

“The Obama Rapprochement with the Castro Regime: The Anatomy of a Policy Failure”
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Good morning, Chairman DeSantis and distinguished Members of Congress.

Thank you for the invitation to appear today and discuss issues important to the South Florida community and U.S. foreign policy writ large—specifically, the Obama Administration’s flawed Cuba policy and how it contributed to Cuba’s continued human rights abuses and the health attacks on U.S. diplomatic personnel and their families.

Announced in December of 2014, President Obama’s policy towards Cuba was based on the premise that bilateral relations would improve if the U.S. changed its behavior. Reinforcing this policy was the belief that providing the regime with economic resources and diplomatic recognition would pave the way for liberty in Cuba. In Havana, the U.S.’s rapprochement was interpreted as a regime victory.

For the duration of his presidency, President Obama’s strategy was based on unilateral concessions. While the U.S. returned three convicted spies, provided Havana with increased commercial opportunities, and provided Cuba with undeserved diplomatic recognition, very little was asked of the Cuban government. Ending Cuba’s destabilizing role in Venezuela’s crisis was visibly ignored as well in pursuit of normalized relations. My colleague, Ambassador Otto Reich, will further elaborate on how Cuba is leading Venezuela’s demise.

Supporters of the Cuban government and the Obama-era policy point to the increasing numbers of American travelers as a sign of success. They fail to recognize that increased tourism has not translated improvements in the political system, economic freedom, human rights, or U.S. national interests.

For fear of not upsetting normalization talks with Havana, active U.S. support for Cuban human rights activists declined as well. In 2016, there were nearly 10,000 politically motivated arrests. During President Obama’s much lauded trip to Havana, close to 500 human rights activists were arrested in his 72 hours on the island. This amounts to 7 arrests per hour. Religious persecution on the island from 2014 to 2015 experienced a historic tenfold increase, from 220 cases to 2,300 cases of persecution. While 2017 arrest levels are lower, the public brutality of the Cuban government remains on display. By way of illustration: Every Sunday, the peaceful demonstrations of the Ladies in White are violently suppressed by regime security forces.¹

¹Ana Quintana, “Continuing Unilateral Concessions Towards Cuba Is Not in the U.S. Interest,” *Rippon Forum*, Vol. 51, No. 1 (February, 2017), <http://www.riponsociety.org/article/continuing-unilateral-concessions-towards-cuba-is-not-in-the-u-s-interest/> (accessed January 10, 2018).

The Obama Administration's abdication of leadership in the human rights realm is a multifaceted problem. For starters, it undermined efforts against regional authoritarians. It also served to set back U.S. regional policy in a meaningful way. Latin America is the first and only region in the world to commit itself to the values of democratic governance and human rights, as enshrined in the InterAmerican Democratic Charter.

Cuba Is Responsible for Health Attacks Against U.S. Diplomatic Personnel

In addition to the continued human rights abuses, the recently revealed health attacks against U.S. diplomatic personnel stationed in Cuba highlight the continued threat posed by the Castro regime.

Towards the end of 2016, U.S. diplomats in Cuba began reporting symptoms of ear pain, headaches, hearing problems, and dizziness. According to the U.S. State Department's Medical Director in the Bureau of Medical Services, the diplomats described hearing a "high pitched beam of sound," "incapacitating sound," or a "baffling sensation." The attacks took place in their homes and hotels in Cuba, indicating they were targeted attempts to hurt U.S. personnel. To date, 24 U.S. diplomats and their family have been victimized by the attacks. Two Canadian diplomats have also fallen victim. An unknown number of diplomats and personnel have permanent hearing loss and brain injuries.

In the past, U.S. personnel have been victims of physical and physiological abuse, there have also been incidents of pets being poisoned, attempted car accidents, and, in one case, mouthwash was replaced with urine. Although Cuban government attacks against U.S. personnel have occurred in the past, the magnitude and timing of these attacks convey two important points. One, Cuba has violated the Vienna Convention by failing to prevent the attacks. Host countries are obligated to protect foreign diplomats.² Two, even if the Cuban government is not behind the attacks, there is a high likelihood they are protecting the culprit.

Ongoing investigations by the Federal Bureau of Investigations and U.S. State Department have not yet determined the method nor culprit of the attacks. Nevertheless, the known facts point to the Castro regime's involvement. Cuba is a police state, in which diplomatic and foreign personnel are under constant surveillance. There is a near impossible likelihood that a sophisticated attack of this magnitude took place without Cuban government awareness or authorization.

These health attacks are a dangerous consequence of prematurely normalizing relations and granting unilateral concessions. According to the Cuban Liberty and Democratic Solidarity Act (LIBERTAD), re-establishing diplomatic relations should not have taken place until the Cuban government compensates American citizens for illegally confiscating their property valued at \$8 billion, and second, "when the president determines that there exists a democratically elected government in Cuba."³

²United Nations, Vienna Convention on International Relations, 1961, http://legal.un.org/ilc/texts/instruments/english/conventions/9_1_1961.pdf (accessed January 12, 2018).

