of the state." Cuba's constitution has for decades banned private ownership of the press and all media—even those outlets operating entirely online—is legally controlled by the state. Although extended prison sentences are much less common than they were during the 2003 crackdown, known as the Black Spring—when CPJ documented nearly 30 journalists serving long terms in prison—short-term arrests are still one of the most common tools used by Cuban authorities to intimidate and control the press.

Life in Cuba for many reporters and activists is characterized by arbitrary privacy violations including search-and-seizure operations in homes and monitoring and censoring private communications. Freedom of expression is limited to expression that "conforms to the goals of socialist society," with strict censorship punishing even distribution of the Universal Declaration of Human Rights. The state maintains bans on the import of informational materials; strict



control of all forms of media; restrictions on the internet, including severely limiting availability and site blocking; restrictions on academic freedom, including punishment for any deviation from the government line; criminalization of criticism of government leaders; and severe limitations on academic and cultural freedom.

Key Press Freedom Issues

Legislation/Legal Framework

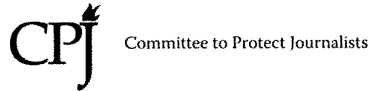
In 2015, CPJ ranked Cuba 10th on its list of the world's most censored countries, stating at the time that it had the most restrictive laws on free speech and press freedom in the Americas. Unfortunately, little has changed since then—changes in top leadership have not translated to any meaningful alteration in legislation governing media freedom or freedom of expression. A national referendum vote in February of this year was a missed opportunity to roll back some of these restrictions—none of the constitutional reforms made any changes to the laws limiting freedom of the press and expression.

Article 53 of Cuba's constitution explicitly bans privately owned media, stating that "the press, radio, television, film and other mass media are state or social property." Circulation of independent printed newspapers and magazines is still illegal and any "illicit" written materials may be confiscated, according to the Inter-American Commission on Human Rights' 2018 annual report section on Cuba. Under Resolution No. 81, passed by the Ministry of Culture in 1997, the National Registry of Serial Publications must approve any serial publication intended for circulation, print, or dissemination in Cuba.

The penal code sets out harsh penalties for false news and disturbing the peace—charges that can be (and have been) used against journalists and human rights activists. Acting against the "independence or territorial integrity of the state" carries a prison term of 10 to 20 years, or even the death penalty. Penalties are often more severe for journalists who engage with media in the United States. The 1997 Law on National Dignity set a penalty of 10 years in prison for collaborating with "the enemy's media."

Law 88, passed in 1999 and also known as the Law for the Protection of the National Independence and Economy of Cuba, sets out harsh prison terms of up to 15 years for passing information to the U.S. government, using classified information to disrupt the internal order, or distributing subversive material in support of the U.S. embargo.

Independent or semi-independent outlets, even those that operate entirely online, are still subject to the state's tight control and oversight, which limits the topics they can cover and who they can interview. Journalists who break these rules may face severe repression, notably in the form of the tactics detailed in the following section, ranging from threats to their family to travel bans to detention. The tools for this supervision include state telecoms agency ETECSA and the Cuban Radio and TV Institute (ICRT), which oversees both the structure of media outlets and approves the content they publish.



As the office of the Special Rapporteur for Freedom of Expression at the Organization of American States (OAS) has documented, state media outlets, which must follow the Cuban Communist Party's editorial policies and guidelines, have been used to support official rhetoric and attempt to undermine and delegitimize independent journalism. José Jasán Nieves, a news editor and radio host at the main radio station in Cienfuegos until 2014, told CPJ in 2016 that his supervisors at the radio station explicitly instructed him that his role was to "create consensus" around government policies, not to criticize them.

This system means that the media in Cuba is, to a great extent, unable to perform the essential functions that a free, independent media would fulfill within an open, democratic society: holding authorities and powerful figures accountable, combating corruption, and facilitating the free flow of ideas and information.

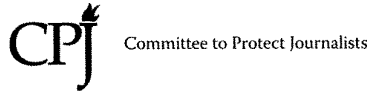
Because they do not belong to the official Cuban journalists' union (UPEC), do not publish in state media outlets, and often criticize government policies, many of Cuba's independent journalists find themselves in violation of the laws described here, as a result of what would simply be deemed critical journalism in other countries with less repressive legal frameworks.

Short-Term Detentions

As CPJ has documented, the most recent official reforms have done little to truly expand the media sphere, and many high-profile reporters still face harassment and censorship, a pattern that is on the rise again, after declining for a few years. Arrests of human rights defenders and other critical figures have fallen overall over the last two years, according to human rights monitoring organizations, but arbitrary short-term detentions remain a consistent threat and tool of intimidation and state reprisal against journalists.

In 2003, the Cuban government arrested at least 75 dissidents, including librarians, human rights activists, and at least 29 journalists; tried them in secrecy; and sentenced them to lengthy prison terms after summary trials. It was not until 2011, under pressure from the Spanish government, that Cuban authorities released the last of the journalists arrested during the crackdown, which came to be known as the "Black Spring." During their imprisonment, CPJ advocated intensively for the journalists' release and documented their arrests, prosecutions, and their mistreatment in prison in dozens of reports, news alerts, and letters, including to President Fidel Castro. In April 2011, Cuba finally freed the last journalist jailed during the Black Spring. After their release, CPJ documented allegations of torture from journalists who were imprisoned.

While Cuban authorities have moved away from long-term imprisonment of journalists since 2011, Cuban human rights groups estimate that there are still dozens of political prisoners in the country. In recent years, various journalists have been imprisoned in direct reprisal for their work. Juliet Michelena Díaz, a contributor to a network of local citizen journalists, was



imprisoned for seven months in 2014 on anti-state charges after photographing an incident between residents and police in Havana. She was later declared innocent and freed.

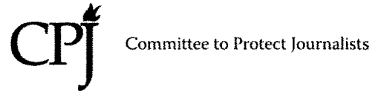
The July 2018 arrest of Roberto de Jesús Quiñones, an independent journalist and *Cubanet* correspondent, is just one example of this tactic. Police raided his house and confiscated several pieces of reporting equipment, then detained him and held him incommunicado for more than 50 hours. CPJ, along with Cuban freedom of expression organizations, have documented dozens of such cases of short-term detentions over the last few years. These generally follow the same pattern: state agents stop a journalist while he or she is working, or come to their home, search or confiscate reporting materials, take the reporter into custody for a few hours (or up to the whole weekend) or, sometimes, let them off with a clear warning. Even though the specifics of these incidents vary, the intended effect is the same: to make it clear to journalists what the consequences will be if they cross the line.

Cuban authorities have also sentenced critical journalists to house arrest. In July 2017, Sol García Basulto, a correspondent with *La Hora de Cuba*, was charged with “encroachment of legal capacity,” placed under house arrest and barred from leaving the country in relation to accusations that she was acting against the government by conducting certain interviews. The charge accused Basulto, along with her colleague Henry Constantín Ferreiro, of acting as a journalist without permission from the state for conducting interviews on the street and presenting and publishing news as journalists “without qualifications.”

Cuban authorities have allegedly engaged in torture of imprisoned journalists and human rights activists. Independent journalist Normando Hernández González alleged that, during his imprisonment between 2003 and 2010, he observed torture and denial of medical care so severe that a prisoner self-mutilated in order to get the attention of doctors. He said that he was beaten with a rubber cane and would often lose all sensation in his limbs as his hands and feet were handcuffed together behind his back. Oscar Espinosa Chepe, a journalist detained as part of the 2003 crackdowns, said that the water he received was “often contaminated with mud and larvae” and that at one detention facility the light was kept on 24 hours a day. Another journalist imprisoned as a result of the crackdown went to prison authorities and a jail doctor when he found a lump on his neck, but his concerns were dismissed. It was only after his release in 2010 that he was able to receive adequate care for what turned out to be cancer.

Harassment and Threats

In addition to short-term detentions, the Cuban government targets critical journalists and human rights activists through harassment, surveillance, and detentions. In its [2018 country report on Cuba](#), Human Rights Watch noted at least 3,700 reports of arbitrary detention between January and August 2017. Journalists who spoke to CPJ for our 2016 report [Connecting Cuba](#) reported numerous forms of harassment and retaliation, including near constant surveillance, threats,



arrests, and beatings. Journalists said that their families are also frequently harassed and may face retaliation or loss of employment because of the reporter's work.

In the past five years, CPJ has documented numerous cases of journalists who have been imprisoned, detained, beaten, threatened, and prevented from leaving the country in retaliation for their reporting. October 2016, Cuban state security officers briefly detained Elaine Díaz Rodríguez, one of Cuba's most prominent independent journalists, along with five of her colleagues from *Periodismo de Barrio* (Neighborhood News) and two freelancers working with them, while the team attempted to report on storm damage caused by Hurricane Matthew in northeastern Cuba. Independent journalist Lázaro Yuri Valle Roca was beaten, handcuffed, and held in custody for five days in 2016 for trying to cover a protest by the Ladies in White, an opposition group founded by the wives of jailed dissidents; while no charges were filed, he was warned he could face legal action if arrested again.

CPJ is dismayed to report that journalists in Cuba also see their movement restricted in other ways, notably through often-arbitrary orders banning them from traveling to certain regions or from leaving the country. In many cases, journalists arrive at the airport to board a flight to a conference or international event—only to be told their ticket is invalid because they are prohibited from leaving the country, though they have never received any prior notification of this status.

Restricted Internet Access and Online Censorship

In addition to the restrictive legal framework and repressive actions of state security agents, Cuba's independent journalists now have to contend with the limitations of online space in the country as well. Internet access in Cuba, where internet penetration in 2018 was less than 40 percent, according to Freedom House, remains out of reach to most citizens—including independent journalists struggling to keep their own projects connected and afloat. Those who do venture online face an increased risk of surveillance and censorship, as the Cuban state's control and power over this space has become more sophisticated.

Cuban officials have expressed an interest in strengthening and expanding national access to the internet and online platforms—as long as that access serves their political goals. In a [session before Cuba's National Assembly in December 2018](#), President Díaz-Canel expounded on the "informatization of Cuban society," saying, "Our platforms should be oriented toward managing knowledge, so that people can raise up their spiritual and cultural values. We must be capable of generating online content in favor of the Revolution."

As of December 2018, Cuba finally rolled out full internet access for its citizens on mobile phones, making it one of the last countries in the world to do so. While tourists, diplomats and other visitors have had access to the island's 3G networks for several years, it was less than a year ago that Cubans with adequate resources were able to join the network—following the authorization of home internet access in 2017. It is worth noting that, although these services are



officially available, they are financially out of reach for many Cubans, who cannot afford the costly data packages.

Despite increased mobile access, the Cuban government, mainly through ETECSA, maintains strict control over the internet and digital content within the country. A number of factors continue to limit online access and expression, including legal provisions, the general population's limited connectivity, blocking and censorship of critical media and news websites, and online surveillance. To that end, Cuba's expansion into cyberspace has essentially created a dual system: a national "intranet" available to the general population, subject to state censorship, blockages, and content filters; and the global internet, which is inaccessible to all but the most tech-savvy, sophisticated, and daring internet users on the island.

The Cuban state maintains a policy of blocking critical pages, either in perpetuity or during special events or sensitive moments. Cuba's legal framework grants government agencies the discretion to cancel or revoke registration of websites by "unapproved" individuals at any time, and also contains a general provision allowing for revoking the domain, without prior notice, in cases involving "serious moral and ethical violations, or others incompatible with the principles of our socialist society." Several independent news sites are still inaccessible via the island's internet, including critical pages like *14ymedio*, *Tremenda Nota*, *Cibercuba*, *Diario de Cuba*, and *Cubanet*.

While some media are permanently blocked, the Cuban state also takes advantage of its monopoly of online space to selectively increase digital censorship and control of information at strategic moments or during politically sensitive events. In February, CPJ documented how several critical sites were blocked on the island on the day of the national constitutional referendum vote, violating the right of Cuban citizens to access information about the very political process in which they were participating.

In practice, many journalists are unable to access the tools and resources necessary for their work, such as secure email or chat applications, without asking for authorization and thus inviting state surveillance. Cuban regulators also prohibit the use of encrypted systems to guarantee users' private communications, which means that journalists have almost no guarantee of secure communication with sources or other confidential contacts.

Despite the restrictions, the new technologies, and most of all the increasing connectivity available in Cuba, undoubtedly offer more opportunities for modern independent journalism and storytelling, beyond what has historically been permitted by state censors. In one example documented by upstart information technology project Yucabyte, the online reaction to the deadly tornado that hit Havana on January 27, 2019, was unprecedented in Cuba: suddenly, regular citizens were using mobile data connections to document and react to events in real time, a process that would have been impossible with the previous system of public Wi-Fi hotspots.

Increased internet penetration, diversified access, and the proliferation of platforms such as Facebook (the most widely used social media platform among Cubans) and WhatsApp provide a



new world of opportunities for reporters and Cuban citizens, who can access and share information in ways and at speeds that were impossible 10 or even five years ago. But these new spaces also offer even more opportunities for state surveillance, monitoring, threats, and interference: through hacking or account theft, identity theft in networks, smear campaigns, trolls attacks, digital harassment, and so on.

Cuban journalists, and their partners, must be very careful when navigating through these new spaces, and the international community and organizations have an obligation to help provide resources and information to help them do so and keep reporting in a safe manner, both in digital spaces as in the physical world.

Conclusion and Recommendations

In the last few years, Cuba—and independent Cuban journalists—have made some strides toward opening tiny cracks in the oppressive media landscape, including a 2013 legislative reform that allowed political opponents and independent journalists and bloggers to travel internationally for the first time in decades, followed by the 2014 launch of prominent blogger Yoani Sánchez's news website *14ymedio*, still one of the most critical independent outlets on the island nation. While its content is still inaccessible to most Cubans, its reporters have been able to work without the serious restrictions affecting many of their colleagues.

At the same time, the rollercoaster of U.S.-Cuba relations has coincided with ebbs and flows in state repression of journalists, activists, and other outspoken critics of the government. While it is difficult to draw any direct correlations between changes in U.S. policy toward Cuba and the regime's control of information, there is no doubt that the effects of policy decisions made here and in Havana are felt by the island's media workers.

While the restoration of diplomatic ties between Washington and Havana in December 2014 offered optimism to many journalists, human rights groups documented an uptick in state-sanctioned harassment and violence against journalists following President Obama's visit in March 2016. The Cuban Commission on Human Rights and National Reconciliation documented in 2016 the highest monthly average of detentions in six years—though overall detentions have fallen since that peak, short-term detentions of journalists have not followed the same trend, as previously noted.

In April 2018, Miguel Díaz-Canel assumed the Cuban presidency, after 59 years of rule by Fidel Castro (1959-2008) and then his brother Raúl Castro (2008-2018). Díaz-Canel served as vice president under Raúl Castro from 2013 to 2018. There have been no indications to this point that the situation for the independent press will improve under the new president. In a speech to the state Union of Journalists in 2018, Díaz-Canel criticized independent journalists, calling them cynical “opportunists,” and said the media in Cuba would remain public and under state control. The absence of any meaningful reforms to Cuba's media structure in the referendum earlier this



year, as well as Díaz-Canel's public comments on the role of the press, are clear indications that major change will not come from the legislative side anytime soon.

And there is a long way to go in Cuba. In order to improve its record on free expression, Cuba must ratify and implement international human rights agreements to guarantee freedom of expression and information; end the use of detention, surveillance, and smear campaigns against independent journalists and bloggers; remove legal barriers to individual internet access and extend affordable access to the population at large; and dismantle a legal framework that punishes independent journalism.

None of this will happen overnight, and the contentious history between the U.S. and Cuba means the U.S. should tread carefully in its efforts to promote and support freedom of expression and independent media in Cuba. Any and all efforts to do so can—and likely will—be viewed by the Cuban state as a challenge to its sovereignty and attempt to intervene in its internal affairs.

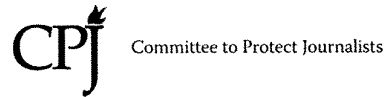
However, the position of the Cuban government toward U.S. government actions should not prevent Congress from acting when and where it can make a difference for Cuba's threatened independent journalists, both on the island and beyond its borders.

Public statements drawing attention to the cases of detained journalists and calling for their release and supporting their right to work are especially important to combat the fear and self-censorship that these tactics aim to instill in Cuba's independent press. We urge congressional leaders to speak publicly about the journalists and outlets who are subject to detention, travel prohibitions, and other state-sponsored harassment; and to urge other U.S. officials to stand up for Cuba's beleaguered journalists both publicly and privately as well.

We urge Congress to support initiatives to expand affordable internet access in Cuba and access to platforms and tools that will allow Cubans to exercise their right to free expression online, without enforced surveillance or censorship.

The United States should consider Cuban journalists' work as a basis for a well-founded fear of persecution if and when they apply for asylum or refugee status. As noted above, independent Cuban journalists are routinely subjected to state violence, harassment and intimidation because of their work, which is often critical of the Cuban regime. The United States has historically been generous in its application of asylum law to Cuban asylum-seekers, and should continue to extend that same generosity to Cuban journalists seeking to escape persecution for their reporting. Additionally, the United States should not honor Cuban arrest warrants for journalists, should encourage other countries not to honor those warrants, and should treat journalists' travel documents as valid, even if Cuba has cancelled them.

While there are still many hurdles on the path to U.S.-Cuba normalization, the effect of greater communication between both countries could be positive for freedom of expression on the island. As a result, journalists will hopefully be able to do their jobs without the constant threat



of violence or imprisonment solely for reporting and expressing critical opinions, and with the prospect of internet access without filters, obstructions, or prohibitive costs.

Thank you for providing CPJ with the opportunity to address you about this important matter.

Mr. SIREs. Thank you.
Mr. Suarez.

**STATEMENT OF JOHN SUAREZ, EXECUTIVE DIRECTOR,
CENTER FOR A FREE CUBA**

Mr. SUAREZ. Chairman Sires, Ranking Member Rooney, and members of the subcommittee, thank you for this privilege to provide testimony on human rights in Cuba. My name is John Suarez. I am the executive director of the Center for a Free Cuba, a non-profit, nonpartisan organization dedicated to the promotion of human rights in Cuba.

To understand the human rights situation in Cuba, one must understand what came before. Cuba had regular competitive elections and between 1944 and 1952 presidents who respected human rights and civil liberties. This was reflected in the role Cuban diplomats played in 1948 in pushing for regional and international human rights covenants.

All of this came crashing down with Fulgencio Batista's military coup in 1952. The Castro brothers promised to restore democracy while imposing a Communist dictatorship in 1959. In May 1961, they confiscated private schools and most seminaries to eliminate religion. In September 1961, the Castro regime, at gunpoint, collected 131 priests, brothers, and a bishop and placed them on board the Spanish ship *Covadonga* and deported them from Cuba. Today, the Office of Religious Affairs, an arm of the Central Committee of the Cuban Communist Party, still oversees religious affairs in Cuba and exists to monitor, hinder, and restrict religious activities.

Sixty years later, Fidel Castro is gone, but his brother Raul remains along with the Communist regime. What is called reform in Cuba has been a fraud for the dynastic succession of the Castro family. Raul Castro remains in control of the government as head of the Communist Party. His son, Alejandro Castro Espin, a colonel in the Ministry of the Interior, presided over the Cuban side in the negotiations to normalize relations during the previous administration.