³Cuban Liberty and Democratic Solidarity (Libertad) Act of 1996, Public Law 104-114, <https://www.treasury.gov/resource-center/sanctions/Documents/libertad.pdf> (accessed January 12, 2018).

The decision to prematurely open the embassy was not only in violation of U.S. law, but also demonstrably premature because of the Cuba government's unwillingness or inability to keep U.S. diplomats safe. The State Department also violated the law by failing to convene an Accountability Review Board (ARB) within the 60-to-120-day period from when they determined the symptoms were in fact attacks.⁴ Only in the first weeks of January 2018 has the Secretary of State advised his intention to create an ARB. The Trump Administration has amended certain components of his predecessor's policy. Specifically, the new rules issued in November of 2017 limit the opportunities for commercial engagement with Cuban security services and also uphold the U.S.'s tourism ban. As policymakers consider the future of U.S.–Cuba relations, they should be mindful of the following. The best Cuba for U.S. national security interests is a free and prosperous Cuba. As such, the U.S. must support a policy that enables and fosters a democratic transition on the island. The U.S. should seek to empower the elements of change on the island and not strengthen the Castro dynasty.

How to Make Cuba Policy Advance U.S. Interests

Continuing unilateral concessions towards Cuba will continue to undermine U.S. interests. The U.S. controls much of the leverage in the future of the bilateral relationship. Policymakers have the ability to place conditions on trade and other policies that benefit the Cuban government in exchange for improved behaviors. Policymakers mandate strong standards and develop a strategy outlining the criteria Cuba ought to meet in order to continue relations. To do so, U.S. policymakers should:

- **Push for the return of U.S. fugitives housed in Cuba.** An untold number of fugitives have been given safe haven on the island. Officially, the U.S. Department of Justice places the number at 31, but credible estimates put it closer to 70. Among the fugitives are two notable terrorists: Guillermo Morales, a member of a Puerto Rican separatist group who attempted to plant a bomb at a U.S. military installation, and JoAnne Chesimard, a member of the Black Panther Party and the Black Liberation Army who was convicted of murdering a New Jersey state trooper. Given that the U.S. returned three Cuban spies as part of the normalization agreement, the President should not hesitate to push the return of American fugitives in Cuba, particularly Morales and Chesimard.
- **Aggressively seek compensation for U.S. property and asset claimants.** According to the U.S. Justice Department's Foreign Claims Settlement Commission, there are 5,913 active claims against the Cuban government, totaling roughly \$7 billion–\$8 billion. These claims are the result of the Cuban government's illegal expropriation of American property and assets. While full resolution of these claims will take years, justice demands advocacy on behalf of the President.
- **Work to build a regional coalition to support a democratic transition on the island.** Ideally, Cuba would be best served by a government chosen by its own citizens. For over half a century, Cubans have been ruled by the Western Hemisphere's longest-running military dictatorship. Yet many countries in Latin America continue to publicly

⁴Accountability Review Boards, 22 U.S. Code Section 4831, <https://www.law.cornell.edu/uscode/text/22/4831> (accessed January 12, 2018).

support the generals running Havana. President Trump should instruct his State Department to work with hemispheric leaders to advocate for Cuban freedom. Despite the region's general acceptance of the status quo in Cuba, America must remind Organization of American States members of their duty to uphold basic freedoms guaranteed by the Inter-American Democratic Charter.

- **Demand the Cuban government withdraw Cuban officials from Venezuela.** OAS Secretary General Luis Almagro describes the Cuban presence in Venezuela as one of an occupational army.⁵ For decades, Venezuela has been Cuba's sole benefactor, propping the regime up with petrodollars. In exchange, the Cuban government has provided Venezuela with its tutelage in repressive tactics and political control. The U.S. should seek the support of hemispheric leaders to address this regional threat.⁶

The Obama-era Cuba policy has been a demonstrated failure for both U.S. national security interests, the rule of law, and the future of a free Cuba. The failures were not contained to Cuba either, as the regime's destabilizing role in the region was never contained. U.S. diplomatic personnel and their families and Cuban human rights activists paid the cost of President Obama's political gambit. Looking towards the future, the Trump Administration and U.S. policymakers must continue recalibrating U.S. policy in order to support a transition from the military dictatorship.

With that, I will turn to my colleagues to discuss their areas of expertise in respect to Cuba. I look forward to your questions.

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⁵Orlando Avedano, "Cuba Has 'Occupying Army' in Venezuela, OAS Secretary General Claims," *PanAm Post*, July 20, 2017, <https://panampost.com/orlando-avedano/2017/07/20/cuba-has-occupying-army-in-venezuela/> (accessed January 12, 2018).

⁶Ana Quintana, "President Obama's Visit to Cuba: An Opportunity to Refocus on Human Rights," Heritage Foundation *Issue Brief* No. 4532, March 17, 2016, <http://www.heritage.org/americas/report/president-obamas-visit-cuba-opportunity-refocus-human-rights>, (accessed January 10, 2017).

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