In 2018, Raul Castro presided over the revision of the current constitution that was subjected to a referendum on February 24th, 2019. On February 24th, Cubans were called to the polls to ratify a new constitution that despite cosmetic changes enshrines the principles of the existing one-party political system. Basic conditions for free and fair elections were not fulfilled, independent observers were not allowed, and numerous voting irregularities were reported.

This is the third time during the Communist era that the constitution was changed. The Communist Party remains the only legal political party. The maximum authority in the regime resides with the head of the Cuban Communist Party. The late dissident leader, Oswaldo Paya Sardinias, called this fraudulent change. There have been no improvements at all to the nature of the Cuban regime. It is a one-party, Communist dictatorship run by the Castros.

Opposition groups in Cuba are not legally recognized and independent civil society is actively discouraged. Independent human rights organizations in Cuba are illegal. There is no space for free

expression in Cuba. The Cuban Government attempted to create a fake space for debate on the constitutional referendum, but when independent actors attempted to speak in them freely, the response was swift and brutal.

Over the past 16 months, two decrees have further undermined and restricted human rights. Decree 349, signed by President Diaz-Canel in 2018, further restricts and controls artistic expression in Cuba. This provoked protests by independent artists, many were arbitrarily detained, and at least two have been jailed for a prolonged period. Article 68 of Decree-Law 370/2018, issued on July 4th, 2019, prohibits Cuban citizens from running websites hosted outside of the country.

Cubans continue to defy the dictatorship and demand their rights and freedoms, often paying a terrible cost. With us today is Sirley Avila Leon. Sirley was a delegate to the Municipal Assembly of People's Power in Cuba for 7 years when the regime eliminated her district. She had fought to open a school in her district, but had been ignored by official channels and had reached out to international media. Her son, Yoerlis Pena Avila, who had an 18-year distinguished career in the Cuban military was forced out when he refused to declare his mother insane and have her committed.

Sirley joined the dissident movement and repression against her increased. On May 24th, 2015 she was the victim of a machete attack carried out by Osmany Carrion that led to the loss of her left hand, right upper arm nearly severed, and knees slashed into. Following the attack, she did not receive adequate care and was told quietly by medical doctors that if she wanted to get better, she would need to leave Cuba.

This is not new. Cubans sought freedom by fleeing the island. While others have protested for their rights over decades, the response has often been brutal. Twenty-five years ago, on July 13th, 1994, regime agents killed 37 Cubans when they tried to flee to freedom aboard the "13 de marzo" tugboat. Less than a month later, August 5th, 1994, the streets of Havana erupted when thousands of protesters chanting "libertad" were repressed.

Cuban dissident Oswaldo Paya on March 30th, 2012 warned about the Cuban Government's effort to perpetuate itself in power. He also knew what real change would look like and argued that the gradual approach only makes sense if there are transparent prospects of freedom and rights. Oswaldo also reminded many who have forgotten that "We Cubans have a right to our rights." Human rights and the Cuban struggle for freedom are not an afterthought, but the central issue in the dispute between Cubans and the dictatorship.

Thank you very much.

[The prepared statement of Mr. Suarez follows:]

John Suarez
Testimony
WHEM Hearing: Human Rights in Cuba

Chairman Sires, Ranking Member Rooney and Members of the Subcommittee, thank you for this privilege to provide testimony on “Human Rights in Cuba: Beyond the Veneer of Reform.”

My name is John Suarez and I'm the Executive Director of the Center for a Free Cuba, a non-profit, non-partisan organization dedicated to the promotion of human rights in Cuba.

Past is prologue

To understand the human rights situation in Cuba, one must understand what came before. Between 1940 and 1952 Cuba had regular competitive elections, and between 1944 and 1952 presidents who respected human rights and civil liberties. This was reflected in the role Cuban diplomats played in 1948 in pushing for regional and international human rights covenants. All of this came crashing down with a military coup in 1952 that led to seven years of dictatorship under Fulgencio Batista.

The Castro brothers promised to restore Cuban democracy and civil liberties during their struggle against the military dictatorship and in the early days of their regime, but the reality was that they had planned to impose a communist dictatorship.

Sixty years later, Fidel Castro is gone, but his brother Raul remains along with the communist regime they built.

The non-transition

Raul Castro handed over the office of the presidency to his handpicked successor Miguel Díaz-Canel on April 19, 2018. This was done to give the impression that a transition is underway in Cuba, and that the system is reforming. Díaz-Canel, like Osvaldo Dorticos, who was president of Cuba from 1959 to 1976, answers to General Raul Castro.

What is called reform in Cuba has been a fraud to prepare the way for a dynastic succession of the Castro family. There has been no transition. Raul Castro remains in the maximum role in the Cuban system as head of the Communist Party and in control of the government. His son, Alejandro Castro Espín, a colonel in the Ministry of the Interior presided over the Cuban side in the secret negotiations to normalize relations during the previous Administration.

This process continued with a “constitutional reform” that reformed little.

On February 24, 2019 the Cuban people were called to the polls to ratify a new constitution that despite some cosmetic changes, enshrines the fundamental principles of the existing one-party political system.

Basic conditions for free and fair elections were not fulfilled, independent observers were not allowed and numerous voting irregularities were reported. According to the initial final results disclosed by the National Election Commission (CEN), almost 87% of the nearly eight million voters who participated in the referendum approved the new constitution. More than 700,000 Cubans openly marked “no” in their ballots, blank and null voters were about 325,000, and more than 850,000 decided to abstain.

On February 28, 2019 the National Electoral Commission of Cuba (CEN) reduced abstentions in the referendum from 15.6% to 9.85%. The participation rate was raised from 84.4% to 90.15%. CEN president Alina Balseiro announced on state television that the final count eliminated the double-counting of 594,580 voters, also 3,445 deceased voters were excluded after the update, which left the current voter registry at 8,705,723.

This is the third time during the communist era that the constitution is being changed.

Brief constitutional history

Between 1959 and 1975 Cuba had a non-constitutional government.

In 1975 the Constitution was drafted and patterned after the 1936 Soviet constitution proclaiming "socialist legality," rejecting the rule of law while guaranteeing freedom of religion, freedom of speech, and freedom of assembly. However, all these freedoms were conditioned on pursuing the objectives of the government to build communism. According to official sources, there was a “public debate” with over six million Cubans participating. On February 15, 1976 the draft was approved by a referendum “in which 98% of the electorate voted and 97.7% voted in favor.” On February 24, 1976, it was formerly proclaimed in a public ceremony.

Due to references to the Soviet Union, following the USSR's dissolution in 1991, it became necessary for the Cuban government to update it in 1992.

Fearing that the character of the regime could be legally altered, due to the Project Varela initiative in 2002, when dissidents gathered 11,020 signatures for the reform of the system, the Cuban government revised the constitution making its socialist character "permanent and irrevocable."

In 2018 Raul Castro, head of the Cuban Communist Party, presided over the revision of the current constitution that was subjected to a referendum on February 24, 2019 that recognized economic reforms carried out over the previous decade that had been in conflict with the constitutional prohibition of “procur[ing] income derived from exploitation of the work of others.”

Between 1959 and 1975 Cuba had a prime minister, the position was eliminated in the 1976 Constitution, but has been reintroduced in the 2019 constitution. Term limits have also been introduced for the presidency.

The new constitution recognizes a “complementary role in the economy” for private property but continues to enshrine a “socialist economic system based on ownership by all people of the

fundamental means of production as the primary form of property as well as the planned direction of the economy.” It also specifies that foreigners can invest in Cuba without making any such provision for Cubans. In August of 2018, a temporary freeze on the issuance of new self-employment licenses in many fields sent a signal that economic liberalization is not in the cards.

The Communist Party remains the only legal political party in Cuba and “the superior driving force of the society and the State.” As in the previous version of the constitution the maximum authority in the regime resides with the head of the Cuban Communist Party. Furthermore the new constitution asserts “that it is only in socialism and communism that a human being can achieve his or her full dignity.”

The “election” of President Diaz-Canel in April 2018, the announcement of the drafting of a new constitution in June of 2018, followed by a fake consultation with the populace in order to complete what the late dissident leader Oswaldo Payá Sardiñas had called fraudulent change (cambio fraude) sought to legitimize the Cuban dictatorship both internally and internationally. The reality is that there have been no major improvements, just cosmetic changes that do not alter the nature of the Cuban regime. It is still a one-party communist dictatorship run by the Castro family.

Repression surrounding the Constitutional Reform

Inter-American Commission on Human Rights (IACHR) reported on March 4, 2019 that independent civil society groups in Cuba “noted that, despite their efforts to engage in pluralist dialogue, there were “political and legal hurdles” that restricted effective citizen participation. Some activists who campaigned against the new text reported that they had been intimidated, arrested and, in some cases, beaten up by the security forces, and that their homes had been besieged by the military the week before the referendum.”

Opposition groups in Cuba are not legally recognized in the island, and independent civil society is actively discouraged. Independent human rights organizations in Cuba are not legally recognized. On November 13, 2018 a resolution was presented to the European Parliament that reminded “the Cuban government the need to establish a national human rights institution in accordance with the Paris Principles.” Cuba does not have one.

There is no space for free expression in Cuba much less debating political alternatives for the future of the country. The Cuban government attempted to create a fake space for debate, but when independent actors attempted to speak freely in those spaces, the response was swift and brutal.

Political police have also shifted their tactics of repression by increasing their presence outside the homes of Cuban human rights defenders. Between February 11 and the 21st this tactic intensified in the run up to the February 24th Constitutional referendum.

Over 400 activists were arrested in the month of February 2019. 240 arrests took place in the days leading up to the referendum on February 24th. On the day of the referendum over 156 activists

were arrested. After the referendum in the four days remaining of February another 13 activists were arbitrarily detained.

Part of the dissident movement sought to mobilize around polling places to monitor the vote, encouraged voters to photograph their ballot marked "No" and also presented challenges to vote count methodologies in an act of nonviolent intervention.

On February 11, 2019 eight homes of members of the Patriotic Union of Cuba (UNPACU) were raided by the political police, beaten up and 27 activists detained. Equipment and supplies were seized in fourteen of the raids. Jose Daniel Ferrer Garcia, a former prisoner of conscience and leader of the UNPACU movement, initiated the "Hunger Strike Against Repression." Eventually 130 UNPACU activists joined the hunger strike to protest repression and "the farce on the 24th."

On February 19, 2019 Eliecer Góngora Izaguirre, coordinator of the Patriotic Union of Cuba (UNPACU) in the municipality of Jobabo, Las Tunas was violently taken from his home and deported to Guyana. Eliecer, an UNPACU activist and father of four children. "They carried me and dragged me violently by the arms and feet, throwing me against a patrol car and giving me blows in the same hand that they fractured last February 4 in Camagüey, where I was carrying out the campaign for the I Vote No (YoVotoNo) campaign," said Góngora Izaguirre. Prior to being deported members of the Revolutionary National Police (PNR) tortured him psychologically, and on the following day took him to his parents and wife, threatening him with death and prison in front of them. They claimed that they had the paperwork for him to begin serving a four-year prison term for Pre-criminal Social Dangerousness, that they initiated against him the day they broke his arm.

On February 24th "they arrested Osmay Vazquez and his wife Yanet Díaz Santiago, both of the Eastern Democratic Alliance (ADO) in Palma Soriano, Santiago de Cuba when they tried to monitor the electoral college in their area.

New laws place further restrictions on Cuban artists and bloggers

Over the past year and a half two decrees have been issued that further undermine and restrict human rights. Decree 349, one of the first laws signed by President Miguel Díaz-Canel in April 2018 came into force in December 2018 further restricts and controls artistic expression in Cuba. This provoked protests by independent artists in the island, many were arbitrarily detained, and at least two have been jailed for a prolonged period of time. Rapper Maikel Castillo Pérez in September of 2018 and Rapper Lazaro Rodriguez Betancourt "Pupito en Sy" in November 12, 2018 were jailed for protesting this law. Both are still detained, but Maikel Castillo was sentenced to 18 months in prison in April 2019 for protesting this new law.

Decree 68 issued on July 4, 2019 "prohibits Cuban citizens from running websites hosted outside of the country." The Cuban-based online publication 14ymedio, that will be effected negatively by this new law they reported on as follows: This Thursday, the authorities published a set of laws "on the computerization of society in Cuba" that have as their objective, "to elevate technological sovereignty for the benefit of society, economy, security and national defense" and "counteract cybernetic attacks".

Despite repression some Cubans remains defiant.

Nevertheless, Cubans will continue to defy the dictatorship and demand their rights and freedoms often paying a terrible cost and then continuing in the struggle. With us today in the audience is Sirley Ávila León.

Sirley Ávila León was a delegate to the Municipal Assembly of People's Power in Cuba from June 2005, for the rural area of Limones until 2012 when the regime gerrymandered her district out of existence. The Castro regime removed her from her position because she had fought to reopen a school in her district but been ignored by official channels and had reached out to international media. Her son, Yoerlis Peña Ávila, who had an 18 year distinguished career in the Cuban military was forced out when he refused to declare his mother insane and have her committed to a psychiatric facility.

Sirley joined the ranks of the democratic opposition and repression against her increased dramatically. On May 24, 2015 she was the victim of a brutal machete attack carried out by Osmany Carrión, with the complicit assistance of his wife, that led to the loss of her left hand, right upper arm nearly severed, and knees slashed into leaving her crippled. Following the attack she did not receive adequate medical care and was told quietly by medical doctors in Cuba that if she wanted to get better that she would need to leave the country.

On March 8, 2016 she arrived in Miami and began a course of treatments over the next six months during which she was able to walk once again although not fully recovered due to her injuries. She returned to Cuba on September 7, 2016 only to find her home occupied by strangers and her attacker free and bragging that he would finish the job. She moved in with her mother and within a short time a camera and microphone were set up across from her mother's home.

Threats against Sirley's life intensified leading her to flee Cuba to the United States and request political asylum on October 28, 2016, but she continues to advocate for a free Cuba.

She is not alone.

Cuba's Ladies in White continue to protest regularly for human rights and freedom for all political prisoners, and are met with repression beatings, and arbitrary detentions. The founder of their movement Laura Pollan died under suspicious circumstances in 2011, but Berta Soler was elected the new leader of the movement and they have not waived.

They are not alone.

In February 2019 angry Cubans in Havana protested the poor regime response to a tornado that had ripped through Havana. They shouted down President Díaz Canel in the Regla neighborhood.

Reports emerged on May 7, 2019 that the state-run Center for Sex Education, headed by Mariela Castro, said in a Facebook post that the Conga Against Homophobia scheduled for an unspecified date in May had been canceled on orders of the Ministry of Health.

Gay rights activists condemned the cancellation and then organized their own demonstration. On Saturday, May 11, 2019 more than 100 demonstrators took to the streets of Havana. After setting out on Havana's Paseo del Prado, the marchers came up against many police and state security forces. Beatings, detentions and several arrests ensued.

This is not new. Cubans have sought freedom by fleeing the island while others have also been rising up and protesting for their rights for sixty years. The dictatorship's response has often been brutal. 25 years ago, on July 13, 1994 Cuban government agents massacred 37 Cubans when they tried to flee to freedom aboard the "13 de marzo" tugboat. Less than a month later on August 5, 1994 the streets of Havana erupted with thousands of protesters chanting "libertad" freedom. Their desire for liberty has not diminished, and the opportunities and dangers remain or have been exacerbated.

Real change must be centered on human rights improvements

The Castro regime has the political will to maintain absolute power and to use the economy to maintain and enrich high officials in the military and the intelligence apparatus to guarantee their loyalty to the existing system. The regime also has an ideological component that seeks to replicate its model elsewhere, and it has had successes in Venezuela and Nicaragua.

Cuban dissident Oswaldo Payá on March 30, 2012 warned about the Cuban government's effort to perpetuate itself in power.

Our Movement denounces the regime's attempt to impose a fraudulent change, i.e. change without rights and the inclusion of many interests in this change that sidesteps democracy and the sovereignty of the people of Cuba. The attempt to link the Diaspora in this fraudulent change is to make victims participate in their own oppression.

Oswaldo also knew what real change would look like and argued that [t]he gradual approach only makes sense if there are transparent prospects of freedom and rights." He also reminded many who have forgotten that: "We Cubans have a right to our rights." Human rights in the Cuban struggle for freedom are not an afterthought, but the central issue in the dispute between Cubans and the dictatorship.

Thank you very much.

Mr. SIREs. Thank you very much, Mr. Suarez.

Now we will go to questions. I will start with the questioning. The New York Times reported that Cuban doctors in Venezuela were being forced to withhold lifesaving medical assistance in order to coerce desperate individuals into voting for the Maduro regime. I introduced a resolution to classify the medical missions that these doctors were part of as human trafficking.

Can you speak about how the Cuban regime has profited from its medical missions and whether the U.S. Congress should take steps to assist the victims of these medical missions? Can anyone speak to that?

Mr. SUAREZ. Yes. The issue of human——

Mr. SIREs. Turn your mic on.

Mr. SUAREZ. The issue of human trafficking is something that, fortunately, has been in the latest report on trafficking reflects that Cuba is in the black list for that issue. And we are talking about healthcare professionals in this case and they do have a duty to put the Revolution first and their medical duties second, and that is something that you mentioned that is reflected in what is taking place in Venezuela and in other places.

The regime is profiting to the tunes of billions of dollars a year in this export of doctors. There are tens of thousands of doctors across the world, not only in Venezuela but also in Mexico, across Africa, and areas of the Middle East, and they are the chief source of revenue for the Castro regime. I think that a return to a policy that protects those doctors and provides them with refuge would be a welcome step forward. Thank you.

Mr. SIREs. Thank you. I was disturbed to hear about Cuban LGBT activists being arrested and beaten up for participating in a peaceful demonstration in May. What have you been hearing from the LGBT activists and organizations on the island and if they are concerned that the overall situation for LGBT rights defenders is worsening in Cuba?

Mr. Quesada.

Mr. QUESADA. Yes, we have been working with LGBT activists for more than 7 years and independent LGBT activists. The main problem, I think, before the May 11th march was the cancellation of the typical conga by the CENESEX, you know, and the CENESEX, Center for Sexual Education, run by Mariela Castro, Raul Castro's daughter.

So independent civil society, LGBT activists decided that they would like to have like an independent march. Four of our partners were actually detained before the march took place and CENESEX actually decided to organize a party the same day on May 11th at the same time of the march. A lot of people were not allowed to actually go to the march, like the main LGBTI activists. We know that they were interrogated up to for 24 hours. They were told that they had two options, either leave the country or face jail time. Some of them actually have left the country already.

And, in general, I would say regarding the human rights situation of LGBT people there are two main problems. One is kind of the monopoly of the State in terms of LGBT rights, and the lack of participation by independent LGBT activists to even LGBTI activities outside of Cuba. That is all I would say.

Mr. SIRE. Anybody else want to add to that?

You know, the Chinese company, Huawei, has worked closely with the Cubans telecommunications monopoly to develop the country's telecommunication infrastructure. Given this company's close ties to the Chinese Communist Party, are you concerned about this in Cuba?

Mr. Martinez, anybody?

Mr. SUAREZ. Yes, we are very concerned. The Chinese have a record of developing a very sophisticated system of control, not only censorship but also monitoring and locating dissidents, in the past they did it with the help of companies such as Yahoo in China. And activists were imprisoned, some were tortured and killed, and we are very fearful. And I think considering the new decree that came out on July 4th, the prospects that they will be targeting cyberactivists has increased dramatically in Cuba. And with Huawei's help, unfortunately, they will be able to be quite effective in targeting these activists.

Mr. SIRE. Thank you.

Ranking Member Rooney.

Mr. ROONEY. Thank you, Mr. Chairman.

First, I would like to ask Mr. Suarez, since you mentioned about websites and internet, the Wall Street Journal had a picture this week of a bunch of Cuban kids sitting on a curb, all on their phones just like any other kid would be right here, talking about the extension of 3G in Cuba and the protests that the young people are having now over the price of it. I wonder if that gives us an opportunity and how you feel about the opportunities that technology might present that might chink at the armor there.

Mr. SUAREZ. Well, I think that the Castro regime has had a series of strategies of control. Initially, they just did not provide access to internet to anyone on the island. It was dramatically restricted. Cuba had some of the lowest levels of internet connectivity in the Hemisphere. Between 2002 and 2008, the Castro regime outlawed the purchase of computers in Cuba. Now they have shifted and they have allowed more access. They have allowed 3G recently.

But what they are doing hand-in-hand with it is this new Decree 68 from July 4th, which is now going to be going after those cyberactivists that have set up platforms outside of the island where the regime has less control, and they are pushing to have those shut down. And they are going to be becoming more restrictive internally with their Chinese friends with the golden shield which has been very effective in mainland China. I believe they are going to be applying those tactics inside of Cuba.

So it is going to be a very long, hard road for independent journalists that until now have been able to get their work out of the island and then back in.

Mr. ROONEY. No Romanian imminent? No Ceausescu moment imminent yet.

Mr. SUAREZ. No.

Mr. ROONEY. But an opportunity.

The other thing I would like to ask any of you that would like to answer is about religious freedom in Cuba. When I was there, the Spanish priests that we talked to said that the government pre-clears their sermons. They will let them have Mass, but the gov-

ernment is there and they are pretty restrictive about it. I know Cardinal Ortega personally and I know he has been very controversial. Half the people think he is too much close to Castro, half the people think he is doing all he can.

So any comments that you all might have on what opportunities we may have to deal with some of the challenges to religious freedom in Cuba?

Mr. SUAREZ. Well, I think that one thing that the U.S. can do that would be of great assistance would be to push for the Cuban Government to shut down the Office of Religious Affairs. I think it is an outrage that the Central Committee of the Communist Party oversees religious life in Cuba. And Pope John Paul II during his visit in 1998 requested that that be closed down. It has not been. And I think it is an area where if a lot of light is brought on it and a lot of international attention—it is an embarrassment for the Castro regime—and I think it could be something that would be a positive step forward for religious freedom if that office is gotten rid of.

Mr. ROONEY. Anyone else want to comment?

Please, Dr. Quesada.

Mr. QUESADA. I would like to, actually, to add the fact that, you know, how the government manipulates, so to speak, the freedom of religion in Cuba, and I would like to use the example of Article 68 in the proposed constitution that guarantees gay marriage in Cuba.

So the article was literally taken out of the proposed constitution according to the government because the religious groups were not happy about it. And, actually, the religious groups in Cuba were very active against that article and the government allowed those fundamentalists, if I can use the word, to actually take Article 68 out of the proposed constitution. So what I am saying here is that sometimes, you know, it is, you know, they allow the religious freedom for their own purpose and sometimes they just restrict the freedom of religion.

Mr. ROONEY. I have one more question for whoever would like to answer it. You know, Lenin said the capitalists will sell us the rope we will use to hang them with, and I wonder if there is a role for international business in the United States to push international business, to push companies that are working there, which there are many, to not deal through GAESA and break that link between employers and their employees and the clever way the Cubans are keeping capitalism out of the system down there.

Mr. SUAREZ. Well, I think you brought up a very important matter. GAESA, which is run by Raul Castro's son-in-law, controls close to 60 percent of the Cuban economy and has—the bulk of the tourist industry is run under GAESA which is an arm of the Cuban military establishment. I think that it would be very positive if international business followed the path that was followed in South Africa with the Sullivan principles. There is a case a few years back that came with something called the Arcos principles, named after another prominent Cuban human rights defender, that would have principled investment inside of Cuba.

I also think it is important to point out that perhaps we should highlight the numerous business people from Western democracies

that have been locked up in Cuba, and their crime has been that the Cuban Government has not been able to pay the bill that it owes them. So then the response is they lock them up and then loot them completely.

Mr. ROONEY. Thank you. Thank you.

Thank you, Chairman.

Mr. SIRES. Congressman Levin.

Mr. LEVIN. Thank you very much, Mr. Chairman.

Mr. Quesada, I was interested in the comment you just made. It sounds like there are troubling parallels between the Cuban Government and our own in terms of their kowtowing to religious groups and limiting the freedom of LGBTQ people in our—in both of these countries. So I hope we can make progress on that. You mention in your recommendations that you think the U.S. should expand its diplomatic presence in Cuba in order to have more direct contact with independent civil society groups.

Can you—what is the history of our diplomatic presence over the last 10 years and where is it today?

Mr. QUESADA. I think the main problem today is the lack of staff that the embassy has right now. When we had an interest office, so to speak, it was also limited, but when we had an embassy, when we became an embassy there, there were more personnel. People were, you know, the different political, or civil servants on the island were able to reach out to activists. And right now, because of the limited staff that the embassy has, basically, I mean even our partners on the ground have been telling us as that they do not even have access now to the embassy as they used to have it before. So that is why I was recommending to have a more diplomatic presence, so to speak.

And the other thing is that what we find out is that to visit political prisoners or former political prisoners is very important for them.

Mr. LEVIN. So we re-established diplomatic relations in December 2015 or thereabouts and we built up our diplomatic presence and now we have many fewer staff there.

Mr. QUESADA. Correct.

Mr. LEVIN. So it is hard for us to interact with these groups on the ground, support political prisoners, and other things to advance the human rights cause without sufficient staff.

Mr. QUESADA. Correct.

Mr. Martinez, I am curious about whether the—how you see the ability of journalists and organizations that support journalists like yourself to interact with their counterparts in Cuba like American journalists based on, you know, restrictions of travel and what not. Is it better to have more free travel of American journalists to Cuba and others who would support them or less free interaction? Which would be better to support human rights in Cuba and specifically the rights of journalists to do their work? Do you understand the question?

Mr. MARTINEZ DE LA SERNA. Well, I am not sure what you want me to answer, yes.

Mr. LEVIN. So we are going toward, you know, in basically 2014 and 2015 we moved toward an idea that we should have more engagement with Cuba—

Mr. MARTINEZ DE LA SERNA. Yes.

Mr. LEVIN [continuing]. Rather than less. Now we are moving the other direction.

Mr. MARTINEZ DE LA SERNA. Yes.

Mr. LEVIN. Restricting travel, restricting interaction, keeping Americans from going to Cuba, is that helpful for the human rights of, you know, and the freedom of journalists to work in Cuba, to restrict Americans' access?

Mr. MARTINEZ DE LA SERNA. Generally speaking, generally speaking, I do not think so. We need always more eyes on the ground and more interaction to understand the problems and also to support journalists on the ground.

Mr. LEVIN. Thank you.

Thanks very much, Mr. Chairman. I feel we are going in the wrong direction. I yield back.

Mr. SIRES. Thank you, Congressman.

Congressman Smith.

Mr. SMITH. Thank you very much, Mr. Chairman, for holding this important hearing. Thank you to our witnesses.

You know, in the 1980's I traveled with Armando Valladares to the U.N. Human Rights Council, then called the Commission. He was able to get an important resolution passed as head of the U.S. delegation. As we all know, he spent close to 20 years in the gulags of Fidel Castro, was tortured horribly, and when he wrote "Against All Hope," his memoir, he pointed out how systematic the brutality was by the Castro regime.

There was commitments made to the U.N. personnel and to the families that came forward, there will be no retaliation. Almost to a person, there was retaliation. There was concern just expressed that we do not have enough people working in the embassy, but let's not forget why those people were ordered home. Between November 2016 and May 2018, there were a number of unexplained injuries, cognitive loss, hearing loss; we do not know the full reason why, but it was very, very suspicious.

So out of an abundance of caution and concern for our embassy personnel and their families, many were returned to the United States. And let me just say, after the rapprochement with Fidel Castro, I went and met along with Piero Tozzi, our general counsel on the Human Rights Committee—I was chairman of it, held many hearings on Cuba—and met with Cabanas, asked him for a visa; I still have not gotten it. He told me they will tell me certain people I can talk to and not talk to.

So I asked him, "Do other congressional delegations when they go to Cuba agree to those preconditions?" And he said yes.

And I would just admonish and encourage my fellow Members that when you go there should be an unfettered ability to talk to dissidents and get into the prisons. And I would ask the panel whether or not the ICRC has had access—the International Committee for the Red Cross—to the prisons, and again do they have concerns about these parameters that are put on Members who then willingly accept them, apparently, when they go?

Let me also bring out the issue of trafficking. President Obama had falsely and, I think, artificially upgraded Cuba. I am the author of the Trafficking Victims Protection Act, so I take very seri-

ously all things related to trafficking. Frank Calzon, I remember, when we were in Geneva one time at a Human Rights Commission a van pulled over, because he was bringing up child sex trafficking in Cuba, and was punched by Cuban thugs who did not like what he was doing in town.

But I am glad that this Administration, Pompeo, has now downgraded Cuba to tier 3 and in a narrative make it very clear as to why that is the case including these medical missions and the coercion that is used. But it was artificially upgraded. All these give-and-no-take from the previous administration, I thought was ill-advised at best. I mean human rights should always be at the core of what we do and we need to see progress.

There was no linkage to this opening of the embassy, and then what happens to our embassy personnel—they get sick. And again, we think there may have been some very—so my question, ICRC access to prisons, whether or not when Members of Congress go there, or other lawmakers, is it your knowledge that they agree to these preconditions?

I would love to go to Cuba. I have tried for 25 years to get into the prisons; only to have the door slammed by Fidel Castro who once called me a provocateur for wanting to go the prisons. You know, I go to prisons all over the world. I have been in prisons in Indonesia, China, Beijing Prison Number 1 where Tiananmen Square activists were, the Perm camp 35, the infamous prison where Natan Sharansky was in the 1980's; I cannot get into a prison in Cuba.

So your thoughts on that and again, and also on this trafficking upgrade—downgrade, I should say—to tier 3. Cuba is now with North Korea, China, Syria, Venezuela as an egregious violator of human trafficking, whether or not you agree with that.

Mr. SUAREZ. The International Committee of the Red Cross, the last time they were able to visit a Cuban prison was in 1989. They had a small period between 1988 and 1989 that they were able to conduct some visits. Before that it had been 1959. So we are talking 30 years since the last visit and then another 30 years before that, before that first visit, that first range of visits. And I think that is an area where there needs to be focus placed by the international community and calling on the Cuban Government to allow the International Committee of the Red Cross, which is a non-partisan entity, to have access to those prisons to see what the conditions are, to see how the prisoners are being treated.

With regards to tier 3, I think that it is important to recall that when Cuba was redesignated tier 2, experts in the antislavery movement came out and denounced it at the time as a politicization of the process. So I think returning Cuba to tier 3 is the correct thing to do because it reflects the accurate situation on the ground. Thank you.

Mr. QUESADA. If I can add a little bit on the human rights situations in prisons, I mean, in general, the situation is very horrible, but it is particularly horrible for political prisoners. And I would like to mention the case of Mr. Eduardo Cardet who was brutally beaten when he was detained. During prison he was attacked. He did not have access to medical attention for a long time. I mean we have documented his whole case and it shows the level of vio-

lence that political prisoners face in a Cuban prison, and this has been denounced by the Inter-American Commission on Human Rights and the United Nations.

And I would just like to tell you that last year Cuba was reviewed under the Universal Periodic Review and some countries actually make recommendations about improving the situation of prisoners in Cuba.

Mr. SIRE. Thank you, Mr. Quesada.

Congressman Castro.

Mr. CASTRO. Thank you, Chairman.

With the Obama Administration a few years back now, I believe started to try to normalize relations with Cuba, first diplomatically, because folks believed that after the Castro era was over that there would be an opening for the United States to have a better, legitimately have a better relationship with Cuba, that Cuba would perhaps become democratic, that it would fundamentally change, And we wanted to establish that relationship before other countries like China or Russia or Venezuela, or others solidified their hold on Cuba for another 30 or 40 or 50 years.

So I guess my question to you all is, how has governance changed, if at all, since the Castro regime, and who is in charge now? What is the state of governance in Cuba?

Mr. QUESADA. I would like to talk about it from the human rights perspective and, unfortunately, the human rights situation has not changed. And the situation right now as it was in the previous administration or other administrations, I mean if you are a person who thinks differently in Cuba, you face the consequences, basically. And we have not, in terms of human rights and the situation of human rights, we have not seen any change.

What we have seen is the consistency of the government to commit human rights violations. And this has been said by the Inter-American Commission on Human Rights and U.N. treaty bodies.

Mr. MARTINEZ DE LA SERNA. If I can add on freedom of expression, there has not been any reform on the legal system supporting all the repression on independent journalism and there is no sign we see that that is going to happen under the current government.

Mr. CASTRO. In your estimation, has there been any move closer to democracy, real democracy?

Mr. MARTINEZ DE LA SERNA. No.

Mr. SUAREZ. With regards to who is running Cuba, Raul Castro. Under the Cuban system, the maximum authority is the head of the Communist Party and that is the title that he holds. He also was the individual who oversaw the constitutional reform process in 2018. Second—

Mr. CASTRO. So you are saying that you still believe that he is strongly in control.

Mr. SUAREZ. He is strongly in place, but also for the negotiations for normalizing relations between 2013 and 2014 it was Alejandro Castro Espin, Raul Castro's son, who was the person that the U.S. was negotiating with. So the Castro family is still very much—

Mr. CASTRO. Now bear in mind, he is what, 80, late 80's at this point?

Mr. SUAREZ. Raul Castro in his late 80's. Alejandro Castro is 53, and he is a colonel in the Ministry of the Interior who has a very hostile view toward the United States.

I think it is also important to recall that when the U.S. diplomats went to Havana to begin the process of normalizing relations and opening up the embassy, that Russian spy ships were in—

Mr. CASTRO. Right.

Mr. SUAREZ [continuing]. Havana Harbor to send a very clear message. And I think also if we look at that period when the negotiations were taking place in 2013, Cuba was caught smuggling tons of weapons to North Korea. Cuba was caught a few months later involved in a shipment of ammunition to Colombia. So they are very much an outlaw State in terms of their behavior. And I think also talking about the diplomats, American diplomats have been harmed since November 2016, which has led to this pullback at the U.S. embassy. But it is also important to remember Canadian diplomats have been harmed. Canada, that has had very good relations with Cuba, has also had to pull back and they have had to reduce their presence.

So now Cubans cannot get—in the same way that they have to go to a third country to get visas to be able to visit the U.S., they are having to do the same with Canada. So it is definitely a step back.

Mr. CASTRO. And also I wanted to ask you about access to information now. For example, if you go to China, you cannot get on Facebook. Has that improved in Cuba at all?

Mr. MARTINEZ DE LA SERNA. I think in that regards, because there is some slight improvement—there is internet, there is cell phones, and there is access to Facebook—that is probably one of the most critical opportunities to promote access to information, the free flow of information in Cuba, but providing or helping build an independent internet infrastructure that cannot easily be controlled, surveilled and blocked by the government, which is what is happening today.

Mr. CASTRO. I yield back, Chairman.

Mr. SUAREZ. I would add one thing that on July 4th they passed a new decree, Decree-Law 370/2018, which now will prohibit Cuban citizens from running websites hosted outside of the country, which was one of the ways they are able to get uncensored information produced from inside and then reflected back into the island. So it looks like that opening may be closing.

Mr. CASTRO. Thank you.

Mr. SIRE. Congressman Ted Yoho.

Mr. YOH. Thank you, Mr. Chairman.

I appreciate you gentlemen being here. Can you describe the impact or restriction on basic human rights over many generations has had on the broader Cuban population? That is No. 1. And—well, go ahead and answer that question first. You know, for 60 years of repression and suppression, and suppression of free thought, freedom of speech, what effect has that had on the Cuban population, on their outlook on freedom and things like that?

Mr. MARTINEZ DE LA SERNA. It is very hard for me having not been exposed to that situation, right, to assess what that means,

so I do not want to venture into that. It is just 60 years of not having access to independent information to free debate on public issues and on many other things that is catastrophic.

Mr. YOHO. It is. It squashes hope and outlook for the future, right, and so we know that.

Mr. Quesada.

Mr. QUESADA. Yes. I would say that since they have access to internet and Facebook and those kinds of things, we can see kind of two generations and the younger generation is more exposed to outside information and what is going on outside and this has changed the minds of a lot of youth. And I would say, unfortunately, for—or a negative side of it has been like if you ask today a young Cuban if they want to stay in Cuba, the answer will be no. They want to have what they have seen on the internet.

Mr. YOHO. That is interesting. So one of my questions for clarification, was there any positive effect that the Cuban people, secondary to the relaxation of travel and other restrictions that were lifted by the previous administration, the Obama administration, was there any positive effects of that?

Mr. MARTINEZ DE LA SERNA. Definitely on the journalism side as—

Mr. YOHO. On the what side?

Mr. MARTINEZ DE LA SERNA. On journalism, as journalists were able to get out of Cuba, come to the U.S., engage with journalists here and other places, and get back into the country. So.

Mr. YOHO. But at the same time, there were not more people going to prison for—the journalists going—there was more going?

Mr. MARTINEZ DE LA SERNA. The repressive tactics have kind of shifted, so you are not seeing long-term sentences.

Mr. YOHO. Not long term, but—

Mr. MARTINEZ DE LA SERNA. Short-term detentions.

Mr. YOHO [continuing]. Short ones, but more people going.

Mr. MARTINEZ DE LA SERNA. That is an intimidation tactic, yes.

Mr. YOHO. Right. Did these changes give any more freedom to the Cuban people or was there any increase in abuses by the authoritarian figures who were acting on their own or directed by the Cuban Government, anybody?

Mr. SUAREZ. Well, during this process, as my colleague just suggested, there was an increase in arbitrary detentions. But there was also—and we are talking going back to 2011, 2012—the case of high-profile figures in the opposition who were extrajudicially executed as the case of Oswaldo Paya and Harold Cepero. There is also the very suspicious death of the founding leader of the Ladies in White, Laura Pollan.

Mr. YOHO. Right.

Mr. SUAREZ. Which in both cases I think there should be serious international investigations. There was also an increase of violence, of machete attacks. We brought today Sirley Avila Leon who is a victim of such an attack in May 2015, but there have been others.

Mr. YOHO. Right. Unfortunately, I feel like Mr. Levin in that I do not see a change coming, which is unfortunate.

When we see these other countries doing trade with Cuba, what other countries are there helping press the Cuban Government to

improve their human rights and independent press? Are there any other countries standing up?

Mr. QUESADA. Yes. During the Universal Periodic Review of Cuba last year, a lot of countries, specifically from Western Europe and the Nordics, were like pushing Cuba or, you know, like asking for to improve the human rights conditions of journalists, human rights defenders, activists, et cetera.

Mr. YOHO. But how far are they willing to go, because do not a lot of those countries operate the hotels and the resorts, do not they? And I know that money goes to the Cuban Government, not to the Cuban people, and so I see them complicit in providing the funding for the Cuban Government. And yes, they say, well, you need more open press and things like that, but yet I do not see the actions living up to the rhetoric they say they want to help.

Mr. QUESADA. Congressman, I do not know the level of like investment of like Sweden in Cuba or something like that, but yes.

Mr. YOHO. All right, so I guess along those same lines, how effective do you think the international bodies like the U.N. or the EU or the OAS are on—I know they document this, but—invoking a change? And as long as a Castro is there, I do not think it is going to change. Do you have any other thoughts on that?

Mr. SUAREZ. I think, unfortunately, when this drive for normalization took place with the U.S. it had a negative impact with regards to the European Union. The European Union in 1996 had set up a common position which conditioned their relationship with Cuba with improving human rights standards. And during this normalization process that position was retired and now they are pursuing this normalize—their relations with the regime without having that human rights—

Mr. YOHO. Right.

Mr. SUAREZ [continuing]. Element being conditional. And that is a profound setback.

Mr. YOHO. Thanks for pointing that out.

Thank you, Mr. Chairman.

Mr. SIRE. Congressman Phillips.

Mr. PHILLIPS. Thank you, Mr. Chairman. And thank you to each of our witnesses. I think it is fair to say that during the Obama administration we made some steps in opening up trade and relations with Cuba. I think that door has been considerably closed since the Trump administration has been in office. Curious from each of your perspectives, how would you quickly articulate what our current strategy is relative to Cuba?

Mr. SUAREZ. The current strategy is looking at Cuba within a regional context. Cuba has thousands of soldiers and intelligence assets in Venezuela that are playing a very negative role. They are also playing a negative role in Nicaragua. So the administration has chosen to tighten sanctions on Cuba in an effort to leverage influence for them to improve as actors in Venezuela.

Mr. PHILLIPS. OK.

Mr. Martinez?

Mr. MARTINEZ DE LA SERNA. I am sorry. That is out of my scope of expertise.

Mr. PHILLIPS. OK.

Mr. Quesada?

Mr. QUESADA. I am working on human rights exclusively, so, yes.

Mr. PHILLIPS. OK. Do any of you feel that our current sanctions, and particularly the embargo, have had any effect in ending Communism or benefiting the people of Cuba?

Mr. MARTINEZ DE LA SERNA. That is again out of the scope. What I can tell is having—and I specifically mentioned that during my testimony—that having, trying to cultivate diplomatic relation on specifically freedom of expression, which is my area of expertise, we believe would be positive for the development of journalism, independent journalism in Cuba.

Mr. PHILLIPS. OK, any other comments?

Mr. Suarez?

Mr. SUAREZ. I think that the issues of economic sanctions has much more to do with containment of Cuba in the region than it does with, in terms of changing the system inside the island. I do think that if you are going to be having investments and relations with Cuba, it needs to be with everyday Cubans and not with the Cuban military and the intelligence apparatus. Unfortunately, a good chunk of the Cuban economy is run by the Cuban military. And we have seen when the discussion came initially, when the administration was talking about limiting trade with those military entities, there were people on this side saying that makes it very difficult because a good chunk of the economy is run by the military.

So if you are opening up trade and building up the most repressive elements of the regime, I do not think that is going to be a positive long-term. And during the Obama Administration there was an expansion of military control over sectors of the economy that had been controlled by less negative actors in the Cuban system. The Office of the Historian in Havana had most of the hotels that they had in downtown taken over by the military during this opening.

Second, I think it is also interesting to note that exports between the U.S. and Cuba, exports of U.S. products collapsed during the Obama Administration. The top year of trade according to the Census Bureau was the last year of the Bush Administration, which I believe was over \$700 million. After the normalization of relations in December 2014, that dropped to about a \$149 million.

Mr. PHILLIPS. Well, I am glad you bring up trade. That was one of my questions. Is there a way that we could expand trade and benefit the Cuban people without enriching those who, you know, we do not want to see enriched?

Mr. SUAREZ. I think it would be focusing on individual Cubans and also pushing for the Cuban Government to make reforms where business people can directly pay a Cuban employee and not have to go through a government agency where they take 90 percent and then the employee gets 10 percent.

Mr. PHILLIPS. Is that possible?

Mr. SUAREZ. To make the demand and to push for it is very possible. Now whether they will respond positively, I do not know. It should be an effort that is made and then see what they do.

Mr. PHILLIPS. OK.

Mr. Quesada or Mr. Martinez?

Mr. MARTINEZ DE LA SERNA. I am not an expert on trade. I would just like to add that internet is a critical piece in the building of the system of repression and also opening in Cuba in terms of like it empowers people directly. And in terms of communications, helping expand its access, expand its being out of surveillance and controlled by State can be a critical piece in terms of fostering development of all kinds including freedom of the press.

Mr. PHILLIPS. OK.

Mr. QUESADA. I would just like to mention that as a lawyer, I mean there has to be a lot of amendments and changes in the Cuban law in order to have an effective way of trade. And based on our experience, looking at all the Cuban laws, I mean it is—I do not think it is possible right now.

Mr. PHILLIPS. OK, thank you. I yield back.

Mr. SIRES. Thank you. We are going to go a second round of questions if you have some time, because I want to get something clarified in my mind.

You know, we talk about investing in Cuba. People talk about investing in Cuba. That is how it is going to help the Cuban people. But if I am a company and I want to open up a business in Cuba and I need 200 employees, how does that work with the Cuban Government?

Mr. QUESADA. Well, the State is the main employer in Cuba. So if you want to have—like you can open your own business, but if you want to have—like in the tourism industry, for instance, a lot of the people that work there like they are hired, you know, with a State employer company. So if you, you know, if you are an activist and you think differently, you are unemployed basically. You cannot have access to a lot of jobs there.

Mr. SIRES. How does the salary work, Mr. Suarez? Some people are under the impression that when you open up a business in Cuba they get the salary and betters the people.

Mr. SUAREZ. No, you have to pay to a government bureau who, in turn—you pay in hard currency to a government bureau who then, in turn, pays the Cuban in Cuban pesos, which is a fraction of the value.

I think it is also important, talking about business investments, we looked at the—Google had a recent agreement with the Cuban Government and they have their servers in Cuba that is helping to speed up internet. Now that demand to have the servers in Cuba, which we have seen in places like China, is so that the Cuban services can have access to those servers and that creates a number of problems.

And again, they are doing business, but their business is directly with the Cuban Government and that obviously benefits the Cuban intelligence service in terms of their ability to surveil what Cubans are doing on the internet and who they are communicating with.

Mr. SIRES. What is the unemployment rate in Cuba now, anybody know?

Mr. SUAREZ. I can find out. I do not know off the top of my head.

Mr. SIRES. OK.

Congressman Rooney.

Mr. ROONEY. Listening to Mr. Suarez, again I am thinking of Lenin and the capitalist quote here, and I think there has got to

be some role to make the American people realize how GAESA has got a stranglehold on the employees and how it prevents the spread of true capitalist ideology by breaking that link.

And if you have any more to elaborate on that and on the cost of internet now that that genie is a little bit out of the box and they are going to try to ration it through cost, how you feel that might play out.

Mr. SUAREZ. I mean the prices have dropped somewhat so things have improved in terms of access. But I think the paradox is they are shifting strategies. Their strategy before was to ration access and now their strategy is to control the information that they have access to through the internet. And that is why they have passed this new decree which is going to make it much more difficult to get information outside.

I do not—I am not terribly optimistic over the long run for Facebook and other platforms. They have their own domestic versions that they have created with the help of the Chinese, and we know that the Chinese have already barred Facebook and some of the—and YouTube and some of these other platforms in China. So I would not be surprised to see that also taking place in Cuba.

But I think it is important to point out that Cuba remains a Communist regime. It does not respect private property rights. In addition to Cubans being still expropriated today by the regime when they do too well, we also find a number of Western businessmen who, when the government could not pay their bills the way they solved the problem was to lock them up—businessmen from Canada, the United Kingdom, from Italy, Chile, and other places.

Mr. ROONEY. Of course they took the risk.

Mr. SUAREZ. Yes. And they paid a very high price.

Mr. ROONEY. And they could have stood up to GAESA and other people and said we will only come in—the parallel to China with Google is a little alarming there, but—one more question, if I might then.

How effective have our important international organizations like the United Nations, the EU, and our OAS been in affecting the discussion of human rights in Cuba?

Mr. SUAREZ. I think it is very important. One of the things is that I have met with members of the OAS and they constantly ask, you know, the Cubans tell us that they do not care what we say in our reports. But we have found is when a precautionary measure or an urgent action is issued, you see a shift in behavior by the Cuban regime with those specific victims. And I think you could see that with the case of Eduardo Cardet and others that when that precautionary measure, when that light is focused in on that prisoner, they change their behavior.

Cuba does take the U.N. Human Rights Council very seriously. They put a lot of resources to put a big dog and pony show during the Universal Periodic Review. They try to do everything possible to block activists from addressing it. There was a meeting recently on a U.N. committee on race where they blocked the Afro-Cuban activists from attending and at the same time claimed during that meeting that there was no racism in Cuba.

So they do try to put on a very strong diplomatic offensive, and I think it is important for the international community and for the

United States to highlight human rights at the regional level and at the international level and it does make a difference.

Mr. ROONEY. Thank you. I yield. Thank you.

Mr. SIRE. Congressman Smith, do you have another question?

Mr. SMITH. I do. Thank you very much, Mr. Chairman.

Thank you, Mr. Chairman.

Just let me ask you, Mr. Suarez. I think your point about containment was extremely well taken and I thank you for it. You know, Europe and Canada traded to their hearts' content, so if just trade would have led to a Cuban dictatorship matriculating to a democracy, well, why did not it happen with that? So containment and the ability to do even worse harm, I think your point was, like I said, very well taken.

Let me ask you your thought. You know, I will never forget on December 17th, 2014, the Washington Post did an editorial and it went like this: "Obama gives the Castro regime in Cuba an undeserved bailout." And by the way—and this is the Washington Post; it is not the Washington Times. It is a very liberal newspaper.

Their editorial board concluded that "On Wednesday, the Castro's suddenly obtained a comprehensive bailout—from the Obama Administration. President Obama granted the regime everything on its wish list that was within his power to grant. Full diplomatic relations will be established, Cuba's place on the list of terrorism sponsors reviewed and restrictions lifted on U.S. investment and most travel to Cuba." And it went on from there.

You know, in retrospect, many of us believe that there should have been a linkage to human rights. I said it. I held hearings on it. And, you know, we got a, just a cold stare from the administration on all of that. And, like I said, they falsified the reporting on human trafficking to give them a passing grade, and I find that absolutely unconscionable. No matter how you want to deal with a country diplomatically, you do not falsify their report and their record, I should say, on human trafficking. And yet, the Obama administration did. Your thoughts on whether or not the Washington Post got it right.

And, finally, you talked about Google. I held a series of hearings on Google and their relationship with the Chinese Government and how they share personally identifiable information whenever the secret police asks for it. In 2006, I had a hearing right here, had Google testify, and they basically said—as did Yahoo, Microsoft, and one other organization company, under oath—that if they are asked to give information to the secret police—what would you like? Now is that what is happening in Cuba too, with Google?

Mr. SUAREZ. That is what I believe is happening in Cuba for them to be able to continue operating there.

Mr. SMITH. Wow. That is incredible. That means that there is no privacy whatsoever for any Cuban citizen and Google is complicit in working with the regime.

But if you could speak to what I thought was a very, very well-spoken or written, I should say, editorial by the Washington Post.

Mr. SUAREZ. The Washington Post got it right. One of the things that was most shocking at the time was that if you recall there were Cuban spies, the Cuban Five, that the remaining three were

freed during that agreement. One of them, Gerardo Hernandez, was serving a double life sentence, one for his espionage against the United States, but, second, for a murder conspiracy in the Brothers to the Rescue shootdown where three U.S. citizens and a U.S. resident were killed on February 24th, 1996.

Gerardo Hernandez was the head of that spy network and was providing information that led to that shootdown. They were returned to Cuba as conquering heroes. It was a great propaganda victory because the regime had for, since the year 1998, 2000, been doing this big campaign, Free the Five. So that was an immense victory for the dictatorship both internally and internationally because they had those spies touring the world basically expressing their defiance.

Now these spies in addition to sabotage and their involvement with the Brothers to the Rescue shootdown, had been involved in plotting based on instructions from Havana to engage in terrorist actions on U.S. soil. They were instructed to send death threats to a retired CIA official and eventually send him a mail bomb and kill him. And that was in the diskettes that were recovered by the FBI from the spy network. So releasing those individuals, I think, was a grave error.

Mr. SMITH. Thank you, Mr. Chairman.

Mr. SIRE. Mr. Yoho.

Mr. YOHO. Thank you, Mr. Chairman.

I would just think it is ludicrous that anybody thinks they are going to change habits down there. You know, in 2014 when they opened up relationships and they talked about, "Well, they will get free and expanded internet service," yes, there might be a little bump-up in that for the Cuban people, but overall it empowers the Cuban Government. And with what China is doing and their close association with an improved internet service, they are going to do the same thing that Xi Jinping in China is doing with facial recognition and the good citizen scores and they are going to control their population more than they have ever been controlled before.

Do the people in Cuba, is the broader Cuban population aware of the human rights abuses and the political prisoners? I mean you guys do your best to get the information out, but how aware are they in Cuba, or are they immune to what is going on and saying, "Eh, that is just life in Cuba?"

Mr. QUESADA. Regarding the situation of political prisoners within the island, they share information through the internet. So, you know, like when Eduardo Cardet was released, for instance, you know, his family sent out some messages and—the human rights activists. I am talking about the human rights activists. They were able to know that—

Mr. YOHO. But how much disseminated is that? How well disseminated is that?

Mr. QUESADA. I cannot answer that question.

Mr. YOHO. Overall, I mean people are pretty much, have they become complacent and say that is life in Cuba, right?

Mr. MARTINEZ DE LA SERNA. Information is pretty much controlled, yes.

Mr. YOHO. OK. How effective are the broadcasts from Radio Television Marti out of Miami? I have been there. It is a phenomenal operation. How effective is that getting freedom ideas to Cuba?

Mr. SUAREZ. Well, I think that shortwave radio is a critical way to bypass government controls. They can do jamming up to a certain point of shortwave, but it is not as complete as it can be with the internet where you have seen dictatorships just turn off the internet in some extreme examples.

Mr. YOHO. Right.

Mr. SUAREZ. Cuban activist Ricardo Bofill, one of the deans of human rights in Cuba from the 1970's, 1980's, described that there was a demarcation point before and after Radio Marti in terms of the impact it had on the island in terms of people being able to hear a different point of view, of hearing voices of other activists broadcast back into the island was something that had a big impact and still does.

Mr. YOHO. Are any thumb drives getting down there or CDs or—

Mr. SUAREZ. Sure.

Mr. YOHO [continuing]. Those kind, are they getting in there?

Mr. SUAREZ. They are.

Mr. YOHO. What is a better way for us to help get information to Cuba for the Cuban people?

Mr. SUAREZ. I do not think it is an either/or. I think shortwave that needs to be maintained.

Mr. YOHO. And all of the above?

Mr. SUAREZ. And all of the above. I think also it is important to mention that during the Obama Administration, they lifted restrictions to attempt to get a cable from the U.S. to Cuba—

Mr. YOHO. Right.

Mr. SUAREZ [continuing]. And it was Cuba that said they were not interested and instead ran the cable from Venezuela.

Mr. YOHO. Sure. And it is all going to be controlled by China, or China is going to have their 5G. China has got, I think, 60 percent of the 5G network in the world today and this is just one more area it is going to go. And they are going to use the despotic things that Xi Jinping has offered to Maduro, to Putin, to the Iranian ayatollahs and it will be in Castro and it will be complete control, George Orwellian, of the people of those nations.

And it is something that we need to wake up as—and I wish these other countries would wake up that are doing business because we know if you do business with Cuba, 90 percent of that money goes to the Cuban Government, pittance goes to the Cuban people and they keep them repressed and suppressed and it is not going to change unless the people are empowered to change, and it is what you guys do.

Mr. Chairman, I yield back and thank you for your time.

Mr. SIRE. Thank you.

Ladies and gentlemen, thank you all for being here today for this important hearing. Human rights in Cuba continue to be curtailed by the regime. I will continue working with my colleagues to shed light on these abuses. I thank the witnesses and all members for being here today. With that, the committee is adjourned.

[Whereupon, at 11:21 a.m., the subcommittee was adjourned.]

APPENDIX

**SUBCOMMITTEE HEARING NOTICE
COMMITTEE ON FOREIGN AFFAIRS
U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, DC 20515-6128**

Subcommittee on the Western Hemisphere, Civilian Security, and Trade

Albio Sires (D-NJ), Chairman

July 11, 2019

TO: MEMBERS OF THE COMMITTEE ON FOREIGN AFFAIRS

You are respectfully requested to attend an OPEN hearing of the Committee on Foreign Affairs, to be held by the Subcommittee on the Western Hemisphere, Civilian Security, and Trade in Room 2172 of the Rayburn House Office Building (and available live on the Committee website at <https://foreignaffairs.house.gov/>):

DATE: Thursday, July 11, 2019

TIME: 10:00 am

SUBJECT: Human Rights in Cuba: Beyond the Veneer of Reform

WITNESS: Mr. Carlos Quesada
Executive Director and Founder
International Institute on Race, Equality, and Human Rights

Mr. Carlos Martinez de la Serna
Program Director
Committee to Protect Journalists

Mr. John Suarez
Executive Director
Center for a Free Cuba

By Direction of the Chairman

The Committee on Foreign Affairs seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202/225-5921 at least four business days in advance of the event, whenever practicable. Questions with regard to special accommodations in general (including availability of Committee materials in alternative formats and assistive listening devices) may be directed to the Committee.

COMMITTEE ON FOREIGN AFFAIRS

MINUTES OF SUBCOMMITTEE ON WESTERN HEMISPHERE, CIVILIAN SECURITY, AND TRADE HEARINGDay Thursday Date July 11, 2019 Room 2172Starting Time 10:02 Ending Time 11:21Recesses 0 (____ to ____) (____ to ____) (____ to ____) (____ to ____) (____ to ____) (____ to ____)

Presiding Member(s)

Chairman Albio Sires

Check all of the following that apply:

Open Session ☒Executive (closed) Session ☐Televised ☒Electronically Recorded (taped) ☒Stenographic Record ☒

TITLE OF HEARING:

Human Rights in Cuba: Beyond the Veneer of Reform

SUBCOMMITTEE MEMBERS PRESENT:

See attached.

NON-SUBCOMMITTEE MEMBERS PRESENT: (Mark with an * if they are not members of full committee.)

HEARING WITNESSES: Same as meeting notice attached? Yes ☒ No ☐

(If "no", please list below and include title, agency, department, or organization.)

STATEMENTS FOR THE RECORD: (List any statements submitted for the record.)

TIME SCHEDULED TO RECONVENE _____

or

TIME ADJOURNED 11:21


Subcommittee Staff Associate

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